

By Senator Storms

10-03399-08

20082644\_\_

1 A bill to be entitled

2 An act relating to the care of children; amending s.  
3 20.19, F.S.; establishing the Grandparents' Liaison Office  
4 within the Department of Children and Family Services;  
5 amending s. 39.202, F.S.; authorizing physicians to obtain  
6 access to certain reports and records in cases of child  
7 abuse and neglect; amending s. 39.304, F.S.; requiring  
8 certain medical information relating to child abuse or  
9 neglect to be preserved in department records; amending s.  
10 61.13, F.S.; revising duties of the court relating to  
11 determination of child custody and visitation rights to  
12 exclude certain written or recorded statements and to  
13 include an interview with the child; amending s. 752.01,  
14 F.S.; revising provisions relating to grandparents'  
15 visitation rights to include preferences of the child and  
16 grandparents; amending s. 752.07, F.S.; revising  
17 provisions relating to grandparents' right to visitation  
18 to include an interview with the grandparent and the  
19 child; providing an effective date.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

23 Section 1. Paragraph (b) of subsection (4) of section  
24 20.19, Florida Statutes, is amended to read:

25 20.19 Department of Children and Family Services.--There is  
26 created a Department of Children and Family Services.

27 (4) PROGRAM OFFICES AND SUPPORT OFFICES.--

28 (b) The following program offices are established:

29 1. Adult Services.

10-03399-08

20082644\_\_

- 30           2. Child Care Services.  
31           3. Domestic Violence.  
32           4. Economic Self-Sufficiency Services.  
33           5. Family Safety.  
34           6. Mental Health.  
35           7. Refugee Services.  
36           8. Substance Abuse.  
37           9. Grandparents' Liaison.

38           Section 2. Paragraph (r) is added to subsection (2) of  
39 section 39.202, Florida Statutes, to read:

40           39.202 Confidentiality of reports and records in cases of  
41 child abuse or neglect.--

42           (2) Except as provided in subsection (4), access to such  
43 records, excluding the name of the reporter which shall be  
44 released only as provided in subsection (5), shall be granted  
45 only to the following persons, officials, and agencies:

46           (r) A physician engaged in the care or treatment of the  
47 child.

48           Section 3. Subsection (4) of section 39.304, Florida  
49 Statutes, is amended to read:

50           39.304 Photographs, medical examinations, X rays, and  
51 medical treatment of abused, abandoned, or neglected child.--

52           (4) Any photograph or report on examinations made or X rays  
53 taken pursuant to this section, or copies thereof, shall be sent  
54 to the department as soon as possible and shall be preserved in  
55 permanent form in records held by the department.

56           Section 4. Paragraph (b) of subsections (2) and paragraph  
57 (i) of subsection (3) of section 61.13, Florida Statutes, are  
58 amended to read:

10-03399-08

20082644\_\_

59           61.13 Custody and support of children; visitation rights;  
60 power of court in making orders.--

61           (2)

62           (b)1. The court shall determine all matters relating to  
63 custody of each minor child of the parties in accordance with the  
64 best interests of the child and in accordance with the Uniform  
65 Child Custody Jurisdiction and Enforcement Act. It is the public  
66 policy of this state to assure that each minor child has frequent  
67 and continuing contact with both parents after the parents  
68 separate or the marriage of the parties is dissolved and to  
69 encourage parents to share the rights and responsibilities, and  
70 joys, of childrearing. After considering all relevant facts, the  
71 father of the child shall be given the same consideration as the  
72 mother in determining the primary residence of a child  
73 irrespective of the age or sex of the child.

74           2. The court, in determining parental responsibility and  
75 visitation rights or resolving any issues related to the making  
76 of a determination with respect to parental responsibility or  
77 visitation rights, shall not accept or consider a written or  
78 recorded statement or affidavit that purports to set forth the  
79 child's wishes or concerns regarding visitation matters.

80           ~~3.2.~~ The court shall order that the parental responsibility  
81 for a minor child be shared by both parents unless the court  
82 finds that shared parental responsibility would be detrimental to  
83 the child. Evidence that a parent has been convicted of a felony  
84 of the third degree or higher involving domestic violence, as  
85 defined in s. 741.28 and chapter 775, or meets the criteria of s.  
86 39.806(1)(d), creates a rebuttable presumption of detriment to  
87 the child. If the presumption is not rebutted, shared parental

10-03399-08

20082644\_\_

88 responsibility, including visitation, residence of the child, and  
89 decisions made regarding the child, may not be granted to the  
90 convicted parent. However, the convicted parent is not relieved  
91 of any obligation to provide financial support. If the court  
92 determines that shared parental responsibility would be  
93 detrimental to the child, it may order sole parental  
94 responsibility and make such arrangements for visitation as will  
95 best protect the child or abused spouse from further harm.  
96 Whether or not there is a conviction of any offense of domestic  
97 violence or child abuse or the existence of an injunction for  
98 protection against domestic violence, the court shall consider  
99 evidence of domestic violence or child abuse as evidence of  
100 detriment to the child.

101 a. In ordering shared parental responsibility, the court  
102 may consider the expressed desires of the parents and may grant  
103 to one party the ultimate responsibility over specific aspects of  
104 the child's welfare or may divide those responsibilities between  
105 the parties based on the best interests of the child. Areas of  
106 responsibility may include primary residence, education, medical  
107 and dental care, and any other responsibilities that the court  
108 finds unique to a particular family.

109 b. The court, in its discretion, may interview in chambers  
110 any or all involved children regarding their wishes and concerns.  
111 If the court interviews any child concerning the child's wishes  
112 and concerns regarding parental responsibility or visitation  
113 rights, the interview shall be conducted in chambers and no  
114 person other than the child, the child's attorney, the judge, any  
115 necessary court personnel, and, in the judge's discretion, the  
116 attorney of each parent shall be permitted to be present in the

10-03399-08

20082644\_\_

117 chambers during the interview. No person shall obtain or attempt  
118 to obtain from a child a written or recorded statement or  
119 affidavit setting forth the wishes and concerns of the child  
120 regarding parental responsibility or visitation matters.

121 ~~c.b.~~ The court shall order "sole parental responsibility,  
122 with or without visitation rights, to the other parent when it is  
123 in the best interests of" the minor child.

124 ~~4.3.~~ Access to records and information pertaining to a  
125 minor child, including, but not limited to, medical, dental, and  
126 school records, may not be denied to a parent because the parent  
127 is not the child's primary residential parent. Full rights under  
128 this subparagraph apply to either parent unless a court order  
129 specifically revokes these rights, including any restrictions on  
130 these rights as provided in a domestic violence injunction. A  
131 parent having rights under this subparagraph has the same rights  
132 upon request as to form, substance, and manner of access as are  
133 available to the other parent of a child, including, without  
134 limitation, the right to in-person communication with medical,  
135 dental, and education providers.

136 (3) For purposes of shared parental responsibility and  
137 primary residence, the best interests of the child shall include  
138 an evaluation of all factors affecting the welfare and interests  
139 of the child, including, but not limited to:

140 (i) If the court has interviewed the child in chambers,  
141 pursuant to sub-subparagraph (2)(b)3.b., regarding the wishes and  
142 concerns of the child relating to visitation by the parent who is  
143 not the residential parent or companionship or visitation by the  
144 grandparent, relative, or other person who requested  
145 companionship or visitation, a specific visitation schedule, or

10-03399-08

20082644\_\_

146 other parenting time or visitation matters, the wishes and  
147 concerns of the child, as expressed to the court. ~~The reasonable~~  
148 ~~preference of the child, if the court deems the child to be of~~  
149 ~~sufficient intelligence, understanding, and experience to express~~  
150 ~~a preference.~~

151 Section 5. Paragraphs (a) and (c) of subsection (2) of  
152 section 752.01, Florida Statutes, are amended to read:

153 752.01 Action by grandparent for right of visitation; when  
154 petition shall be granted.--

155 (2) In determining the best interest of the minor child,  
156 the court shall consider:

157 (a) 1. The wishes of the grandparents.

158 2. The willingness of the grandparent or grandparents to  
159 encourage a close relationship between the child and the parent  
160 or parents.

161 (c) The preference of the child pursuant to s.  
162 61.13(2)(b)3.b. ~~if the child is determined to be of sufficient~~  
163 ~~maturity to express a preference.~~

164 Section 6. Section 752.07, Florida Statutes, is amended to  
165 read:

166 752.07 Effect of adoption of child by stepparent on right  
167 of visitation; when right may be terminated.--When there is a  
168 remarriage of one of the natural parents of a minor child for  
169 whom visitation rights may be or may have been granted to a  
170 grandparent pursuant to s. 752.01, any subsequent adoption by the  
171 stepparent will not terminate any grandparental rights. However,  
172 the court may determine that termination of such visitation  
173 rights is in the best interest of the child and rule accordingly,  
174 after affording the grandparent an opportunity to be heard in

10-03399-08

20082644\_\_

175 | chambers, and after interviewing the child in chambers pursuant  
176 | to s. 61.13(2)(b)3.b.

177 | Section 7. This act shall take effect July 1, 2008.