

Bill No. CS for SB 696

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Carlton moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 5, line 13, through		
15	page 8, line 24, delete those lines		
16			
17	and insert:		
18	Section 2. Subsections (48) and (50) of section 39.01,		
19	Florida Statutes, 1998 Supplement, are amended to read:		
20	39.01 Definitions.--When used in this chapter, unless		
21	the context otherwise requires:		
22	(48) "Next of kin" means an adult relative of a child		
23	who is the child's brother, sister, grandparent,		
24	<u>great-grandparent</u> , aunt, uncle, or first cousin.		
25	(50) "Participant," for purposes of a shelter		
26	proceeding, dependency proceeding, or termination of parental		
27	rights proceeding, means any person who is not a party but who		
28	should receive notice of hearings involving the child,		
29	including foster parents or caregivers, identified prospective		
30	parents, grandparents <u>or great-grandparents</u> entitled to		
31	priority for adoption consideration under s. 63.0425, actual		

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1 custodians of the child, and any other person whose
2 participation may be in the best interest of the child.
3 Participants may be granted leave by the court to be heard
4 without the necessity of filing a motion to intervene.

5 Section 3. Section 39.509, Florida Statutes, 1998
6 Supplement, is amended to read:

7 39.509 Grandparents and great-grandparents
8 rights.--Notwithstanding any other provision of law, a
9 maternal or paternal grandparent or great-grandparent, as well
10 as a stepgrandparent or step-great-grandparent, is entitled to
11 reasonable visitation with his or her grandchild or
12 great-grandchild who has been adjudicated a dependent child
13 and taken from the physical custody of the parent, custodian,
14 legal guardian, or caregiver unless the court finds that such
15 visitation is not in the best interest of the child or that
16 such visitation would interfere with the goals of the case
17 plan. Reasonable visitation may be unsupervised and, where
18 appropriate and feasible, may be frequent and continuing.

19 (1) Grandparent or great-grandparent visitation may
20 take place in the home of the grandparent or great-grandparent
21 unless there is a compelling reason for denying such a
22 visitation. The department's caseworker shall arrange the
23 visitation to which a grandparent or great-grandparent is
24 entitled pursuant to this section. The state shall not charge
25 a fee for any costs associated with arranging the visitation.
26 However, the grandparent or great-grandparent shall pay for
27 the child's cost of transportation when the visitation is to
28 take place in the grandparent's or great-grandparent's home.
29 The caseworker shall document the reasons for any decision to
30 restrict a grandparent's or great-grandparent's visitation.

31 (2) A grandparent or great-grandparent entitled to

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1 visitation pursuant to this section shall not be restricted
2 from appropriate displays of affection to the child, such as
3 appropriately hugging or kissing his or her grandchild or
4 great-grandchild. Gifts, cards, and letters from the
5 grandparent or great-grandparent and other family members
6 shall not be denied to a child who has been adjudicated a
7 dependent child.

8 (3) Any attempt by a grandparent or great-grandparent
9 to facilitate a meeting between the child who has been
10 adjudicated a dependent child and the child's parent,
11 custodian, legal guardian, or caregiver in violation of a
12 court order shall automatically terminate future visitation
13 rights of the grandparent or great-grandparent.

14 (4) When the child has been returned to the physical
15 custody of his or her parent or permanent custodian, legal
16 guardian, or caregiver, the visitation rights granted pursuant
17 to this section shall terminate.

18 (5) The termination of parental rights does not affect
19 the rights of grandparents or great-grandparents unless the
20 court finds that such visitation is not in the best interest
21 of the child or that such visitation would interfere with the
22 goals of permanency planning for the child.

23 (6) In determining whether grandparental or
24 great-grandparental visitation is not in the child's best
25 interest, consideration may be given to the finding of guilt,
26 regardless of adjudication, or entry or plea of guilty or nolo
27 contendere to charges under the following statutes, or similar
28 statutes of other jurisdictions: s. 787.04, relating to
29 removing minors from the state or concealing minors contrary
30 to court order; s. 794.011, relating to sexual battery; s.
31 798.02, relating to lewd and lascivious behavior; chapter 800,

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1 relating to lewdness and indecent exposure; or chapter 827,
2 relating to the abuse of children. Consideration may also be
3 given to a finding of confirmed abuse, abandonment, or neglect
4 under ss. 415.101-415.113 or this chapter.

5 Section 4. Paragraph (a) of subsection (3) of section
6 39.801, Florida Statutes, 1998 Supplement, is amended to read:
7 39.801 Procedures and jurisdiction; notice; service of
8 process.--

9 (3) Before the court may terminate parental rights, in
10 addition to the other requirements set forth in this part, the
11 following requirements must be met:

12 (a) Notice of the date, time, and place of the
13 advisory hearing for the petition to terminate parental rights
14 and a copy of the petition must be personally served upon the
15 following persons, specifically notifying them that a petition
16 has been filed:

- 17 1. The parents of the child.
- 18 2. The caregivers or legal custodians of the child.
- 19 3. If the parents who would be entitled to notice are
20 dead or unknown, a living relative of the child, unless upon
21 diligent search and inquiry no such relative can be found.
- 22 4. Any person who has physical custody of the child.
- 23 5. Any grandparent or great-grandparent entitled to
24 priority for adoption under s. 63.0425.
- 25 6. Any prospective parent who has been identified
26 under s. 39.503 or s. 39.803.
- 27 7. The guardian ad litem for the child or the
28 representative of the guardian ad litem program, if the
29 program has been appointed.

30
31 The document containing the notice to respond or appear must

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1 contain, in type at least as large as the type in the balance
2 of the document, the following or substantially similar
3 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
4 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
5 RIGHTS OF THIS CHILD (OR CHILDREN)."

6 Section 5. Subsection (2), paragraphs (c) and (d) of
7 subsection (4), and subsections (6) and (7) of section 61.13,
8 Florida Statutes, 1998 Supplement, are amended to read:

9 61.13 Custody and support of children; visitation
10 rights; power of court in making orders.--

11 (2)(a) The court shall have jurisdiction to determine
12 custody, notwithstanding that the child is not physically
13 present in this state at the time of filing any proceeding
14 under this chapter, if it appears to the court that the child
15 was removed from this state for the primary purpose of
16 removing the child from the jurisdiction of the court in an
17 attempt to avoid a determination or modification of custody.

18 (b)1. The court shall determine all matters relating
19 to custody of each minor child of the parties in accordance
20 with the best interests of the child and in accordance with
21 the Uniform Child Custody Jurisdiction Act. It is the public
22 policy of this state to assure that each minor child has
23 frequent and continuing contact with both parents after the
24 parents separate or the marriage of the parties is dissolved
25 and to encourage parents to share the rights and
26 responsibilities, and joys, of childrearing. After considering
27 all relevant facts, the father of the child shall be given the
28 same consideration as the mother in determining the primary
29 residence of a child irrespective of the age or sex of the
30 child.

31 2. The court shall order that the parental

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1 responsibility for a minor child be shared by both parents
2 unless the court finds that shared parental responsibility
3 would be detrimental to the child. Evidence that a parent has
4 been convicted of a felony of the third degree or higher
5 involving domestic violence, as defined in s. 741.28 and
6 chapter 775, or meets the criteria of s. 39.806(1)(d), creates
7 a rebuttable presumption of detriment to the child. If the
8 presumption is not rebutted, shared parental responsibility,
9 including visitation, residence of the child, and decisions
10 made regarding the child, may not be granted to the convicted
11 parent. However, the convicted parent is not relieved of any
12 obligation to provide financial support. If the court
13 determines that shared parental responsibility would be
14 detrimental to the child, it may order sole parental
15 responsibility and make such arrangements for visitation as
16 will best protect the child or abused spouse from further
17 harm. Whether or not there is a conviction of any offense of
18 domestic violence or child abuse or the existence of an
19 injunction for protection against domestic violence, the court
20 shall consider evidence of domestic violence or child abuse as
21 evidence of detriment to the child.

22 a. In ordering shared parental responsibility, the
23 court may consider the expressed desires of the parents and
24 may grant to one party the ultimate responsibility over
25 specific aspects of the child's welfare or may divide those
26 responsibilities between the parties based on the best
27 interests of the child. Areas of responsibility may include
28 primary residence, education, medical and dental care, and any
29 other responsibilities that the court finds unique to a
30 particular family.

31 b. The court shall order "sole parental

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1 responsibility, with or without visitation rights, to the
2 other parent when it is in the best interests of" the minor
3 child.

4 c. The court may award the grandparents and
5 great-grandparents visitation rights with a minor child
6 pursuant to the criteria set forth in s. 752.01, if it is in
7 the child's best interest. Grandparents and great-grandparents
8 have legal standing to seek judicial enforcement of such an
9 award. This section does not require that grandparents or
10 great-grandparents be made parties or given notice of
11 dissolution pleadings or proceedings, nor do grandparents or
12 great-grandparents have legal standing as "contestants" as
13 defined in s. 61.1306. However, courts are strongly encouraged
14 to address grandparents' and great-grandparents' rights in the
15 decree on an original action on a dissolution of marriage in
16 order to minimize the burden of litigation of visitation
17 rights on the child. A court may not order that a child be
18 kept within the state or jurisdiction of the court solely for
19 the purpose of permitting visitation by the grandparents or
20 great-grandparents.

21 3. Access to records and information pertaining to a
22 minor child, including, but not limited to, medical, dental,
23 and school records, may not be denied to a parent because the
24 parent is not the child's primary residential parent.

25 (4)

26 (c) When a custodial parent refuses to honor a
27 noncustodial parent's, or grandparent's, or
28 great-grandparent's visitation rights without proper cause,
29 the court shall, after calculating the amount of visitation
30 improperly denied, award the noncustodial parent, or
31 grandparent, or great-grandparent a sufficient amount of extra

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1 visitation to compensate the noncustodial parent, or
2 grandparent, or great-grandparent, which visitation shall be
3 ordered as expeditiously as possible in a manner consistent
4 with the best interests of the child and scheduled in a manner
5 that is convenient for the person deprived of visitation. In
6 ordering any makeup visitation, the court shall schedule such
7 visitation in a manner that is consistent with the best
8 interests of the child or children and that is convenient for
9 the noncustodial parent, or grandparent, or great-grandparent.
10 In addition, the court:

- 11 1. May order the custodial parent to pay reasonable
12 court costs and attorney's fees incurred by the noncustodial
13 parent, or grandparent, or great-grandparent to enforce their
14 visitation rights or make up improperly denied visitation;
- 15 2. May order the custodial parent to attend the
16 parenting course approved by the judicial circuit;
- 17 3. May order the custodial parent to do community
18 service if the order will not interfere with the welfare of
19 the child;
- 20 4. May order the custodial parent to have the
21 financial burden of promoting frequent and continuing contact
22 when the custodial parent and child reside further than 60
23 miles from the noncustodial parent;
- 24 5. May award custody, rotating custody, or primary
25 residence to the noncustodial parent, upon the request of the
26 noncustodial parent, if the award is in the best interests of
27 the child; or
- 28 6. May impose any other reasonable sanction as a
29 result of noncompliance.

30 (d) A person who violates this subsection may be
31 punished by contempt of court or other remedies as the court

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1 deems appropriate.

2 (6) In any proceeding under this section, the court
3 may not deny shared parental responsibility, custody, or
4 visitation rights to a parent, or grandparent, or
5 great-grandparent solely because that parent, or grandparent,
6 or great-grandparent is or is believed to be infected with
7 human immunodeficiency virus; but the court may condition such
8 rights upon the parent's, or grandparent's, or
9 great-grandparent's agreement to observe measures approved by
10 the Centers for Disease Control and Prevention of the United
11 States Public Health Service or by the Department of Health
12 ~~and Rehabilitative Services~~ for preventing the spread of human
13 immunodeficiency virus to the child.

14 (7) In any case where the child is actually residing
15 with a grandparent or great-grandparent in a stable
16 relationship, whether or not the court has awarded custody to
17 the grandparent or great-grandparent ~~or not~~, the court may
18 recognize the grandparents or great-grandparents as having the
19 same standing as parents for evaluating what custody
20 arrangements are in the best interest of the child.

21 Section 6. Subsection (1) of section 63.0425, Florida
22 Statutes, is amended to read:

23 63.0425 Grandparent's or great-grandparent's right to
24 adopt.--

25 (1) When a child who has lived with a grandparent or
26 great-grandparent for at least 6 months is placed for
27 adoption, the agency or intermediary handling the adoption
28 shall notify that grandparent or great-grandparent of the
29 impending adoption before the petition for adoption is filed.
30 If the grandparent or great-grandparent petitions the court to
31 adopt the child, the court shall give first priority for

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1 adoption to that grandparent or great-grandparent.

2 Section 7. Subsection (2) of section 63.172, Florida
3 Statutes, is amended to read:

4 63.172 Effect of judgment of adoption.--

5 (2) If one or both parents of a child die without the
6 relationship of parent and child having been previously
7 terminated and a spouse of the living parent or a close
8 relative of the child thereafter adopts the child, the child's
9 right of inheritance from or through the deceased parent is
10 unaffected by the adoption and, unless the court orders
11 otherwise, the adoption will not terminate any grandparental
12 or great-grandparental rights delineated under chapter 752.
13 For purposes of this subsection, a close relative of a child
14 is the child's brother, sister, grandparent,
15 great-grandparent, aunt, or uncle.

16
17 (Redesignate subsequent sections.)

18
19

20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 1, line 15, following the semicolon

23

24 insert:

25 providing for great-grandparents' visitation
26 rights and standing with regard to evaluating
27 custody arrangements; amending s. 39.01, F.S.;
28 including references to great-grandparents in
29 definitions relating to dependent children;
30 amending s. 39.509, F.S.; providing for
31 great-grandparents visitation rights; amending

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ss. 39.801 and 63.0425, F.S.; providing for a
great-grandparent's right to adopt; amending s.
63.172, F.S.; conforming references relating to
great-grandparental visitation rights under ch.
752, F.S.;