

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative Quinones offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 89-183 and insert:

5 (3) Notwithstanding subsection (2), a court may not set
6 aside the paternity determination or child support order if it
7 is not in the best interest of the child. For the purpose of
8 determining the best interest of the child, the court shall
9 consider and make written findings on each of the following
10 factors, as applicable:

11 (a) The age of the child.

12 (b) The nature and quality of the current relationship
13 between the petitioner and the child, including the love,
14 affection, and emotional ties currently existing between the
15 petitioner and the child.

16 (c) The nature, duration, and quality of the past
17 relationship between the petitioner and the child, including the
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18 duration and frequency of any time periods during which the
19 child and the petitioner resided in the same household or
20 enjoyed a parent-child relationship.

21 (d) The nature, duration, and quality of the past
22 relationship between the child and his or her biological father,
23 including the duration and frequency of any time periods during
24 which the child and the biological father resided in the same
25 household or enjoyed a parent-child relationship.

26 (e) The nature and quality of the current relationship
27 between the child and his or her biological father, including
28 the love, affection, and emotional ties currently existing
29 between the biological father and the child.

30 (f) The nature, duration, and quality of the past
31 relationship between the child's mother and the child's
32 biological father.

33 (g) The nature and quality of the current relationship
34 between the child's mother and the child's biological father.

35 (h) The existence of siblings, including other children of
36 the child's biological father.

37 (i) Whether the conduct of the child's mother has impaired
38 the relationship between the petitioner and the child.

39 (j) Whether the conduct of the petitioner has impaired the
40 ability to ascertain the identity of, or get support from, the
41 biological father.

42 (k) The past and current willingness and ability of the
43 child's mother to facilitate and encourage a close and
44 continuing parent-child relationship between the child and the
45 petitioner.

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46 (1) The reasonable preference of the child, if the court
47 deems the child to be of sufficient intelligence, understanding,
48 and experience to express a preference under the circumstances.

49 (m) Any additional factors deemed by the court to be
50 relevant to its determination of the best interest of the child.

51 (4) Notwithstanding subsection (2), a court shall not set
52 aside the paternity determination or child support order if the
53 male engaged in the following conduct after learning that he is
54 not the biological father of the child:

55 (a) Married the mother of the child while known as the
56 putative father in accordance with s. 742.091, Florida Statutes,
57 and voluntarily assumed the parental obligation and duty to pay
58 child support;

59 (b) Acknowledged his paternity of the child in a sworn
60 statement;

61 (c) Consented to be named as the child's biological father
62 on the child's birth certificate;

63 (d) Voluntarily promised in writing to support the child
64 and was required to support the child based on that promise;

65 (e) Received and disregarded written notice from any state
66 agency or any court directing him to submit to scientific
67 testing; or

68 (f) Signed a voluntary acknowledgment of paternity as
69 provided in s. 742.10(4), Florida Statutes.

70 (5) In the event the petitioner fails to make the
71 requisite showing required by this section, the court shall deny
72 the petition.

73 (6) In the event relief is granted pursuant to this
74 section, relief shall be limited to the issues of prospective
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75 child support payments and termination of parental rights,
76 custody, and visitation rights. The male's previous status as
77 father continues to be in existence until the order granting
78 relief is rendered. All previous lawful actions taken based on
79 reliance on that status are confirmed retroactively but not
80 prospectively. This section shall not be construed to create a
81 cause of action to recover child support that was previously
82 paid.

83 (7) The duty to pay child support and other legal
84 obligations for the child shall not be suspended while the
85 petition is pending except for good cause shown. However, the
86 court may order the child support to be held in the registry of
87 the court until final determination of paternity has been made.

88 (8) (a) In an action brought pursuant to this section, if
89 the scientific test results submitted in accordance with
90 paragraph (1) (b) are provided solely by the male ordered to pay
91 child support, the court on its own motion may, and on the
92 petition of any party shall, order the child and the male
93 ordered to pay child support to submit to applicable scientific
94 testing. The court shall provide that such scientific testing be
95 completed no more than 30 days after the court issues its order.

96 (b) If the male ordered to pay child support willfully
97 fails to submit to scientific testing or if the mother or legal
98 guardian or custodian of the child willfully fails to submit the
99 child for testing, the court shall issue an order determining
100 the relief on the petition against the party so failing to
101 submit to scientific testing. If a party shows good cause for
102 failing to submit to testing, such failure shall not be
103 considered willful. Nothing in this paragraph shall prevent the

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104 child from reestablishing paternity under s. 742.10, Florida
105 Statutes.

106 (c) The party requesting applicable scientific testing
107 shall pay any fees charged for the testing. If the custodian of
108 the child is receiving services from an administrative agency in
109 its role as an agency providing enforcement of child support
110 orders, that agency shall pay the cost of the testing if it
111 requests the testing and may seek reimbursement for the fees
112 from the person against whom the court assesses the costs of the
113 action.

114 (9) If relief on a petition filed in accordance with this
115 section is granted, the clerk of the court shall, within 30 days
116 after final disposition, forward to the Office of Vital
117 Statistics of the Department of Health a certified copy of the
118 court order or a report of the proceedings upon a form to be
119 furnished by the department, together with sufficient
120 information to identify the original birth certificate and to
121 enable the department to prepare a new birth certificate. Upon
122 receipt of the certified copy or the report, the department
123 shall prepare and file a new birth certificate that deletes the
124 name of the male ordered to pay child support as the father of
125 the child. The certificate shall bear the same file number as
126 the original birth certificate. All other items not affected by
127 the order setting aside a determination of paternity shall be
128 copied as on the original certificate, including the date of
129 registration and filing. If the child was born in a state other
130 than Florida, the clerk shall send a copy of the report or
131 decree to the appropriate birth registration authority of the
132 state where the child was born. If the relief on a petition

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133 | filed in accordance with this section is granted and the mother
134 | or legal guardian or custodian requests that the court change
135 | the child's surname, the court may change the child's surname.
136 | If the child is a minor, the court shall consider whether it is
137 | in the child's best interests to grant the request to change the
138 | child's surname.

139 | (10) The rendition of an order granting a petition filed
140 | pursuant to this section shall not affect the legitimacy of a
141 | child born during a lawful marriage.

142 | (11) If relief on a petition filed in accordance with this
143 | section is not granted, the court shall assess the costs of the
144 | action and attorney's fees against the petitioner.

145 | (12) Nothing in this section precludes an individual from
146 |

147 | ===== T I T L E A M E N D M E N T =====

148 | Between lines 9 and 10, insert:
149 | providing factors the court must consider in determining
150 | the best interest of the child; requiring the court to
151 | make certain findings;