

HB 1315

2008

1 A bill to be entitled

2 An act relating to child custody and visitation; amending
3 s. 61.13, F.S.; revising the application of a rebuttable
4 presumption that a parent is a detriment to his or her
5 child if he or she is convicted of a crime involving
6 domestic violence from a felony of the third degree or
7 higher to a misdemeanor of the first degree or higher;
8 requiring a court to make explicit written findings that,
9 when determining the best interests of a child for the
10 purposes of shared parental responsibility and visitation,
11 the court considered evidence of domestic violence and
12 child abuse; amending ss. 61.1827 and 409.2579, F.S.;
13 conforming cross-references; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (b) of subsection (2) and paragraph
18 (1) of subsection (3) of section 61.13, Florida Statutes, are
19 amended, present subsections (4) through (9) of that section are
20 redesignated as subsections (5) through (10), respectively, and
21 a new subsection (4) is added to that section, to read:

22 61.13 Custody and support of children; visitation rights;
23 power of court in making orders.--

24 (2)

25 (b)1. The court shall determine all matters relating to
26 custody of each minor child of the parties in accordance with
27 the best interests of the child and in accordance with the
28 Uniform Child Custody Jurisdiction and Enforcement Act. It is

HB 1315

2008

29 | the public policy of this state to assure that each minor child
30 | has frequent and continuing contact with both parents after the
31 | parents separate or the marriage of the parties is dissolved and
32 | to encourage parents to share the rights and responsibilities,
33 | and joys, of childrearing. After considering all relevant facts,
34 | the father of the child shall be given the same consideration as
35 | the mother in determining the primary residence of a child
36 | irrespective of the age or sex of the child.

37 | 2. The court shall order that the parental responsibility
38 | for a minor child be shared by both parents unless the court
39 | finds that shared parental responsibility would be detrimental
40 | to the child. Evidence that a parent has been convicted of a
41 | misdemeanor ~~felony~~ of the first ~~third~~ degree or higher involving
42 | domestic violence, as defined in s. 741.28 and chapter 775, or
43 | meets the criteria of s. 39.806(1)(d), creates a rebuttable
44 | presumption of detriment to the child. If the presumption is not
45 | rebutted, shared parental responsibility, including visitation,
46 | residence of the child, and decisions made regarding the child,
47 | may not be granted to the convicted parent. However, the
48 | convicted parent is not relieved of any obligation to provide
49 | financial support. If the court determines that shared parental
50 | responsibility would be detrimental to the child, it may order
51 | sole parental responsibility and make such arrangements for
52 | visitation as will best protect the child or abused spouse from
53 | further harm. Whether or not there is a conviction of any
54 | offense of domestic violence or child abuse or the existence of
55 | an injunction for protection against domestic violence, the

HB 1315

2008

56 court shall consider evidence of domestic violence or child
57 abuse as evidence of detriment to the child.

58 a. In ordering shared parental responsibility, the court
59 may consider the expressed desires of the parents and may grant
60 to one party the ultimate responsibility over specific aspects
61 of the child's welfare or may divide those responsibilities
62 between the parties based on the best interests of the child.
63 Areas of responsibility may include primary residence,
64 education, medical and dental care, and any other
65 responsibilities that the court finds unique to a particular
66 family.

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

70 3. Access to records and information pertaining to a minor
71 child, including, but not limited to, medical, dental, and
72 school records, may not be denied to a parent because the parent
73 is not the child's primary residential parent. Full rights under
74 this subparagraph apply to either parent unless a court order
75 specifically revokes these rights, including any restrictions on
76 these rights as provided in a domestic violence injunction. A
77 parent having rights under this subparagraph has the same rights
78 upon request as to form, substance, and manner of access as are
79 available to the other parent of a child, including, without
80 limitation, the right to in-person communication with medical,
81 dental, and education providers.

82 (3) For purposes of shared parental responsibility and
83 primary residence, the best interests of the child, shall

84 include an evaluation of all factors affecting the welfare and
 85 interests of the child, including, but not limited to:

86 (1) Evidence of domestic violence or child abuse,
 87 including convictions, arrests, and attempts to obtain
 88 injunctions for protection and other complaints.

89 (4) For purposes of shared parental responsibility and
 90 visitation, the court shall make explicit written findings that,
 91 when considering the best interests of the child, the court
 92 specifically considered evidence of domestic violence and child
 93 abuse as required by paragraph (3)(1).

94 Section 2. Paragraph (b) of subsection (1) of section
 95 61.1827, Florida Statutes, is amended to read:

96 61.1827 Identifying information concerning applicants for
 97 and recipients of child support services.--

98 (1) Any information that reveals the identity of
 99 applicants for or recipients of child support services,
 100 including the name, address, and telephone number of such
 101 persons, held by a non-Title IV-D county child support
 102 enforcement agency is confidential and exempt from s. 119.07(1)
 103 and s. 24(a) of Art. I of the State Constitution. The use or
 104 disclosure of such information by the non-Title IV-D county
 105 child support enforcement agency is limited to the purposes
 106 directly connected with:

107 (b) Mandatory disclosure of identifying and location
 108 information as provided in s. 61.13(9)~~(8)~~ by the non-Title IV-D
 109 county child support enforcement agency when providing non-Title
 110 IV-D services;

111 Section 3. Paragraph (e) of subsection (1) of section

HB 1315

2008

112 409.2579, Florida Statutes, is amended to read:

113 409.2579 Safeguarding Title IV-D case file information.--

114 (1) Information concerning applicants for or recipients of
115 Title IV-D child support services is confidential and exempt
116 from the provisions of s. 119.07(1). The use or disclosure of
117 such information by the IV-D program is limited to purposes
118 directly connected with:

119 (e) Mandatory disclosure of identifying and location
120 information as provided in s. 61.13 (9) ~~(8)~~ by the IV-D program
121 when providing Title IV-D services.

122 Section 4. This act shall take effect July 1, 2008.