

By the Committees on Children and Families; Judiciary; and
Senator Fasano

586-1048-06

1 A bill to be entitled
2 An act relating to temporary custody of a child
3 by an extended family member; amending s.
4 751.01, F.S.; removing provisions related to
5 putative fathers; amending s. 751.011, F.S.;
6 defining the term "extended family member";
7 amending s. 751.02, F.S.; authorizing an
8 extended family member to bring a proceeding in
9 court to determine the temporary custody of a
10 child; amending s. 751.03, F.S.; specifying the
11 information that must be included in a petition
12 for temporary custody by an extended family
13 member; providing that only an extended family
14 member may file a petition for temporary
15 custody under ch. 751, F.S.; amending s.
16 751.05, F.S.; authorizing a court to redirect
17 child support payments to an extended family
18 member; requiring that the court order payment
19 of arrearages; providing that either or both of
20 the child's parents may petition the court to
21 modify the order granting temporary custody
22 under certain circumstances; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsections (2) and (3) of section 751.01,
28 Florida Statutes, are amended to read:
29 751.01 Purpose of act.--The purposes of ss.
30 751.01-751.05 are to:
31

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 (2) Provide for the welfare of minor children who are
2 living with an extended family, ~~or who are being cared for by~~
3 ~~putative fathers whose paternity cannot be established given~~
4 ~~the absence of the mothers~~. At present, such family members
5 are unable to give complete care to the child in their custody
6 because they lack a legal document that explains and defines
7 their relationship to the child, and they are unable
8 effectively to consent to the care of the children by third
9 parties.

10 (3) Provide temporary custody of a minor child to a
11 family member ~~or putative father~~ having physical custody of
12 the minor child to enable the custodian to:

13 (a) Consent to all necessary and reasonable medical
14 and dental care for the child, including nonemergency surgery
15 and psychiatric care;

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

- 19 1. Medical, dental, and psychiatric records;
- 20 2. Birth certificates and other records; and
- 21 3. Educational records;

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

25 (d) Do all other things necessary for the care of the
26 child.

27 Section 2. Subsection (1) of section 751.011, Florida
28 Statutes, is amended to read:

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

- 31 (1) "Extended family member" is any person who is:

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

3 (b) The stepparent of a child if the stepparent is
4 currently married to the parent of the child and is not
5 engaged in a pending dissolution, separate maintenance,
6 domestic violence, or other civil or criminal proceeding in
7 any court of competent jurisdiction involving one or both of
8 the child's parents as an adverse party family composed of the
9 minor child and a relative of the child who is the child's
10 brother, sister, grandparent, aunt, uncle, or cousin.

11 Section 3. Section 751.02, Florida Statutes, is
12 amended to read:

13 751.02 Determination of temporary custody proceedings;
14 jurisdiction.--The following individuals may bring proceedings
15 in the circuit court to determine the temporary custody of a
16 minor child:

17 (1) Any extended family member relative of a minor
18 child who has the signed, notarized consent of the child's
19 legal parents; or

20 (2) Any extended family member who is caring full time
21 for the child in the role of a substitute parent and relative
22 of the child, including a putative father, with whom the child
23 is presently living, may bring proceedings in the circuit
24 court to determine the temporary custody of the child. A
25 putative father may bring a proceeding for temporary custody
26 only when he is unable to perfect personal service of process
27 upon the mother of the child. When the putative father is
28 able to perfect personal service of process upon the mother of
29 the child, he must petition for custody and other relief,
30 including the establishment of his paternity of the child,
31 under chapter 742.

1 Section 4. Section 751.03, Florida Statutes, is
2 amended to read:

3 751.03 Petition for temporary custody; contents.--~~Each~~
4 ~~Every~~ petition for temporary custody of a minor child must be
5 verified by the petitioner and must contain statements, to the
6 best of petitioner's knowledge and belief, showing:

7 (1) The name, date of birth, and current address of
8 the child;

9 (2) The names and current addresses of the child's
10 parents;

11 (3) The names and current addresses of the persons
12 with whom the child has lived during the past 5 years;

13 (4) The places where the child has lived during the
14 past 5 years;

15 (5) Information concerning any custody proceeding in
16 this or any other state with respect to the child;

17 (6) The residence and post office address of the
18 petitioner;

19 (7) The petitioner's relationship to the child,
20 ~~including the circumstances leading the petitioner to believe~~
21 ~~he is the natural father of the child when the petitioner is~~
22 ~~the putative father; and~~

23 (8) The consent of the child's parents, or the
24 specific acts or omissions of the parents which demonstrate
25 that the parents have abused, abandoned, or neglected the
26 child as defined in chapter 39; the circumstances of the
27 child's current living situation with the petitioner.

28 (9) Any temporary or permanent orders for child
29 support, the court entering the order, and the case number;

30 (10) Any temporary or permanent order for protection
31 entered on behalf of or against either parent, the petitioner,

1 or the child; the court entering the order; and the case
2 number;

3 (11) That it is in the best interest of the child for
4 the petitioner to have custody of the child; and

5 (12)(9) A statement of the period of time the
6 petitioner is requesting temporary custody, including a
7 statement of the reasons supporting that request.

8
9 Only an extended family member may file a petition under this
10 chapter.

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

13 751.05 Order granting temporary custody.--

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

20 (b) The order granting temporary custody may redirect
21 all or part of an existing child support obligation to be paid
22 to the extended family member who is granted temporary custody
23 of the child. If the court redirects an existing child support
24 obligation, the order granting temporary custody must include
25 the determination of arrearages owed to the obligee and the
26 person awarded temporary custody and must order payment of the
27 arrearages. The clerk of the circuit court in which the
28 temporary custody order is entered shall transmit a certified
29 copy thereof to the court originally entering the child
30 support order. The temporary custody order shall be recorded
31 and filed in the original action in which child support was

1 determined and become a part thereof. A copy of the temporary
2 custody order shall be filed with the depository that serves
3 as the official recordkeeper for support payments due under
4 the support order. The depository shall maintain separate
5 accounts and separate account numbers for individual obligees.

6 (7) At any time, either or both of the child's parents
7 may petition the court to modify or terminate the order
8 granting temporary custody. The court shall terminate the
9 order upon a finding that the parent ~~requesting the~~
10 ~~termination of the order~~ is a fit parent, or by consent of the
11 parties. The court may modify an order granting temporary
12 custody if the parties consent or if modification is in the
13 best interest of the child.

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

15
16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 CS/Senate Bill 118

19 Removes putative fathers from the list of those who may
20 petition for temporary custody of a child by an extended
family member;

21 Adds clarifying language relating to the determination and
22 collection of existing child support arrearages when custody
of a child is transferred to an extended family member.

23 Limits the group of stepparents who may petition for custody
24 of a child to those who are currently married to the parent of
a child and who are not currently engaged in litigation
25 involving one or both of the child's parents as an adverse
party.

26 Requires the petition for extended custody to include any
27 specific acts or omissions of the parents which demonstrate
that the parents have abused, abandoned, or neglected the
28 child as defined in Chapter 39, Florida Statutes.