

By Representative Cusack

1 A bill to be entitled
2 An act relating to parental rights; amending s.
3 61.13, F.S.; providing that specified rights
4 apply to both parents; providing an effective
5 date.

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

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9 Section 1. Paragraph (b) of subsection (2) of section
10 61.13, Florida Statutes, is amended to read:

11 61.13 Custody and support of children; visitation
12 rights; power of court in making orders.--

13 (2)

14 (b)1. The court shall determine all matters relating
15 to custody of each minor child of the parties in accordance
16 with the best interests of the child and in accordance with
17 the Uniform Child Custody Jurisdiction Act. It is the public
18 policy of this state to assure that each minor child has
19 frequent and continuing contact with both parents after the
20 parents separate or the marriage of the parties is dissolved
21 and to encourage parents to share the rights and
22 responsibilities, and joys, of childrearing. After considering
23 all relevant facts, the father of the child shall be given the
24 same consideration as the mother in determining the primary
25 residence of a child irrespective of the age or sex of the
26 child.

27 2. The court shall order that the parental
28 responsibility for a minor child be shared by both parents
29 unless the court finds that shared parental responsibility
30 would be detrimental to the child. Evidence that a parent has
31 been convicted of a felony of the third degree or higher

1 involving domestic violence, as defined in s. 741.28 and
2 chapter 775, or meets the criteria of s. 39.806(1)(d), creates
3 a rebuttable presumption of detriment to the child. If the
4 presumption is not rebutted, shared parental responsibility,
5 including visitation, residence of the child, and decisions
6 made regarding the child, may not be granted to the convicted
7 parent. However, the convicted parent is not relieved of any
8 obligation to provide financial support. If the court
9 determines that shared parental responsibility would be
10 detrimental to the child, it may order sole parental
11 responsibility and make such arrangements for visitation as
12 will best protect the child or abused spouse from further
13 harm. Whether or not there is a conviction of any offense of
14 domestic violence or child abuse or the existence of an
15 injunction for protection against domestic violence, the court
16 shall consider evidence of domestic violence or child abuse as
17 evidence of detriment to the child.

18 a. In ordering shared parental responsibility, the
19 court may consider the expressed desires of the parents and
20 may grant to one party the ultimate responsibility over
21 specific aspects of the child's welfare or may divide those
22 responsibilities between the parties based on the best
23 interests of the child. Areas of responsibility may include
24 primary residence, education, medical and dental care, and any
25 other responsibilities that the court finds unique to a
26 particular family.

27 b. The court shall order "sole parental
28 responsibility, with or without visitation rights, to the
29 other parent when it is in the best interests of" the minor
30 child.

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1 c. The court may award the grandparents visitation
2 rights with a minor child if it is in the child's best
3 interest. Grandparents have legal standing to seek judicial
4 enforcement of such an award. This section does not require
5 that grandparents be made parties or given notice of
6 dissolution pleadings or proceedings, nor do grandparents have
7 legal standing as "contestants" as defined in s. 61.1306. A
8 court may not order that a child be kept within the state or
9 jurisdiction of the court solely for the purpose of permitting
10 visitation by the grandparents.

11 3. Access to records and information pertaining to a
12 minor child, including, but not limited to, medical, dental,
13 and school records, may not be denied to a parent because the
14 parent is not the child's primary residential parent. Full
15 rights under this subparagraph apply to either parent unless a
16 court order specifically revokes these rights. A parent having
17 rights under this subparagraph has the same rights as to form,
18 substance, and manner of access as are available to the other
19 parent of a child, including, without limitation, the right to
20 in-person communication with medical, dental, and education
21 providers.

22 Section 2. This act shall take effect July 1, 2001.

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25 SENATE SUMMARY

26 Clarifies that rights of access to records and
27 information pertaining to a minor child, including the
28 right to in-person communication with medical, dental,
29 and education providers, apply to either parent in the
30 absence of a court order specifically revoking these
31 rights.