

Committee Substitute for
Committee Substitute for Senate Bill No. 118

An act relating to temporary custody of a child by an extended family member; amending s. 751.01, F.S.; removing provisions related to putative fathers; amending s. 751.011, F.S.; defining the term “extended family member”; removing the definition of the term “putative father”; amending s. 751.02, F.S.; authorizing an extended family member to bring a proceeding in court to determine the temporary custody of a child; amending s. 751.03, F.S.; specifying the information that must be included in a petition for temporary custody by an extended family member; providing that only an extended family member may file a petition for temporary custody under ch. 751, F.S.; amending s. 751.05, F.S.; authorizing a court to redirect child support payments to an extended family member; requiring that, if possible, the court order payment of arrearages; removing reference to an order granting temporary custody of a minor child to a putative father; providing that either or both of the child’s parents may petition the court to modify the order granting temporary custody under certain circumstances; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 751.01, Florida Statutes, are amended to read:

751.01 Purpose of act.—The purposes of ss. 751.01-751.05 are to:

(2) Provide for the welfare of a minor child ~~children~~ who is ~~are~~ living with an extended family members, ~~or who are being cared for by putative fathers whose paternity cannot be established given the absence of the mothers.~~ At present, such family members are unable to give complete care to the child in their custody because they lack a legal document that explains and defines their relationship to the child, and they are unable effectively to consent to the care of the child ~~children~~ by third parties.

(3) Provide temporary custody of a minor child to a family member ~~or putative father~~ having physical custody of the minor child to enable the custodian to:

(a) Consent to all necessary and reasonable medical and dental care for the child, including nonemergency surgery and psychiatric care;

(b) Secure copies of the child’s records, held by third parties, that are necessary to the care of the child, including, but not limited to:

1. Medical, dental, and psychiatric records;
2. Birth certificates and other records; and

3. Educational records;

(c) Enroll the child in school and grant or withhold consent for a child to be tested or placed in special school programs, including exceptional education; and

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

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

751.011 Definitions.—As used in ss. 751.01-751.05, the term:

(1) “extended family member” is any person who is:

(1) A relative within the third degree by blood or marriage to the parent;
or

(2) The stepparent of a 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 family composed of the minor child and a relative of the child who is the child’s brother, sister, grandparent, aunt, uncle, or cousin.

~~(2) “Putative father” is a man who reasonably believes himself to be the biological father of the minor child, but who is unable to prove his paternity due to the absence of the mother of the child.~~

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

751.02 Determination of temporary custody proceedings; jurisdiction.—The following individuals may bring proceedings in the circuit court to determine the temporary custody of a minor child:

~~(1) Any extended family member relative of a minor child who has the signed, notarized consent of the child’s legal parents; or~~

~~(2) Any extended family member who is caring full time for the child in the role of a substitute parent and relative of the child, including a putative father, with whom the child is presently living, may bring proceedings in the circuit court to determine the temporary custody of the child. A putative father may bring a proceeding for temporary custody only when he is unable to perfect personal service of process upon the mother of the child. When the putative father is able to perfect personal service of process upon the mother of the child, he must petition for custody and other relief, including the establishment of his paternity of the child, under chapter 742.~~

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

751.03 Petition for temporary custody; contents.—Each Every petition for temporary custody of a minor child must be verified by the petitioner and must contain statements, to the best of petitioner’s knowledge and belief, showing:

- (1) The name, date of birth, and current address of the child;
- (2) The names and current addresses of the child's parents;
- (3) The names and current addresses of the persons with whom the child has lived during the past 5 years;
- (4) The places where the child has lived during the past 5 years;
- (5) Information concerning any custody proceeding in this or any other state with respect to the child;
- (6) The residence and post office address of the petitioner;
- (7) The petitioner's relationship to the child, ~~including the circumstances leading the petitioner to believe he is the natural father of the child when the petitioner is the putative father; and~~
- (8) The consent of the child's parents, or the specific acts or omissions of the parents which demonstrate that the parents have abused, abandoned, or neglected the child as defined in chapter 39; the circumstances of the child's current living situation with the petitioner.
- (9) Any temporary or permanent orders for child support, the court entering the order, and the case number;
- (10) Any temporary or permanent order for protection entered on behalf of or against either parent, the petitioner, or the child; the court entering the order; and the case number;
- (11) That it is in the best interest of the child for the petitioner to have custody of the child; and
- (12)(9) A statement of the period of time the petitioner is requesting temporary custody, including a statement of the reasons supporting that request.

Only an extended family member may file a petition under this chapter.

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

751.05 Order granting temporary custody.—

(5)(a) The order granting temporary custody of the minor child to the petitioner may not include an order for the support of the child unless the parent has received personal or substituted service of process, the petition requests an order for the support of the child, and there is evidence of the parent's ability to pay the support ordered.

(b) The order granting temporary custody may redirect all or part of an existing child support obligation to be paid to the extended family member who is granted temporary custody of the child. If the court redirects an existing child support obligation, the order granting temporary custody

must include, if possible, the determination of arrearages owed to the obligee and the person awarded temporary custody and must order payment of the arrearages. The clerk of the circuit court in which the temporary custody order is entered shall transmit a certified copy thereof to the court originally entering the child support order. The temporary custody order shall be recorded and filed in the original action in which child support was determined and become a part thereof. A copy of the temporary custody order shall be filed with the depository that serves as the official recordkeeper for support payments due under the support order. The depository shall maintain separate accounts and separate account numbers for individual obligees.

~~(6) The order granting temporary custody of a minor child to a putative father must not include a determination of the paternity of the child.~~

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

Section 6. This act shall take effect July 1, 2006.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.