

By the Committee on Judiciary; and Senator Fasano

590-728-06

1 A bill to be entitled

2 An act relating to temporary custody of a child

3 by an extended family member or putative

4 father; amending s. 751.011, F.S.; defining the

5 term "extended family member"; amending s.

6 751.02, F.S.; authorizing an extended family

7 member to bring a proceeding in court to

8 determine the temporary custody of a child;

9 amending s. 751.03, F.S.; specifying the

10 information that must be included in a petition

11 for temporary custody by an extended family

12 member or putative father; providing that only

13 an extended family member or putative father

14 may file a petition for temporary custody under

15 ch. 751, F.S.; amending s. 751.05, F.S.;

16 authorizing a court to redirect child support

17 payments to an extended family member;

18 providing that either or both of the child's

19 parents may petition the court to modify the

20 order granting temporary custody under certain

21 circumstances; providing an effective date.

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

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25 Section 1. Subsection (1) of section 751.011, Florida

26 Statutes, is amended to read:

27 751.011 Definitions.--As used in ss. 751.01-751.05,

28 the term:

29 (1) "Extended family member" is any person who is a

30 relative within the third degree by blood or marriage to the

31 parent or stepparent of a child ~~family composed of the minor~~

1 ~~child and a relative of the child who is the child's brother,~~
2 ~~sister, grandparent, aunt, uncle, or cousin.~~

3 Section 2. Section 751.02, Florida Statutes, is
4 amended to read:

5 751.02 Determination of temporary custody proceedings;
6 jurisdiction.--

7 (1) The following individuals may bring proceedings in
8 the circuit court to determine the temporary custody of a
9 minor child:

10 (a) Any extended family member ~~relative of a minor~~
11 ~~child~~ who has the signed, notarized consent of the child's
12 legal parents; or

13 (b) Any extended family member or a putative father
14 who is caring full time for the child in the role of a
15 substitute parent and ~~relative of the child, including a~~
16 ~~putative father,~~ with whom the child is presently living, ~~may~~
17 ~~bring proceedings in the circuit court to determine the~~
18 ~~temporary custody of the child.~~

19 (2) A putative father may bring a proceeding for
20 temporary custody only when he is unable to perfect personal
21 service of process upon the mother of the child. When the
22 putative father is able to perfect personal service of process
23 upon the mother of the child, he must petition for custody and
24 other relief, including the establishment of his paternity of
25 the child, under chapter 742.

26 Section 3. Section 751.03, Florida Statutes, is
27 amended to read:

28 751.03 Petition for temporary custody; contents.--~~Each~~
29 ~~Every~~ petition for temporary custody of a minor child must be
30 verified by the petitioner and must contain statements, to the
31 best of petitioner's knowledge and belief, showing:

- 1 (1) The name, date of birth, and current address of
2 the child;
- 3 (2) The names and current addresses of the child's
4 parents;
- 5 (3) The names and current addresses of the persons
6 with whom the child has lived during the past 5 years;
- 7 (4) The places where the child has lived during the
8 past 5 years;
- 9 (5) Information concerning any custody proceeding in
10 this or any other state with respect to the child;
- 11 (6) The residence and post office address of the
12 petitioner;
- 13 (7) The petitioner's relationship to the child,
14 including the circumstances leading the petitioner to believe
15 he is the natural father of the child when the petitioner is
16 the putative father; ~~and~~
- 17 (8) The consent of the child's parents, or the
18 circumstances of the child's current living situation with the
19 petitioner, including information concerning the fitness of
20 the parents to raise the child and whether either parent has
21 abused, abandoned, or neglected the child;-
- 22 (9) Any temporary or permanent child support
23 obligations for the benefit of the child;
- 24 (10) Whether an order of protection governing the
25 parties or a party and a minor child of the parties or party
26 is in effect and, if so, the court in which the order was
27 entered;
- 28 (11) That it is in the best interest of the child for
29 the petitioner to have custody of the child; and
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1 ~~(12)(9)~~ A statement of the period of time the
2 petitioner is requesting temporary custody, including a
3 statement of the reasons supporting that request.
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5 Only an extended family member or putative father may file a
6 petition under this chapter.

7 Section 4. Subsections (5) and (7) of section 751.05,
8 Florida Statutes, are amended to read:

9 751.05 Order granting temporary custody.--

10 (5)~~(a)~~ The order granting temporary custody of the
11 minor child to the petitioner may not include an order for the
12 support of the child unless the parent has received personal
13 or substituted service of process, the petition requests an
14 order for the support of the child, and there is evidence of
15 the parent's ability to pay the support ordered.

16 **(b) The order granting temporary custody may redirect**
17 **all or part of an existing child support obligation to be paid**
18 **to the extended family member who is granted temporary custody**
19 **of the child. If the court redirects an existing child support**
20 **obligation, the clerk of the circuit court in which the**
21 **temporary custody order is entered shall transmit a certified**
22 **copy thereof to the court originally entering the child**
23 **support order. The temporary custody order shall be recorded**
24 **and filed in the original action in which child support was**
25 **determined and become a part thereof.**

26 (7) At any time, either or both of the child's parents
27 may petition the court to modify or terminate the order
28 granting temporary custody. The court shall terminate the
29 order upon a finding that the parent ~~requesting the~~
30 ~~termination of the order~~ is a fit parent, or by consent of the
31 parties. The court may modify an order granting temporary

1 custody if the parties consent or if modification is in the
2 best interest of the child.

3 Section 5. This act shall take effect July 1, 2006.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 118

8 Allows a court to order that an existing child support
9 obligation be paid to a relative who is granted temporary
10 custody of a child.

11 Removes the requirement that a person first act as a
12 substitute parent to a child before a petition for temporary
13 custody may be filed with the consent of the parents.

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