

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 1231, Page 20-24, Section 211.447, Lines
2 1-177, by deleting all of said section and lines and inserting in lieu thereof the following:

3
4 "211.447. 1. Any information that could justify the filing of a petition to terminate parental
5 rights may be referred to the juvenile officer by any person. The juvenile officer shall make a
6 preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed,
7 such officer shall so notify the informant in writing within thirty days of the referral. Such
8 notification shall include the reasons that the petition will not be filed. Thereupon, the informant
9 may bring the matter directly to the attention of the judge of the juvenile court by presenting the
10 information in writing, and if it appears to the judge that the information could justify the filing of a
11 petition, the judge may order the juvenile officer to take further action, including making a further
12 preliminary inquiry or filing a petition.

13 2. Except as provided for in subsection 4 of this section, a petition to terminate the parental
14 rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a
15 petition has been filed by another party, the juvenile officer or the division shall seek to be joined as
16 a party to the petition, when:

17 (1) Information available to the juvenile officer or the division establishes that the child has
18 been in foster care for at least fifteen of the most recent twenty-two months; or

19 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
20 For purposes of this subdivision, an "infant" means any child one year of age or under at the time of
21 filing of the petition. The court may find that an infant has been abandoned if:

22 (a) The parent has left the child under circumstances that the identity of the child was
23 unknown and could not be ascertained, despite diligent searching, and the parent has not come
24 forward to claim the child; or

25 (b) The parent has, without good cause, left the child without any provision for parental
26 support and without making arrangements to visit or communicate with the child, although able to
27 do so; or

28 (c) The parent has voluntarily relinquished a child under section 210.950; or

29 (3) A court of competent jurisdiction has determined that the parent has:

30 (a) Committed murder of another child of the parent; or

31 (b) Committed voluntary manslaughter of another child of the parent; or

32 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary
33 manslaughter; or

34 (d) Committed a felony assault that resulted in serious bodily injury to the child or to another
35 child of the parent.

36 3. A termination of parental rights petition shall be filed by the juvenile officer or the

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1 division, or if such a petition has been filed by another party, the juvenile officer or the division shall
2 seek to be joined as a party to the petition, within sixty days of the judicial determinations required in
3 subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply
4 with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for
5 termination of parental rights which is filed outside of sixty days.

6 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section,
7 the juvenile officer or the division may, but is not required to, file a petition to terminate the parental
8 rights of the child's parent or parents if:

9 (1) The child is being cared for by a relative; or

10 (2) There exists a compelling reason for determining that filing such a petition would not be
11 in the best interest of the child, as documented in the permanency plan which shall be made available
12 for court review; or

13 (3) The family of the child has not been provided such services as provided for in section
14 211.183.

15 5. The juvenile officer or the division may file a petition to terminate the parental rights of
16 the child's parent when it appears that one or more of the following grounds for termination exist:

17 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
18 child over one year of age at the time of filing of the petition. The court shall find that the child has
19 been abandoned if, for a period of six months or longer:

20 (a) The parent has left the child under such circumstances that the identity of the child was
21 unknown and could not be ascertained, despite diligent searching, and the parent has not come
22 forward to claim the child; or

23 (b) The parent has, without good cause, left the child without any provision for parental
24 support and without making arrangements to visit or communicate with the child, although able to
25 do so;

26 (2) The child has been abused or neglected. In determining whether to terminate parental
27 rights pursuant to this subdivision, the court shall consider and make findings on the following
28 conditions or acts of the parent:

29 (a) A mental condition which is shown by competent evidence either to be permanent or
30 such that there is no reasonable likelihood that the condition can be reversed and which renders the
31 parent unable to knowingly provide the child the necessary care, custody and control;

32 (b) Chemical dependency which prevents the parent from consistently providing the
33 necessary care, custody and control of the child and which cannot be treated so as to enable the
34 parent to consistently provide such care, custody and control;

35 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or
36 any child in the family by the parent, including an act of incest, or by another under circumstances
37 that indicate that the parent knew or should have known that such acts were being committed toward
38 the child or any child in the family; or

39 (d) Repeated or continuous failure by the parent, although physically or financially able, to
40 provide the child with adequate food, clothing, shelter, or education as defined by law, or other care
41 and control necessary for the child's physical, mental, or emotional health and development.
42 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or
43 disease;

44 (3) The child has been under the jurisdiction of the juvenile court for a period of one year,
45 and the court finds that the conditions which led to the assumption of jurisdiction still persist, or
46 conditions of a potentially harmful nature continue to exist, that there is little likelihood that those
47 conditions will be remedied at an early date so that the child can be returned to the parent in the near
48 future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for

1 early integration into a stable and permanent home. In determining whether to terminate parental
 2 rights under this subdivision, the court shall consider and make findings on the following:

3 (a) The terms of a social service plan entered into by the parent and the division and the
 4 extent to which the parties have made progress in complying with those terms;

5 (b) The success or failure of the efforts of the juvenile officer, the division or other agency to
 6 aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper
 7 home for the child;

8 (c) A mental condition which is shown by competent evidence either to be permanent or
 9 such that there is no reasonable likelihood that the condition can be reversed and which renders the
 10 parent unable to knowingly provide the child the necessary care, custody and control;

11 (d) Chemical dependency which prevents the parent from consistently providing the
 12 necessary care, custody and control over the child and which cannot be treated so as to enable the
 13 parent to consistently provide such care, custody and control; or

14 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when
 15 the child or any child in the family was a victim, or a violation of section 568.020 when the child or
 16 any child in the family was a victim. As used in this subdivision, a "child" means any person who
 17 was under eighteen years of age at the time of the crime and who resided with such parent or was
 18 related within the third degree of consanguinity or affinity to such parent; or

19 (5) The child was conceived and born as a result of an act of forcible rape or rape in the first
 20 degree. When the biological father has pled guilty to, or is convicted of, the forcible rape or rape in
 21 the first degree of the birth mother, such a plea or conviction shall be conclusive evidence supporting
 22 the termination of the biological father's parental rights; or

23 (6) [The parent is unfit to be a party to the parent and child relationship because of a
 24 consistent pattern of committing a specific abuse, including but not limited to abuses as defined in
 25 section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating
 26 to the parent and child relationship either of which are determined by the court to be of a duration or
 27 nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for
 28 the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to
 29 be a party to the parent-child relationship upon a showing that within a three-year period
 30 immediately prior to the termination adjudication, the parent's parental rights to one or more other
 31 children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions
 32 (1), (2), (3) or (4) of this subsection or similar laws of other states.] (a) The parent is unfit to be a
 33 party to the parent and child relationship because of a consistent pattern of committing a specific
 34 abuse including, but not limited to, specific conditions directly relating to the parent and child
 35 relationship which are determined by the court to be of a duration or nature that renders the parent
 36 unable for the reasonably foreseeable future to care appropriately for the ongoing physical, mental,
 37 or emotional needs of the child.

38 (b) It is presumed that a parent is unfit to be a party to the parent and child relationship upon
 39 a showing that:

40 a. Within a three-year period immediately prior to the termination adjudication, the parent's
 41 parental rights to one or more other children were involuntarily terminated pursuant to subsection 2
 42 or 4 of this section or subdivisions (1), (2), (3), or (4) of this subsection or similar laws of other
 43 states;

44 b. If the parent is the birth mother and while the child was in utero or within eight hours after
 45 the child's birth, the child's birth mother tested positive for alcohol, cocaine, heroin,
 46 methamphetamine, a controlled substance as defined in section 195.010, or a prescription drug as
 47 defined in section 196.973, excepting those controlled substances or prescription drugs present in the
 48 mother's body as a result of medical treatment administered to the mother, and the birth mother is the

1 biological mother of at least one other child who was adjudicated an abused or neglected minor by
 2 the mother or the mother has previously failed to complete recommended treatment services by the
 3 children's division through a family-centered services case;

4 c. If the parent is the birth mother and at the time of the child's birth or within eight hours
 5 after a child's birth the child tested positive for alcohol, cocaine, heroin, methamphetamine, a
 6 controlled substance as defined in section 195.010, or a prescription drug as defined in section
 7 196.973, excepting those controlled substances or prescription drugs present in the mother's body as
 8 a result of medical treatment administered to the mother, and the birth mother is the biological
 9 mother of at least one other child who was adjudicated an abused or neglected minor by the mother
 10 or the mother has previously failed to complete recommended treatment services by the children's
 11 division through a family-centered services case; or

12 d. Within a three-year period immediately prior to the termination adjudication, the parent
 13 has pled guilty to or has been convicted of a felony involving the possession, distribution, or
 14 manufacture of cocaine, heroin, or methamphetamine, and the parent is the biological parent of at
 15 least one other child who was adjudicated an abused or neglected minor by such parent or such
 16 parent has previously failed to complete recommended treatment services by the children's division
 17 through a family-centered services case.

18 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by
 19 the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds
 20 that the termination is in the best interest of the child and when it appears by clear, cogent and
 21 convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this
 22 section.

23 7. When considering whether to terminate the parent-child relationship pursuant to
 24 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the
 25 court shall evaluate and make findings on the following factors, when appropriate and applicable to
 26 the case:

27 (1) The emotional ties to the birth parent;

28 (2) The extent to which the parent has maintained regular visitation or other contact with the
 29 child;

30 (3) The extent of payment by the parent for the cost of care and maintenance of the child
 31 when financially able to do so including the time that the child is in the custody of the division or
 32 other child-placing agency;

33 (4) Whether additional services would be likely to bring about lasting parental adjustment
 34 enabling a return of the child to the parent within an ascertainable period of time;

35 (5) The parent's disinterest in or lack of commitment to the child;

36 (6) The conviction of the parent of a felony offense that the court finds is of such a nature
 37 that the child will be deprived of a stable home for a period of years; provided, however, that
 38 incarceration in and of itself shall not be grounds for termination of parental rights;

39 (7) Deliberate acts of the parent or acts of another of which the parent knew or should have
 40 known that subjects the child to a substantial risk of physical or mental harm.

41 8. The court may attach little or no weight to infrequent visitations, communications, or
 42 contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child
 43 relationship may serve as an inducement for the parent's rehabilitation.

44 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
 45 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
 46 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

47 10. The disability or disease of a parent shall not constitute a basis for a determination that a
 48 child is a child in need of care, for the removal of custody of a child from the parent, or for the

1 termination of parental rights without a specific showing that there is a causal relation between the
2 disability or disease and harm to the child."; and
3
4 Further amend said bill by amending the title, enacting clause, and intersectional references
5 accordingly.
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