

By Senator Rich

34-1852-07

See HB 95

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A bill to be entitled

An act relating to child custody; amending ss. 751.01, 751.011, 751.02, 751.03, and 751.05, F.S.; creating an action for temporary custody of a minor child by certain authorized persons interested in the welfare of the child; providing a definition; providing an effective date.

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

Section 1. Section 751.01, Florida Statutes, is amended to read:

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

(1) Recognize that many minor children in this state live with and are well cared for by members of their extended families or other persons interested in the welfare of minor children. The parents of these children have often provided for their care by placing them temporarily with another family member or another person interested in the welfare of the minor children who is better able to care for them. Because of the care being provided the children by their extended families or other persons interested in the welfare of the minor children, they are not dependent children.

(2) Provide for the welfare of a minor child who is living with extended family members or another person interested in the welfare of the minor child. At present, such family members or other persons interested in the welfare of the minor child are unable to give complete care to the child in their custody because they lack a legal document that

1 | explains and defines their relationship to the child, and they  
2 | are unable effectively to consent to the care of the child by  
3 | third parties.

4 |         (3) Provide temporary custody of a minor child to a  
5 | family member or another person interested in the welfare of  
6 | the minor child having physical custody of the minor child to  
7 | enable the custodian to:

8 |             (a) Consent to all necessary and reasonable medical  
9 | and dental care for the child, including nonemergency surgery  
10 | and psychiatric care;

11 |             (b) Secure copies of the child's records, held by  
12 | third parties, that are necessary to the care of the child,  
13 | including, but not limited to:

- 14 |                 1. Medical, dental, and psychiatric records;  
15 |                 2. Birth certificates and other records; and  
16 |                 3. Educational records;

17 |             (c) Enroll the child in school and grant or withhold  
18 | consent for a child to be tested or placed in special school  
19 | programs, including exceptional education; and

20 |             (d) Do all other things necessary for the care of the  
21 | child.

22 |         Section 2. Section 751.011, Florida Statutes, is  
23 | amended to read:

24 |         751.011 Definitions.--As used in ss. 751.01-751.05,  
25 | the term:

26 |             (1) "Extended family member" is any person who is:

27 |                 ~~(a)(1)~~ A relative within the third degree by blood or  
28 | marriage to the parent; or

29 |                 ~~(b)(2)~~ The stepparent of a child if the stepparent is  
30 | currently married to the parent of the child and is not a  
31 | party in a pending dissolution, separate maintenance, domestic

1 violence, or other civil or criminal proceeding in any court  
2 of competent jurisdiction involving one or both of the child's  
3 parents as an adverse party.

4 (2) "Person interested in the welfare of a minor  
5 child" is any person who is 18 years of age or older who has  
6 the consent of the custodial parent or parents to assume  
7 custodial responsibility for the minor child.

8 Section 3. Section 751.02, Florida Statutes, is  
9 amended to read:

10 751.02 Determination of temporary custody proceedings;  
11 jurisdiction.--The following individuals may bring proceedings  
12 in the circuit court to determine the temporary custody of a  
13 minor child:

14 (1) Any extended family member or another person  
15 interested in the welfare of a minor child who has the signed,  
16 notarized consent of the child's legal parents; or

17 (2) Any extended family member or another person  
18 interested in the welfare of a minor child who is caring full  
19 time for the child in the role of a substitute parent and with  
20 whom the child is presently living.

21 Section 4. Section 751.03, Florida Statutes, is  
22 amended to read:

23 751.03 Petition for temporary custody; contents.--Each  
24 petition for temporary custody of a minor child must be  
25 verified by the petitioner and must contain statements, to the  
26 best of petitioner's knowledge and belief, showing:

27 (1) The name, date of birth, and current address of  
28 the child;

29 (2) The names and current addresses of the child's  
30 parents;

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

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

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

7 (6) The residence and post office address of the  
8 petitioner;

9 (7) The petitioner's relationship to the child;

10 (8) The consent of the child's parents, or the  
11 specific acts or omissions of the parents which demonstrate  
12 that the parents have abused, abandoned, or neglected the  
13 child as defined in chapter 39;

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

16 (10) Any temporary or permanent order for protection  
17 entered on behalf of or against either parent, the petitioner,  
18 or the child; the court entering the order; and the case  
19 number;

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

22 (12) A statement of the period of time the petitioner  
23 is requesting temporary custody, including a statement of the  
24 reasons supporting that request.

25  
26 Only an extended family member or another person interested in  
27 the welfare of a minor child may file a petition under this  
28 chapter.

29 Section 5. Paragraph (b) of subsection (5) of section  
30 751.05, Florida Statutes, is amended to read:

31 751.05 Order granting temporary custody.--

1           (5)  
2           (b) The order granting temporary custody may redirect  
3 all or part of an existing child support obligation to be paid  
4 to the extended family member or another person interested in  
5 the welfare of a minor child who is granted temporary custody  
6 of the child. If the court redirects an existing child support  
7 obligation, the order granting temporary custody must include,  
8 if possible, the determination of arrearages owed to the  
9 obligee and the person awarded temporary custody and must  
10 order payment of the arrearages. The clerk of the circuit  
11 court in which the temporary custody order is entered shall  
12 transmit a certified copy thereof to the court originally  
13 entering the child support order. The temporary custody order  
14 shall be recorded and filed in the original action in which  
15 child support was determined and become a part thereof. A copy  
16 of the temporary custody order shall be filed with the  
17 depository that serves as the official recordkeeper for  
18 support payments due under the support order. The depository  
19 shall maintain separate accounts and separate account numbers  
20 for individual obligees.

21           Section 6. This act shall take effect July 1, 2007.  
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