

By Representative Cantens

1 A bill to be entitled
2 An act relating to child custody; amending s.
3 61.13, F.S.; providing for the posting of a
4 bond with respect to certain orders of child
5 custody or visitation; providing criteria for
6 the court to use in assessing the need for a
7 bond; providing for forfeiture of the bond
8 under certain circumstances; providing an
9 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. Paragraph (c) of subsection (4) of section
14 61.13, Florida Statutes, is amended, and subsection (11) is
15 added to said section, to read:

16 61.13 Custody and support of children; visitation
17 rights; power of court in making orders.--

18 (4)

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

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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 order the custodial parent to post a bond or
17 other security sufficient to pay costs authorized in paragraph
18 (11)(c) for any future violation.

19 ~~6.5.~~ May award custody, rotating custody, or primary
20 residence to the noncustodial parent, upon the request of the
21 noncustodial parent, if the award is in the best interests of
22 the child; 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 in a
27 modification proceeding, upon the presentation of competent
28 substantial evidence that there is a risk that one party may
29 violate the court's order of visitation or custody, or upon
30 stipulation of the parties, the court may require that party
31 to post bond or other security. "Competent substantial

1 evidence of risk that a party may violate the court's order"
2 shall include whether a party has materially violated a
3 visitation or custody order in the past, whether a court has
4 found that a party previously removed a child from Florida or
5 another state in violation of a custody or visitation order,
6 or whether a party has threatened to take a child out of
7 Florida or another state or to withhold contact between the
8 child and the other parent without good cause.

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

13 1. The party has strong family and community ties to
14 Florida or to other states or countries, including whether the
15 party is a citizen of another country.

16 2. The party has strong financial reasons to remain in
17 Florida or to relocate to another state or country.

18 3. The party has engaged in activities that suggest
19 plans to leave Florida, such as quitting employment; sale of a
20 residence or termination of a lease on a residence, without
21 efforts to acquire an alternative residence in the state;
22 closing bank accounts or otherwise liquidating assets; or
23 applying for a passport.

24 4. The party has a history of domestic violence, child
25 abuse, or child neglect.

26 5. The party has a criminal record.

27 (c) Upon a material violation of any custody or
28 visitation order entered under this section, the court may
29 order the bond forfeited in whole or in part. Upon an order of
30 forfeiture, the proceeds of any bond or other security posted
31 pursuant to this subsection may only be used to:

- 1 1. Reimburse the nonviolating party for actual costs
- 2 or damages incurred in upholding the court's order of custody
- 3 or visitation.
- 4 2. Locate and return the child to the residence as set
- 5 forth in the visitation or custody order.
- 6 3. Reimburse reasonable fees and costs as determined
- 7 by the court.
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- 9 Any remaining proceeds shall be applied to support,
- 10 maintenance, or education of the child.

11 Section 2. This act shall take effect upon becoming a
12 law.

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15 HOUSE SUMMARY

16 Provides that in a proceeding in which the court enters
17 an order of child custody or visitation, the court may
18 require the party to post a bond or other security.
19 Provides criteria for the court to use in assessing the
20 need for a bond. Provides for forfeiture of the bond
21 under described circumstances. See bill for details.

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