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A bill to be entitled
 An act relating to de facto custody of a child; requesting
 that the Division of Statutory Revision revise the title
 of ch. 751, F.S.; amending s. 751.011, F.S.; providing
 definitions relating to de facto custodians; creating s.
 751.10, F.S.; specifying circumstances under which a
 person may file a petition to become the de facto
 custodian of a child; detailing the matters that must be
 in the petition filed by the petitioner; requiring that
 reasonable notice of the custody hearing be given to
 specified persons; providing for a hearing; requiring that
 if an objection to the petition is filed, the court may
 grant the petition only if the petitioner shows by clear
 and convincing evidence that it is in the best interest of
 the child for the petitioner to be the de facto custodian;
 providing that support for the child may be ordered only
 under certain circumstances; providing for the termination
 of the order granting de facto custody; providing an
 effective date.

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

Section 1. The Division of Statutory Revision is requested
to change the title of chapter 751, Florida Statutes, to
"CUSTODY OF MINOR CHILDREN BY EXTENDED FAMILY AND DE FACTO
CUSTODIANS."

Section 2. Section 751.011, Florida Statutes, is amended
 to read:

29 751.011 Definitions.--As used in this chapter ~~ss. 751.01-~~
 30 ~~751.05~~, the term:

31 (1) "De facto custodian" means an individual who has been
 32 the primary caregiver for a child who has, within the 24 months
 33 immediately preceding the filing of the petition, resided with
 34 the individual without a parent present and with a lack of
 35 demonstrated consistent participation by a parent for a period
 36 of:

37 (a) Six months or more, which need not be consecutive, if
 38 the child is younger than 3 years of age; or

39 (b) One year or more, which need not be consecutive, if
 40 the child is 3 years of age or older.

41
 42 A de facto custodian does not include a person who has a child
 43 placed in his or her care through a custody consent decree, a
 44 court order, or a voluntary placement or for adoption under
 45 chapter 61.

46 (2)~~(1)~~ "Extended family" means ~~is~~ any family composed of
 47 the minor child and a relative of the child who is the child's
 48 brother, sister, grandparent, aunt, uncle, or cousin.

49 (3) "Lack of demonstrated consistent participation by a
 50 parent" means a refusal or neglect to comply with the duties
 51 imposed upon the parent by the parent-child relationship,
 52 including, but not limited to, providing the child with
 53 necessary food, clothing, shelter, health care, and education;
 54 creating a nurturing and consistent relationship; and providing
 55 other care and control necessary for the child's physical,
 56 mental, or emotional health and development.

57 (4) "Other person responsible for a child's welfare" has
 58 the same meaning as in s. 39.01(47).

59 (5) "Parent" has the same meaning as in s. 39.01(49).

60 (6)(2) "Putative father" means ~~is~~ a man who reasonably
 61 believes himself to be the biological father of the minor child,
 62 but who is unable to prove his paternity due to the absence of
 63 the mother of the child.

64 (7) "Relative" has the same meaning as in s. 39.01(60).

65 Section 3. Section 751.10, Florida Statutes, is created to
 66 read:

67 751.10 De facto custodians.--

68 (1) DETERMINATION OF DE FACTO CUSTODY.--Any person who has
 69 the signed, notarized consent of the child's legal parents, or
 70 any person with whom a child is presently living, may bring
 71 proceedings in the circuit court to determine the de facto
 72 custody of the child. The proceeding may be filed in the county
 73 where the child permanently resides, where the child is found,
 74 or where an earlier order of custody was entered.

75 (2) PETITION FOR DE FACTO CUSTODY; CONTENTS.--Each
 76 petition for de facto custody of a minor child must be verified
 77 by the petitioner and must contain statements, to the best of
 78 petitioner's knowledge and belief, showing:

79 (a) The name, date of birth, and current address of the
 80 child.

81 (b) The names and current addresses of the child's
 82 parents.

83 (c) The length of time the child has lived with the
 84 petitioner.

85 (d) The names and current addresses of the persons with
86 whom the child has lived during the past 5 years.

87 (e) The places where the child has lived during the past 5
88 years.

89 (f) The current legal custodial status of the child and a
90 listing of all prior orders of custody, if known to the
91 petitioner.

92 (g) Information concerning any pending custody proceeding
93 in this or any other state with respect to the child.

94 (h) The residence and post office address of the
95 petitioner.

96 (i) The petitioner's relationship to the child and the
97 extent to which the child has been cared for, nurtured, and
98 supported by the petitioner.

99 (j) The consent of the child's parents, if any, or the
100 circumstances of the child's current living situation with the
101 petitioner.

102 (k) Any temporary or permanent child support, attorney's
103 fees, costs, and disbursements.

104 (l) Whether an order of protection governing the parties
105 or a party and a minor child of the parties or party is in
106 effect and, if so, the court or similar jurisdiction in which
107 the order was entered.

108 (m) That it is in the best interest of the child for the
109 petitioner to have de facto custody of the child.

110 (3) NOTICE AND OPPORTUNITY TO BE HEARD.--Before a decree
111 is made under this section, reasonable notice and an opportunity
112 to be heard must be given to the parents of the minor child,

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113 relatives of the child, other persons responsible for a child's
114 welfare, and the child's tribe if the child is an Indian child.
115 Notice must be given by service of process, either personal or
116 constructive.

117 (4) ORDER GRANTING DE FACTO CUSTODY.--

118 (a) At the hearing on the petition for de facto custody,
119 the court must hear the evidence concerning the minor child's
120 need for care by the petitioner acting as the de facto
121 custodian, all other matters required to be set forth in the
122 petition, and the objections or other testimony of the child's
123 parents, relatives, or other persons responsible for the child's
124 welfare, if present.

125 (b) Unless the child's parents, relatives, or other
126 persons responsible for the child's welfare object, the court
127 shall award the de facto custody of the child to the petitioner
128 if it is in the best interest of the child to do so.

129 (c) If one of the minor child's parents, relatives, or
130 other persons responsible for a child's welfare objects to the
131 granting of de facto custody to the petitioner, the court shall
132 grant the petition only upon a finding, by clear and convincing
133 evidence, that the petitioner has satisfied all matters required
134 to be set forth in the petition and that the child's parent or
135 parents, or others, have exhibited a lack of demonstrated
136 consistent participation in the care of the child. In
137 determining that a parent or another lacks consistent
138 participation as a parent, the court must find that the parent
139 or another has abused, abandoned, or neglected the child, as
140 defined in chapter 39. The court must make detailed findings and

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141 explain how the facts have led to its conclusions and to the
142 determination of the best interest of the child.

143 (d) The order granting de facto custody of the minor child
144 to the petitioner may also grant visitation rights to the
145 child's parent or parents if it is in the best interest of the
146 child to do so.

147 (e) The order granting de facto custody of the minor child
148 to the petitioner may not include an order for the support of
149 the child unless the parent has received personal or substituted
150 service of process, the petition requests an order for the
151 support of the child, and there is evidence of the parent's
152 ability to pay the support ordered.

153 (f) If the court grants custody to the de facto custodian,
154 the de facto custodian has legal custody of the child under the
155 laws of this state.

156 (5) TERMINATION OF THE ORDER.--At any time, either or both
157 of the child's parents may petition the court to modify or
158 terminate the order granting de facto custody upon a finding
159 that the parent requesting the termination of the order is a fit
160 parent or by consent of the parties.

161 Section 4. This act shall take effect on July 1, 2005.