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1                   A bill to be entitled  
2     An act relating to concurrent child custody; amending s.  
3     751.01, F.S.; revising the purpose of the chapter to  
4     conform to changes made by the act; conforming a cross-  
5     reference; amending s. 751.011, F.S.; defining the term  
6     "concurrent custody"; amending s. 751.02, F.S.; providing  
7     for court jurisdiction to determine concurrent custody;  
8     creating s. 751.031, F.S.; providing requirements for a  
9     petition to determine concurrent custody; creating s.  
10    751.051, F.S.; providing for hearings; requiring award of  
11    concurrent custody when in the child's best interests  
12    unless there is a parental objection; providing for  
13    converting the petition to a petition for temporary  
14    custody when there is a parental objection to concurrent  
15    custody; providing that an order granting concurrent  
16    custody of the minor child does not affect the ability of  
17    the child's parents to obtain physical custody; providing  
18    that a concurrent custody order may not include an order  
19    for the support of the child unless specified requirements  
20    are met; providing for redirection of a current child  
21    support obligation; providing for termination of  
22    concurrent custody orders; amending ss. 49.011 and 751.04,  
23    F.S.; conforming cross-references; providing a directive  
24    to the Division of Statutory Revision; providing an  
25    effective date.

26  
27    Be It Enacted by the Legislature of the State of Florida:  
28

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

31 751.01 Purpose of chapter act.--The purposes of this  
 32 chapter ss. 751.01-751.05 are to:

33 (1) Recognize that many minor children in this state live  
 34 with and are well cared for by members of their extended  
 35 families. The parents of these children have often provided for  
 36 their care by placing them temporarily with another family  
 37 member who is better able to care for them. Because of the care  
 38 being provided the children by their extended families, they are  
 39 not dependent children.

40 (2) Provide for the welfare of a minor child who is living  
 41 with extended family members. At present, such family members  
 42 are unable to give complete care to the child in their custody  
 43 because they lack a legal document that explains and defines  
 44 their relationship to the child, and they are unable effectively  
 45 to consent to the care of the child by third parties.

46 (3) Provide temporary or concurrent custody of a minor  
 47 child to a family member having physical custody of the minor  
 48 child to enable the custodian to:

49 (a) Consent to all necessary and reasonable medical and  
 50 dental care for the child, including nonemergency surgery and  
 51 psychiatric care;

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

- 55 1. Medical, dental, and psychiatric records;
- 56 2. Birth certificates and other records; and

57 3. Educational records;

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

61 (d) Do all other things necessary for the care of the  
 62 child.

63 Section 2. Section 751.011, Florida Statutes, is amended  
 64 to read:

65 751.011 Definitions.--As used in ss. this chapter ~~751.01-~~  
 66 ~~751.05~~, the term:

67 (1) "Concurrent custody" means custody by a person  
 68 eligible to obtain temporary custody under this chapter who  
 69 obtains concurrent custodial rights to care for a child while  
 70 the child's parent or parents also maintain custody. No finding  
 71 of abuse, abandonment, or neglect is necessary to grant  
 72 concurrent custody over the objection of a parent. An order  
 73 granting concurrent custody does not eliminate or diminish the  
 74 custodial rights of the child's parent or parents.

75 (2) "Extended family member" is any person who is:

76 (a)~~(1)~~ A relative within the third degree by blood or  
 77 marriage to the parent; or

78 (b)~~(2)~~ The stepparent of a child if the stepparent is  
 79 currently married to the parent of the child and is not a party  
 80 in a pending dissolution, separate maintenance, domestic  
 81 violence, or other civil or criminal proceeding in any court of  
 82 competent jurisdiction involving one or both of the child's  
 83 parents as an adverse party.

84 Section 3. Section 751.02, Florida Statutes, is amended to  
 85 read:

86 751.02 Determination of temporary and concurrent custody  
 87 proceedings; jurisdiction.--The following individuals may bring  
 88 proceedings in the circuit court to determine the temporary or  
 89 concurrent custody of a minor child:

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

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

95 Section 4. Section 751.031, Florida Statutes, is created  
 96 to read:

97 751.031 Petition for concurrent custody; contents.--

98 (1) Each petition for concurrent custody of a minor child  
 99 must be verified by the petitioner and must contain statements,  
 100 to the best of petitioner's knowledge and belief, showing the  
 101 following:

102 (a) The name, date of birth, and current address of the  
 103 child.

104 (b) The names and current addresses of the child's parent  
 105 or parents.

106 (c) The names and current addresses of the persons with  
 107 whom the child has lived during the past 5 years.

108 (d) The places where the child has lived during the past 5  
 109 years.

110 (e) Information concerning any custody proceeding in this  
 111 state or any other jurisdiction with respect to the child.

112       (f) The residence and post office address of the  
 113 petitioner.

114       (g) The petitioner's relationship to the child.

115       (h) The consent of both of the child's parents, or if the  
 116 child has only one living parent, that parent, or if the child  
 117 has a living parent or parents and one or both of them has  
 118 failed to respond to a request for consent, a description of the  
 119 efforts made by petitioner to obtain parental consent and the  
 120 results of those efforts.

121       (i) Any temporary or permanent orders for child support,  
 122 the court entering the order, and the case number.

123       (j) Any temporary or permanent order for protection  
 124 entered on behalf of or against either parent, the petitioner,  
 125 or the child; the court entering the order; and the case number.

126       (k) Why it is in the best interest of the child for the  
 127 petitioner to have concurrent custody of the child.

128       (l) A statement of the period of time the petitioner is  
 129 requesting concurrent custody, including a statement of the  
 130 reasons supporting that request.

131       (2) Only an extended family member may file a petition  
 132 under this chapter.

133       Section 5. Section 751.04, Florida Statutes, is amended to  
 134 read:

135       751.04 Notice and opportunity to be heard.--Before a  
 136 decree is made under this chapter ~~ss. 751.01-751.05~~, reasonable  
 137 notice and opportunity to be heard must be given to the parents  
 138 of the minor child by service of process, either personal or  
 139 constructive.

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140 Section 6. Section 751.051, Florida Statutes, is created  
141 to read:

142 751.051 Order granting concurrent custody.--

143 (1) At the hearing on the petition for concurrent custody,  
144 the court must hear the evidence concerning a minor child's need  
145 for care by the petitioner, all other matters required to be set  
146 forth in the petition, and the objections or other testimony of  
147 the child's parent or parents, if present.

148 (2) Unless one or both parents of the minor child object,  
149 the court shall award the concurrent custody of the child to the  
150 petitioner when it is in the best interest of the child to do  
151 so. If one or both of the minor child's parents object to  
152 concurrent custody, the court will give the petitioner the  
153 option of converting the petition to a petition for temporary  
154 custody. If the petitioner elects to convert to a petition for  
155 temporary custody, any further proceedings shall be conducted  
156 under s. 751.05 and the court shall set the matter for further  
157 hearing and give the child's parents notice that the court will  
158 take evidence to determine whether they are unfit to provide the  
159 care and control of the child. If the petition is not converted  
160 into a petition for temporary custody, it shall be dismissed  
161 without prejudice.

162 (3) The order granting concurrent custody of the minor  
163 child does not affect the ability of the child's parent or  
164 parents to obtain physical custody of the child at any time.

165 (4) (a) The order granting concurrent custody of the minor  
166 child to the petitioner may not include an order for the support  
167 of the child unless the parent has received personal or

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168 substituted service of process, the petition requests an order  
169 for the support of the child, and there is evidence of the  
170 parent's ability to pay the support ordered.

171 (b) The order granting concurrent custody may redirect all  
172 or part of an existing child support obligation to be paid to  
173 the extended family member who is granted concurrent custody of  
174 the child. If the court redirects an existing child support  
175 obligation, the order granting temporary custody must include,  
176 if possible, the determination of arrearages owed to the obligee  
177 and the person awarded temporary custody and must order payment  
178 of the arrearages. The clerk of the circuit court in which the  
179 concurrent custody order is entered shall transmit a certified  
180 copy thereof to the court originally entering the child support  
181 order. The concurrent custody order shall be recorded and filed  
182 in the original action in which child support was determined and  
183 become a part thereof. A copy of the concurrent custody order  
184 shall be filed with the depository that serves as the official  
185 recordkeeper for support payments due under the support order.  
186 The depository shall maintain separate accounts and separate  
187 account numbers for individual obligees.

188 (5) At any time, either or both of the child's parents may  
189 petition the court to modify or terminate the order granting  
190 concurrent custody. The court shall terminate the order upon a  
191 finding that the parent is available to provide care and control  
192 of the child, or by consent of the parties. The court may modify  
193 an order granting concurrent custody if the parties consent or  
194 if modification is in the best interest of the child.

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

197 49.011 Service of process by publication; cases in which  
198 allowed.--Service of process by publication may be made in any  
199 court on any party identified in s. 49.021 in any action or  
200 proceeding:

201 (14) For temporary custody or concurrent of a minor child,  
202 under chapter 751 ~~ss. 751.01-751.05~~.

203 Section 8. The Division of Statutory Revision of the  
204 Office of Legislative Services is directed to redesignate  
205 chapter 751, Florida Statutes, as "Temporary or Concurrent  
206 Custody of Minor Children by Extended Family."

207 Section 9. This act shall take effect July 1, 2009.