

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 provisions 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 if a
 13 parent objects to a petition for concurrent custody, the
 14 court shall give the petitioner the option of converting
 15 the petition to one for temporary custody; providing for
 16 dismissal of the petition; providing that an order
 17 granting concurrent custody does not affect the ability of
 18 the parents to obtain the physical custody of the child at
 19 any time; providing for the court to terminate an order
 20 for concurrent custody if a parent withdraws his or her
 21 consent to the order; providing an effective date.

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

24
 25 Section 1. Subsection (3) of section 751.01, Florida
 26 Statutes, is amended to read:
 27 751.01 Purpose of act.--The purposes of ss. 751.01-751.05
 28 are to:

29 (3) Provide temporary or concurrent custody of a minor
 30 child to a family member having physical custody of the minor
 31 child to enable the custodian to:

32 (a) Consent to all necessary and reasonable medical and
 33 dental care for the child, including nonemergency surgery and
 34 psychiatric care.~~†~~

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

- 38 1. Medical, dental, and psychiatric records.~~†~~
- 39 2. Birth certificates and other records.~~†~~~~and~~
- 40 3. Educational records.~~†~~

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

44 (d) Do all other things necessary for the care of the
 45 child.

46 Section 2. Section 751.011, Florida Statutes, is amended
 47 to read:

48 751.011 Definitions.--As used in this chapter ~~ss. 751.01-~~
 49 ~~751.05~~, the term:

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

57 | parent or parents.

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

59 | (a)(1) A relative of a minor child within the third degree
60 | by blood or marriage to the parent; or

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

67 | Section 3. Section 751.02, Florida Statutes, is amended to
68 | read:

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

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

75 | (2) Any extended family member who is caring full time for
76 | the child in the role of a substitute parent and with whom the
77 | child is presently living.

78 | Section 4. Section 751.03, Florida Statutes, is amended to
79 | read:

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

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85 (1) The name, date of birth, and current address of the
86 child.~~†~~

87 (2) The names and current addresses of the child's
88 parents.~~†~~

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

91 (4) The places where the child has lived during the past 5
92 years.~~†~~

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

95 (6) The residence and post office address of the
96 petitioner.~~†~~

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

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

102 (9)~~(8)~~ If temporary custody is being requested, the
103 consent of the child's parents, or the specific acts or
104 omissions of the parents which demonstrate that the parents have
105 abused, abandoned, or neglected the child as defined in chapter
106 39.~~†~~

107 (10)~~(9)~~ Any temporary or permanent orders for child
108 support, the court entering the order, and the case number.~~†~~

109 (11)~~(10)~~ Any temporary or permanent order for protection
110 entered on behalf of or against either parent, the petitioner,
111 or the child; the court entering the order; and the case
112 number.~~†~~

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113 (12)~~(11)~~ That it is in the best interest of the child for
 114 the petitioner to have custody of the child.~~;~~ ~~and~~

115 (13)~~(12)~~ A statement of the period of time the petitioner
 116 is requesting temporary custody, including a statement of the
 117 reasons supporting that request.

118
 119 ~~Only an extended family member may file a petition under this~~
 120 ~~chapter.~~

121 Section 5. Section 751.05, Florida Statutes, is amended to
 122 read:

123 751.05 Order granting temporary or concurrent custody.--

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

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

134 (3) If one of the minor child's parents objects to:

135 (a) The petition for concurrent custody, the court shall
 136 give the petitioner the option of converting the petition to a
 137 petition for temporary custody. If the petitioner so elects, the
 138 court shall set the matter for further hearing and proceed
 139 pursuant to paragraph (b). If the petition is not converted into
 140 a petition for temporary custody, it shall be dismissed without

141 prejudice.

142 (b) The petition for temporary custody ~~granting of~~
 143 ~~temporary custody to the petitioner,~~ the court shall grant the
 144 petition only upon a finding, by clear and convincing evidence,
 145 that the child's parent or parents are unfit to provide for the
 146 care and control of the child. In determining that a parent is
 147 unfit, the court must find that the parent has abused,
 148 abandoned, or neglected the child, as defined in chapter 39.

149 (4) The order granting:

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

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

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

158 (a) May not include an order for the support of the child
 159 unless the parent has received personal or substituted service
 160 of process, the petition requests an order for the support of
 161 the child, and there is evidence of the parent's ability to pay
 162 the support ordered.

163 ~~(b) The order granting temporary custody~~ May redirect all
 164 or part of an existing child support obligation to be paid to
 165 the extended family member who is granted temporary or
 166 concurrent custody of the child. If the court redirects an
 167 existing child support obligation, the order granting temporary
 168 or concurrent custody must include, if possible, the

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169 determination of arrearages owed to the obligee and the person
170 awarded temporary or concurrent custody and must order payment
171 of the arrearages. The clerk of the circuit court in which the
172 ~~temporary custody~~ order is entered shall transmit a certified
173 copy ~~thereof~~ to the court originally entering the child support
174 order. The temporary or concurrent custody order shall be
175 recorded and filed in the original action in which child support
176 was determined and become a part thereof. A copy of the
177 temporary or concurrent custody order shall also be filed with
178 the depository that serves as the official recordkeeper for
179 support payments due under the support order. The depository
180 must ~~shall~~ maintain separate accounts and separate account
181 numbers for individual obligees.

182 (6) At any time, either or both of the child's parents may
183 petition the court to modify or terminate the order granting
184 temporary custody. The court shall terminate the order upon a
185 finding that the parent is a fit parent, or by consent of the
186 parties. The court may modify an order granting temporary
187 custody if the parties consent or if modification is in the best
188 interest of the child.

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

196 Section 6. This act shall take effect July 1, 2009.