

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 removing the definition of the term "putative
8 father"; amending s. 751.02, F.S.; authorizing
9 an extended family member to bring a proceeding
10 in court to determine the temporary custody of
11 a child; amending s. 751.03, F.S.; specifying
12 the information that must be included in a
13 petition for temporary custody by an extended
14 family member; providing that only an extended
15 family member may file a petition for temporary
16 custody under ch. 751, F.S.; amending s.
17 751.05, F.S.; authorizing a court to redirect
18 child support payments to an extended family
19 member; requiring that, if possible, the court
20 order payment of arrearages; removing reference
21 to an order granting temporary custody of a
22 minor child to a putative father; providing
23 that either or both of the child's parents may
24 petition the court to modify the order granting
25 temporary custody under certain circumstances;
26 providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsections (2) and (3) of section 751.01,
31 Florida Statutes, are amended to read:

1 751.01 Purpose of act.--The purposes of ss.

2 751.01-751.05 are to:

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

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

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

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

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

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

27 (d) Do all other things necessary for the care of the
28 child.

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

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1 751.011 Definitions.--As used in ss. 751.01-751.05,
2 the term:

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

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

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

14 ~~(2)~~ "Putative father" is a man who reasonably believes
15 himself to be the biological father of the minor child, but
16 who is unable to prove his paternity due to the absence of the
17 mother of the child.

18 Section 3. Section 751.02, Florida Statutes, is
19 amended to read:

20 751.02 Determination of temporary custody proceedings;
21 jurisdiction.--The following individuals may bring proceedings
22 in the circuit court to determine the temporary custody of a
23 minor child:

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

27 (2) Any extended family member who is caring full time
28 for the child in the role of a substitute parent and relative
29 of the child, including a putative father, with whom the child
30 is presently living, may bring proceedings in the circuit
31 court to determine the temporary custody of the child. A

1 ~~putative father may bring a proceeding for temporary custody~~
2 ~~only when he is unable to perfect personal service of process~~
3 ~~upon the mother of the child. When the putative father is~~
4 ~~able to perfect personal service of process upon the mother of~~
5 ~~the child, he must petition for custody and other relief,~~
6 ~~including the establishment of his paternity of the child,~~
7 ~~under chapter 742.~~

8 Section 4. Section 751.03, Florida Statutes, is
9 amended to read:

10 751.03 Petition for temporary custody; contents.--Each
11 ~~Every~~ petition for temporary custody of a minor child must be
12 verified by the petitioner and must contain statements, to the
13 best of petitioner's knowledge and belief, showing:

14 (1) The name, date of birth, and current address of
15 the child;

16 (2) The names and current addresses of the child's
17 parents;

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

20 (4) The places where the child has lived during the
21 past 5 years;

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

24 (6) The residence and post office address of the
25 petitioner;

26 (7) The petitioner's relationship to the child,
27 ~~including the circumstances leading the petitioner to believe~~
28 ~~he is the natural father of the child when the petitioner is~~
29 ~~the putative father; and~~

30 (8) The consent of the child's parents, or the
31 specific acts or omissions of the parents which demonstrate

1 that the parents have abused, abandoned, or neglected the
2 child as defined in chapter 39; the circumstances of the
3 child's current living situation with the petitioner.

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

6 (10) Any temporary or permanent order for protection
7 entered on behalf of or against either parent, the petitioner,
8 or the child; the court entering the order; and the case
9 number;

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

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

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16 Only an extended family member may file a petition under this
17 chapter.

18 Section 5. Subsections (5), (6), and (7) of section
19 751.05, Florida Statutes, are amended to read:

20 751.05 Order granting temporary custody.--

21 (5)(a) The order granting temporary custody of the
22 minor child to the petitioner may not include an order for the
23 support of the child unless the parent has received personal
24 or substituted service of process, the petition requests an
25 order for the support of the child, and there is evidence of
26 the parent's ability to pay the support ordered.

27 (b) The order granting temporary custody may redirect
28 all or part of an existing child support obligation to be paid
29 to the extended family member who is granted temporary custody
30 of the child. If the court redirects an existing child support
31 obligation, the order granting temporary custody must include,

1 if possible, the determination of arrearages owed to the
2 obligee and the person awarded temporary custody and must
3 order payment of the arrearages. The clerk of the circuit
4 court in which the temporary custody order is entered shall
5 transmit a certified copy thereof to the court originally
6 entering the child support order. The temporary custody order
7 shall be recorded and filed in the original action in which
8 child support was determined and become a part thereof. A copy
9 of the temporary custody order shall be filed with the
10 depository that serves as the official recordkeeper for
11 support payments due under the support order. The depository
12 shall maintain separate accounts and separate account numbers
13 for individual obligees.

14 ~~(6) The order granting temporary custody of a minor~~
15 ~~child to a putative father must not include a determination of~~
16 ~~the paternity of the child.~~

17 ~~(6)(7)~~ At any time, either or both of the child's
18 parents may petition the court to modify or terminate the
19 order granting temporary custody. The court shall terminate
20 the order upon a finding that the parent ~~requesting the~~
21 ~~termination of the order~~ is a fit parent, or by consent of the
22 parties. The court may modify an order granting temporary
23 custody if the parties consent or if modification is in the
24 best interest of the child.

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