

By the Committee on Judiciary; and Senator Bean

590-02763-20

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

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

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

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

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

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

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

48 39.0137 Federal law; rulemaking authority.—

49 (1) This chapter does not supersede the requirements of the  
50 Indian Child Welfare Act, 25 U.S.C. ss. 1901 et seq., ~~or~~ the  
51 Multi-Ethnic Placement Act of 1994, Pub. L. No. 103-382, as  
52 amended, the Servicemembers Civil Relief Act, 50 U.S.C. ss. 3901  
53 et seq., or the implementing regulations for such acts.

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

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