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CS/HB 197

2020 Legislature

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2 An act relating to the Servicemembers Civil Relief  
3 Act; amending s. 39.01, F.S.; revising the definition  
4 of "abandoned" or "abandonment"; amending s. 39.0137,  
5 F.S.; providing that certain state laws relating to  
6 children do not supersede the Servicemembers Civil  
7 Relief Act; requiring the Department of Children and  
8 Families to ensure that the act is observed in certain  
9 cases; providing an effective date.

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

12  
13 Section 1. Subsection (1) of section 39.01, Florida  
14 Statutes, is amended to read:

15 39.01 Definitions.—When used in this chapter, unless the  
16 context otherwise requires:

17 (1) "Abandoned" or "abandonment" means a situation in  
18 which the parent or legal custodian of a child or, in the  
19 absence of a parent or legal custodian, the caregiver, while  
20 being able, has made no significant contribution to the child's  
21 care and maintenance or has failed to establish or maintain a  
22 substantial and positive relationship with the child, or both.  
23 For purposes of this subsection, "establish or maintain a  
24 substantial and positive relationship" includes, but is not  
25 limited to, frequent and regular contact with the child through

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26 frequent and regular visitation or frequent and regular  
27 communication to or with the child, and the exercise of parental  
28 rights and responsibilities. Marginal efforts and incidental or  
29 token visits or communications are not sufficient to establish  
30 or maintain a substantial and positive relationship with a  
31 child. A man's acknowledgment of paternity of the child does not  
32 limit the period of time considered in determining whether the  
33 child was abandoned. The term does not include a surrendered  
34 newborn infant as described in s. 383.50, a "child in need of  
35 services" as defined in chapter 984, or a "family in need of  
36 services" as defined in chapter 984. The absence of a parent,  
37 legal custodian, or caregiver responsible for a child's welfare,  
38 who is a servicemember, by reason of deployment or anticipated  
39 deployment as defined in 50 U.S.C. s. 3938(e), may not be  
40 considered or used as a factor in determining abandonment. The  
41 incarceration, repeated incarceration, or extended incarceration  
42 of a parent, legal custodian, or caregiver responsible for a  
43 child's welfare may support a finding of abandonment.

44 Section 2. Subsection (1) of section 39.0137, Florida  
45 Statutes, is amended, and a new subsection (3) is added to that  
46 section to read:

47 39.0137 Federal law; rulemaking authority.—

48 (1) This chapter does not supersede the requirements of  
49 the Indian Child Welfare Act, 25 U.S.C. ss. 1901 et seq., ~~or~~ the  
50 Multi-Ethnic Placement Act of 1994, Pub. L. No. 103-382, as

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51 | amended, the Servicemembers Civil Relief Act, 50 U.S.C. ss. 3901  
52 | et seq., or the implementing regulations for such acts.

53 | (3) The department shall ensure that the Servicemembers  
54 | Civil Relief Act is observed in cases where a parent, legal  
55 | custodian, or caregiver responsible for a child's welfare, by  
56 | virtue of his or her service, is unable to take custody of the  
57 | child or appear before the court in person.

58 | Section 3. This act shall take effect July 1, 2020.