

By Senator Gaetz

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1 A bill to be entitled
2 An act relating to temporary custody of minor
3 children; amending s. 39.301, F.S.; requiring a
4 protective investigator to provide certain information
5 and, if necessary, guidance to a relative of a child
6 contacted during a protective investigation; amending
7 s. 751.02, F.S.; authorizing a grandparent to petition
8 for temporary or concurrent custody of his or her
9 grandchild, regardless of certain circumstances;
10 amending s. 751.03, F.S.; including a statement of
11 specific acts or omissions of a child's parents which
12 demonstrate certain use of a controlled substance or
13 alcohol in the statements that may be contained in a
14 petition for temporary or concurrent custody; defining
15 the term "controlled substance"; amending s. 751.05,
16 F.S.; including a finding that it is in the best
17 interests of the child to grant custody, and there is
18 a substantial threat of harm if custody is not
19 granted, in the findings upon which the court must
20 grant a petition for temporary custody; providing that
21 certain evidence is sufficient for the court to make
22 such a finding; providing an effective date.

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

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26 Section 1. Paragraph (b) of subsection (14) of section
27 39.301, Florida Statutes, is amended to read:

28 39.301 Initiation of protective investigations.—
29 (14)

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(b) The parents or legal custodians shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused, a collateral contact shall include a relative, if the protective investigator has knowledge of and the ability to contact a relative. If a relative of the child is contacted, the protective investigator shall inform the relative of the option to petition for temporary or concurrent custody of the child pursuant to chapter 751 and, if necessary, provide guidance on the manner in which to file the petition. If the services are refused and the department deems that the child's need for protection requires services, the department shall take the child into protective custody or petition the court as provided in this chapter. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request must ~~shall~~ include the relative's name, address, and phone number and the relative's relationship to the child. The protective investigator or case manager shall forward such request to the attorney for the department. The failure to provide notice to either a relative who requests it pursuant to this subsection or to a relative who is providing out-of-home care for a child may not result in any previous action of the court at any stage or proceeding in dependency or termination of parental rights under any part of this chapter being set aside, reversed, modified, or in any way changed absent a finding by the court that a change is required in the child's best

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interests.

Section 2. Subsection (1) of section 751.02, Florida Statutes, is amended to read:

751.02 Temporary or concurrent custody proceedings; jurisdiction.—

(1) The following individuals may bring proceedings in the circuit court to determine the temporary or concurrent custody of a minor child:

(a) An ~~Any~~ extended family member who has the signed, notarized consent of the child's legal parents; ~~or~~

(b) An ~~Any~~ extended family member who is caring full time for the child in the role of a substitute parent and with whom the child is presently living; or

(c) A grandparent of the child who is seeking custody, regardless of whether the child is in the grandparent's care or presently living with the grandparent.

Section 3. Subsection (9) of section 751.03, Florida Statutes, is amended 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:

(9) If temporary custody is being requested: 7

(a) The consent of the child's parents; ~~7~~ ~~or~~

(b) 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; or

(c) The specific acts or omissions of the parents which

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88 demonstrate extensive, abusive, and chronic use of a controlled
89 substance or alcohol to the extent that the parents' ability to
90 provide supervision and care for the child has been or is likely
91 to be severely compromised. As used in this paragraph, the term
92 "controlled substance" means prescription drugs not prescribed
93 for the parent or not administered as prescribed and controlled
94 substances as outlined in Schedule I or Schedule II of s.
95 893.03.

96 Section 4. Paragraph (b) of subsection (3) of section
97 751.05, Florida Statutes, is amended to read:

98 751.05 Order granting temporary or concurrent custody.—

99 (3) If one of the minor child's parents objects to:

100 (b) The petition for temporary custody, the court shall
101 grant the petition only upon a finding, by clear and convincing
102 evidence, that:

103 1. The child's parent or parents are unfit to provide for
104 the care and control of the child. In determining that a parent
105 is unfit, the court must find that the parent has abused,
106 abandoned, or neglected the child, as defined in chapter 39; or

107 2. The best interests of the child would be served by the
108 granting of custody, and there is a substantial threat of
109 significant and demonstrable harm to the child if custody is not
110 granted. Evidence of extensive, abusive, and chronic use of a
111 controlled substance or alcohol by a parent to the extent that
112 the parent's ability to provide supervision and care for the
113 child has been or is likely to be severely compromised is
114 sufficient for a court to make a finding of substantial threat
115 of significant and demonstrable harm to the child.

116 Section 5. This act shall take effect July 1, 2026.