

By Senator Bean

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1 A bill to be entitled
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:

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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 which
18 the parent or legal custodian of a child or, in the absence of a
19 parent or legal custodian, the caregiver, while being able, has
20 made no significant contribution to the child's care and
21 maintenance or has failed to establish or maintain a substantial
22 and positive relationship with the child, or both. For purposes
23 of this subsection, "establish or maintain a substantial and
24 positive relationship" includes, but is not limited to, frequent
25 and regular contact with the child through frequent and regular
26 visitation or frequent and regular communication to or with the
27 child, and the exercise of parental rights and responsibilities.
28 Marginal efforts and incidental or token visits or
29 communications are not sufficient to establish or maintain a

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30 substantial and positive relationship with a child. A man's
31 acknowledgment of paternity of the child does not limit the
32 period of time considered in determining whether the child was
33 abandoned. The term does not include a surrendered newborn
34 infant as described in s. 383.50, a "child in need of services"
35 as defined in chapter 984, or a "family in need of services" as
36 defined in chapter 984. The absence of a parent, legal
37 custodian, or caregiver responsible for a child's welfare who is
38 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 the
49 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
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, by virtue
55 of his or her service, is unable to take custody of his or her
56 child or appear before the court in person.

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