

By Senator Campbell

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A bill to be entitled

An act relating to the custody and support of children; amending s. 61.13, F.S.; authorizing the courts to order the posting of a bond or other security to secure compliance with court orders in child custody or visitation cases; providing criteria for using the proceeds of such securities when a breach of such a court order occurs; providing an effective date.

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

Section 1. Paragraph (c) of subsection (4) of section 61.13, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

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

(4)

(c) When a custodial parent refuses to honor a noncustodial parent's or grandparent's visitation rights without proper cause, the court shall, after calculating the amount of visitation improperly denied, award the noncustodial parent or grandparent a sufficient amount of extra visitation to compensate the noncustodial parent or grandparent, which visitation shall be ordered as expeditiously as possible in a manner consistent with the best interests of the child and scheduled in a manner that is convenient for the person deprived of visitation. In ordering any makeup visitation, the court shall schedule such visitation in a manner that is consistent with the best interests of the child or children

1 and that is convenient for the noncustodial parent or
2 grandparent. In addition, the court:

3 1. May order the custodial parent to pay reasonable
4 court costs and attorney's fees incurred by the noncustodial
5 parent or grandparent to enforce their visitation rights or
6 make up improperly denied visitation;

7 2. May order the custodial parent to attend the
8 parenting course approved by the judicial circuit;

9 3. May order the custodial parent to do community
10 service if the order will not interfere with the welfare of
11 the child;

12 4. May order the custodial parent to have the
13 financial burden of promoting frequent and continuing contact
14 when the custodial parent and child reside further than 60
15 miles from the noncustodial parent;

16 5. May award custody, rotating custody, or primary
17 residence to the noncustodial parent, upon the request of the
18 noncustodial parent, if the award is in the best interests of
19 the child; ~~or~~

20 6. May order the custodial parent to post a bond or
21 other security sufficient to pay costs authorized under
22 paragraph (11)(c) for any future violation; or

23 ~~7.6.~~ May impose any other reasonable sanction as a
24 result of noncompliance.

25 (11)(a) In a proceeding in which the court enters an
26 order of child custody or visitation, including a modification
27 proceeding, upon the presentation of competent substantial
28 evidence that there is a risk that one party may violate the
29 court order of visitation or custody, or upon stipulation of
30 the parties, the court may require that party to post bond or
31 other security. Competent substantial evidence of risk that a

1 party may violate the court's order includes evidence that the
2 party:

3 1. Has materially violated a visitation or custody
4 order in the past;

5 2. Previously was found by a court to have removed a
6 child from this state or another state in violation of a
7 custody or visitation order;

8 3. Was found by a court to have threatened to take a
9 child out of this state or another state or to withhold
10 contact between the child and the other parent without good
11 cause.

12 (b) In assessing the need for a bond, the court may
13 consider any reasonable factor bearing upon the risk that a
14 party may violate a visitation or custody order and shall
15 consider whether a party:

16 1. Has strong family and community ties to this state
17 or to other states or countries, including whether the party
18 is a citizen of another country.

19 2. Has strong financial reasons to remain in this
20 state or to relocate to another state or country.

21 3. Has engaged in activities that suggest plans to
22 leave this state, such as quitting his or her employment;
23 selling a residence or terminating a residential lease,
24 without making efforts to acquire an alternative residence in
25 the state; closing bank accounts or otherwise liquidating
26 assets; or applying for a passport.

27 4. Has a history of domestic violence, child abuse, or
28 child neglect.

29 5. Has a criminal record.

30 (c) Upon a material violation of any custody or
31 visitation order entered under this section, the court may

1 order the bond forfeited in whole or in part. Upon the entry
2 of an order of forfeiture, the proceeds of any bond or other
3 security posted under this section may be used only:
4 1. To reimburse the nonviolating party for actual
5 costs or damages incurred in upholding the court's order of
6 custody or visitation;
7 2. To locate the child and return him or her to the
8 residence specified in the visitation or custody order; and
9 3. To reimburse reasonable fees and costs as
10 determined by the court.
11
12 Any proceeds remaining after the requirements of subparagraphs
13 1.-3. are satisfied must be applied to the support,
14 maintenance, or education of the child.

15 Section 2. This act shall take effect July 1, 2002.

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18 SENATE SUMMARY

19 Authorizes courts to order the posting of a bond or other
20 security to secure compliance with court orders in child
21 custody or visitation cases. Provides criteria for using
22 the proceeds of such securities when a breach of such a
23 court order occurs.
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