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# **Civil Justice & Courts Policy Committee**

**Tuesday, November 3, 2009  
8:45 AM - 9:45 AM  
Reed Hall**

**Meeting Packet**

**Larry Cretul  
Speaker**

**Carl J. Domino  
Chair**



# **The Florida House of Representatives**

**Criminal & Civil Justice Policy Council**

**Civil Justice & Courts Policy Committee**

**Larry Cretul**  
**Speaker**

**Carl J. Domino**  
**Chair**

**November 3, 2009**

## **AGENDA**

**8:45 AM – 9:45 AM**

**Reed Hall**

### **I. Call Meeting to Order**

### **II. Consideration of Bills**

**HB 1 Statutes of Limitations by Porth**

**HB 25 Temporary and Concurrent Custody of a Child by Glorioso**

**HB 79 Excuse from Jury Service by Sands**

### **III. Adjourn**

**Committee Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**Civil Justice & Courts Policy Committee**

**Start Date and Time:** Tuesday, November 03, 2009 08:45 am  
**End Date and Time:** Tuesday, November 03, 2009 09:45 am  
**Location:** Reed Hall (102 HOB)  
**Duration:** 1.00 hrs

**Consideration of the following bill(s):**

HB 1 Statutes of Limitations by Porth  
HB 25 Temporary and Concurrent Custody of a Child by Glorioso  
HB 79 Excuse from Jury Service by Sands

**NOTICE FINALIZED on 10/27/2009 16:07 by Ingram.Michele**





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1 Statutes of Limitations

SPONSOR(S): Porth and others

TIED BILLS: IDEN./SIM. BILLS: SB 92

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice & Courts Policy Committee		De La Paz 	De La Paz 
2) Policy Council			
3) Criminal & Civil Justice Policy Council			
4)			
5)			

SUMMARY ANALYSIS

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law.

HB 1 amends s. 95.11, F.S., to provide an exception to the current two year statute of limitations for wrongful death actions, to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time.

This bill does not appear to have a fiscal impact on state or local government.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

HB 1 may also be referred to as the "Jeffrey Klee Act." Jeffery Klee disappeared on June 21, 1977 after last being seen at a lounge in Tamarac, Florida. Witnesses said he left the lounge with a friend named David Cusanelli, but he didn't return home and was never seen again. On March 26, 2008, Jeffery Klee's remains and van were found at the bottom of a canal in Coral Springs, Florida. Police detectives obtained statements from both David Cusanelli and his brother which revealed facts that appeared sufficient to charge David Cusanelli with manslaughter. The statute of limitations applicable to manslaughter at the time was 3 years. Due to the extended period of time between the day of the Jeffrey's disappearance and the recovery of his body and the admissions of David and his brother, the statute of limitations has long since expired. As a result, a charge of manslaughter cannot be brought against David Cusanelli for the death of Jeffrey Klee.

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law. The date is commonly based on the time that has elapsed since the action giving rise to the case occurred. Such laws creating statutes of limitation specify when the time period begins, how long the limitations period runs, and circumstances by which the running of the statutes may be tolled (suspended).

##### Statute of Limitations on Manslaughter

Section 775.15, F.S., provides that "[a] prosecution for a capital felony, a life felony, or a *felony that resulted in a death* may be commenced at any time." Under this provision, a prosecution for manslaughter may be commenced at any time. With respect to all homicide offenses, what is now the current statutory provision was amended into the statute in 1996.<sup>1</sup>

##### Statute of Limitations on Wrongful Death Actions

Under current law, civil actions for deaths caused by the wrongful act, negligence, default, or breach of contract or warranty of another may be brought under the Wrongful Death Act.<sup>2</sup> Section 768.21, F.S., specifies the types of damages that may be recovered under a wrongful death action. Section 95.11(4)(d) provides for a two year statute of limitations for wrongful death actions. As a result,

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<sup>1</sup> Ch. 96-145, Laws of Florida

<sup>2</sup> Section 768.19, F.S.

although under current law the state may pursue criminal charges against someone for the crimes of murder or manslaughter at any time, civil actions based on the same conduct are limited by the two year statute of limitations applicable to other wrongful death actions.

HB 1 amends s. 95.11, F.S., to provide an exception to the current two year statute of limitations for wrongful death actions, to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time. The bill also expressly states that the bringing of a civil action is not conditioned upon the criminal prosecution, arrest or conviction of the person being sued.

HB 1 contains language which limits the application of the changes to the time periods in s. 95.11, F.S., to claims that are not otherwise time barred on the effective date of the act.

The bill becomes effective upon becoming law.

**B. SECTION DIRECTORY:**

Section 1. Provides a name for the act.

Section 2. Amends s. 95.11, F.S., regarding the statute of limitations for civil actions.

Section 3. Provides for application of the changes to s. 95.11, F.S., to claims not otherwise time barred.

Section 4. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

This bill does not appear to have a fiscal impact on state or local government.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure to funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**



1 A bill to be entitled  
 2 An act relating to statutes of limitations; providing a  
 3 short title; amending s. 95.11, F.S.; eliminating the  
 4 statute of limitations for wrongful death actions for  
 5 intentional torts resulting in death from acts described  
 6 in s. 782.04, F.S., relating to murder, or s. 782.07,  
 7 F.S., relating to manslaughter; providing for application;  
 8 providing an effective date.

9

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

11

12 Section 1. This act may be cited as the "Jeffrey Klee  
 13 Memorial Act."

14 Section 2. Subsection (9) is added to section 95.11,  
 15 Florida Statutes, to read:

16 95.11 Limitations other than for the recovery of real  
 17 property.--Actions other than for recovery of real property  
 18 shall be commenced as follows:

19 (9) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS  
 20 DESCRIBED IN S. 782.04 OR S. 782.07.--Notwithstanding paragraph  
 21 (4) (d), an action for wrongful death seeking damages authorized  
 22 under s. 768.21 brought against a natural person for an  
 23 intentional tort resulting in death from acts described in s.  
 24 782.04 or s. 782.07 may be commenced at any time. This  
 25 subsection shall not be construed to require an arrest, the  
 26 filing of formal criminal charges, or a conviction for a  
 27 violation of s. 782.04 or s. 782.07 as a condition for filing a  
 28 civil action.

HB 1

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29           Section 3. The amendment to section 95.11, Florida  
30 Statutes, by this act applies to any claim that is not otherwise  
31 time barred on the effective date of this act.

32           Section 4. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 25 Temporary and Concurrent Custody of a Child
SPONSOR(S): Glorioso
TIED BILLS: None IDEN./SIM. BILLS: SB 334

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Civil Justice & Courts Policy Committee, DeZego, De La Paz.

SUMMARY ANALYSIS

This bill amends ch. 751, F.S., to authorize a court to order concurrent custody of a minor child to an extended family member. An order of concurrent custody does not affect a parent or parents' ability to obtain physical custody of the child at any time.

In order to bring proceedings for concurrent custody under this bill, a person must:

- Be an extended family member who has signed, notarized consent of the child's legal parents or an 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;
• Currently have physical custody of the child;
• Have had physical custody of the child for at least 10 days within any 30-day period in the last 12 months; and
• Not have signed documentation from a parent which allows the petitioner to obtain necessary care for the child that an order for concurrent custody would provide.

A judge may award concurrent custody if it is in the best interest of the child, unless the parents object. If a parent objects in writing, then the court may not grant the petition. The petitioner or either or both parents may move to terminate an order granting concurrent custody at any time, and an order must be terminated if either parent objects to the order.

The court may also provide an order for child support under this bill if the parent receives notice and there is evidence of the parent's ability to pay. In addition, the court may direct all or part of an existing child support obligation to be paid to the extended family member who is granted concurrent custody of the child.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

### FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Kinship Care

The Child Welfare League of America (CWLA)<sup>1</sup> defines kinship care as “the full time care, nurturing and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child.”<sup>2</sup> The CWLA notes that “one of the most recent stunning changes in the child welfare system has been the major growth in the number of children in state custody who are living with their relatives.”<sup>3</sup>

In the United States, more than six million children -- approximately 1 in 12 -- are living in households headed by grandparents or other relatives.<sup>4</sup> In many of these homes, grandparents and other relatives are taking on the primary responsibility for the child's needs, without either of the child's parents present in the home.<sup>5</sup> The increase in recent years in the numbers of children living with relatives can be attributed to many factors, including:

- Increased reporting of abuse and neglect;
- Change in drug usage and addiction related to the spread of crack cocaine and other drugs;
- Increased levels of poverty;
- More children affected by HIV/AIDS;
- More parents struggling with physical and mental health problems;
- Family violence and parental incarceration; and
- Decline in the availability of traditional foster homes.<sup>6</sup>

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<sup>1</sup> The Child Welfare League of America, founded in 1920, “provides direct support to agencies that serve children and families, improving the quality of the services they provide to more than nine million children every year.” Child Welfare League of America, About CWLA: Fact Sheet, <http://www.cwla.org/whowhat/more.htm> (last visited October 6, 2009).

<sup>2</sup> Child Welfare League of America, Kinship Care: Fact Sheet, <http://www.cwla.org/programs/kinship/factsheet.htm>. Last accessed October 6, 2009.

<sup>3</sup> *Id.*

<sup>4</sup> American Ass'n of Retired Persons, State Fact Sheets for Grandparents and Relatives Raising Children (Oct. 2007), [http://www.grandfactsheets.org/state\\_fact\\_sheets.cfm](http://www.grandfactsheets.org/state_fact_sheets.cfm). Last accessed October 6, 2009.

<sup>5</sup> *Id.*

<sup>6</sup> Child Welfare League of America, *supra* note 2.

In Florida, 258,952 children live in grandparent-headed households, which accounts for 7.1 percent of all the children in the state.<sup>7</sup> There are another 86,152 children living in households headed by other relatives, accounting for 2.4 percent of all the children in the state.<sup>8</sup> Of the children living in households headed by grandparents or other relatives, 151,492 are living there without either parent present.<sup>9</sup> Although many children living with relatives are doing so pursuant to a court order after being adjudicated dependent pursuant to ch. 39, F.S.,<sup>10</sup> far more are living with relatives in informal arrangements, with no court involvement, often because their parents are incarcerated or addicted to drugs.<sup>11</sup>

The University of South Florida's School of Social Work established the Florida Kinship Center in response to the growing needs of children living in kinship care homes.<sup>12</sup> The Center provides statewide and local programs to kinship caregivers throughout Florida. The programs include<sup>13</sup>:

- The Warmline, which provides emotional support, information, and referral for relative caregivers throughout Florida;
- The Legal Hotline, which provides education, information and referral to volunteer lawyers and legal aid for caregivers facing legal challenges;
- The Kinship Partners Program, which provides support groups and training to 12 counties in Florida;
- The Kin As Teachers Program, which provide support to relative caregivers raising children from ages birth to kindergarten; and
- The Kinship Care Connection, which provides school-based support such as mentors, one-on-one academic services, and intensive therapeutic interventions.

Section 39.5085, F.S., establishes the Relative Caregiver Program through which relatives who care for dependent children are eligible for financial assistance within available funding limits.<sup>14</sup> Chapter 39, F.S., however, does not otherwise explicitly require that relatives<sup>15</sup> be involved in or informed of child protective investigations or dependency proceedings, unless they are legal custodians of the subject child or children.<sup>16</sup> Florida law provides several means by which a relative may be granted some measure of control over a child.

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<sup>7</sup> American Ass'n of Retired Persons, GrandFacts, Florida (Nov. 2007), <http://www.grandfactsheets.org/doc/Florida%2007%20New%20Template.pdf>. Last accessed October 6, 2009.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> In December 2008 in Florida, there were 8,406 children adjudicated dependent and in out-of-home care, who were placed with relatives. Julie Mayo, DCF Staff Analysis and Economic Impact House Bill Number 381 (January 21, 2009).

<sup>11</sup> See James P. Gleeson, Kinship Care Research and Literature: Lessons Learned and Directions for Future Research, KINSHIP REPORTER VOL. 1, NO. 2 (Summer 2007), available at <http://www.cwla.org/programs/kinship/kinshipsummer2007.pdf>. Last accessed October, 2009.

<sup>12</sup> See <http://www.flkin.org/index.asp>. Last accessed October 21, 2009.

<sup>13</sup> *Kinnectivity*, Summer 2009 available at <http://www.flkin.org/News14241770.asp>. Last accessed October 21, 2009.

<sup>14</sup> The average Relative Caregiver payment is \$263 per month per child; the average foster care board rate is \$461 per month per child. DCF, DCF Quick Facts (February 6, 2009).

<sup>15</sup> Pursuant to s. 39.01(64), F.S., "relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

<sup>16</sup> Section 39.502(17), F.S., requires reasonable notice of dependency proceedings to all "participants." Section 39.01(50), F.S., defines a "participant" for purposes of a shelter, dependency, or termination of parental rights proceeding as "any person who is not a party but who should receive notice of hearings involving the child, including the actual custodian of the child, the foster parents or the legal custodian of the child, identified prospective parents, and any other person whose participation may be in the best interest of the child." A relative will meet this definition only if he or she is the current or potential placement for the child.

## Temporary Custody of Minor Children by Extended Family

Chapter 751, F.S., establishes a process by which a child's extended family member<sup>17</sup> may petition a court for temporary custody of the child. An award of temporary custody allows an extended family member with physical custody of a child to consent to:<sup>18</sup>

- Reasonable medical and dental treatment (including nonemergency surgery and psychiatric care);
- Obtain medical, educational and other records;
- Make decisions about a child's education; and
- Do other things necessary for the child's care.

Temporary custody of a child may be awarded to a relative with or without the consent of the child's parents.<sup>19</sup> If the child's parents do not object, the court will award temporary custody to the petitioning relative when it is in the best interest of the child to do so.<sup>20</sup> If the parents do object, the court may enter a temporary custody order only after finding by clear and convincing evidence that the parents are unfit and have abused, neglected, or abandoned the child.<sup>21</sup> At any time, a parent may petition the court to terminate a temporary custody order, and the court will terminate the order upon a finding that the parent is fit or upon the consent of the parties.<sup>22</sup>

## Consent to Medical Care of a Minor

Section 743.0645, F.S., authorizes the following individuals to consent to the medical care or treatment of a minor if, after a reasonable attempt, a person who has the power to consent (e.g., a parent) cannot be contacted by the treatment provider:

- A person who possesses a power of attorney to provide medical consent for the minor;<sup>23</sup>
- A stepparent;
- A grandparent of the minor;
- An adult brother or sister of the minor; or
- An adult aunt or uncle of the minor.

"Medical care and treatment" includes ordinary and necessary medical and dental examination and treatment, including blood testing, preventive care including ordinary immunizations, tuberculin testing, and well-child care, but does not include surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate court order, power of attorney, or informed consent as provided by law is required.

## Guardianship of a Minor

Section 744.3021, F.S., allows a parent, brother, sister, next of kin or other interested person to petition a court for the appointment of a guardian for a minor, without the need for adjudication of incapacity. Once appointed, the guardian has the authority of a plenary guardian.<sup>24</sup>

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<sup>17</sup> An extended family member is defined in s. 751.011, F.S., as a relative within the third degree by blood or marriage to the parent, or the stepparent of a child if the stepparent is currently married to the parent of the child.

<sup>18</sup> Section 751.01(3), F.S.

<sup>19</sup> Section 751.05, F.S.

<sup>20</sup> Section 751.05(2), F.S.

<sup>21</sup> Section 751.05(3), F.S.

<sup>22</sup> Section 751.05(6), F.S.

<sup>23</sup> A power of attorney executed after July 1, 2001, to provide medical consent for a minor includes the power to consent to medically necessary surgical and general anesthesia services for the minor unless such services are excluded by the individual executing the power of attorney.

<sup>24</sup> Pursuant to s. 744.102(9)(b), F.S., a plenary guardian is "a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property."

A child who has been adjudicated dependent pursuant to ch. 39, F.S., may be placed by court order in a permanent guardianship<sup>25</sup> or in a permanent placement with a relative.<sup>26</sup> In both circumstances the court is required to provide the caregiver with a separate order establishing the caregiver's authority to care for the child.

### Power of Attorney

Section 709.08(1), F.S., defines a durable power of attorney to be "a written power of attorney by which a principal designates another as the principal's attorney in fact." Pursuant to a durable power of attorney, the attorney in fact "has full authority to perform, without prior court approval, every act specifically enumerated in the durable power of attorney."<sup>27</sup> If authority is specifically granted, the attorney in fact may make health care decisions on behalf of the principal.<sup>28</sup> A durable power of attorney survives the principal's incapacity.

There is no specific provision in Florida law for a power of attorney that allows someone other than a parent or legal custodian to care for a minor child, although nothing in the law precludes the execution of such a document. Some states have passed legislation that specifically addresses the use of a power of attorney to allow a parent to delegate temporary caregiving authority to a relative.<sup>29</sup>

### **Effect of Bill**

This bill amends ch. 751, F.S., to authorize a court to order concurrent custody of a minor child to an extended family member.<sup>30</sup> This bill defines concurrent custody to mean that an eligible individual is awarded custodial rights to care for a child concurrently with the child's parent or parents. This bill provides that in order to bring proceedings for concurrent custody, a person must:

- Be an extended family member who has signed, notarized consent of the child's legal parents or be an 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;
- Currently have physical custody of the child;
- Have had physical custody of the child for at least 10 days within any 30-day period in the last 12 months; and
- Not have signed documentation from a parent which allows the petitioner to obtain necessary care for the child that an order for concurrent custody would provide.

### Petition for Concurrent Custody

A petition for concurrent custody must provide in part the following:

- The names and addresses of persons with whom the child has lived in the past five years;
- The time periods during the last 12 months when the child resided with the petitioner;
- The type of document, if any, provided by the parent or parents to the petitioner to act on behalf of the child;
- The services or actions that the petitioner is not able to attain or perform without an order of custody; and
- Whether each parent has consented in writing to the entry of an order of concurrent custody.

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<sup>25</sup> Section 39.6221, F.S.

<sup>26</sup> Section 39.6231, F.S.

<sup>27</sup> Section 709.08(7)(a), F.S.

<sup>28</sup> Section 709.08(7)(c), F.S.

<sup>29</sup> See, e.g., Ariz. Rev. Stat. s. 14-5104 (2009); Cal. Fam. Code s. 6550 (2009); Tenn. Code Ann. s. 34-6-301, et. seq. (2008).

<sup>30</sup> An extended family member is defined as a person who is a relative within the third degree by blood or marriage or the stepparent of the child if still married to the child's parent. Section 751.011(2), F.S.



Notice and an opportunity to be heard must be given to the parents by personal or constructive service of process.

### Order for Concurrent Custody

Under this bill, a judge may award concurrent custody if it is in the best interest of the child, unless the parents object. If a parent objects in writing, then the court may not grant the petition. If a parent objects, then the petitioner may change their petition to one for temporary custody and set the matter for a separate hearing. Separate notice must be given for the new hearing in this case. If the petition is not converted into a petition for temporary custody, then the petition for concurrent custody must be dismissed without prejudice.

An order of concurrent custody does not affect a parent or parents' ability to obtain physical custody of the child at any time. The petitioner or either or both parents may move to terminate the order granting concurrent custody. The order must be terminated if either parent objects to the order.

### Child Support

This bill also provides that the court may provide an order for child support if the parent receives notice and there is evidence of the parent's ability to pay. In addition, the court may direct all or part of an existing child support obligation to be paid to the extended family member who is granted concurrent custody of the child.

The petitioner or either or both parents may move to modify the child support provision. The support order may be modified if the parties consent and the modification is in the best interests of the child.

## **B. SECTION DIRECTORY:**

Section 1 amends s. 751.01, F.S., relating to the temporary custody of a minor child by extended family.

Section 2 amends s. 751.011, F.S., relating to definitions.

Section 3 amends s. 751.02, F.S., relating to determination of temporary custody proceedings.

Section 4 amends s. 751.03, F.S., relating to a petition for temporary or concurrent custody.

Section 5 amends s. 751.04, F.S., relating to notice and opportunity to be heard for temporary or concurrent custody.

Section 6 amends s. 751.05, F.S., relating to an order granting temporary or concurrent custody.

Section 7 amends s. 49.011, F.S., relating to service of process for temporary custody of a minor.

Section 8 provides an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None

#### **2. Expenditures:**

This bill appears to have a minimal indeterminate negative fiscal impact. See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None

2. Expenditures:

None

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None

**D. FISCAL COMMENTS:**

To the extent that individuals under this bill will be able to petition for concurrent custody, this bill may increase the judicial workload according to the Office of the State Courts Administrator.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

This bill may require the creation of a petition and final order for concurrent custody. According to the Office of the State Courts Administrator, the creation of these forms cannot be completed by the effective date of this bill.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

N/A

1                                   A bill to be entitled  
 2           An act relating to temporary and concurrent custody of a  
 3           child; revising ch. 751, F.S., relating to petitions and  
 4           court orders awarding the temporary custody of a child to  
 5           an extended family member, to also provide for concurrent  
 6           custody with the parents of the child; amending s. 751.01,  
 7           F.S.; conforming provisions to changes made by the act;  
 8           amending s. 751.011, F.S.; revising definitions; defining  
 9           the term "concurrent custody"; amending s. 751.02, F.S.;  
 10          providing requirements for concurrent custody; amending s.  
 11          751.03, F.S.; revising the petition for concurrent custody  
 12          to require additional information; amending s. 751.04,  
 13          F.S.; conforming provisions to changes made by the act;  
 14          amending s. 751.05, F.S.; providing that if a parent  
 15          objects to a petition for concurrent custody, the court  
 16          may not grant the petition and must give the petitioner  
 17          the option of converting the petition to one for temporary  
 18          custody; providing for dismissal of the petition;  
 19          providing that an order granting concurrent custody does  
 20          not affect the ability of the parents to obtain the  
 21          physical custody of the child at any time; providing for  
 22          the court to terminate an order for concurrent custody if  
 23          a parent withdraws his or her consent to the order;  
 24          amending s. 49.011, F.S.; conforming provisions to changes  
 25          made by the act; providing an effective date.

26  
 27   Be It Enacted by the Legislature of the State of Florida:  
 28

29 Section 1. Section 751.01, Florida Statutes, is amended to  
 30 read:

31 751.01 Purpose of act.--The purposes of this chapter ~~ss.~~  
 32 ~~751.01-751.05~~ are to:

33 (1) Recognize that many minor children in this state live  
 34 with and are well cared for by members of their extended  
 35 families. The parents of these children have often provided for  
 36 their care by placing them temporarily with another family  
 37 member who is better able to care for them. Because of the care  
 38 being provided the children by their extended families, they are  
 39 not dependent children.

40 (2) Provide for the welfare of a minor child who is living  
 41 with extended family members. At present, such family members  
 42 are unable to give complete care to the child in their custody  
 43 because they lack a legal document that explains and defines  
 44 their relationship to the child, and they are unable effectively  
 45 to consent to the care of the child by third parties.

46 (3) Provide temporary or concurrent custody of a minor  
 47 child to a family member having physical custody of the minor  
 48 child to enable the custodian to:

49 (a) Consent to all necessary and reasonable medical and  
 50 dental care for the child, including nonemergency surgery and  
 51 psychiatric care.†

52 (b) Secure copies of the child's records, held by third  
 53 parties, that are necessary for ~~to~~ the care of the child,  
 54 including, but not limited to:

- 55 1. Medical, dental, and psychiatric records.†
- 56 2. Birth certificates and other records.†~~and~~

57 3. Educational records.~~†~~

58 (c) Enroll the child in school and grant or withhold  
59 consent for a child to be tested or placed in special school  
60 programs, including exceptional education.~~†~~ and

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

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

65 751.011 Definitions.--As used in this chapter ~~ss. 751.01-~~  
66 ~~751.05~~, the term:

67 (1) "Concurrent custody" means that an eligible individual  
68 is awarded custodial rights to care for a child concurrently  
69 with the child's parent or parents.

70 (2) "Extended family member" means a ~~is any~~ person who is:

71 (a) ~~(1)~~ A relative of a minor child within the third degree  
72 by blood or marriage to the parent; or

73 (b) ~~(2)~~ The stepparent of a minor child if the stepparent  
74 is currently married to the parent of the child and is not a  
75 party in a pending dissolution, separate maintenance, domestic  
76 violence, or other civil or criminal proceeding in any court of  
77 competent jurisdiction involving one or both of the child's  
78 parents as an adverse party.

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

81 751.02 ~~Determination of~~ Temporary or concurrent custody  
82 proceedings; jurisdiction.--

83 (1) The following individuals may bring proceedings in the  
84 circuit court to determine the temporary or concurrent custody

85 of a minor child:

86 (a)~~(1)~~ Any extended family member who has the signed,  
87 notarized consent of the child's legal parents; or

88 (b)~~(2)~~ Any extended family member who is caring full time  
89 for the child in the role of a substitute parent and with whom  
90 the child is presently living.

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

93 (a) Currently have physical custody of the child and have  
94 had physical custody of the child for at least 10 days in any  
95 30-day period within the last 12 months; and

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

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

102 751.03 Petition for temporary or concurrent custody;  
103 contents.--Each petition for temporary or concurrent custody of  
104 a minor child must be verified by the petitioner, who must be an  
105 extended family member, and must contain statements, to the best  
106 of the petitioner's knowledge and belief, providing ~~showing~~:

107 (1) The name, date of birth, and current address of the  
108 child.†

109 (2) The names and current addresses of the child's  
110 parents.†

111 (3) The names and current addresses of the persons with  
112 whom the child has lived during the past 5 years.†

113 (4) The places where the child has lived during the past 5  
 114 years.~~†~~

115 (5) Information concerning any custody proceeding in this  
 116 or any other state with respect to the child.~~†~~

117 (6) The residence and post office address of the  
 118 petitioner.~~†~~

119 (7) The petitioner's relationship to the child.~~†~~

120 (8) If concurrent custody is being requested:

121 (a) The time periods during the last 12 months that the  
 122 child resided with the petitioner;

123 (b) The type of document, if any, provided by the parent  
 124 or parents to enable the petitioner to act on behalf of the  
 125 child;

126 (c) The services or actions that the petitioner is unable  
 127 to obtain or undertake without an order of custody; and

128 (d) Whether each parent has consented in writing to the  
 129 entry of an order of concurrent custody.

130

131 A copy of the written consent and any documents provided by the  
 132 parent to assist the petitioner in obtaining services must be  
 133 attached to the petition.

134 (9)(8) If temporary custody is being requested, the  
 135 consent of the child's parents, or the specific acts or  
 136 omissions of the parents which demonstrate that the parents have  
 137 abused, abandoned, or neglected the child as defined in chapter  
 138 39.~~†~~

139 (10)(9) Any temporary or permanent orders for child  
 140 support, the court entering the order, and the case number.~~†~~

141            ~~(11)~~(10) Any temporary or permanent order for protection  
 142 entered on behalf of or against either parent, the petitioner,  
 143 or the child; the court entering the order; and the case  
 144 number. ~~+~~

145            ~~(12)~~(11) That it is in the best interest of the child for  
 146 the petitioner to have custody of the child. ~~+~~ ~~and~~

147            ~~(13)~~(12) A statement of the period of time the petitioner  
 148 is requesting temporary custody, including a statement of the  
 149 reasons supporting that request.

150

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

153            Section 5. Section 751.04, Florida Statutes, is amended to  
 154 read:

155            751.04 Notice and opportunity to be heard.--Before a  
 156 decree is made under this chapter ~~ss. 751.01-751.05~~, reasonable  
 157 notice and opportunity to be heard must be given to the parents  
 158 of the minor child by service of process, either personal or  
 159 constructive.

160            Section 6. Section 751.05, Florida Statutes, is amended to  
 161 read:

162            751.05 Order granting temporary or concurrent custody.--

163            (1) At the hearing on the petition for temporary or  
 164 concurrent custody, the court must hear the evidence concerning  
 165 a minor child's need for care by the petitioner, all other  
 166 matters required to be set forth in the petition, and the  
 167 objections or other testimony of the child's parents, if  
 168 present.



169 (2) Unless the minor child's parents object, the court  
 170 shall award ~~the~~ temporary or concurrent custody of the child to  
 171 the petitioner if ~~when~~ it is in the best interest of the child  
 172 ~~to do so.~~

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

174 (a) The petition for concurrent custody, in writing, the  
 175 court may not grant the petition even if the other parent  
 176 consents, in writing, to the entry of the order. The court shall  
 177 give the petitioner the option of converting the petition to a  
 178 petition for temporary custody. If the petitioner so elects, the  
 179 court shall set the matter for further hearing, provide notice  
 180 to the parent or parents, and proceed pursuant to paragraph (b).  
 181 If the petition is not converted into a petition for temporary  
 182 custody, it shall be dismissed without prejudice.

183 (b) The petition for temporary custody ~~granting of~~  
 184 ~~temporary custody to the petitioner,~~ the court shall grant the  
 185 petition only upon a finding, by clear and convincing evidence,  
 186 that the child's parent or parents are unfit to provide for the  
 187 care and control of the child. In determining that a parent is  
 188 unfit, the court must find that the parent has abused,  
 189 abandoned, or neglected the child, as defined in chapter 39.

190 (4) The order granting:

191 (a) Concurrent custody of the minor child may not  
 192 eliminate or diminish the custodial rights of the child's parent  
 193 or parents. The order must expressly state that the grant of  
 194 custody does not affect the ability of the child's parent or  
 195 parents to obtain physical custody of the child at any time.

196 (b) Temporary custody of the minor child to the petitioner

197 may also grant visitation rights to the child's parent or  
 198 parents, if it is in the best interest of the child ~~to do so~~.

199 (5) ~~(a)~~ The order granting temporary or concurrent custody  
 200 of the minor child to the petitioner:

201 (a) May not include an order for the support of the child  
 202 unless the parent has received personal or substituted service  
 203 of process, the petition requests an order for the support of  
 204 the child, and there is evidence of the parent's ability to pay  
 205 the support ordered.

206 (b) ~~The order granting temporary custody~~ May redirect all  
 207 or part of an existing child support obligation to be paid to  
 208 the extended family member who is granted temporary or  
 209 concurrent custody of the child. If the court redirects an  
 210 existing child support obligation, the order granting temporary  
 211 or concurrent custody must include, if possible, the  
 212 determination of arrearages owed to the obligee and the person  
 213 awarded temporary or concurrent custody and must order payment  
 214 of the arrearages. The clerk of the circuit court in which the  
 215 ~~temporary custody~~ order is entered shall transmit a certified  
 216 copy ~~thereof~~ to the court originally entering the child support  
 217 order. The temporary or concurrent custody order shall be  
 218 recorded and filed in the original action in which child support  
 219 was determined and become a part thereof. A copy of the  
 220 temporary or concurrent custody order shall also be filed with  
 221 the depository that serves as the official recordkeeper for  
 222 support payments due under the support order. The depository  
 223 must ~~shall~~ maintain separate accounts and separate account  
 224 numbers for individual obligees.

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

232 (7) At any time, the petitioner or either or both of the  
 233 child's parents may move the court to modify the child support  
 234 provision or terminate the order granting concurrent custody.  
 235 The court shall terminate the order upon a finding that either  
 236 or both of the child's parents object to the order. The fact  
 237 that an order for concurrent custody has been terminated does  
 238 not preclude any person who is otherwise eligible to petition  
 239 for temporary custody from filing such petition. The court may  
 240 modify an order granting child support if the parties consent  
 241 and if modification is in the best interest of the child.

242 Section 7. Subsection (14) of section 49.011, Florida  
 243 Statutes, is amended to read:

244 49.011 Service of process by publication; cases in which  
 245 allowed.--Service of process by publication may be made in any  
 246 court on any party identified in s. 49.021 in any action or  
 247 proceeding:

248 (14) For temporary custody of a minor child, under chapter  
 249 751 ~~ss. 751.01-751.05~~.

250 Section 8. This act shall take effect July 1, 2010.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 79  
SPONSOR(S): Sands  
TIED BILLS: None

Excuse from Jury Service

IDEN./SIM. BILLS: SB 86

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice & Courts Policy Committee		DeZego <i>NO</i>	De La Paz <i>[Signature]</i>
2) Criminal & Civil Justice Policy Council			
3)			
4)			
5)			

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SUMMARY ANALYSIS

Breast milk is commonly held to be the best source of infant nutrition and has been found to have multiple health benefits for the mother as well as the child. Forty-three states, including Florida, have laws that allow women to breastfeed in any public or private location. Additionally, twelve states specifically provide for breastfeeding mothers to be either excused or postponed from serving on a jury.

Currently, Florida provides that expecting mothers and any parent who is not employed full time and who has custody of a child under 6 years of age must be excused from jury service upon request.

This bill provides that a mother who is breastfeeding a child under two years of age must be excused from jury service upon request.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

### FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Breast milk is commonly held to be the best source of infant nutrition, according to the Surgeon General, and numerous benefits have been shown for both the infant as well as the mother when breastfeeding occurs.<sup>1</sup> Breastfeeding is associated with lower rates of sudden infant death syndrome, childhood obesity, type 2 diabetes, and leukemia. The maternal benefits have been identified to include a reduced risk for type 2 diabetes, breast and ovarian cancers.<sup>2</sup>

Many health organizations, including the American Academy of Pediatrics, the American Academy of Family Physicians, and the American Public Health Association, officially recommend that most infants breastfeed for twelve months and exclusively for the first six months of life. The World Health Organization recommends that woman breastfeed a child up to two years of age.<sup>3</sup> An infant generally breastfeeds every two hours during the first few weeks of life.<sup>4</sup> By two months of age, an infant usually breastfeeds every four hours.<sup>5</sup>

##### Jury Service

The United States Constitution as well as the Florida Constitution guarantee the right of trial by jury to a defendant in criminal cases and parties in certain types of lawsuits.<sup>6</sup> According to the Supreme Court, a jury's purpose is to "guard against the exercise of arbitrary power -- to make available the commonsense judgment of the community as a hedge against the overzealous or mistaken prosecutor and in preference to the professional or perhaps overconditioned or biased response of the judge."<sup>7</sup> Jury service is both a "privilege and a responsibility of citizenship.... which affords an opportunity for

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<sup>1</sup> Rear Admiral Steven K. Galson, M.D., M.P.H., *Surgeon General's Perspectives: The Status of Breastfeeding Today*, *Public Health Reports* (May-June 2009), at [www.publichealthreports.org/userfiles/124\\_3/356-358.pdf](http://www.publichealthreports.org/userfiles/124_3/356-358.pdf).

<sup>2</sup> *Id.* See Ip S, Chung M, Raman G, Chew P, Magula N, DeVine D, et al. *Breastfeeding and maternal and infant health outcomes in developed countries*, Rockville (MD): Agency for Healthcare Research and Quality (2007), at [www.ahrq.gov/downloads/pub/evidence/pdf/brfout/brfout.pdf](http://www.ahrq.gov/downloads/pub/evidence/pdf/brfout/brfout.pdf).

<sup>3</sup> See <http://www.who.int/topics/breastfeeding/en/>. Last accessed on October 14, 2009.

<sup>4</sup> See <http://life.familyeducation.com/infant/breastfeeding/50450.html>. Last accessed on October 14, 2009.

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Const. amend. VI; Fla. Const. Art. I, § 16, 17.

<sup>7</sup> *Taylor v. Louisiana*, 419 U.S. 522, 530 (1975).

citizens with a variety of life experiences and backgrounds to actively participate in the justice system."<sup>8</sup> In order to ensure this protection and make sure that a variety of backgrounds are represented, the selection of a jury must be from a representative cross section of the community.<sup>9</sup>

Historically, certain groups were excluded from service on a jury in Florida based on race or gender. Under the 1838 Constitution, only free white males could serve as jurors.<sup>10</sup> However, in 1908 Florida Justice James B. Whitfield wrote an opinion outlawing the blanket exclusion of African-American men on Florida juries.<sup>11</sup> Florida women were subject to an absolute exclusion from jury service until 1949 after which they still had to contact the clerk of court to be included on the potential juror lists. However, in 1967 the legislature changed the law to include women on the lists, allowing women an automatic exemption if they were pregnant or had small children.<sup>12</sup>

States may, for certain compelling reasons, exclude some persons from jury service.<sup>13</sup> Currently, Florida provides that the following persons are excluded or excused from service on a jury:<sup>14</sup>

- A person who is under prosecution for any crime or has been convicted of a felony, unless his or her civil rights were restored;
- The Governor, Lieutenant Governor, Cabinet member, or Clerk of the Court;
- A full-time federal, state or local law enforcement officer;
- An interested person in any issue to be tried;
- An expectant mother upon request;
- Any parent that is not employed full time and has custody of a child under 6 years of age upon request;
- A person who reported as a perspective juror in his or her county within one year before being considered to serve again;
- A person 70 years or older upon request;
- A person responsible for the care of a person with a mental illness or physical or mental incapacity upon request.

In addition, a judge may use his or her discretion to excuse a practicing attorney, physician or a person who is physically infirm from jury service. A person may also be excused upon a showing of hardship, extreme inconvenience or public necessity.<sup>15</sup>

### Breastfeeding Laws

Forty-three states, including Florida, have laws that specifically allow women to breastfeed in any public or private location.<sup>16</sup> In addition, twenty-eight states, including Florida, exempt breastfeeding from public indecency laws, and twenty-four states have laws relating to breastfeeding in the workplace.<sup>17</sup>

Currently, twelve states have laws that specifically allow a breastfeeding mother to either postpone or be excused from jury service.<sup>18</sup> Other states, considered "family friendly" jury duty states, have laws

<sup>8</sup> See [http://www.flcourts.org/gen\\_public/jury/lawday\\_pressrelease.shtml](http://www.flcourts.org/gen_public/jury/lawday_pressrelease.shtml). Last accessed October 16, 2009. See *Thiel v. Southern Pac. Co.*, 328 U.S. 217, 66 S. Ct. 984, 90 L. Ed. 1181, 166 A.L.R. 1412 (1946).

<sup>9</sup> *Id.*

<sup>10</sup> See [http://www.flcourts.org/gen\\_public/jury/lawday\\_pressrelease.shtml](http://www.flcourts.org/gen_public/jury/lawday_pressrelease.shtml). Last accessed October 16, 2009.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Taylor v. Louisiana*, 419 U.S. 522, 534 (1975).

<sup>14</sup> Section 40.013, F.S.

<sup>15</sup> Section 40.013(6), (7), F.S.

<sup>16</sup> See <http://www.ncsl.org/IssuesResearch/Health/BreastfeedingStateLaws/tabid/14389/Default.aspx>. Last accessed October 7, 2009. See s. 385.015, F.S.

<sup>17</sup> *Id.*

<sup>18</sup> See <http://www.ncsl.org/IssuesResearch/Health/BreastfeedingLaws/tabid/14389/Default.aspx>. See Weimer, Douglas, *Breastfeeding and Jury Duty: State Laws, Court Rules, and Related Issues*, CRS Report for Congress, January 24, 2007, at [maloney.house.gov/documents/.../20050517\\_CRS\\_Jury Duty.pdf](http://maloney.house.gov/documents/.../20050517_CRS_Jury%20Duty.pdf). These states include: California, Illinois, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Montana, Nebraska, Oklahoma, Oregon and Virginia.

that excuse or postpone jury duty for family caregivers.<sup>19</sup> While breastfeeding mothers in these states may meet the requirements to be excused from jury service, working mothers who breastfeed often do not. Florida is one of these states.

Florida provides that a person may be excused from jury service upon request if the person is an expectant mother or a parent (male or female) who is not employed full time and who has custody of a child under 6 years of age.<sup>20</sup> A breastfeeding mother who is not employed full time and has custody of a child is exempted from jury service under this statute. However, a breastfeeding mother who works full time, either inside or outside of the home, is not exempted.

#### Courthouse Accommodations

While Florida law currently allows a woman to breastfeed in any private or public place<sup>21</sup>, there are no laws that require court houses to provide specific accommodations for a breastfeeding mother. Therefore, a breastfeeding mother may have difficulty finding a place to either breastfeed or express milk when serving jury service.

#### **Effect of the Bill**

This bill provides that any mother who is breastfeeding a child under two years of age must be excused from jury service upon request.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 40.013, F.S., relating to persons disqualified or excused from jury service.

Section 2 provides an effective date of July 1, 2010.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None

##### **2. Expenditures:**

None

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None

##### **2. Expenditures:**

None

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None

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<sup>19</sup> *Id.* These states include in part the following: Alaska, Florida, Georgia, Illinois, New Jersey, South Carolina, Tennessee, Texas, Virginia, and Wyoming.

<sup>20</sup> Section 40.013(4), F.S.

<sup>21</sup> Section 383.015, F.S.



**D. FISCAL COMMENTS:**

This bill may cause a minimal negative impact on the judicial workload, according to the Office of the State Courts Administrator.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

"Breastfeeding" is not defined in Florida law. According to Webster's dictionary, breastfeeding means nursing a baby at the breast.<sup>22</sup> However, The Supplemental Nutrition Program for Woman, Infants, and Children defines a breastfeeding woman as one who feeds her infant breast milk on the average of once a day.<sup>23</sup> Therefore, it is unclear if this bill applies to women who express their breast milk exclusively or only to women who nurse their children directly from the breast.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

N/A

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<sup>22</sup> Webster's Encyclopedia Unabridged Dictionary, pg. 258 (1996).

<sup>23</sup> See [www.nal.usda.gov/wicworks/Learning\\_Center/FP/Protocols.pdf](http://www.nal.usda.gov/wicworks/Learning_Center/FP/Protocols.pdf). Last accessed October 16, 2009.

HB 79

2010

1                   A bill to be entitled  
2           An act relating to excuse from jury service; amending s.  
3           40.013, F.S.; expanding parental eligibility to be excused  
4           from jury service; providing an effective date.

5  
6   Be It Enacted by the Legislature of the State of Florida:

7  
8           Section 1. Subsection (4) of section 40.013, Florida  
9   Statutes, is amended to read:

10           40.013 Persons disqualified or excused from jury  
11   service.--

12           (4) Any expectant mother, any mother who is breastfeeding  
13   a child under 2 years of age, and any parent who is not employed  
14   full time and who has custody of a child under 6 years of age,  
15   upon request, shall be excused from jury service.

16           Section 2. This act shall take effect July 1, 2010.