

By Senator Storms

10-02806-08

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1 A bill to be entitled

2 An act relating to temporary and concurrent custody of a
3 child; revising ch. 751, F.S., relating to petitions and
4 court orders awarding the temporary custody of a child to
5 an extended family member to also provide for concurrent
6 custody with the parents of the child; amending ss. 751.01
7 and 751.02, F.S.; conforming provision to changes made by
8 the act; amending s. 751.011, F.S.; revising definitions;
9 defining the term "concurrent custody"; amending s.
10 751.03, F.S.; revising the petition for concurrent custody
11 to also include a description of efforts made to obtain
12 consent; amending s. 751.05, F.S.; providing that a court
13 may grant a petition for concurrent custody upon specified
14 findings; providing that an order granting concurrent
15 custody does not affect the ability of the parents to
16 obtain the physical custody of the child at any time;
17 amending ss. 39.013 and 49.011, F.S.; conforming
18 references; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (3) of section 751.01, Florida
23 Statutes, is amended to read:

24 751.01 Purpose of act.--The purposes of ss. 751.01-751.05
25 are to:

26 (3) Provide temporary or concurrent custody of a minor
27 child to a family member having physical custody of the minor
28 child to enable the custodian to:

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29 (a) Consent to all necessary and reasonable medical and
30 dental care for the child, including nonemergency surgery and
31 psychiatric care.~~†~~

32 (b) Secure copies of the child's records, held by third
33 parties, that are necessary for ~~to~~ the care of the child,
34 including, but not limited to:

- 35 1. Medical, dental, and psychiatric records.~~†~~
- 36 2. Birth certificates and other records.~~†~~ ~~and~~
- 37 3. Educational records.~~†~~

38 (c) Enroll the child in school and grant or withhold
39 consent for a child to be tested or placed in special school
40 programs, including exceptional education.~~†~~ ~~and~~

41 (d) Do all other things necessary for the care of the
42 child.

43 Section 2. Section 751.011, Florida Statutes, is amended to
44 read:

45 751.011 Definitions.--As used in ss. 751.01-751.05, the
46 term:

47 (1) "Concurrent custody" means that a person who is
48 eligible to obtain temporary custody of a minor child under this
49 chapter obtains custodial rights to care for the child
50 concurrently with the child's parent or parents. A finding of
51 abuse, abandonment, or neglect is not necessary for granting
52 concurrent custody over the objection of a parent. An order
53 granting concurrent custody does not eliminate or diminish the
54 custodial rights of the child's parent or parents.

55 (2) "Extended family member" means a ~~is any~~ person who is:

56 (a) ~~(1)~~ A relative of a minor child within the third degree
57 by blood or marriage to the parent; or

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58 **(b)(2)** The stepparent of a minor child if the stepparent is
59 currently married to the parent of the child and is not a party
60 in a pending dissolution, separate maintenance, domestic
61 violence, or other civil or criminal proceeding in any court of
62 competent jurisdiction involving one or both of the child's
63 parents as an adverse party.

64 Section 3. Section 751.02, Florida Statutes, is amended to
65 read:

66 751.02 ~~Determination of~~ Temporary or concurrent custody
67 proceedings; jurisdiction.--The following individuals may bring
68 proceedings in the circuit court to determine the temporary or
69 concurrent custody of a minor child:

70 (1) Any extended family member who has the signed,
71 notarized consent of the child's legal parents; or

72 (2) Any extended family member who is caring full time for
73 the child in the role of a substitute parent and with whom the
74 child is presently living.

75 Section 4. Section 751.03, Florida Statutes, is amended to
76 read:

77 751.03 Petition for temporary or concurrent custody;
78 contents.--Each petition for temporary custody of a minor child
79 must be verified by the petitioner, who must be an extended
80 family member, and must contain statements, to the best of
81 petitioner's knowledge and belief, providing showing:

82 (1) The name, date of birth, and current address of the
83 child.†

84 (2) The names and current addresses of the child's
85 parents.†

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86 (3) The names and current addresses of the persons with
87 whom the child has lived during the past 5 years.†

88 (4) The places where the child has lived during the past 5
89 years.†

90 (5) Information concerning any custody proceeding in this
91 or any other state with respect to the child.†

92 (6) The residence and post office address of the
93 petitioner.†

94 (7) The petitioner's relationship to the child.†

95 (8) If concurrent custody is being requested, the consent
96 of the child's parents, or a description of the efforts made by
97 petitioner to obtain consent and the results of those efforts.

98 (9)-(8) If temporary custody is being requested, the consent
99 of the child's parents, or the specific acts or omissions of the
100 parents which demonstrate that the parents have abused,
101 abandoned, or neglected the child as defined in chapter 39.†

102 (10)-(9) Any temporary or permanent orders for child
103 support, the court entering the order, and the case number.†

104 (11)-(10) Any temporary or permanent order for protection
105 entered on behalf of or against either parent, the petitioner, or
106 the child; the court entering the order; and the case number.†

107 (12)-(11) That it is in the best interest of the child for
108 the petitioner to have custody of the child.† and

109 (13)-(12) A statement of the period of time the petitioner
110 is requesting temporary custody, including a statement of the
111 reasons supporting that request.

112
113 ~~Only an extended family member may file a petition under this~~
114 ~~chapter.~~

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115 Section 5. Section 751.05, Florida Statutes, is amended to
116 read:

117 751.05 Order granting temporary or concurrent custody.--

118 (1) At the hearing on the petition for temporary or
119 concurrent custody, the court must hear the evidence concerning a
120 minor child's need for care by the petitioner, all other matters
121 required to be set forth in the petition, and the objections or
122 other testimony of the child's parents, if present.

123 (2) Unless the minor child's parents object, the court
124 shall award ~~the~~ temporary or concurrent custody of the child to
125 the petitioner if ~~when~~ it is in the best interest of the child ~~to~~
126 ~~do so~~.

127 (3) If one of the minor child's parents objects to the
128 petition:

129 (a) The court shall grant a petition for concurrent custody
130 only upon a finding, by clear and convincing evidence, that the
131 parent or parents are not routinely available to provide the care
132 and control of the child and that the petitioner is the primary
133 custodian of the child who needs legal authority to give complete
134 care to the child.

135 (b) granting of temporary custody to the petitioner, The
136 court shall grant a ~~the~~ petition for temporary custody only upon
137 a finding, by clear and convincing evidence, that the child's
138 parent or parents are unfit to provide for the care and control
139 of the child. In determining that a parent is unfit, the court
140 must find that the parent has abused, abandoned, or neglected the
141 child, as defined in chapter 39.

142 (4) The order granting:

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143 (a) Concurrent custody of the minor child to the petitioner
144 does not affect the ability of the child's parent or parents to
145 obtain physical custody of the child at any time.

146 (b) Temporary custody of the minor child to the petitioner
147 may also grant visitation rights to the child's parent or
148 parents, if it is in the best interest of the child ~~to do so.~~

149 (5) ~~(a)~~ The order granting temporary or concurrent custody
150 of the minor child to the petitioner:

151 (a) May not include an order for the support of the child
152 unless the parent has received personal or substituted service of
153 process, the petition requests an order for the support of the
154 child, and there is evidence of the parent's ability to pay the
155 support ordered.

156 ~~(b) The order granting temporary custody~~ May redirect all
157 or part of an existing child support obligation to be paid to the
158 extended family member who is granted temporary or concurrent
159 custody of the child. If the court redirects an existing child
160 support obligation, the order granting temporary or concurrent
161 custody must include, if possible, the determination of
162 arrearages owed to the obligee and the person awarded temporary
163 or concurrent custody and must order payment of the arrearages.
164 The clerk of the circuit court in which the ~~temporary custody~~
165 order is entered shall transmit a certified copy thereof to the
166 court originally entering the child support order. The temporary
167 or concurrent custody order shall be recorded and filed in the
168 original action in which child support was determined and become
169 a part thereof. A copy of the temporary or concurrent custody
170 order shall also be filed with the depository that serves as the
171 official recordkeeper for support payments due under the support

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172 order. The depository must ~~shall~~ maintain separate accounts and
173 separate account numbers for individual obligees.

174 (6) At any time, either or both of the child's parents may
175 petition the court to modify or terminate the order granting
176 temporary or concurrent custody. The court shall terminate the
177 order upon a finding that the parent is a fit parent, or by
178 consent of the parties. The court may modify an order granting
179 temporary or concurrent custody if the parties consent or if
180 modification is in the best interest of the child.

181 Section 6. Subsection (3) of section 39.013, Florida
182 Statutes, is amended to read:

183 39.013 Procedures and jurisdiction; right to counsel.--

184 (3) If ~~When~~ a child is under the jurisdiction of the
185 circuit court pursuant to this chapter, the circuit court
186 assigned to handle dependency matters may exercise the general
187 and equitable jurisdiction over guardianship proceedings under
188 chapter 744 and proceedings for temporary or concurrent custody
189 of minor children by an extended family member under chapter 751.

190 Section 7. Subsection (14) of section 49.011, Florida
191 Statutes, is amended to read:

192 49.011 Service of process by publication; cases in which
193 allowed.--Service of process by publication may be made in any
194 court on any party identified in s. 49.021 in any action or
195 proceeding:

196 (14) For temporary or concurrent custody of a minor child,
197 under ss. 751.01-751.05.

198 Section 8. This act shall take effect upon becoming a law.