

By Senator Lynn

7-791-07

1 A bill to be entitled
2 An act relating to parental plans and
3 time-sharing with children; retitling ch. 61,
4 F.S.; amending s. 61.046, F.S.; deleting a
5 definition of "custodial parent" and defining
6 the terms "parenting plan," "parenting plan
7 recommendation," and "time-sharing schedule";
8 amending s. 61.052, F.S.; authorizing the court
9 to issue an appropriate order for a parenting
10 plan; amending s. 61.09, F.S.; authorizing the
11 parent who is not receiving child support to
12 apply to the court for support of the child;
13 amending s. 61.10, F.S.; providing for the
14 court to adjudicate parenting plans and the
15 time-sharing schedules when unconnected with
16 the dissolution of a marriage; amending s.
17 61.122, F.S.; providing for developing a
18 parenting plan recommendation; amending s.
19 61.13, F.S.; authorizing the court to make
20 orders relating to time-sharing and parenting
21 of children; requiring equal treatment for
22 mothers and fathers in parenting decisions;
23 providing for the creation or modification of a
24 parenting plan or time-sharing schedule;
25 establishing criteria for determining the best
26 interests of a child; providing that a parent
27 may not refuse to obey time-sharing orders even
28 if the other parent has not paid alimony or
29 child support; authorizing a court to order
30 additional time-sharing if the custodial parent
31 refuses to abide by the time-sharing agreement

1 or order; amending s. 61.13001, F.S.; providing
2 for relocation of a child; providing for a
3 relocation agreement between the parents;
4 providing procedures for relocation when an
5 agreement cannot be reached; amending s.
6 61.181, F.S.; providing for distributing child
7 support funds; amending s. 61.1827, F.S.,
8 relating to child support services; conforming
9 provisions to changes made by the act; amending
10 s. 61.20, F.S.; providing for the court to
11 order a social service investigation if a
12 parenting plan is at issue; amending s. 61.21,
13 F.S.; providing that parties to a parenting
14 plan or a time-sharing schedule may be required
15 by the court to attend a parenting course;
16 amending s. 61.30, F.S.; revising calculations
17 for child support awards; amending s. 61.401,
18 F.S.; authorizing the court to appoint a
19 guardian ad litem in cases involving a
20 parenting plan or a time-sharing schedule;
21 amending s. 61.45, F.S.; providing for court
22 orders for parenting plans and time-sharing
23 schedules; amending s. 741.0306, F.S.;
24 including material on parenting plans and
25 time-sharing schedules in the family law
26 handbook prepared by The Florida Bar; amending
27 s. 741.30, F.S., relating to injunctions
28 against domestic violence; conforming
29 provisions to changes made by the act; amending
30 s. 742.031, F.S.; providing for parenting plans
31 and time-sharing schedules in proceedings to

1 determine paternity; reenacting s.
2 61.1825(3)(a), F.S., relating to the State Case
3 Registry, to incorporate the amendments made to
4 s. 741.30, F.S., in a reference thereto;
5 repealing s. 61.121, F.S., relating to court
6 orders for rotating custody between parents if
7 it is in the best interests of the child;
8 providing an effective date.
9

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

11
12 Section 1. Chapter 61, Florida Statutes, entitled
13 "DISSOLUTION OF MARRIAGE; SUPPORT; CUSTODY" is retitled as
14 "DISSOLUTION OF MARRIAGE; SUPPORT; TIME-SHARING."

15 Section 2. Section 61.046, Florida Statutes, is
16 amended to read:

17 61.046 Definitions.--As used in this chapter:

18 (1) "Business day" means any day other than a
19 Saturday, Sunday, or legal holiday.

20 (2) "Clerk of Court Child Support Collection System"
21 or "CLERC System" means the automated system established
22 pursuant to s. 61.181(2)(b)1., integrating all clerks of court
23 and depositories and through which payment data and State Case
24 Registry data is transmitted to the department's automated
25 child support enforcement system.

26 ~~(3) "Custodial parent" or "primary residential parent"~~
27 ~~means the parent with whom the child maintains his or her~~
28 ~~primary residence.~~

29 ~~(3)(4)~~ "Department" means the Department of Revenue.

30 ~~(4)(5)~~ "Depository" means the central governmental
31 depository established pursuant to s. 61.181, created by

1 special act of the Legislature or other entity established
2 before June 1, 1985, to perform depository functions and to
3 receive, record, report, disburse, monitor, and otherwise
4 handle alimony and child support payments not otherwise
5 required to be processed by the State Disbursement Unit.

6 ~~(5)(6)~~ "Federal Case Registry of Child Support Orders"
7 means the automated registry of support order abstracts and
8 other information established and maintained by the United
9 States Department of Health and Human Services as provided by
10 42 U.S.C. s. 653(h).

11 ~~(6)(7)~~ "Income" means any form of payment to an
12 individual, regardless of source, including, but not limited
13 to: wages, salary, commissions and bonuses, compensation as an
14 independent contractor, worker's compensation, disability
15 benefits, annuity and retirement benefits, pensions,
16 dividends, interest, royalties, trusts, and any other
17 payments, made by any person, private entity, federal or state
18 government, or any unit of local government. United States
19 Department of Veterans Affairs disability benefits and
20 unemployment compensation, as defined in chapter 443, are
21 excluded from this definition of income except for purposes of
22 establishing an amount of support.

23 ~~(7)(8)~~ "IV-D" means services provided pursuant to
24 Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et
25 seq.

26 ~~(8)(9)~~ "Local officer" means an elected or appointed
27 constitutional or charter government official including, but
28 not limited to, the state attorney and clerk of the circuit
29 court.

30 ~~(9)(10)~~ "National medical support notice" means the
31 notice required under 42 U.S.C. s. 666(a)(19).

1 ~~(10)(11)~~ "Noncustodial parent" means the parent with
2 whom the child does not maintain his or her primary residence.

3 ~~(11)(12)~~ "Obligee" means the person to whom payments
4 are made pursuant to an order establishing, enforcing, or
5 modifying an obligation for alimony, for child support, or for
6 alimony and child support.

7 ~~(12)(13)~~ "Obligor" means a person responsible for
8 making payments pursuant to an order establishing, enforcing,
9 or modifying an obligation for alimony, for child support, or
10 for alimony and child support.

11 (13) "Parenting plan" means an arrangement, taking
12 into consideration all circumstances between the parties
13 including the parties' historic relationship, domestic
14 violence, and other factors, which has been developed by the
15 parents of a minor child and approved by a court or, if the
16 parents cannot agree, established by the court, which governs
17 the relationship between the parents relating to the decisions
18 that must be made regarding the minor child. The issues
19 concerning the minor child may include, but are not limited
20 to, the child's education, health care, and physical, social,
21 and emotional well-being, and may also include a time-sharing
22 schedule.

23 (14) "Parenting plan recommendation" means a
24 nonbinding recommendation, made by a licensed mental health
25 professional or any other individual designated by a court,
26 concerning the parenting plan that will govern the
27 relationship between the parents.

28 ~~(15)(14)~~ "Payor" means an employer or former employer
29 or any other person or agency providing or administering
30 income to the obligor.

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1 ~~(16)~~~~(15)~~ "Shared parental responsibility" means a
2 court-ordered relationship in which both parents retain full
3 parental rights and responsibilities with respect to their
4 minor child and in which both parents confer with each other
5 so that major decisions affecting the welfare of the child
6 will be determined jointly.

7 ~~(17)~~~~(16)~~ "Sole parental responsibility" means a
8 court-ordered relationship in which one parent makes decisions
9 regarding the minor child.

10 ~~(18)~~~~(17)~~ "State Case Registry" means the automated
11 registry maintained by the Title IV-D agency, containing
12 records of each Title IV-D case and of each support order
13 established or modified in the state on or after October 1,
14 1998. Such records shall consist of data elements as required
15 by the United States Secretary of Health and Human Services.

16 ~~(19)~~~~(18)~~ "State Disbursement Unit" means the unit
17 established and operated by the Title IV-D agency to provide
18 one central address for collection and disbursement of child
19 support payments made in cases enforced by the department
20 pursuant to Title IV-D of the Social Security Act and in cases
21 not being enforced by the department in which the support
22 order was initially issued in this state on or after January
23 1, 1994, and in which the obligor's child support obligation
24 is being paid through income deduction order.

25 ~~(20)~~~~(19)~~ "Support order" means a judgment, decree, or
26 order, whether temporary or final, issued by a court of
27 competent jurisdiction or administrative agency for the
28 support and maintenance of a child which provides for monetary
29 support, health care, arrearages, or past support. When the
30 child support obligation is being enforced by the Department
31 of Revenue, the term "support order" also means a judgment,

1 | decree, or order, whether temporary or final, issued by a
2 | court of competent jurisdiction for the support and
3 | maintenance of a child and the spouse or former spouse of the
4 | obligor with whom the child is living which provides for
5 | monetary support, health care, arrearages, or past support.

6 | ~~(21)~~~~(20)~~ "Support," unless otherwise specified, means:

7 | (a) Child support and, when the child support
8 | obligation is being enforced by the Department of Revenue,
9 | spousal support or alimony for the spouse or former spouse of
10 | the obligor with whom the child is living.

11 | (b) Child support only in cases not being enforced by
12 | the Department of Revenue.

13 | ~~(22) "Time-sharing schedule" means a timetable that~~
14 | has been developed by the parents of a minor child,
15 | incorporated into a parenting plan, and approved by a court
16 | which specifies the time that a minor child will spend with
17 | each of the child's parents. If the parents cannot agree, the
18 | schedule shall be established by the court.

19 | Section 3. Subsection (3) of section 61.052, Florida
20 | Statutes, is amended to read:

21 | 61.052 Dissolution of marriage.--

22 | (3) During any period of continuance, the court may
23 | make appropriate orders for the support and alimony of the
24 | parties; the parenting plan ~~primary residence, custody,~~
25 | ~~rotating custody, visitation,~~ support, maintenance, and
26 | education of the minor child of the marriage; attorney's fees;
27 | and the preservation of the property of the parties.

28 | Section 4. Section 61.09, Florida Statutes, is amended
29 | to read:

30 | 61.09 Alimony and child support unconnected with
31 | dissolution.--If a person having the ability to contribute to

1 | the maintenance of his or her spouse and support of his or her
2 | minor child fails to do so, the spouse who is not receiving
3 | support ~~or who has custody of the child or with whom the child~~
4 | ~~has primary residence~~ may apply to the court for alimony and
5 | for support for the child without seeking dissolution of
6 | marriage, and the court shall enter an order as it deems just
7 | and proper.

8 | Section 5. Section 61.10, Florida Statutes, is amended
9 | to read:

10 | 61.10 Adjudication of obligation to support spouse or
11 | minor child unconnected with dissolution; parenting plan and
12 | time-sharing schedule ~~child custody, child's primary~~
13 | ~~residence, and visitation.~~--Except when relief is afforded by
14 | some other pending civil action or proceeding, a spouse
15 | residing in this state apart from his or her spouse and minor
16 | child, whether or not such separation is through his or her
17 | fault, may obtain an adjudication of obligation to maintain
18 | the spouse and minor child, if any. The court shall
19 | adjudicate his or her financial obligations to the spouse and
20 | child ~~and~~, shall establish the parenting plan and time-sharing
21 | schedule for ~~child's primary residence, and shall determine~~
22 | ~~the custody and visitation rights~~ of the parties. Such an
23 | action does not preclude either party from maintaining any
24 | other proceeding under this chapter for other or additional
25 | relief at any time.

26 | Section 6. Section 61.122, Florida Statutes, is
27 | amended to read:

28 | 61.122 Parenting plan recommendation ~~Child custody~~
29 | ~~evaluations~~; presumption of psychologist's good faith;
30 | prerequisite to parent's filing suit; award of fees, costs,
31 | reimbursement.--

1 (1) A psychologist who has been appointed by the court
2 to develop a parenting plan recommendation ~~conduct a child~~
3 ~~custody evaluation~~ in a dissolution of marriage, case of
4 domestic violence, or paternity matter involving parent-child
5 relationships, including time-sharing of children, judicial
6 ~~proceeding~~ is presumed to be acting in good faith if the
7 psychologist's recommendation ~~evaluation~~ has been reached
8 ~~conducted~~ pursuant to standards that a reasonable psychologist
9 would use to develop a parenting plan recommendation ~~have used~~
10 ~~as recommended by the American Psychological Association's~~
11 ~~guidelines for child custody evaluation in divorce~~
12 ~~proceedings.~~

13 (2) An administrative complaint against a
14 court-appointed psychologist which relates to a parenting plan
15 recommendation developed ~~child custody evaluation~~ conducted by
16 the psychologist may not be filed anonymously. The individual
17 who files ~~such~~ an administrative complaint must include in the
18 complaint his or her name, address, and telephone number.

19 (3) A parent who desires ~~wishes~~ to file a legal action
20 against a court-appointed psychologist who has acted in good
21 faith in developing ~~conducting~~ a parenting plan recommendation
22 ~~child custody evaluation~~ must petition the judge who presided
23 over the dissolution of marriage, case of domestic violence,
24 or paternity action involving parent-child relationships,
25 including time-sharing of children, child custody proceeding
26 to appoint another psychologist. Upon the parent's showing of
27 good cause, the court shall appoint another psychologist. The
28 court shall determine ~~make a determination as to~~ who is
29 responsible for all court costs and attorney's fees associated
30 with making such an appointment.

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1 (4) If a legal action, whether it be a civil action, a
2 criminal action, or an administrative proceeding, is filed
3 against a court-appointed psychologist in a dissolution of
4 marriage, case of domestic violence, or paternity action
5 involving parent-child relationships, including time-sharing
6 of children ~~child custody proceeding~~, the claimant is
7 responsible for all reasonable costs and reasonable attorney's
8 fees associated with the action for both parties if the
9 psychologist is held not liable. If the psychologist is held
10 liable in civil court, the psychologist must pay all
11 reasonable costs and reasonable attorney's fees for the
12 claimant.

13 Section 7. Section 61.13, Florida Statutes, is amended
14 to read:

15 61.13 ~~Custody and Support and parenting of children;~~
16 ~~visitation rights;~~ power of court in making orders.--

17 (1)(a) In a proceeding under this chapter, the court
18 may at any time order either or both parents who owe a duty of
19 support to a child to pay support in accordance with the
20 guidelines in s. 61.30. The court initially entering an order
21 requiring one or both parents to make child support payments
22 shall have continuing jurisdiction after the entry of the
23 initial order to modify the amount and terms and conditions of
24 the child support payments when the modification is found
25 necessary by the court in the best interests of the child,
26 when the child reaches majority, or when there is a
27 substantial change in the circumstances of the parties. The
28 court initially entering a child support order shall also have
29 continuing jurisdiction to require the obligee to report to
30 the court on terms prescribed by the court regarding the
31 disposition of the child support payments.

1 (b) Each order for support shall contain a provision
2 for health care coverage for the minor child when the coverage
3 is reasonably available. Coverage is reasonably available if
4 either the obligor or obligee has access at a reasonable rate
5 to a group health plan. The court may require the obligor
6 either to provide health care coverage or to reimburse the
7 obligee for the cost of health care coverage for the minor
8 child when coverage is provided by the obligee. In either
9 event, the court shall apportion the cost of coverage, and any
10 noncovered medical, dental, and prescription medication
11 expenses of the child, to both parties by adding the cost to
12 the basic obligation determined pursuant to s. 61.30(6). The
13 court may order that payment of uncovered medical, dental, and
14 prescription medication expenses of the minor child be made
15 directly to the obligee on a percentage basis.

16 1. In a non-Title IV-D case, a copy of the court order
17 for health care coverage shall be served on the obligor's
18 union or employer by the obligee when the following conditions
19 are met:

20 a. The obligor fails to provide written proof to the
21 obligee within 30 days after receiving effective notice of the
22 court order that the health care coverage has been obtained or
23 that application for coverage has been made;

24 b. The obligee serves written notice of intent to
25 enforce an order for health care coverage on the obligor by
26 mail at the obligor's last known address; and

27 c. The obligor fails within 15 days after the mailing
28 of the notice to provide written proof to the obligee that the
29 health care coverage existed as of the date of mailing.

30 2.a. A support order enforced under Title IV-D of the
31 Social Security Act which requires that the obligor provide

1 health care coverage is enforceable by the department through
2 the use of the national medical support notice, and an
3 amendment to the support order is not required. The department
4 shall transfer the national medical support notice to the
5 obligor's union or employer. The department shall notify the
6 obligor in writing that the notice has been sent to the
7 obligor's union or employer, and the written notification must
8 include the obligor's rights and duties under the national
9 medical support notice. The obligor may contest the
10 withholding required by the national medical support notice
11 based on a mistake of fact. To contest the withholding, the
12 obligor must file a written notice of contest with the
13 department within 15 business days after the date the obligor
14 receives written notification of the national medical support
15 notice from the department. Filing with the department is
16 complete when the notice is received by the person designated
17 by the department in the written notification. The notice of
18 contest must be in the form prescribed by the department. Upon
19 the timely filing of a notice of contest, the department
20 shall, within 5 business days, schedule an informal conference
21 with the obligor to discuss the obligor's factual dispute. If
22 the informal conference resolves the dispute to the obligor's
23 satisfaction or if the obligor fails to attend the informal
24 conference, the notice of contest is deemed withdrawn. If the
25 informal conference does not resolve the dispute, the obligor
26 may request an administrative hearing under chapter 120 within
27 5 business days after the termination of the informal
28 conference, in a form and manner prescribed by the department.
29 However, the filing of a notice of contest by the obligor does
30 not delay the withholding of premium payments by the union,
31 employer, or health plan administrator. The union, employer,

1 or health plan administrator must implement the withholding as
2 directed by the national medical support notice unless
3 notified by the department that the national medical support
4 notice is terminated.

5 b. In a Title IV-D case, the department shall notify
6 an obligor's union or employer if the obligation to provide
7 health care coverage through that union or employer is
8 terminated.

9 3. In a non-Title IV-D case, upon receipt of the order
10 pursuant to subparagraph 1., or upon application of the
11 obligor pursuant to the order, the union or employer shall
12 enroll the minor child as a beneficiary in the group health
13 plan regardless of any restrictions on the enrollment period
14 and withhold any required premium from the obligor's income.
15 If more than one plan is offered by the union or employer, the
16 child shall be enrolled in the group health plan in which the
17 obligor is enrolled.

18 4.a. Upon receipt of the national medical support
19 notice under subparagraph 2. in a Title IV-D case, the union
20 or employer shall transfer the notice to the appropriate group
21 health plan administrator within 20 business days after the
22 date on the notice. The plan administrator must enroll the
23 child as a beneficiary in the group health plan regardless of
24 any restrictions on the enrollment period, and the union or
25 employer must withhold any required premium from the obligor's
26 income upon notification by the plan administrator that the
27 child is enrolled. The child shall be enrolled in the group
28 health plan in which the obligor is enrolled. If the group
29 health plan in which the obligor is enrolled is not available
30 where the child resides or if the obligor is not enrolled in
31

1 | group coverage, the child shall be enrolled in the lowest cost
2 | group health plan that is available where the child resides.

3 | b. If health care coverage or the obligor's employment
4 | is terminated in a Title IV-D case, the union or employer that
5 | is withholding premiums for health care coverage under a
6 | national medical support notice must notify the department
7 | within 20 days after the termination and provide the obligor's
8 | last known address and the name and address of the obligor's
9 | new employer, if known.

10 | 5.a. The amount withheld by a union or employer in
11 | compliance with a support order may not exceed the amount
12 | allowed under s. 303(b) of the Consumer Credit Protection Act,
13 | 15 U.S.C. s. 1673(b), as amended. The union or employer shall
14 | withhold the maximum allowed by the Consumer Credit Protection
15 | Act in the following order:

16 | (I) Current support, as ordered.

17 | (II) Premium payments for health care coverage, as
18 | ordered.

19 | (III) Past due support, as ordered.

20 | (IV) Other medical support or coverage, as ordered.

21 | b. If the combined amount to be withheld for current
22 | support plus the premium payment for health care coverage
23 | exceed the amount allowed under the Consumer Credit Protection
24 | Act, and the health care coverage cannot be obtained unless
25 | the full amount of the premium is paid, the union or employer
26 | may not withhold the premium payment. However, the union or
27 | employer shall withhold the maximum allowed in the following
28 | order:

29 | (I) Current support, as ordered.

30 | (II) Past due support, as ordered.

31 | (III) Other medical support or coverage, as ordered.

1 6. An employer, union, or plan administrator who does
2 not comply with the requirements in sub-subparagraph 4.a. is
3 subject to a civil penalty not to exceed \$250 for the first
4 violation and \$500 for subsequent violations, plus attorney's
5 fees and costs. The department may file a petition in circuit
6 court to enforce the requirements of this subsection.

7 7. The department may adopt rules to administer the
8 child support enforcement provisions of this section that
9 affect Title IV-D cases.

10 (c) To the extent necessary to protect an award of
11 child support, the court may order the obligor to purchase or
12 maintain a life insurance policy or a bond, or to otherwise
13 secure the child support award with any other assets which may
14 be suitable for that purpose.

15 (d)1. Unless the provisions of subparagraph 3. apply,
16 all child support orders entered on or after January 1, 1985,
17 shall direct that the payments of child support be made as
18 provided in s. 61.181 through the depository in the county
19 where the court is located. All child support orders shall
20 provide the full name and date of birth of each minor child
21 who is the subject of the child support order.

22 2. Unless the provisions of subparagraph 3. apply, all
23 child support orders entered before January 1, 1985, shall be
24 modified by the court to direct that payments of child support
25 shall be made through the depository in the county where the
26 court is located upon the subsequent appearance of either or
27 both parents to modify or enforce the order, or in any related
28 proceeding.

29 3. If both parties request and the court finds that it
30 is in the best interest of the child, support payments need
31 not be directed through the depository. The order of support

1 shall provide, or shall be deemed to provide, that either
2 party may subsequently apply to the depository to require
3 direction of the payments through the depository. The court
4 shall provide a copy of the order to the depository.

5 4. If the parties elect not to require that support
6 payments be made through the depository, any party may
7 subsequently file an affidavit with the depository alleging a
8 default in payment of child support and stating that the party
9 wishes to require that payments be made through the
10 depository. The party shall provide copies of the affidavit to
11 the court and to each other party. Fifteen days after receipt
12 of the affidavit, the depository shall notify both parties
13 that future payments shall be paid through the depository.

14 5. In IV-D cases, the IV-D agency shall have the same
15 rights as the obligee in requesting that payments be made
16 through the depository.

17 (2)(a) The court shall have jurisdiction to approve,
18 create, or modify a parenting plan or a time-sharing schedule
19 ~~determine custody~~, notwithstanding that the child is not
20 physically present in this state at the time of filing any
21 proceeding under this chapter, if it appears to the court that
22 the child was removed from this state for the primary purpose
23 of removing the child from the jurisdiction of the court in an
24 attempt to avoid the court's approval, creation, or
25 modification of a parenting plan or a time-sharing schedule ~~a~~
26 ~~determination or modification of custody~~.

27 (b) Any parenting plan approved by the court must, at
28 a minimum, adequately describe in detail how the parents will
29 share and be responsible for the daily tasks associated with
30 the upbringing of a child, the time-sharing schedule
31 arrangements that specify the time that the minor child will

1 spend with each of his or her parents, a designation of who
2 will be responsible for any and all forms of health care,
3 other activities, and school-related matters and the methods
4 and technologies that the parents will use to communicate with
5 each other and with the child.

6 ~~(c)(b)~~1. The court shall determine all matters
7 relating to parenting and time-sharing ~~custody~~ of each minor
8 child of the parties in accordance with the best interests of
9 the child and in accordance with the Uniform Child Custody
10 Jurisdiction and Enforcement Act. It is the public policy of
11 this state to assure that each minor child has frequent and
12 continuing contact with both parents after the parents
13 separate or the marriage of the parties is dissolved and to
14 encourage parents to share the rights and responsibilities,
15 and joys, of childrearing. There is no presumption for or
16 against ~~After considering all relevant facts,~~ the father or
17 mother of the child when creating or modifying the parenting
18 plan or the time-sharing schedule for ~~shall be given the same~~
19 ~~consideration as the mother in determining the primary~~
20 ~~residence of a child irrespective of the age or sex of the~~
21 child.

22 2. The court shall order that the parental
23 responsibility for a minor child be shared by both parents
24 unless the court finds that shared parental responsibility
25 would be detrimental to the child. Evidence that a parent has
26 been convicted of a felony of the third degree or higher
27 involving domestic violence, as defined in s. 741.28 and
28 chapter 775, or meets the criteria of s. 39.806(1)(d), creates
29 a rebuttable presumption of detriment to the child. If the
30 presumption is not rebutted, shared parental responsibility,
31 including time-sharing with ~~visitation, residence of the~~

1 child, and decisions made regarding the child, may not be
2 granted to the convicted parent. However, the convicted parent
3 is not relieved of any obligation to provide financial
4 support. If the court determines that shared parental
5 responsibility would be detrimental to the child, it may order
6 sole parental responsibility and make such arrangements for
7 time-sharing as specified in the parenting plan ~~visitation~~ as
8 will best protect the child or abused spouse from further
9 harm. Whether or not there is a conviction of any offense of
10 domestic violence or child abuse or the existence of an
11 injunction for protection against domestic violence, the court
12 shall consider evidence of domestic violence or child abuse as
13 evidence of detriment to the child.

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

23 b. The court shall order "sole parental responsibility
24 for a minor child to one parent, with or without time-sharing
25 with ~~visitation rights,~~ to the other parent," when it is in
26 the best interests of" the minor child.

27 3. Access to records and information pertaining to a
28 minor child, including, but not limited to, medical, dental,
29 and school records, may not be denied to either ~~a~~ parent
30 ~~because the parent is not the child's primary residential~~
31 ~~parent~~. Full rights under this subparagraph apply to either

1 parent unless a court order specifically revokes these rights,
2 including any restrictions on these rights as provided in a
3 domestic violence injunction. A parent having rights under
4 this subparagraph has the same rights upon request as to form,
5 substance, and manner of access as are available to the other
6 parent of a child, including, without limitation, the right to
7 in-person communication with medical, dental, and education
8 providers.

9 ~~(d)(e)~~ The circuit court in the county in which either
10 parent and the child reside or the circuit court in which the
11 original order approving or creating the parenting plan and
12 time-sharing schedule ~~award of custody~~ was entered has ~~have~~
13 jurisdiction to modify the parenting plan or time-sharing
14 schedule ~~an award of child custody~~. The court may change the
15 venue in accordance with s. 47.122.

16 (3) For purposes of establishing or modifying parental
17 responsibility and creating, developing, approving, or
18 modifying a parenting plan, including a time-sharing schedule,
19 which governs each parent's relationship with his or her minor
20 child and the relationship between each parent with regard to
21 his or her minor child, the best interests of the child shall
22 be the primary consideration. There shall be no presumptions
23 for or against either parent when establishing or modifying
24 the time-sharing schedule or creating, developing, approving,
25 or modifying the parenting plan, as well as determining
26 decisionmaking, regardless of the age or sex of the child,
27 giving due consideration to the developmental needs of the
28 child. The time-sharing schedule, including the parenting
29 plan, must be in the best interests of the minor child, and
30 evidence that a parent has been convicted of a felony of the
31 third degree or higher involving domestic violence, as defined

1 in s. 741.28 or chapter 775, or meeting the criteria of s.
2 39.806(1)(d), creates a rebuttable presumption of detriment to
3 the child. If the presumption is not rebutted, the
4 time-sharing with the child and decisions made regarding the
5 child may not be granted to the convicted parent. Otherwise,
6 determination of the best interests of the child shall be made
7 by evaluating all of the factors affecting the welfare and
8 interests of the child, including, but not limited to:

9 (a) The demonstrated capacity and disposition of each
10 parent to facilitate and encourage a close and continuing
11 parent-child relationship between the child and the other
12 parent, to honor the time-sharing schedule, and to be
13 reasonable when changes are required.

14 (b) The anticipated division of parental
15 responsibilities after the litigation, including the extent to
16 which parental responsibilities will be delegated to third
17 parties.

18 (c) The demonstrated capacity and disposition of each
19 parent to determine, consider, and act upon the needs of the
20 child as opposed to the needs or desires of the parent. ~~shared~~
21 ~~parental responsibility and primary residence, the best~~
22 ~~interests of the child shall include an evaluation of all~~
23 ~~factors affecting the welfare and interests of the child,~~
24 ~~including, but not limited to:~~

25 ~~(a) The parent who is more likely to allow the child~~
26 ~~frequent and continuing contact with the nonresidential~~
27 ~~parent.~~

28 ~~(b) The love, affection, and other emotional ties~~
29 ~~existing between the parents and the child.~~

30 ~~(c) The capacity and disposition of the parents to~~
31 ~~provide the child with food, clothing, medical care or other~~

1 ~~remedial care recognized and permitted under the laws of this~~
2 ~~state in lieu of medical care, and other material needs.~~

3 (d) The length of time the child has lived in a
4 stable, satisfactory environment and the desirability of
5 maintaining continuity.

6 (e) The geographic viability of the parenting plan,
7 with special attention paid to the needs of school-age
8 children and the amount of time to be spent traveling to
9 effectuate the parenting plan. This factor does not create a
10 presumption for or against relocation of either parent with a
11 child. The permanence, as a family unit, of the existing or
12 proposed custodial home.

13 (f) The moral fitness of the parents.

14 (g) The mental and physical health of the parents.

15 (h) The demonstrated capacity and disposition of each
16 parent to be informed of the circumstances surrounding the
17 minor child, such as the child's friends, teachers, medical
18 care providers, favorite activities, favorite foods, and
19 clothes sizes.

20 (i) The demonstrated capacity and disposition of each
21 parent to provide a consistent routine for the child, such as
22 forms of discipline and setting times for homework, meals, and
23 bedtime.

24 (j) The demonstrated capacity and disposition of each
25 parent to communicate with the other parent and to keep the
26 other parent informed of issues and activities regarding the
27 minor child, and the willingness of each parent to adopt a
28 unified front on all major issues when dealing with the child.

29 (k) Evidence of domestic violence, sexual violence,
30 child abuse, child abandonment, or child neglect, regardless
31

1 of whether a prior or pending action regarding those issues
2 has been brought.

3 (l) Evidence that either parent has knowingly provided
4 false information to the court regarding any prior or pending
5 action regarding domestic violence, sexual violence, child
6 abuse, child abandonment, or child neglect.

7 (m) The particular parenting tasks customarily
8 performed by each parent and the division of parental
9 responsibilities before the institution of litigation and
10 during the pending litigation, including the extent to which
11 parental responsibilities were undertaken by third parties.

12 (n) The demonstrated capacity and disposition of each
13 parent to participate and be involved in the child's school
14 and extracurricular activities.

15 (o) The demonstrated capacity and disposition of each
16 parent to maintain an environment for the child which is free
17 from substance abuse.

18 (p) The capacity and disposition of each parent to
19 protect the child from the ongoing litigation as demonstrated
20 by not discussing the case with the child, not sharing
21 documents or electronic media related to the case with the
22 child, and not making disparaging comments about the other
23 parent to the child.

24 (q) The developmental stages and needs of the child
25 and the demonstrated capacity and disposition of each parent
26 to meet the child's developmental needs.

27 (r) Any other factor that is relevant to the
28 determination of a specific parenting plan, including the
29 time-sharing schedule. ~~The home, school, and community record~~
30 ~~of the child.~~

31

1 ~~(i) The reasonable preference of the child, if the~~
2 ~~court deems the child to be of sufficient intelligence,~~
3 ~~understanding, and experience to express a preference.~~

4 ~~(j) The willingness and ability of each parent to~~
5 ~~facilitate and encourage a close and continuing parent child~~
6 ~~relationship between the child and the other parent.~~

7 ~~(k) Evidence that any party has knowingly provided~~
8 ~~false information to the court regarding a domestic violence~~
9 ~~proceeding pursuant to s. 741.30.~~

10 ~~(l) Evidence of domestic violence or child abuse.~~

11 ~~(m) Any other fact considered by the court to be~~
12 ~~relevant.~~

13 (4)(a) When a ~~noncustodial~~ parent who is ordered to
14 pay child support or alimony ~~and who is awarded visitation~~
15 ~~rights~~ fails to pay child support or alimony, the ~~eustodial~~
16 parent who should have received the child support or alimony
17 may shall not refuse to honor the time-sharing schedule
18 presently in effect between the parents noncustodial parent's
19 visitation rights.

20 (b) When a ~~eustodial~~ parent refuses to honor the other
21 a noncustodial parent's visitation rights under the
22 time-sharing schedule, the ~~noncustodial~~ parent whose
23 time-sharing rights were violated shall continue not fail to
24 pay any ordered child support or alimony.

25 (c) When a ~~eustodial~~ parent refuses to honor the
26 time-sharing schedule in the parenting plan a noncustodial
27 parent's or grandparent's visitation rights without proper
28 cause, the court:

29 1. Shall, after calculating the amount of time-sharing
30 visitation improperly denied, award the ~~noncustodial~~ parent
31 denied time-sharing or grandparent a sufficient amount of

1 extra time-sharing visitation to compensate for the
2 time-sharing missed, and such time-sharing ~~the noncustodial~~
3 ~~parent or grandparent, which visitation~~ shall be ordered as
4 expeditiously as possible in a manner consistent with the best
5 interests of the child and scheduled in a manner that is
6 convenient for the parent ~~person~~ deprived of time-sharing
7 ~~visitation~~. In ordering any makeup time-sharing visitation,
8 the court shall schedule such time-sharing visitation in a
9 manner that is consistent with the best interests of the child
10 or children and that is convenient for the nonoffending
11 ~~noncustodial~~ parent and at the expense of the noncompliant
12 ~~parent or grandparent. In addition, the court:~~

13 2.1- May order the custodial parent who did not
14 provide time-sharing or did not properly exercise time-sharing
15 under the time-sharing schedule to pay reasonable court costs
16 and attorney's fees incurred by the nonoffending noncustodial
17 ~~parent or grandparent~~ to enforce the time-sharing schedule
18 ~~their visitation rights or make up improperly denied~~
19 ~~visitation;~~

20 3.2- May order the custodial parent who did not
21 provide time-sharing or did not properly exercise time-sharing
22 under the time-sharing schedule to attend a ~~the~~ parenting
23 course approved by the judicial circuit;

24 4.3- May order the custodial parent who did not
25 provide time-sharing or did not properly exercise time-sharing
26 under the time-sharing schedule to do community service if the
27 order will not interfere with the welfare of the child;

28 5.4- May order the custodial parent who did not
29 provide time-sharing or did not properly exercise time-sharing
30 under the time-sharing schedule to have the financial burden
31 of promoting frequent and continuing contact when the

1 | custodial parent and child reside further than 60 miles from
2 | the noncustodial parent;

3 | ~~6.5.~~ May ~~award custody, rotating custody, or primary~~
4 | ~~residence to the noncustodial parent~~, upon the request of the
5 | ~~noncustodial parent who did not violate the time-sharing~~
6 | ~~schedule, modify the parenting plan, if modification the award~~
7 | is in the best interests of the child; ~~or~~

8 | 7. May order the parent who did not provide
9 | time-sharing or did not properly exercise time-sharing under
10 | the time-sharing schedule to be responsible for incidental
11 | costs incurred by the compliant parent as a result of the
12 | other parent's noncompliance; or

13 | ~~8.6.~~ May impose any other reasonable sanction as a
14 | result of noncompliance.

15 | (d) A person who violates this subsection may be
16 | punished by contempt of court or other remedies as the court
17 | deems appropriate.

18 | (5) The court may make specific orders regarding the
19 | parenting plan and the time-sharing schedule for the care and
20 | custody of the minor child as such orders relate to from the
21 | circumstances of the parties and the nature of the case and
22 | are is equitable and provide for child support in accordance
23 | with the guidelines in s. 61.30. An order for equal
24 | time-sharing for award of shared parental responsibility of a
25 | minor child does not preclude the court from entering an order
26 | for child support of the child.

27 | (6) In any proceeding under this section, the court
28 | may not deny shared parental responsibility and time-sharing,
29 | custody, or visitation rights to a parent ~~or grandparent~~
30 | solely because that parent ~~or grandparent~~ is or is believed to
31 | be infected with human immunodeficiency virus, ~~+~~ but the court

1 may condition such rights in an order approving the parenting
2 plan ~~upon the parent's or grandparent's agreement~~ to observe
3 measures approved by the Centers for Disease Control and
4 Prevention of the United States Public Health Service or by
5 the Department of Health for preventing the spread of human
6 immunodeficiency virus to the child.

7 ~~(7) If the court orders that parental responsibility,~~
8 ~~including visitation, be shared by both parents, the court may~~
9 ~~not deny the noncustodial parent overnight contact and access~~
10 ~~to or visitation with the child solely because of the age or~~
11 ~~sex of the child.~~

12 ~~(7)(8)~~(a) Beginning July 1, 1997, each party to any
13 paternity or support proceeding is required to file with the
14 tribunal as defined in s. 88.1011(22) and State Case Registry
15 upon entry of an order, and to update as appropriate,
16 information on location and identity of the party, including
17 social security number, residential and mailing addresses,
18 telephone number, driver's license number, and name, address,
19 and telephone number of employer. Beginning October 1, 1998,
20 each party to any paternity or child support proceeding in a
21 non-Title IV-D case shall meet the above requirements for
22 updating the tribunal and State Case Registry.

23 (b) Pursuant to the federal Personal Responsibility
24 and Work Opportunity Reconciliation Act of 1996, each party is
25 required to provide his or her social security number in
26 accordance with this section. Disclosure of social security
27 numbers obtained through this requirement shall be limited to
28 the purpose of administration of the Title IV-D program for
29 child support enforcement.

30 (c) Beginning July 1, 1997, in any subsequent Title
31 IV-D child support enforcement action between the parties,

1 upon sufficient showing that diligent effort has been made to
2 ascertain the location of such a party, the court of competent
3 jurisdiction shall deem state due process requirements for
4 notice and service of process to be met with respect to the
5 party, upon delivery of written notice to the most recent
6 residential or employer address filed with the tribunal and
7 State Case Registry pursuant to paragraph (a). Beginning
8 October 1, 1998, in any subsequent non-Title IV-D child
9 support enforcement action between the parties, the same
10 requirements for service shall apply.

11 ~~(8)(9)~~ At the time an order for child support is
12 entered, each party is required to provide his or her social
13 security number and date of birth to the court, as well as the
14 name, date of birth, and social security number of each minor
15 child that is the subject of such child support order.
16 Pursuant to the federal Personal Responsibility and Work
17 Opportunity Reconciliation Act of 1996, each party is required
18 to provide his or her social security number in accordance
19 with this section. All social security numbers required by
20 this section shall be provided by the parties and maintained
21 by the depository as a separate attachment in the file.
22 Disclosure of social security numbers obtained through this
23 requirement shall be limited to the purpose of administration
24 of the Title IV-D program for child support enforcement.

25 Section 8. Section 61.13001, Florida Statutes, is
26 amended to read:

27 61.13001 Parental relocation with a child.--

28 (1) DEFINITIONS.--As used in this section:

29 (a) "Change of residence address" means the relocation
30 of a child to a principal residence more than 50 miles away
31 from his or her principal place of residence at the time of

1 the entry of the last order establishing or modifying the
2 parenting plan or time-sharing arrangement for designation of
3 ~~the primary residential parent or the custody of~~ the minor
4 child, unless the move places the principal residence of the
5 minor child less than 50 miles from either ~~the nonresidential~~
6 parent.

7 (b) "Child" means any person who is under the
8 jurisdiction of a state court pursuant to the Uniform Child
9 Custody Jurisdiction and Enforcement Act or is the subject of
10 any order granting to a parent or other person any right to
11 time-sharing, residential care, or kinship, custody, ~~or~~
12 ~~visitation~~ as provided under state law.

13 (c) "Court" means the circuit court in an original
14 proceeding which has proper venue and jurisdiction in
15 accordance with the Uniform Child Custody Jurisdiction and
16 Enforcement Act, the circuit court in the county in which
17 either parent and the child reside, or the circuit court in
18 which the original action was adjudicated.

19 (d) "Other person" means an individual who is not the
20 parent and who, by court order, maintains the primary
21 residence of a child or has visitation rights with a child.

22 (e) "Parent" means any person so named by court order
23 or express written agreement that is subject to court
24 enforcement or a person reflected as a parent on a birth
25 certificate and in whose home a child maintains a ~~primary or~~
26 ~~secondary~~ residence.

27 ~~(f) "Person entitled to be the primary residential~~
28 ~~parent of a child" means a person so designated by court order~~
29 ~~or by an express written agreement that is subject to court~~
30 ~~enforcement or a person seeking such a designation, or, when~~
31

1 ~~neither parent has been designated as primary residential~~
2 ~~parent, the person seeking to relocate with a child.~~

3 ~~(g) "Principal residence of a child" means the home of~~
4 ~~the designated primary residential parent. For purposes of~~
5 ~~this section only, when rotating custody is in effect, each~~
6 ~~parent shall be considered to be the primary residential~~
7 ~~parent.~~

8 ~~(f)(h)~~ "Relocation" means a change in any the
9 ~~principal~~ residence of a child for a period of 60 consecutive
10 days or more but does not include a temporary absence from the
11 ~~principal~~ residence for purposes of vacation, education, or
12 the provision of health care for the child.

13 (2) RELOCATION BY AGREEMENT.--

14 (a) If the parents ~~primary residential parent and the~~
15 ~~other parent~~ and every other person entitled to time-sharing
16 ~~visitation~~ with the child agree to the relocation of the child
17 ~~child's principal residence~~, they may satisfy the requirements
18 of this section by signing a written agreement that:

- 19 1. Reflects the consent to the relocation;
- 20 2. Defines time-sharing ~~the visitation rights~~ for the
21 nonrelocating parent and any other persons who are entitled to
22 time-sharing visitation; and
- 23 3. Describes, if necessary, any transportation
24 arrangements related to time-sharing ~~the visitation~~.

25 (b) If there is an existing cause of action, judgment,
26 or decree of record pertaining to the child's ~~primary~~
27 residence or time-sharing visitation, the parties shall seek
28 ratification of the agreement by court order without the
29 necessity of an evidentiary hearing unless a hearing is
30 requested, in writing, by one or more of the parties to the
31 agreement within 10 days after the date the agreement is filed

1 with the court. If a hearing is not timely requested, it shall
2 be presumed that the relocation is in the best interest of the
3 child and the court may ratify the agreement without an
4 evidentiary hearing.

5 (3) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--Unless
6 an agreement has been entered as described in subsection (2),
7 a parent who is entitled to time-sharing with primary
8 ~~residence~~ of the child shall notify the other parent, and
9 every other person entitled to time-sharing visitation with
10 the child, of a proposed relocation of the child's ~~principal~~
11 residence. The form of notice shall be according to this
12 section:

13 (a) The parent seeking to relocate shall prepare a
14 Notice of Intent to Relocate. The following information must
15 be included with the Notice of Intent to Relocate and signed
16 under oath under penalty of perjury:

17 1. A description of the location of the intended new
18 residence, including the state, city, and specific physical
19 address, if known.

20 2. The mailing address of the intended new residence,
21 if not the same as the physical address, if known.

22 3. The home telephone number of the intended new
23 residence, if known.

24 4. The date of the intended move or proposed
25 relocation.

26 5. A detailed statement of the specific reasons for
27 the proposed relocation of the child. If one of the reasons is
28 based upon a job offer which has been reduced to writing, that
29 written job offer must be attached to the Notice of Intent to
30 Relocate.

31

1 6. A proposal for the revised postrelocation schedule
2 of time-sharing ~~visitation~~ together with a proposal for the
3 postrelocation transportation arrangements necessary to
4 effectuate time-sharing ~~visitation~~ with the child. Absent the
5 existence of a current, valid order abating, terminating, or
6 restricting time-sharing ~~visitation~~ or other good cause
7 predating the Notice of Intent to Relocate, failure to comply
8 with this provision renders the Notice of Intent to Relocate
9 legally insufficient.

10 7. Substantially the following statement, in all
11 capital letters and in the same size type, or larger, as the
12 type in the remainder of the notice:

13
14 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN
15 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR
16 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE
17 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY
18 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED,
19 UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT
20 FURTHER NOTICE AND WITHOUT A HEARING.

21 8. The mailing address of the parent or other person
22 seeking to relocate to which the objection filed under
23 subsection (5) to the Notice of Intent to Relocate should be
24 sent.

25
26 The contents of the Notice of Intent to Relocate are not
27 privileged. For purposes of encouraging amicable resolution of
28 the relocation issue, a copy of the Notice of Intent to
29 Relocate shall initially not be filed with the court but
30 instead served upon the nonrelocating parent, other person,
31 and every other person entitled to time-sharing ~~visitation~~

1 with the child, and the original thereof shall be maintained
2 by the parent or other person seeking to relocate.

3 (b) The parent seeking to relocate shall also prepare
4 a Certificate of Filing Notice of Intent to Relocate. The
5 certificate shall certify the date that the Notice of Intent
6 to Relocate was served on the other parent and on every other
7 person entitled to time-sharing ~~visitation~~ with the child.

8 (c) The Notice of Intent to Relocate, and the
9 Certificate of Filing Notice of Intent to Relocate, shall be
10 served on the other parent and on every other person entitled
11 to time-sharing ~~visitation~~ with the child. If there is a
12 pending court action regarding the child, service of process
13 may be according to court rule. Otherwise, service of process
14 shall be according to chapters 48 and 49 or via certified
15 mail, restricted delivery, return receipt requested.

16 (d) A person giving notice of a proposed relocation or
17 change of residence address under this section has a
18 continuing duty to provide current and updated information
19 required by this section when that information becomes known.

20 (e) If the other parent and any other person entitled
21 to time-sharing ~~visitation~~ with the child fails to timely file
22 an objection, it shall be presumed that the relocation is in
23 the best interest of the child, the relocation shall be
24 allowed, and the court shall, absent good cause, enter an
25 order, attaching a copy of the Notice of Intent to Relocate,
26 reflecting that the order is entered as a result of the
27 failure to object to the Notice of Intent to Relocate, and
28 adopting the time-sharing ~~visitation~~ schedule and
29 transportation arrangements contained in the Notice of Intent
30 to Relocate. The order may issue in an expedited manner
31 without the necessity of an evidentiary hearing. If an

1 objection is timely filed, the burden returns to the parent or
2 person seeking to relocate to initiate court proceedings to
3 obtain court permission to relocate before ~~prior to~~ doing so.

4 (f) The act of relocating the child after failure to
5 comply with the notice of intent to relocate procedure
6 described in this subsection subjects the party in violation
7 thereof to contempt and other proceedings to compel the return
8 of the child and may be taken into account by the court in any
9 initial or postjudgment action seeking a determination or
10 modification of the parenting plan or the time-sharing
11 schedule, or both, ~~designation of the primary residential~~
12 ~~parent or of the residence, custody, or visitation with the~~
13 ~~child~~ as:

14 1. A factor in making a determination regarding the
15 relocation of a child.

16 2. A factor in determining whether the parenting plan
17 or the designation of the primary residential parent or the
18 ~~residence, contact, access, visitation, or~~ time-sharing
19 schedule arrangements should be modified.

20 3. A basis for ordering the temporary or permanent
21 return of the child.

22 4. Sufficient cause to order the parent or other
23 person seeking to relocate the child to pay reasonable
24 expenses and attorney's fees incurred by the party objecting
25 to the relocation.

26 5. Sufficient cause for the award of reasonable
27 attorney's fees and costs, including interim travel expenses
28 incident to time-sharing visitation or securing the return of
29 the child.

30 (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the
31 parent or other person seeking to relocate a child, or the

1 child, is entitled to prevent disclosure of location
2 information under any public records exemption applicable to
3 that person, the court may enter any order necessary to modify
4 the disclosure requirements of this section in compliance with
5 the public records exemption.

6 (5) CONTENT OF OBJECTION TO RELOCATION.--An objection
7 seeking to prevent the relocation of a child must ~~shall~~ be
8 verified and served within 30 days after service of the Notice
9 of Intent to Relocate. The objection must ~~shall~~ include the
10 specific factual basis supporting the reasons for seeking a
11 prohibition of the relocation, including a statement of the
12 amount of participation or involvement the objecting party
13 currently has or has had in the life of the child.

14 (6) TEMPORARY ORDER.--

15 (a) The court may grant a temporary order restraining
16 the relocation of a child or ordering the return of the child,
17 if a relocation has previously taken place, or other
18 appropriate remedial relief, if the court finds:

19 1. The required notice of a proposed relocation of a
20 child was not provided in a timely manner;

21 2. The child already has been relocated without notice
22 or written agreement of the parties or without court approval;
23 or

24 3. From an examination of the evidence presented at
25 the preliminary hearing that there is a likelihood that upon
26 final hearing the court will not approve the relocation of the
27 ~~primary residence of the child.~~

28 (b) The court may grant a temporary order permitting
29 the relocation of the child pending final hearing, if the
30 court:

31

1 1. Finds that the required Notice of Intent to
2 Relocate was provided in a timely manner; and

3 2. Finds from an examination of the evidence presented
4 at the preliminary hearing that there is a likelihood that on
5 final hearing the court will approve the relocation of the
6 ~~primary residence of the~~ child, which findings must be
7 supported by the same factual basis as would be necessary to
8 support the permitting of relocation in a final judgment.

9 (c) If the court has issued a temporary order
10 authorizing a party seeking to relocate or move a child before
11 a final judgment is rendered, the court may not give any
12 weight to the temporary relocation as a factor in reaching its
13 final decision.

14 (d) If temporary relocation of a child is permitted,
15 the court may require the person relocating the child to
16 provide reasonable security, financial or otherwise, and
17 guarantee that the court-ordered contact with the child will
18 not be interrupted or interfered with by the relocating party.

19 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
20 RELOCATION.--~~A~~ No presumption does not shall arise in favor of
21 or against a request to relocate with the child when a ~~primary~~
22 ~~residential~~ parent seeks to move the child and the move will
23 materially affect the current schedule of contact, access, and
24 time-sharing with the nonrelocating parent or other person. In
25 reaching its decision regarding a proposed temporary or
26 permanent relocation, the court shall evaluate all of the
27 following factors:

28 (a) The nature, quality, extent of involvement, and
29 duration of the child's relationship with the parent proposing
30 to relocate with the child and with the nonrelocating parent,
31

1 other persons, siblings, half-siblings, and other significant
2 persons in the child's life.

3 (b) The age and developmental stage of the child, the
4 needs of the child, and the likely impact the relocation will
5 have on the child's physical, educational, and emotional
6 development, taking into consideration any special needs of
7 the child.

8 (c) The feasibility of preserving the relationship
9 between the nonrelocating parent or other person and the child
10 through substitute arrangements that take into consideration
11 the logistics of contact, access, ~~visitation~~, and
12 time-sharing, as well as the financial circumstances of the
13 parties; whether those factors are sufficient to foster a
14 continuing meaningful relationship between the child and the
15 nonrelocating parent or other person; and the likelihood of
16 compliance with the substitute arrangements by the relocating
17 parent once he or she is out of the jurisdiction of the court.

18 (d) The child's preference, taking into consideration
19 the age and maturity of the child.

20 (e) Whether the relocation will enhance the general
21 quality of life for both the parent seeking the relocation and
22 the child, including, but not limited to, financial or
23 emotional benefits or educational opportunities.

24 (f) The reasons of each parent or other person for
25 seeking or opposing the relocation.

26 (g) The current employment and economic circumstances
27 of each parent or other person and whether or not the proposed
28 relocation is necessary to improve the economic circumstances
29 of the parent or other person seeking relocation of the child.

30 (h) That the relocation is sought in good faith and
31 the extent to which the objecting parent has fulfilled his or

1 her financial obligations to the parent or other person
2 seeking relocation, including child support, spousal support,
3 and marital property and marital debt obligations.

4 (i) The career and other opportunities available to
5 the objecting parent or objecting other person if the
6 relocation occurs.

7 (j) A history of substance abuse or domestic violence
8 as defined in s. 741.28 or which meets the criteria of s.
9 39.806(1)(d) by either parent, including a consideration of
10 the severity of such conduct and the failure or success of any
11 attempts at rehabilitation.

12 (k) Any other factor affecting the best interest of
13 the child or as set forth in s. 61.13.

14 (8) BURDEN OF PROOF.--The parent or other person
15 wishing to relocate has the burden of proof if an objection is
16 filed and must then initiate a proceeding seeking court
17 permission for relocation. The initial burden is on the parent
18 or person wishing to relocate to prove by a preponderance of
19 the evidence that relocation is in the best interest of the
20 child. If that burden of proof is met, the burden shifts to
21 the nonrelocating parent or other person to show by a
22 preponderance of the evidence that the proposed relocation is
23 not in the best interest of the child.

24 (9) ORDER REGARDING RELOCATION.--If relocation is
25 permitted:

26 (a) The court may, in its discretion, order contact
27 with the nonrelocating parent, including access, ~~visitation,~~
28 time-sharing, telephone, Internet, web-cam, and other
29 arrangements sufficient to ensure that the child has frequent,
30 continuing, and meaningful contact, access, ~~visitation,~~ and
31 time-sharing with the nonrelocating parent or other persons,

1 | if contact is financially affordable and in the best interest
2 | of the child.

3 | (b) If applicable, the court shall specify how the
4 | transportation costs will be allocated between the parents and
5 | other persons entitled to contact, access, ~~visitation~~, and
6 | time-sharing and may adjust the child support award, as
7 | appropriate, considering the costs of transportation and the
8 | respective net incomes of the parents in accordance with state
9 | child support guidelines.

10 | (10) PRIORITY FOR HEARING OR TRIAL.--An evidentiary
11 | hearing or nonjury trial on a pleading seeking temporary or
12 | permanent relief filed under ~~pursuant to~~ this section shall be
13 | accorded priority on the court's calendar.

14 | (11) APPLICABILITY.--

15 | (a) ~~The provisions of~~ This section applies ~~apply~~:

16 | 1. To orders entered before October 1, 2006, if the
17 | existing order defining custody, primary residence, or
18 | time-sharing ~~visitation~~ of or with the child does not
19 | expressly govern the relocation of the child.

20 | 2. To an order, whether temporary or permanent,
21 | regarding the parenting plan, custody, primary residence,
22 | time-sharing or visitation of or with the child entered on or
23 | after October 1, 2006.

24 | 3. To any relocation or proposed relocation, whether
25 | permanent or temporary, of a child during any proceeding
26 | pending on October 1, 2006, wherein the parenting plan,
27 | custody, primary residence, time-sharing or visitation of or
28 | with the child is an issue.

29 | (b) To the extent that a provision of this section
30 | conflicts with an order existing on October 1, 2006, this
31 | section does not apply to the terms of that order which

1 expressly govern relocation of the child or a change in the
2 principal residence address of a parent.

3 Section 9. Paragraph (d) of subsection (3) of section
4 61.181, Florida Statutes, is amended to read:

5 61.181 Depository for alimony transactions, support,
6 maintenance, and support payments; fees.--

7 (3)

8 (d) When time-sharing ~~custody~~ of a child is
9 relinquished by a ~~custodial~~ parent who is entitled to receive
10 child support moneys from the depository to a licensed or
11 registered long-term care child agency, that agency may
12 request from the court an order directing that child support
13 payments that ~~which~~ would otherwise be distributed to the
14 ~~custodial~~ parent be distributed to the agency for the period
15 of time that ~~custody~~ of the child is with ~~by~~ the agency.
16 Thereafter, payments shall be distributed to the agency as if
17 the agency were the ~~custodial~~ parent until further order of
18 the court.

19 Section 10. Subsection (1) of section 61.1827, Florida
20 Statutes, is amended to read:

21 61.1827 Identifying information concerning applicants
22 for and recipients of child support services.--

23 (1) Any information that reveals the identity of
24 applicants for or recipients of child support services,
25 including the name, address, and telephone number of such
26 persons, held by a non-Title IV-D county child support
27 enforcement agency is confidential and exempt from s.
28 119.07(1) and s. 24(a) of Art. I of the State Constitution.
29 The use or disclosure of such information by the non-Title
30 IV-D county child support enforcement agency is limited to the
31 purposes directly connected with:

1 (a) Any investigation, prosecution, or criminal or
2 civil proceeding connected with the administration of any
3 non-Title IV-D county child support enforcement program;

4 (b) Mandatory disclosure of identifying and location
5 information as provided in s. 61.13(7) ~~s. 61.13(8)~~ by the
6 non-Title IV-D county child support enforcement agency when
7 providing non-Title IV-D services;

8 (c) Mandatory disclosure of information as required by
9 ss. 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of
10 the Social Security Act; or

11 (d) Disclosure to an authorized person, as defined in
12 45 C.F.R. s. 303.15, for purposes of enforcing any state or
13 federal law with respect to the unlawful taking or restraint
14 of a child or making or enforcing a parenting plan or a
15 time-sharing schedule ~~child custody or visitation~~
16 ~~determination~~. As used in this paragraph, the term "authorized
17 person" includes a noncustodial parent, unless a court has
18 entered an order under s. 741.30, s. 741.31, or s. 784.046.

19 Section 11. Section 61.20, Florida Statutes, is
20 amended to read:

21 61.20 Social investigation and recommendations when a
22 parenting plan ~~child custody~~ is at in issue.--

23 (1) In any action where the parenting plan ~~custody~~ of
24 ~~a minor child~~ is at in issue, the court may order a social
25 investigation and study concerning all pertinent details
26 relating to the child and each parent when such an
27 investigation has not been done and the study therefrom
28 provided to the court by the parties or when the court
29 determines that the investigation and study that have been
30 done are insufficient. The agency, staff, or person conducting
31 the investigation and study ordered by the court pursuant to

1 | this section shall furnish the court and all parties of record
2 | in the proceeding a written study containing recommendations,
3 | including a written statement of facts found in the social
4 | investigation on which the recommendations are based. The
5 | court may consider the information contained in the study in
6 | making a decision on the parenting plan, ~~child's custody~~ and
7 | the technical rules of evidence do not exclude the study from
8 | consideration.

9 | (2) A social investigation and study, when ordered by
10 | the court, shall be conducted by qualified staff of the court;
11 | a child-placing agency licensed pursuant to s. 409.175; a
12 | psychologist licensed pursuant to chapter 490; or a clinical
13 | social worker, marriage and family therapist, or mental health
14 | counselor licensed pursuant to chapter 491. If a
15 | certification of indigence based on an affidavit filed with
16 | the court pursuant to s. 57.081 is provided by an adult party
17 | to the proceeding and the court does not have qualified staff
18 | to perform the investigation and study, the court may request
19 | that the Department of Children and Family Services conduct
20 | the investigation and study.

21 | (3) Except as to persons who obtain certification of
22 | indigence as specified in subsection (2), for whom no costs
23 | shall be incurred, the adult parties involved in a ~~child~~
24 | ~~custody~~ proceeding to determine a parenting plan wherein the
25 | court has ordered the performance of a social investigation
26 | and study ~~performed~~ shall be responsible for the payment of
27 | the costs of such investigation and study. Upon submission of
28 | the study to the court, the agency, staff, or person
29 | performing the study shall include a bill for services, which
30 | shall be taxed and ordered paid as costs in the proceeding.

31 |

1 Section 12. Paragraph (c) of subsection (1) and
2 subsection (6) of section 61.21, Florida Statutes, are amended
3 to read:

4 61.21 Parenting course authorized; fees; required
5 attendance authorized; contempt.--

6 (1) LEGISLATIVE FINDINGS; PURPOSE.--It is the finding
7 of the Legislature that:

8 (c) It has been found to be beneficial to parents who
9 are separating or divorcing to have available an educational
10 program that will provide general information regarding:

11 1. The issues and legal procedures for resolving
12 time-sharing ~~custody~~ and child support disputes.

13 2. The emotional experiences and problems of divorcing
14 adults.

15 3. The family problems and the emotional concerns and
16 needs of the children.

17 4. The availability of community services and
18 resources.

19 (6) All parties to a modification of a final judgment
20 involving a parenting plan or a time-sharing schedule ~~shared~~
21 ~~parental responsibilities, custody, or visitation~~ may be
22 required to complete a court-approved parenting course prior
23 to the entry of an order modifying the final judgment.

24 Section 13. Paragraph (a) of subsection (1), paragraph
25 (b) of subsection (2), and subsections (7), (8), (11), and
26 (17) of section 61.30, Florida Statutes, are amended to read:

27 61.30 Child support guidelines; retroactive child
28 support.--

29 (1)(a) The child support guideline amount as
30 determined by this section presumptively establishes the
31 amount the trier of fact shall order as child support in an

1 initial proceeding for such support or in a proceeding for
2 modification of an existing order for such support, whether
3 the proceeding arises under this or another chapter. The
4 trier of fact may order payment of child support which varies,
5 plus or minus 5 percent, from the guideline amount, after
6 considering all relevant factors, including the needs of the
7 child or children, age, station in life, standard of living,
8 and the financial status and ability of each parent. The
9 trier of fact may order payment of child support in an amount
10 which varies more than 5 percent from such guideline amount
11 only upon a written finding explaining why ordering payment of
12 such guideline amount would be unjust or inappropriate.
13 Notwithstanding the variance limitations of this section, the
14 trier of fact shall order payment of child support which
15 varies from the guideline amount as provided in paragraph
16 (11)(b) whenever any of the children are required by court
17 order or mediation agreement to spend a substantial amount of
18 time with both ~~the primary and secondary residential~~ parents.
19 This requirement applies to any living arrangement, whether
20 temporary or permanent.

21 (2) Income shall be determined on a monthly basis for
22 the obligor and for the obligee as follows:

23 (b) Income on a monthly basis shall be imputed to an
24 unemployed or underemployed parent when such employment or
25 underemployment is found to be voluntary on that parent's
26 part, absent physical or mental incapacity or other
27 circumstances over which the parent has no control. In the
28 event of such voluntary unemployment or underemployment, the
29 employment potential and probable earnings level of the parent
30 shall be determined based upon his or her recent work history,
31 occupational qualifications, and prevailing earnings level in

1 | the community; however, the court may refuse to impute income
2 | to a ~~primary residential~~ parent if the court finds it
3 | necessary for the parent to stay home with the child.

4 | (7) Child care costs incurred on behalf of the
5 | children due to employment, job search, or education
6 | calculated to result in employment or to enhance income of
7 | current employment of either parent shall be reduced by 25
8 | percent and then shall be added to the basic obligation. After
9 | the adjusted child care costs are added to the basic
10 | obligation, any moneys prepaid by one ~~the noncustodial~~ parent
11 | for child care costs for the child or children of this action
12 | shall be deducted from that ~~noncustodial~~ parent's child
13 | support obligation for that child or those children. Child
14 | care costs may ~~shall~~ not exceed the level required to provide
15 | quality care from a licensed source for the children.

16 | (8) Health insurance costs resulting from coverage
17 | ordered pursuant to s. 61.13(1)(b), and any noncovered
18 | medical, dental, and prescription medication expenses of the
19 | child, shall be added to the basic obligation unless these
20 | expenses have been ordered to be separately paid on a
21 | percentage basis. After the health insurance costs are added
22 | to the basic obligation, any moneys prepaid by the
23 | ~~noncustodial~~ parent for health-related costs for the child or
24 | children of this action shall be deducted from that
25 | ~~noncustodial~~ parent's child support obligation for that child
26 | or those children.

27 | (11)(a) The court may adjust the minimum child support
28 | award, or either or both parents' share of the minimum child
29 | support award, based upon the following considerations:

30 | 1. Extraordinary medical, psychological, educational,
31 | or dental expenses.

1 2. Independent income of the child, not to include
2 moneys received by a child from supplemental security income.

3 3. The payment of support for a parent which regularly
4 has been paid and for which there is a demonstrated need.

5 4. Seasonal variations in one or both parents' incomes
6 or expenses.

7 5. The age of the child, taking into account the
8 greater needs of older children.

9 6. Special needs, such as costs that may be associated
10 with the disability of a child, that have traditionally been
11 met within the family budget even though the fulfilling of
12 those needs will cause the support to exceed the proposed
13 guidelines.

14 7. Total available assets of the obligee, obligor, and
15 the child.

16 8. The impact of the Internal Revenue Service
17 dependency exemption and waiver of that exemption. The court
18 may order one ~~the primary residential~~ parent to execute a
19 waiver of the Internal Revenue Service dependency exemption if
20 the paying noncustodial parent is current in support payments.

21 9. When application of the child support guidelines
22 requires a person to pay another person more than 55 percent
23 of his or her gross income for a child support obligation for
24 current support resulting from a single support order.

25 10. The particular parenting plan and time-sharing
26 ~~shared parental~~ arrangement, such as where the child spends a
27 significant amount of time, but less than 40 percent of the
28 overnights, with one ~~the noncustodial~~ parent, thereby reducing
29 the financial expenditures incurred by the other ~~primary~~
30 ~~residential~~ parent; or the refusal of a ~~the noncustodial~~
31 parent to become involved in the activities of the child.

1 11. Any other adjustment which is needed to achieve an
2 equitable result which may include, but not be limited to, a
3 reasonable and necessary existing expense or debt. Such
4 expense or debt may include, but is not limited to, a
5 reasonable and necessary expense or debt which the parties
6 jointly incurred during the marriage.

7 (b) Whenever a particular time-sharing ~~shared parental~~
8 arrangement provides that each child spend a substantial
9 amount of time with each parent, the court shall adjust any
10 award of child support, as follows:

11 1. In accordance with subsections (9) and (10),
12 calculate the amount of support obligation apportioned to each
13 ~~the noncustodial~~ parent without including day care and health
14 insurance costs in the calculation and multiply the amount by
15 1.5.

16 ~~2. In accordance with subsections (9) and (10),~~
17 ~~calculate the amount of support obligation apportioned to the~~
18 ~~custodial parent without including day care and health~~
19 ~~insurance costs in the calculation and multiply the amount by~~
20 ~~1.5.~~

21 ~~2.3.~~ Calculate the percentage of overnight stays the
22 child spends with each parent.

23 ~~3.4.~~ Multiply each ~~the noncustodial~~ parent's support
24 obligation as calculated in subparagraph 1. by the percentage
25 of the custodial parent's overnight stays with the child as
26 calculated in subparagraph ~~2. 3.~~

27 ~~5. Multiply the custodial parent's support obligation~~
28 ~~as calculated in subparagraph 2. by the percentage of the~~
29 ~~noncustodial parent's overnight stays with the child as~~
30 ~~calculated in subparagraph 3.~~

31

1 ~~4.6.~~ The difference between the amounts calculated in
2 subparagraphs ~~3. 4.~~ and ~~4. 5.~~ shall be the monetary transfer
3 necessary between the ~~custodial and noncustodial~~ parents for
4 the care of the child, subject to an adjustment for day care
5 and health insurance expenses.

6 ~~5.7.~~ Pursuant to subsections (7) and (8), calculate
7 the net amounts owed by the ~~custodial and noncustodial~~ parents
8 for the expenses incurred for day care and health insurance
9 coverage for the child. Day care shall be calculated without
10 regard to the 25-percent reduction applied by subsection (7).

11 ~~6.8.~~ Adjust the support obligation owed by the
12 ~~custodial or noncustodial~~ parent pursuant to subparagraph ~~4.~~
13 ~~6.~~ by crediting or debiting the amount calculated in
14 subparagraph ~~5. 7.~~ This amount represents the child support
15 which must be exchanged between the ~~custodial and noncustodial~~
16 parents.

17 ~~7.9.~~ The court may deviate from the child support
18 amount calculated pursuant to subparagraph ~~6. 8.~~ based upon
19 the considerations set forth in paragraph (a)~~7~~ as well as
20 either the ~~custodial~~ parent's low income and ability to
21 maintain the basic necessities of the home for the child, the
22 likelihood that either the ~~noncustodial~~ parent will actually
23 exercise the time-sharing visitation granted by the court, and
24 whether all of the children are exercising the same
25 time-sharing ~~shared parental~~ arrangement.

26 ~~8.10.~~ For purposes of adjusting any award of child
27 support under this paragraph, "substantial amount of time"
28 means that the parents divide time with the child on at least
29 a 60-percent to 40-percent division ~~noncustodial parent~~
30 ~~exercises visitation at least 40 percent~~ of the overnights of
31 the year.

1 (c) A ~~noncustodial~~ parent's failure to regularly
2 exercise court-ordered or agreed time-sharing ~~visitation~~ not
3 caused by the other ~~custodial~~ parent which resulted in the
4 adjustment of the amount of child support pursuant to
5 subparagraph (a)10. or paragraph (b) shall be deemed a
6 substantial change of circumstances for purposes of modifying
7 the child support award. A modification pursuant to this
8 paragraph ~~is shall be~~ retroactive to the date the ~~noncustodial~~
9 parent first failed to regularly exercise court-ordered or
10 agreed time-sharing ~~visitation~~.

11 (17) In an initial determination of child support,
12 whether in a paternity action, dissolution of marriage action,
13 or petition for support during the marriage, the court has
14 discretion to award child support retroactive to the date when
15 the parents did not reside together in the same household with
16 the child, not to exceed a period of 24 months preceding the
17 filing of the petition, regardless of whether that date
18 precedes the filing of the petition. In determining the
19 retroactive award in such cases, the court shall consider the
20 following:

21 (a) The court shall apply the guidelines in effect at
22 the time of the hearing subject to the obligor's demonstration
23 of his or her actual income, as defined by subsection (2),
24 during the retroactive period. Failure of the obligor to so
25 demonstrate shall result in the court using the obligor's
26 income at the time of the hearing in computing child support
27 for the retroactive period.

28 **(b) The court shall consider the time-sharing**
29 **arrangement exercised by the parents during the separation**
30 **period in determining the appropriate percentage of overnights**
31 **exercised by each parent so as to apply the substantial**

1 time-sharing method of calculating support according to
2 paragraph (11)(b), if appropriate.

3 ~~(c)(b)~~ All actual payments made by one the
4 ~~noncustodial~~ parent to the other ~~custodial~~ parent or the child
5 or third parties for the benefit of the child throughout the
6 proposed retroactive period.

7 ~~(d)(e)~~ The court should consider an installment
8 payment plan for the payment of retroactive child support.

9 Section 14. Section 61.401, Florida Statutes, is
10 amended to read:

11 61.401 Appointment of guardian ad litem.--In an action
12 involving a parenting plan or a time-sharing schedule for
13 ~~dissolution of marriage, modification, parental~~
14 ~~responsibility, custody, or visitation~~, if the court finds it
15 is in the best interest of the child, the court may appoint a
16 guardian ad litem to act as next friend of the child,
17 investigator or evaluator, not as attorney or advocate. The
18 court in its discretion may also appoint legal counsel for a
19 child to act as attorney or advocate; however, the guardian
20 and the legal counsel shall not be the same person. In such
21 actions which involve an allegation of child abuse,
22 abandonment, or neglect as defined in s. 39.01, which
23 allegation is verified and determined by the court to be
24 well-founded, the court shall appoint a guardian ad litem for
25 the child. The guardian ad litem shall be a party to any
26 judicial proceeding from the date of the appointment until the
27 date of discharge.

28 Section 15. Section 61.45, Florida Statutes, is
29 amended to read:

30 61.45 Court-ordered parenting plan ~~Court order of~~
31 ~~visitation or custody~~; risk of violation; bond.--

1 (1) In a proceeding in which the court enters a
2 parenting plan, including a time-sharing schedule ~~an order of~~
3 ~~child custody or visitation~~, including in a modification
4 proceeding, upon the presentation of competent substantial
5 evidence that there is a risk that one party may violate the
6 court's parenting plan ~~order of visitation or custody~~ by
7 removing a child from this state or country or by concealing
8 the whereabouts of a child, or upon stipulation of the
9 parties, the court may:

10 (a) Order that a parent may not remove the child from
11 this state without the notarized written permission of both
12 parents or further court order;

13 (b) Order that a parent may not remove the child from
14 this country without the notarized written permission of both
15 parents or further court order;

16 (c) Order that a parent may not take the child to a
17 country that has not ratified or acceded to the Hague
18 Convention on the Civil Aspects of International Child
19 Abduction unless the other parent agrees in writing that the
20 child may be taken to the country;

21 (d) Require a parent to surrender the passport of the
22 child; or

23 (e) Require that party to post bond or other security.

24 (2) If the court enters a parenting plan ~~an order of~~
25 ~~child custody or visitation~~, including in a modification
26 proceeding, that includes a provision entered under paragraph
27 (1)(b) or paragraph (1)(c), a certified copy of the order
28 should be sent by the parent who requested the restriction to
29 the Passport Services Office of the United States Department
30 of State requesting that they not issue a passport to the
31 child without their signature or further court order.

1 (3) In assessing the need for a bond or other
2 security, the court may consider any reasonable factor bearing
3 upon the risk that a party may violate a parenting plan
4 ~~visitation or custody order~~ by removing a child from this
5 state or country or by concealing the whereabouts of a child,
6 including but not limited to whether:

7 (a) A court has previously found that a party
8 previously removed a child from Florida or another state in
9 violation of a parenting plan ~~custody or visitation order~~, or
10 whether a court had found that a party has threatened to take
11 a child out of Florida or another state in violation of a
12 parenting plan ~~custody or visitation order~~;

13 (b) The party has strong family and community ties to
14 Florida or to other states or countries, including whether the
15 party or child is a citizen of another country;

16 (c) The party has strong financial reasons to remain
17 in Florida or to relocate to another state or country;

18 (d) The party has engaged in activities that suggest
19 plans to leave Florida, such as quitting employment; sale of a
20 residence or termination of a lease on a residence, without
21 efforts to acquire an alternative residence in the state;
22 closing bank accounts or otherwise liquidating assets; or
23 applying for a passport;

24 (e) Either party has had a history of domestic
25 violence as either a victim or perpetrator, child abuse or
26 child neglect evidenced by criminal history, including but not
27 limited to, arrest, an injunction for protection against
28 domestic violence issued after notice and hearing under s.
29 741.30, medical records, affidavits, or any other relevant
30 information; or

31 (f) The party has a criminal record.

1 (4) The court must consider the party's financial
2 resources prior to setting the bond amount under this section.
3 Under no circumstances may the court set a bond that is
4 unreasonable.

5 (5) Any deficiency of bond or security shall not
6 absolve the violating party of responsibility to pay the full
7 amount of damages determined by the court.

8 (6)(a) Upon a material violation of any time-sharing
9 plan ~~custody or visitation order~~ by removing a child from this
10 state or this country or by concealing the whereabouts of a
11 child, the court may order the bond or other security
12 forfeited in whole or in part.

13 (b) This section, including the requirement to post a
14 bond or other security, does not apply to a parent who, in a
15 proceeding to order or modify a parenting plan or time-sharing
16 schedule, is determined by the court to be ~~child custody or~~
17 ~~visitation, the court determines is~~ a victim of an act of
18 domestic violence or provides the court with ~~has~~ reasonable
19 cause to believe that he or she is about to become the victim
20 of an act of domestic violence, as defined in s. 741.28. An
21 injunction for protection against domestic violence issued
22 pursuant to s. 741.30 for a parent as the petitioner which is
23 in effect at the time of the court proceeding shall be one
24 means of demonstrating sufficient evidence that the parent is
25 a victim of domestic violence or is about to become the victim
26 of an act of domestic violence, as defined in s. 741.28, and
27 shall exempt the parent from this section, including the
28 requirement to post a bond or other security. A parent who is
29 determined by the court to be exempt from the requirements of
30 this section must meet the requirements of s. 787.03(6) if an
31

1 | offense of interference with the parenting plan or
2 | time-sharing schedule ~~custody~~ is committed.

3 | (7)(a) Upon an order of forfeiture, the proceeds of
4 | any bond or other security posted pursuant to this subsection
5 | may only be used to:

6 | 1. Reimburse the nonviolating party for actual costs
7 | or damages incurred in upholding the court's parenting plan
8 | ~~order of custody or visitation~~.

9 | 2. Locate and return the child to the residence as set
10 | forth in the parenting plan ~~visitation or custody order~~.

11 | 3. Reimburse reasonable fees and costs as determined
12 | by the court.

13 | (b) Any remaining proceeds shall be held as further
14 | security if deemed necessary by the court, and if further
15 | security is not found to be necessary; applied to any child
16 | support arrears owed by the parent against whom the bond was
17 | required, and if no arrears exists; all remaining proceeds
18 | will be allocated by the court in the best interest of the
19 | child.

20 | (8) At any time after the forfeiture of the bond or
21 | other security, the party who posted the bond or other
22 | security, or the court on its own motion may request that the
23 | party provide documentation substantiating that the proceeds
24 | received as a result of the forfeiture have been used solely
25 | in accordance with this subsection. Any party using such
26 | proceeds for purposes not in accordance with this section may
27 | be found in contempt of court.

28 | Section 16. Paragraphs (b) and (c) of subsection (3)
29 | of section 741.0306, Florida Statutes, are amended to read:

30 | 741.0306 Creation of a family law handbook.--
31 |

1 (3) The information contained in the handbook or other
2 electronic media presentation may be reviewed and updated
3 annually, and may include, but need not be limited to:

4 (b) Shared parental responsibility for children and
5 the determination of a parenting plan including a time-sharing
6 schedule ~~primary residence or custody and secondary residence~~
7 ~~or routine visitation, holiday, summer, and vacation~~
8 ~~visitation arrangements, telephone access, and the process for~~
9 ~~notice for changes.~~

10 (c) Permanent relocation restrictions ~~on parents with~~
11 ~~primary residential responsibility.~~

12 Section 17. Paragraphs (b) and (d) of subsection (3),
13 paragraph (a) of subsection (5), and paragraph (a) of
14 subsection (6) of section 741.30, Florida Statutes, are
15 amended to read:

16 741.30 Domestic violence; injunction; powers and
17 duties of court and clerk; petition; notice and hearing;
18 temporary injunction; issuance of injunction; statewide
19 verification system; enforcement.--

20 (3)

21 (b) The sworn petition shall be in substantially the
22 following form:

23
24 PETITION FOR
25 INJUNCTION FOR PROTECTION
26 AGAINST DOMESTIC VIOLENCE
27

28 Before me, the undersigned authority, personally appeared
29 Petitioner ...(Name)..., who has been sworn and says that the
30 following statements are true:

31 (a) Petitioner resides at: ...(address)...

1 (Petitioner may furnish address to the court in a
2 separate confidential filing if, for safety reasons, the
3 petitioner requires the location of the current residence to
4 be confidential.)
5 (b) Respondent resides at: ...(last known address)...
6 (c) Respondent's last known place of employment:
7 ...(name of business and address)...
8 (d) Physical description of respondent:
9 Race....
10 Sex....
11 Date of birth....
12 Height....
13 Weight....
14 Eye color....
15 Hair color....
16 Distinguishing marks or scars....
17 (e) Aliases of respondent:
18 (f) Respondent is the spouse or former spouse of the
19 petitioner or is any other person related by blood or marriage
20 to the petitioner or is any other person who is or was
21 residing within a single dwelling unit with the petitioner, as
22 if a family, or is a person with whom the petitioner has a
23 child in common, regardless of whether the petitioner and
24 respondent are or were married or residing together, as if a
25 family.
26 (g) The following describes any other cause of action
27 currently pending between the petitioner and respondent:
28
29 The petitioner should also describe any previous or
30 pending attempts by the petitioner to obtain an injunction for
31

1 protection against domestic violence in this or any other
2 circuit, and the results of that attempt.....
3
4 Case numbers should be included if available.
5 (h) Petitioner is either a victim of domestic violence
6 or has reasonable cause to believe he or she is in imminent
7 danger of becoming a victim of domestic violence because
8 respondent has(mark all sections that apply and describe
9 in the spaces below the incidents of violence or threats of
10 violence, specifying when and where they occurred, including,
11 but not limited to, locations such as a home, school, place of
12 employment, or visitation exchange)....:
13committed or threatened to commit domestic violence
14 defined in s. 741.28, Florida Statutes, as any assault,
15 aggravated assault, battery, aggravated battery, sexual
16 assault, sexual battery, stalking, aggravated stalking,
17 kidnapping, false imprisonment, or any criminal offense
18 resulting in physical injury or death of one family or
19 household member by another. With the exception of persons who
20 are parents of a child in common, the family or household
21 members must be currently residing or have in the past resided
22 together in the same single dwelling unit.
23previously threatened, harassed, stalked, or
24 physically abused the petitioner.
25attempted to harm the petitioner or family members
26 or individuals closely associated with the petitioner.
27threatened to conceal, kidnap, or harm the
28 petitioner's child or children.
29intentionally injured or killed a family pet.
30used, or has threatened to use, against the
31 petitioner any weapons such as guns or knives.

1 physically restrained the petitioner from leaving
2 the home or calling law enforcement.
3 a criminal history involving violence or the threat
4 of violence (if known).
5 another order of protection issued against him or
6 her previously or from another jurisdiction (if known).
7 destroyed personal property, including, but not
8 limited to, telephones or other communication equipment,
9 clothing, or other items belonging to the petitioner.
10 engaged in any other behavior or conduct that leads
11 the petitioner to have reasonable cause to believe he or she
12 is in imminent danger of becoming a victim of domestic
13 violence.
14 (i) Petitioner alleges the following additional
15 specific facts: (mark appropriate sections)
16 A minor child or minor children reside with the
17 ~~petitioner is the custodian of a minor child or children~~ whose
18 names and ages are as follows:
19
20 Petitioner needs the exclusive use and possession
21 of the dwelling that the parties share.
22 Petitioner is unable to obtain safe alternative
23 housing because:
24 Petitioner genuinely fears that respondent
25 imminently will abuse, remove, or hide the minor child or
26 children from petitioner because:
27
28 (j) Petitioner genuinely fears imminent domestic
29 violence by respondent.
30 (k) Petitioner seeks an injunction: (mark appropriate
31 section or sections)

1 Immediately restraining the respondent from
2 committing any acts of domestic violence.

3 Restraining the respondent from committing any acts
4 of domestic violence.

5 Awarding to the petitioner the temporary exclusive
6 use and possession of the dwelling that the parties share or
7 excluding the respondent from the residence of the petitioner.

8 Providing a temporary parenting plan, including a
9 temporary time-sharing schedule ~~Awarding temporary custody of,~~
10 ~~or temporary visitation rights~~ with regard to, the minor child
11 or children of the parties which might involve, ~~or~~ prohibiting
12 or limiting time-sharing or requiring that it be ~~visitation to~~
13 ~~that which is~~ supervised by a third party.

14 Establishing temporary support for the minor child
15 or children or the petitioner.

16 Directing the respondent to participate in a
17 batterers' intervention program or other treatment pursuant to
18 s. 39.901, Florida Statutes.

19 Providing any terms the court deems necessary for
20 the protection of a victim of domestic violence, or any minor
21 children of the victim, including any injunctions or
22 directives to law enforcement agencies.

23 (d) If the sworn petition seeks to determine a
24 parenting plan and time-sharing schedule ~~issues of custody or~~
25 ~~visitation~~ with regard to the minor child or children of the
26 parties, the sworn petition shall be accompanied by or shall
27 incorporate the allegations required by s. 61.522 of the
28 Uniform Child Custody Jurisdiction and Enforcement Act.

29 (5)(a) When it appears to the court that an immediate
30 and present danger of domestic violence exists, the court may
31 grant a temporary injunction ex parte, pending a full hearing,

1 and may grant such relief as the court deems proper, including
2 an injunction:

3 1. Restraining the respondent from committing any acts
4 of domestic violence.

5 2. Awarding to the petitioner the temporary exclusive
6 use and possession of the dwelling that the parties share or
7 excluding the respondent from the residence of the petitioner.

8 3. On the same basis as provided in s. 61.13,
9 providing the petitioner with 100 percent of the time-sharing
10 that shall remain ~~granting to the petitioner temporary custody~~
11 ~~of a minor child. An order of temporary custody remains in~~
12 effect until the order expires or an order is entered by a
13 court of competent jurisdiction in a pending or subsequent
14 civil action or proceeding affecting the placement of, access
15 to, parental time with, adoption of, or parental rights and
16 responsibilities for the minor child.

17 (6)(a) Upon notice and hearing, when it appears to the
18 court that the petitioner is either the victim of domestic
19 violence as defined by s. 741.28 or has reasonable cause to
20 believe he or she is in imminent danger of becoming a victim
21 of domestic violence, the court may grant such relief as the
22 court deems proper, including an injunction:

23 1. Restraining the respondent from committing any acts
24 of domestic violence.

25 2. Awarding to the petitioner the exclusive use and
26 possession of the dwelling that the parties share or excluding
27 the respondent from the residence of the petitioner.

28 3. On the same basis as provided in chapter 61,
29 providing the petitioner with 100 percent of the time-sharing
30 in a temporary parenting plan that shall remain awarding
31 ~~temporary custody of, or temporary visitation rights with~~

1 ~~regard to, a minor child or children of the parties. An order~~
2 ~~of temporary custody or visitation remains~~ in effect until the
3 order expires or an order is entered by a court of competent
4 jurisdiction in a pending or subsequent civil action or
5 proceeding affecting the placement of, access to, parental
6 time with, adoption of, or parental rights and
7 responsibilities for the minor child.

8 4. On the same basis as provided in chapter 61,
9 establishing temporary support for a minor child or children
10 or the petitioner. An order of temporary support remains in
11 effect until the order expires or an order is entered by a
12 court of competent jurisdiction in a pending or subsequent
13 civil action or proceeding affecting child support.

14 5. Ordering the respondent to participate in
15 treatment, intervention, or counseling services to be paid for
16 by the respondent. When the court orders the respondent to
17 participate in a batterers' intervention program, the court,
18 or any entity designated by the court, must provide the
19 respondent with a list of all certified batterers'
20 intervention programs and all programs which have submitted an
21 application to the Department of Children and Family Services
22 to become certified under s. 741.32, from which the respondent
23 must choose a program in which to participate. If there are no
24 certified batterers' intervention programs in the circuit, the
25 court shall provide a list of acceptable programs from which
26 the respondent must choose a program in which to participate.

27 6. Referring a petitioner to a certified domestic
28 violence center. The court must provide the petitioner with a
29 list of certified domestic violence centers in the circuit
30 which the petitioner may contact.

31

1 7. Ordering such other relief as the court deems
2 necessary for the protection of a victim of domestic violence,
3 including injunctions or directives to law enforcement
4 agencies, as provided in this section.

5 Section 18. Subsections (1) and (2) of section
6 742.031, Florida Statutes, are amended to read:

7 742.031 Hearings; court orders for support, hospital
8 expenses, and attorney's fee.--

9 (1) Hearings for the purpose of establishing or
10 refuting the allegations of the complaint and answer shall be
11 held in the chambers and may be restricted to persons, in
12 addition to the parties involved and their counsel, as the
13 judge in his or her discretion may direct. The court shall
14 determine the issues of paternity of the child and the ability
15 of the parents to support the child. Each party's social
16 security number shall be recorded in the file containing the
17 adjudication of paternity. If the court finds that the alleged
18 father is the father of the child, it shall so order. If
19 appropriate, the court shall order the father to pay the
20 complainant, her guardian, or any other person assuming
21 responsibility for the child moneys sufficient to pay
22 reasonable attorney's fees, hospital or medical expenses, cost
23 of confinement, and any other expenses incident to the birth
24 of the child and to pay all costs of the proceeding. Bills
25 for pregnancy, childbirth, and scientific testing are
26 admissible as evidence without requiring third-party
27 foundation testimony, and shall constitute prima facie
28 evidence of amounts incurred for such services or for testing
29 on behalf of the child. The court shall order either or both
30 parents owing a duty of support to the child to pay support
31 pursuant to s. 61.30. The court shall issue, upon motion by a

1 party, a temporary order requiring ~~the provision of~~ child
2 support pursuant to s. 61.30 pending an administrative or
3 judicial determination of parentage, if there is clear and
4 convincing evidence of paternity on the basis of genetic tests
5 or other evidence. The court may also make a determination of
6 an appropriate parenting plan, including a time-sharing
7 schedule as to the parental responsibility and residential
8 care and custody of the minor children in accordance with
9 chapter 61.

10 (2) If a judgment of paternity contains only a child
11 support award with no parenting plan or time-sharing schedule,
12 the obligee parent shall receive all of the time-sharing and
13 sole parental responsibility no explicit award of custody, the
14 establishment of a support obligation or of visitation rights
15 in one parent shall be considered a judgment granting primary
16 residential care and custody to the other parent without
17 prejudice to the obligor parent. If a paternity judgment
18 contains no such provisions, ~~custody shall be presumed to be~~
19 ~~with the mother shall be presumed to have all of the~~
20 time-sharing and sole parental responsibility.

21 Section 19. For the purpose of incorporating the
22 amendments made by this act to section 741.30, Florida
23 Statutes, in a reference thereto, paragraph (a) of subsection
24 (3) of section 61.1825, Florida Statutes, is reenacted to
25 read:

26 61.1825 State Case Registry.--

27 (3)(a) For the purpose of this section, a family
28 violence indicator must be placed on a record when:

29 1. A party executes a sworn statement requesting that
30 a family violence indicator be placed on that party's record
31 which states that the party has reason to believe that release

1 of information to the Federal Case Registry may result in
2 physical or emotional harm to the party or the child; or

3 2. A temporary or final injunction for protection
4 against domestic violence has been granted pursuant to s.
5 741.30(6), an injunction for protection against domestic
6 violence has been issued by a court of a foreign state
7 pursuant to s. 741.315, or a temporary or final injunction for
8 protection against repeat violence has been granted pursuant
9 to s. 784.046; or

10 3. The department has received information on a Title
11 IV-D case from the Domestic Violence and Repeat Violence
12 Injunction Statewide Verification System, established pursuant
13 to s. 784.046(8)(b), that a court has granted a party a
14 domestic violence or repeat violence injunction.

15 Section 20. Section 61.121, Florida Statutes, is
16 repealed.

17 Section 21. This act shall take effect July 1, 2007.
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SENATE SUMMARY

Authorizes courts to issue an appropriate order for a parenting plan. Authorizes the parent who is not receiving child support to apply to the court for support of the child. Authorizes courts to adjudicate parenting plans and time-sharing schedules when unconnected with the dissolution of a marriage. Permits courts to make orders relating to time-sharing with and parenting of children. Requires equal treatment for mothers and fathers in parenting decisions. Establishes criteria for determining the best interests of a child. Prohibits a parent from refusing to obey time-sharing orders even if the other parent has not paid alimony or child support. Authorizes a court to order extra time-sharing if the custodial parent refuses to abide by the time-sharing agreement or order. Provides for relocation of a child. Provides for a relocation agreement between the parents. Provides procedures for relocation when an agreement cannot be reached. Provides that the parties to a parenting plan or a time-sharing schedule may be required to attend a parenting course. Authorizes a court to appoint a guardian ad litem in cases involving a parenting plan or a time-sharing schedule. (See bill for details.)