

By Representative Morse

1                           A bill to be entitled  
2           An act relating to child custody; amending s.  
3           61.13, F.S.; providing for consideration of  
4           spousal or child abuse in custody proceedings;  
5           reenacting ss. 39.408(3)(a) and 741.30(5)(a),  
6           F.S., relating to disposition hearings in  
7           dependency cases, and relating to temporary  
8           injunctions in domestic violence cases, to  
9           incorporate said amendment in references;  
10          providing an 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. Paragraph (k) of subsection (3) of section  
15   61.13, Florida Statutes, is redesignated as paragraph (l), and  
16   a new paragraph (k) is added to said subsection to read:

17           61.13 Custody and support of children; visitation  
18   rights; power of court in making orders.--

19           (3) For purposes of shared parental responsibility and  
20   primary residence, the best interests of the child shall  
21   include an evaluation of all factors affecting the welfare and  
22   interests of the child, including, but not limited to:

23           (k) Evidence of spousal or child abuse.

24           Section 2. For the purpose of incorporating the  
25   amendment to s. 61.13, Florida Statutes, in references  
26   thereto, the sections or subdivisions of Florida Statutes set  
27   forth below are reenacted to read:

28           39.408 Hearings for dependency cases.--

29           (3) DISPOSITION HEARING.--At the disposition hearing,  
30   if the court finds that the facts alleged in the petition for  
31   dependency were proven in the adjudicatory hearing, or if the

1 parents have consented to the finding of dependency or  
2 admitted the allegations in the petition, have failed to  
3 appear for the arraignment hearing after proper notice, or  
4 have not been located despite a diligent search having been  
5 conducted, the court shall receive and consider a  
6 predisposition study, which must be in writing and presented  
7 by an authorized agent of the department.

8 (a) The predisposition study shall cover for any  
9 dependent child all factors specified in s. 61.13(3), and must  
10 also provide the court with the following documented  
11 information:

12 1. An assessment defining the dangers and risks of  
13 returning the child home, including a description of the  
14 changes in and resolutions to the initial risks.

15 2. A description of what risks are still present and  
16 what resources are available and will be provided for the  
17 protection and safety of the child.

18 3. A description of the benefits of returning the  
19 child home.

20 4. A description of all unresolved issues.

21 5. An abuse registry history for all caretakers,  
22 family members, and individuals residing within the household.

23 6. The complete child protection team report and  
24 recommendation or, if no report exists, a statement reflecting  
25 that no report has been made.

26 7. All opinions or recommendations from other  
27 professionals or agencies that provide evaluative, social,  
28 reunification, or other services to the family.

29 8. The availability of appropriate prevention and  
30 reunification services for the family to prevent the removal  
31 of the child from the home or to reunify the child with the

1 family after removal, including the availability of family  
2 preservation services through the Family Builders Program, the  
3 Intensive Crisis Counseling Program, or both.

4 9. The inappropriateness of other prevention and  
5 reunification services that were available.

6 10. The efforts by the department to prevent  
7 out-of-home placement of the child or, when applicable, to  
8 reunify the family if appropriate services were available,  
9 including the application of intensive family preservation  
10 services through the Family Builders Program, the Intensive  
11 Crisis Counseling Program, or both.

12 11. Whether the services were provided to the family  
13 and child.

14 12. If the services were provided, whether they were  
15 sufficient to meet the needs of the child and the family and  
16 to enable the child to remain at home or to be returned home.

17 13. If the services were not provided, the reasons for  
18 such lack of action.

19 14. The need for, or appropriateness of, continuing  
20 the services if the child remains in the custody of the family  
21 or if the child is placed outside the home.

22 15. Whether family mediation was provided.

23 16. Whether a multidisciplinary case staffing was  
24 conducted and, if so, the results.

25 17. If the child has been removed from the home and  
26 there is a parent who may be considered for custody pursuant  
27 to s. 39.41(1), a recommendation as to whether placement of  
28 the child with that parent would be detrimental to the child.

29 741.30 Domestic violence; injunction; powers and  
30 duties of court and clerk; petition; notice and hearing;

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1 temporary injunction; issuance of injunction; statewide  
2 verification system; enforcement.--

3 (5)(a) When it appears to the court that an immediate  
4 and present danger of domestic violence exists, the court may  
5 grant a temporary injunction ex parte, pending a full hearing,  
6 and may grant such relief as the court deems proper, including  
7 an injunction:

8 1. Restraining the respondent from committing any acts  
9 of domestic violence.

10 2. Awarding to the petitioner the temporary exclusive  
11 use and possession of the dwelling that the parties share or  
12 excluding the respondent from the residence of the petitioner.

13 3. On the same basis as provided in s. 61.13(2), (3),  
14 (4), and (5), granting to the petitioner temporary custody of  
15 a minor child or children.

16 Section 3. This act shall take effect upon becoming a  
17 law.

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20 HOUSE SUMMARY

21 Provides for the court to consider evidence of spousal  
22 abuse or child abuse when evaluating the best interests  
23 of the child in child custody proceedings under ch. 61,  
F.S., relating to dissolution of marriage.

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