

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to temporary custody of a child by an
7 extended family member; amending s. 751.01, F.S.; removing
8 provisions related to putative fathers; amending s.
9 751.011, F.S.; defining the term "extended family member";
10 removing the definition of the term "putative father";
11 amending s. 751.02, F.S.; authorizing an extended family
12 member to bring a proceeding in court to determine the
13 temporary custody of a child; amending s. 751.03, F.S.;
14 specifying the information that must be included in a
15 petition for temporary custody by an extended family
16 member; providing that only an extended family member may
17 file a petition for temporary custody under ch. 751, F.S.;
18 amending s. 751.05, F.S.; authorizing a court to redirect
19 child support payments to an extended family member;
20 requiring that the court order payment of arrearages;
21 removing reference to an order granting temporary custody
22 of a minor child to a putative father; providing that
23 either or both of the child's parents may petition the

HB 109 CS

2006
CS

24 court to modify the order granting temporary custody under
25 certain circumstances; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Subsections (2) and (3) of section 751.01,
30 Florida Statutes, are amended to read:

31 751.01 Purpose of act.--The purposes of ss. 751.01-751.05
32 are to:

33 (2) Provide for the welfare of a minor child ~~children~~ who
34 ~~is~~ are living with an extended family members, ~~or who are being~~
35 ~~cared for by putative fathers whose paternity cannot be~~
36 ~~established given the absence of the mothers.~~ At present, such
37 family members are unable to give complete care to the child in
38 their custody because they lack a legal document that explains
39 and defines their relationship to the child, and they are unable
40 effectively to consent to the care of the child ~~children~~ by
41 third parties.

42 (3) Provide temporary custody of a minor child to a family
43 member ~~or putative father~~ having physical custody of the minor
44 child to enable the custodian to:

45 (a) Consent to all necessary and reasonable medical and
46 dental care for the child, including nonemergency surgery and
47 psychiatric care;

48 (b) Secure copies of the child's records, held by third
49 parties, that are necessary to the care of the child, including,
50 but not limited to:

51 1. Medical, dental, and psychiatric records;

HB 109 CS

2006
CS

52 2. Birth certificates and other records; and

53 3. Educational records;

54 (c) Enroll the child in school and grant or withhold
55 consent for a child to be tested or placed in special school
56 programs, including exceptional education; and

57 (d) Do all other things necessary for the care of the
58 child.

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

61 751.011 Definitions.--As used in ss. 751.01-751.05, the
62 term:

63 ~~(1)~~ "extended family member" is any person who is:

64 (1) A relative within the third degree by blood or
65 marriage to the parent; or

66 (2) The stepparent of a child if the stepparent is
67 currently married to the parent of the child and is not a party
68 in a pending dissolution, separate maintenance, domestic
69 violence, or other civil or criminal proceeding in any court of
70 competent jurisdiction involving one or both of the child's
71 parents as an adverse party ~~family composed of the minor child~~
72 and a relative of the child who is the child's brother, sister,
73 grandparent, aunt, uncle, or cousin.

74 ~~(2) "Putative father" is a man who reasonably believes~~
75 ~~himself to be the biological father of the minor child, but who~~
76 ~~is unable to prove his paternity due to the absence of the~~
77 ~~mother of the child.~~

78 Section 3. Section 751.02, Florida Statutes, is amended to
79 read:

80 751.02 Determination of temporary custody proceedings;
81 jurisdiction.--The following individuals may bring proceedings
82 in the circuit court to determine the temporary custody of a
83 minor child:

84 (1) Any extended family member ~~relative of a minor child~~
85 who has the signed, notarized consent of the child's legal
86 parents;; or

87 (2) Any extended family member who is caring full time for
88 the child in the role of a substitute parent and ~~relative of the~~
89 ~~child, including a putative father,~~ with whom the child is
90 presently living, ~~may bring proceedings in the circuit court to~~
91 ~~determine the temporary custody of the child. A putative father~~
92 ~~may bring a proceeding for temporary custody only when he is~~
93 ~~unable to perfect personal service of process upon the mother of~~
94 ~~the child. When the putative father is able to perfect personal~~
95 ~~service of process upon the mother of the child, he must~~
96 ~~petition for custody and other relief, including the~~
97 ~~establishment of his paternity of the child, under chapter 742.~~

98 Section 4. Section 751.03, Florida Statutes, is amended to
99 read:

100 751.03 Petition for temporary custody; contents.--Each
101 ~~Every~~ petition for temporary custody of a minor child must be
102 verified by the petitioner and must contain statements, to the
103 best of petitioner's knowledge and belief, showing:

104 (1) The name, date of birth, and current address of the
105 child;

106 (2) The names and current addresses of the child's
107 parents;

HB 109 CS

2006
CS

- 108 (3) The names and current addresses of the persons with
109 whom the child has lived during the past 5 years;
- 110 (4) The places where the child has lived during the past 5
111 years;
- 112 (5) Information concerning any custody proceeding in this
113 or any other state with respect to the child;
- 114 (6) The residence and post office address of the
115 petitioner;
- 116 (7) The petitioner's relationship to the child, ~~including~~
117 ~~the circumstances leading the petitioner to believe he is the~~
118 ~~natural father of the child when the petitioner is the putative~~
119 ~~father; and~~
- 120 (8) The consent of the child's parents, or the specific
121 acts or omissions of the parents which demonstrate that the
122 parents have abused, abandoned, or neglected the child as
123 defined in chapter 39;
- 124 (9) Any temporary or permanent orders for child support,
125 the court entering the order, and the case number;
- 126 (10) Any temporary or permanent order for protection
127 entered on behalf of or against either parent, the petitioner,
128 or the child; the court entering the order; and the case number;
- 129 (11) That it is in the best interest of the child for the
130 petitioner to have custody of the child; and ~~the circumstances~~
131 ~~of the child's current living situation with the petitioner.~~
- 132 (12) ~~(9)~~ A statement of the period of time the petitioner
133 is requesting temporary custody, including a statement of the
134 reasons supporting that request.

136 Only an extended family member may file a petition under this
137 chapter.

138 Section 5. Subsections (5), (6), and (7) of section
139 751.05, Florida Statutes, are amended to read:

140 751.05 Order granting temporary custody.--

141 (5) (a) The order granting temporary custody of the minor
142 child to the petitioner may not include an order for the support
143 of the child unless the parent has received personal or
144 substituted service of process, the petition requests an order
145 for the support of the child, and there is evidence of the
146 parent's ability to pay the support ordered.

147 (b) The order granting temporary custody of the minor
148 child to the petitioner may redirect all or part of an existing
149 child support obligation to be paid to the extended family
150 member who is granted temporary custody of the child. If the
151 court redirects an existing child support obligation, the order
152 granting temporary custody must include the determination of
153 arrearages owed to the obligee and the person awarded temporary
154 custody and must order payment of the arrearages. The clerk of
155 the circuit court in which the temporary custody order is
156 entered shall transmit a certified copy thereof to the court
157 originally entering the child support order. The temporary
158 custody order shall be recorded and filed in the original action
159 in which child support was determined and become a part thereof.
160 A copy of the temporary custody order shall be filed with the
161 depository that serves as the official recordkeeper for support
162 payments due under the support order. The depository shall

HB 109 CS

2006
CS

163 maintain separate accounts and separate account numbers for
164 individual obligees.

165 ~~(6) The order granting temporary custody of a minor child~~
166 ~~to a putative father must not include a determination of the~~
167 ~~paternity of the child.~~

168 (6)(7) At any time, either or both of the child's parents
169 may petition the court to modify or terminate the order granting
170 temporary custody. The court shall terminate the order upon a
171 finding that the parent ~~requesting the termination of the order~~
172 is a fit parent, or by consent of the parties. The court may
173 modify an order granting temporary custody if the parties
174 consent or if modification is in the best interest of the child.

175 Section 6. This act shall take effect July 1, 2006.