

## CHAPTER 2020-146

### Committee Substitute for Committee Substitute for Senate Bill No. 124

An act relating to custody of minor children by extended family; amending s. 751.01, F.S.; revising the purposes of ch. 751, F.S.; amending s. 751.011, F.S.; revising the definition of the term “extended family member”; amending s. 751.02, F.S.; revising the requirements for individuals seeking concurrent custody; amending s. 751.03, F.S.; allowing any other provisions related to the best interest of the child to be considered in a petition for temporary or concurrent custody; amending s. 751.05, F.S.; authorizing courts to include provisions requested in petitions for temporary or concurrent custody which relate to the best interest of the child; authorizing the court to order on its own motion the transitioning of a child back to the custody of his or her parents in such proceedings under certain circumstances; requiring the court to consider specified factors when entering such order; authorizing courts to require parties to comply with provisions approved in the order which relate to a reasonable plan for transitioning custody before terminating the order; providing an effective date.

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

Section 1. Subsection (4) is added to section 751.01, Florida Statutes, to read:

751.01 Purpose of act.—The purposes of this chapter are to:

(4) Protect the welfare of minor children by allowing transitions of custody consistent with their best interest.

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

751.011 Definitions.—As used in this chapter, the term:

(1) “Concurrent custody” means that an eligible extended family member is awarded custodial rights to care for a child concurrently with the child’s parent or parents.

(2) “Extended family member” means a person who is:

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

(b) The stepparent of a minor child if the stepparent is currently married to the parent of the child and is not a party in a pending dissolution, separate maintenance, domestic violence, or other civil or criminal proceeding in any court of competent jurisdiction involving one or both of the child’s parents as an adverse party; or

(c) An individual who qualifies as “fictive kin” as defined in s. 39.01.

Section 3. Subsection (2) of section 751.02, Florida Statutes, is amended to read:

751.02 Temporary or concurrent custody proceedings; jurisdiction.—

(2) In addition to the requirements of subsection (1), an individual seeking concurrent custody must:

(a) Currently have physical custody of the child or ~~and~~ have had physical custody of the child for at least 10 days in any 30-day period within the last 12 months; and

(b) Not have signed, written documentation from a parent which is sufficient to enable the custodian to do all of the things necessary to care for the child which are available to custodians who have an order issued under s. 751.05.

Section 4. Subsection (13) of section 751.03, Florida Statutes, is amended, and subsection (14) is added to that section, to read:

751.03 Petition for temporary or concurrent custody; contents.—Each petition for temporary or concurrent custody of a minor child must be verified by the petitioner, who must be an extended family member, and must contain statements, to the best of the petitioner’s knowledge and belief, providing:

(13) ~~A statement of~~ The period of time for which the petitioner is requesting temporary custody, including a statement of the reasons supporting that request.

(14) Any other provisions that are related to the best interest of the child, including, but not limited to, a reasonable plan for transitioning custody.

Section 5. Subsections (4), (6), and (7) of section 751.05, Florida Statutes, are amended to read:

751.05 Order granting temporary or concurrent custody.—

(4) The order granting:

(a) Concurrent custody of the minor child may not eliminate or diminish the custodial rights of the child’s parent or parents. The order must expressly state that the grant of custody does not affect the ability of the child’s parent or parents to obtain physical custody of the child at any time, except that the court may approve provisions requested in the petition which are related to the best interest of the child, including a reasonable transition plan that provides for a return of custody back to the child’s parent or parents.

(b) Temporary custody of the minor child to the petitioner may include provisions requested in the petition which are related to the best interest of the child, including a reasonable transition plan that provides for a return of custody back to the parent or parents, and may also grant visitation rights to the child’s parent or parents, if it is in the best interest of the child.

(6) At any time, either or both of the child’s parents may petition the court to modify or terminate the order granting temporary custody.

(a) The court may modify an order granting temporary custody if the parties consent or if modification is in the best interest of the child.

(b) The court shall terminate the order upon a finding that the parent is a fit parent, or by consent of the parties, except that the court may require the parties to comply with provisions approved in the order which are related to a reasonable plan for transitioning custody before terminating the order.

(c) If the order granting temporary custody was entered after a finding that the child’s parent or parents are unfit and the child has been in the temporary custody of an extended family member for a period of time the court determines to be significant, the court may, on its own motion, establish reasonable conditions, which are in the best interests of the child, for transitioning the child back to the custody of the child’s parent or parents. In determining such reasonable conditions, the court shall consider all of the following:

1. The length of time the child lived or resided with the extended family member.

2. The child’s developmental stage.

3. The length of time reasonably needed to complete the transition ~~The court may modify an order granting temporary custody if the parties consent or if modification is in the best interest of the child.~~

(7) At any time, the petitioner or either or both of the child’s parents may move the court to terminate the order granting concurrent custody.

(a) The court shall terminate the order upon a finding that either or both of the child’s parents object to the order, except that the court may require the parties to comply with provisions approved in the order which are related to a reasonable plan for transitioning custody before terminating the order.

(b) The fact that an order for concurrent custody has been terminated does not preclude any person who is otherwise eligible to petition for temporary custody from filing such petition.

Section 6. This act shall take effect July 1, 2020.

Approved by the Governor June 30, 2020.

Filed in Office Secretary of State June 30, 2020.