

1 A bill to be entitled
2 An act relating to child custody and visitation; amending
3 s. 61.046, F.S.; redefining the terms "parenting plan" and
4 "parenting plan recommendation"; amending s. 61.13, F.S.,
5 relating to child support, parenting plans, and time-
6 sharing; deleting obsolete provisions; requiring a
7 parenting plan to include the address to be used for
8 determining school boundaries; revising the elements of
9 the rebuttable presumption that a parent is a detriment to
10 his or her child if he or she is convicted of a crime
11 involving domestic violence; providing that the
12 presumption applies to a crime that is a misdemeanor of
13 the first degree or higher rather than to a crime that is
14 a felony of the third degree or higher; allowing the
15 modification of a parenting plan only upon a showing of
16 changed circumstances; requiring a court to make explicit
17 written findings that, when determining the best interests
18 of a child for the purposes of shared parental
19 responsibility and visitation, the court considered
20 evidence of domestic or sexual violence and child abuse,
21 abandonment, or neglect; amending s. 61.13001, F.S.,
22 relating to parental relocation; deleting terms and
23 redefining the terms "other person," "parent," and
24 "relocation"; substituting the term "access to" for
25 "visitation"; deleting provisions relating to the
26 requirement for a Notice of Intent to Relocate and
27 substituting procedures relating to filing a petition to
28 relocate; requiring a hearing on a motion seeking a

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29 temporary relocation to be held within a certain time
 30 period; providing for applicability of changes made by the
 31 act; amending ss. 61.183, 61.20, 61.21, and 61.30, F.S.;
 32 conforming terms; amending s. 741.30, F.S., relating to
 33 domestic violence; authorizing a court to issue an ex
 34 parte injunction that provides a temporary parenting plan;
 35 providing an effective date.

36

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

38

39 Section 1. Subsections (13) and (14) of section 61.046,
 40 Florida Statutes, are amended to read:

41 61.046 Definitions.--As used in this chapter, the term:

42 (13) "Parenting plan" means a document created to govern
 43 the relationship between the parents ~~parties~~ relating to ~~the~~
 44 decisions that must be made regarding the minor child and must
 45 ~~shall~~ contain a time-sharing schedule for the parents and child.
 46 The issues concerning the minor child may include, but are not
 47 limited to, the child's education, health care, and physical,
 48 social, and emotional well-being. In creating the plan, all
 49 circumstances between the parents ~~parties~~, including their ~~the~~
 50 ~~parties'~~ historic relationship, domestic violence, and other
 51 factors must be taken into consideration.

52 (a) The parenting plan must ~~shall~~ be:

53 1. Developed and agreed to by the parents and approved by
 54 a court; or

55 2. If the parents cannot agree or the plan is not approved
 56 by the court, established by the court with or without the use

57 of a court-ordered parenting plan recommendation.

58 (b)~~(a)~~ Any parenting plan formulated under this chapter
 59 must address all jurisdictional issues, including, ~~but not~~
 60 ~~limited to,~~ the Uniform Child Custody Jurisdiction and
 61 Enforcement Act, part II of this chapter, the International
 62 Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the
 63 Parental Kidnapping Prevention Act, and the Convention on the
 64 Civil Aspects of International Child Abduction enacted at the
 65 Hague on October 25, 1980.

66 (c)~~(b)~~ For purposes of the ~~application of the~~ Uniform
 67 Child Custody Jurisdiction and Enforcement Act, part II of this
 68 chapter, a judgment or order incorporating a parenting plan
 69 under this part is a child custody determination under part II
 70 of this chapter.

71 (d)~~(e)~~ For purposes of the International Child Abduction
 72 Remedies Act, 42 U.S.C. ss. 11601 et seq., and the Convention on
 73 the Civil Aspects of International Child Abduction, enacted at
 74 the Hague on October 25, 1980, rights of custody are ~~shall be~~
 75 determined pursuant to ~~under~~ the parenting plan under this part.

76 (14) "Parenting plan recommendation" means a nonbinding
 77 recommendation relating to a parenting plan which is made by a
 78 psychologist licensed under chapter 490, a psychotherapist
 79 licensed under chapter 491, a guardian ad litem appointed
 80 pursuant to s. 61.401, or a licensed mental health professional
 81 appointed by the court pursuant to Rule 12.363, Florida Family
 82 Law Rules of Procedure.

83 Section 2. Paragraph (d) of subsection (1) and subsections
 84 (2), (3), and (6) of section 61.13, Florida Statutes, are

85 amended, to read:

86 61.13 Support of children; parenting and time-sharing;
87 powers of court.--

88 (1)

89 (d)1. Unless the provisions of subparagraph ~~2.~~ 3. apply,
90 all child support orders must require ~~entered on or after~~
91 ~~January 1, 1985,~~ shall direct that child support the payments be
92 ~~made of child support be made as provided in s. 61.181~~ through
93 the depository in the county where the court is located as
94 provided in s. 61.181. All child support orders must ~~shall~~
95 provide the full name and date of birth of each minor child who
96 is the subject of the child support order.

97 ~~2. Unless the provisions of subparagraph 3. apply, all~~
98 ~~child support orders entered before January 1, 1985, shall be~~
99 ~~modified by the court to direct that payments of child support~~
100 ~~shall be made through the depository in the county where the~~
101 ~~court is located upon the subsequent appearance of either or~~
102 ~~both parents to modify or enforce the order, or in any related~~
103 ~~proceeding.~~

104 ~~2.3.~~ If both parties request and the court finds that it
105 is in the best interest of the child, support payments need not
106 be directed through the depository. The order of support must
107 ~~shall~~ provide, or shall be deemed to provide, that either party
108 may subsequently apply to the depository to require that
109 ~~direction of the payments~~ be made through the depository. The
110 court shall provide a copy of the order to the depository.

111 ~~3.4.~~ If the parties elect not to require that support
112 payments be made through the depository, any party may

113 subsequently file an affidavit with the depository alleging a
 114 default in payment of child support and stating that the party
 115 wishes to require that payments be made through the depository.
 116 The party shall provide copies of the affidavit to the court and
 117 to the ~~each~~ other party. Fifteen days after receipt of the
 118 affidavit, the depository shall notify both parties that future
 119 payments must ~~shall~~ be paid through the depository.

120 ~~4.5.~~ In IV-D cases, the IV-D agency has ~~shall have~~ the
 121 same rights as the obligee in requesting that payments be made
 122 through the depository.

123 (2) (a) The court may ~~shall have jurisdiction to~~ approve,
 124 grant, or modify a parenting plan, notwithstanding that the
 125 child is not physically present in this state at the time of
 126 filing any proceeding under this chapter, if it appears to the
 127 court that the child was removed from this state for the primary
 128 purpose of removing the child from the court's jurisdiction ~~of~~
 129 ~~the court~~ in an attempt to avoid the court's approval, creation,
 130 or modification of a parenting plan.

131 (b) A ~~Any~~ parenting plan approved by the court must, at a
 132 minimum, describe in adequate detail how the parents will share
 133 and be responsible for the daily tasks associated with the
 134 upbringing of the child; ; the time-sharing schedule arrangements
 135 that specify the time that the minor child will spend with each
 136 parent; ; a designation of who will be responsible for any and
 137 all forms of health care, school-related matters, including the
 138 address to be used for school-boundary determination and
 139 registration, and other activities; ; and the methods and
 140 technologies that the parents will use to communicate with the

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141 child.

142 (c)~~1~~. The court shall determine all matters relating to
143 parenting and time-sharing of each minor child of the parties in
144 accordance with the best interests of the child and in
145 accordance with the Uniform Child Custody Jurisdiction and
146 Enforcement Act.

147 1. It is the public policy of this state ~~to assure~~ that
148 each minor child has frequent and continuing contact with both
149 parents after the parents separate or the marriage of the
150 parties is dissolved and to encourage parents to share the
151 rights and responsibilities, and joys, of childrearing. There is
152 no presumption for or against the father or mother of the child
153 when creating or modifying the parenting plan of the child.

154 2. The court shall order that the parental responsibility
155 for a minor child be shared by both parents unless the court
156 finds that shared parental responsibility would be detrimental
157 to the child. Evidence that a parent has been convicted of a
158 misdemeanor ~~felony~~ of the first ~~third~~ degree or higher involving
159 domestic violence, as defined in s. 741.28 and chapter 775, or
160 meets the criteria of s. 39.806(1)(d), creates a rebuttable
161 presumption of detriment to the child. If the presumption is not
162 rebutted, shared parental responsibility, including time-sharing
163 with the child, and decisions made regarding the child, may not
164 be granted to the convicted parent. However, the convicted
165 parent is not relieved of any obligation to provide financial
166 support. If the court determines that shared parental
167 responsibility would be detrimental to the child, it may order
168 sole parental responsibility and make such arrangements for

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169 time-sharing as specified in the parenting plan as will best
170 protect the child or abused spouse from further harm. Whether or
171 not there is a conviction of any offense of domestic violence or
172 child abuse or the existence of an injunction for protection
173 against domestic violence, the court shall consider evidence of
174 domestic violence or child abuse as evidence of detriment to the
175 child.

176 a. In ordering shared parental responsibility, the court
177 may consider the expressed desires of the parents and may grant
178 to one party ~~the~~ ultimate responsibility over specific aspects
179 of the child's welfare or may divide those responsibilities
180 between the parties based on the best interests of the child.
181 Areas of responsibility may include education, health care, and
182 any other responsibilities that the court finds unique to a
183 particular family.

184 b. The court shall order "sole parental responsibility for
185 a minor child to one parent, with or without time-sharing with
186 the other parent if"~~when~~ it is in the best interests of the
187 minor child.

188 3. Access to records and information pertaining to a minor
189 child, including, but not limited to, medical, dental, and
190 school records, may not be denied to either parent. Full rights
191 under this subparagraph apply to either parent unless a court
192 order specifically revokes these rights, including any
193 restrictions on these rights as provided in a domestic violence
194 injunction. A parent having rights under this subparagraph has
195 the same rights upon request as to form, substance, and manner
196 of access as are available to the other parent of a child,

197 including, without limitation, the right to in-person
 198 communication with medical, dental, and education providers.

199 (d) The circuit court in the county in which either parent
 200 and the child reside or the circuit court in which the original
 201 order approving or creating the parenting plan was entered may
 202 ~~has jurisdiction to~~ modify the parenting plan. The court may
 203 change the venue in accordance with s. 47.122.

204 (3) For purposes of establishing or modifying parental
 205 responsibility and creating, developing, approving, or modifying
 206 a parenting plan, including a time-sharing schedule, which
 207 governs each parent's relationship with his or her minor child
 208 and the relationship between each parent with regard to his or
 209 her minor child, the best interest of the child shall be the
 210 primary consideration. However, any modification of the plan
 211 requires a showing of a substantial, involuntary change in
 212 circumstances before determining the child's best interests.

213 Determination of the best interests of the child shall be made
 214 by evaluating all of the factors affecting the welfare and
 215 interests of the minor child, including, but not limited to:

216 (a) The demonstrated capacity and disposition of each
 217 parent to facilitate and encourage a close and continuing
 218 parent-child relationship, to honor the time-sharing schedule,
 219 and to be reasonable when changes are required.

220 (b) The anticipated division of parental responsibilities
 221 after the litigation, including the extent to which parental
 222 responsibilities will be delegated to third parties.

223 (c) The demonstrated capacity and disposition of each
 224 parent to determine, consider, and act upon the needs of the

225 child as opposed to the needs or desires of the parent.

226 (d) The length of time the child has lived in a stable,
 227 satisfactory environment and the desirability of maintaining
 228 continuity.

229 (e) The geographic viability of the parenting plan, with
 230 special attention paid to the needs of school-age children and
 231 the amount of time to be spent traveling to effectuate the
 232 parenting plan. This factor does not create a presumption for or
 233 against relocation of either parent with a child.

234 (f) The moral fitness of the parents.

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

236 (h) The home, school, and community record of the child.

237 (i) The reasonable preference of the child, if the court
 238 deems the child to be of sufficient intelligence, understanding,
 239 and experience to express a preference.

240 (j) The demonstrated knowledge, capacity, and disposition
 241 of each parent to be informed of the circumstances of the minor
 242 child, including, but not limited to, the child's friends,
 243 teachers, medical care providers, daily activities, and favorite
 244 things.

245 (k) The demonstrated capacity and disposition of each
 246 parent to provide a consistent routine for the child, such as
 247 discipline, and daily schedules for homework, meals, and
 248 bedtime.

249 (l) The demonstrated capacity of each parent to
 250 communicate with and keep the other parent informed of issues
 251 and activities regarding the minor child, and the willingness of
 252 each parent to adopt a unified front on all major issues when

253 | dealing with the child.

254 | (m) Evidence of domestic violence, sexual violence, child
 255 | abuse, child abandonment, or child neglect, regardless of
 256 | whether a prior or pending action relating to those issues has
 257 | been brought. If the court accepts evidence of prior or pending
 258 | actions regarding domestic violence, sexual violence, child
 259 | abuse, child abandonment, or child neglect, the court must
 260 | specifically acknowledge in writing that such evidence was
 261 | considered when evaluating the best interests of the child.

262 | (n) Evidence that either parent has knowingly provided
 263 | false information to the court regarding any prior or pending
 264 | action regarding domestic violence, sexual violence, child
 265 | abuse, child abandonment, or child neglect.

266 | (o) The particular parenting tasks customarily performed
 267 | by each parent and the division of parental responsibilities
 268 | before the institution of litigation and during the pending
 269 | litigation, including the extent to which parenting
 270 | responsibilities were undertaken by third parties.

271 | (p) The demonstrated capacity and disposition of each
 272 | parent to participate and be involved in the child's school and
 273 | extracurricular activities.

274 | (q) The demonstrated capacity and disposition of each
 275 | parent to maintain an environment for the child which is free
 276 | from substance abuse.

277 | (r) The capacity and disposition of each parent to protect
 278 | the child from the ongoing litigation as demonstrated by not
 279 | discussing the litigation with the child, not sharing documents
 280 | or electronic media related to the litigation with the child,

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281 and refraining from disparaging comments about the other parent
 282 to the child.

283 (s) The developmental stages and needs of the child and
 284 the demonstrated capacity and disposition of each parent to meet
 285 the child's developmental needs.

286 (t) Any other factor that is relevant to the determination
 287 of a specific parenting plan, including the time-sharing
 288 schedule.

289 (6) In any proceeding under this section, the court may
 290 not deny shared parental responsibility and time-sharing rights
 291 to a parent solely because that parent is or is believed to be
 292 infected with human immunodeficiency virus, but the court may,
 293 ~~condition such rights to require that parent~~ in an order
 294 approving the parenting plan, require that parent to observe
 295 measures approved by the Centers for Disease Control and
 296 Prevention of the United States Public Health Service or by the
 297 Department of Health for preventing the spread of human
 298 immunodeficiency virus to the child.

299 Section 3. Section 61.13001, Florida Statutes, is amended
 300 to read:

301 61.13001 Parental relocation with a child.--

302 (1) DEFINITIONS.--As used in this section, the term:

303 ~~(a) "Change of residence address" means the relocation of~~
 304 ~~a child to a principal residence more than 50 miles away from~~
 305 ~~his or her principal place of residence at the time of the entry~~
 306 ~~of the last order establishing or modifying the parenting plan~~
 307 ~~or the time-sharing schedule or both for the minor child, unless~~
 308 ~~the move places the principal residence of the minor child less~~

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309 ~~than 50 miles from either parent.~~

310 (a) ~~(b)~~ "Child" means any person who is under the
311 jurisdiction of a state court pursuant to the Uniform Child
312 Custody Jurisdiction and Enforcement Act or is the subject of
313 any order granting to a parent or other person any right to
314 time-sharing, residential care, kinship, or custody, as provided
315 under state law.

316 (b) ~~(e)~~ "Court" means the circuit court in an original
317 proceeding which has proper venue and jurisdiction in accordance
318 with the Uniform Child Custody Jurisdiction and Enforcement Act,
319 the circuit court in the county in which either parent and the
320 child reside, or the circuit court in which the original action
321 was adjudicated.

322 (c) ~~(d)~~ "Other person" means an individual who is not the
323 parent, but with whom the child resides pursuant to and who, by
324 court order, maintains the primary residence of a child or who
325 has the right of access to and time-sharing with the visitation
326 rights with a child.

327 (d) ~~(e)~~ "Parent" means any person so named by court order
328 or express written agreement who ~~that~~ is subject to court
329 enforcement, or a person reflected as a parent on a birth
330 certificate and who is entitled to access to or time-sharing
331 with the child in whose home a child maintains a residence.

332 (e) ~~(f)~~ "Relocation" means a change in the location of the
333 principal residence of a parent or other person from his or her
334 principal place of residence at the time of the last order
335 establishing or modifying time-sharing or at the time of filing
336 a pending action to establish or modify time-sharing. The change

337 of location must be at least 50 miles from the original place of
 338 residence and for at least ~~child for a period of~~ 60 consecutive
 339 days, not including ~~or more but does not include~~ a temporary
 340 absence from the principal residence for purposes of vacation,
 341 education, or the provision of health care for the child.

342 (2) RELOCATION BY AGREEMENT.--

343 (a) If the parents and every other person entitled to
 344 access to or time-sharing with the child agree to the relocation
 345 of the child, they may satisfy the requirements of this section
 346 by signing a written agreement that:

347 1. Reflects ~~the~~ consent to the relocation;

348 2. Defines an access or ~~a~~ time-sharing schedule for the
 349 nonrelocating parent and any other persons who are entitled to
 350 access or time-sharing; and

351 3. Describes, if necessary, any transportation
 352 arrangements related to access or time-sharing ~~the visitation~~.

353 (b) If there is an existing cause of action, judgment, or
 354 decree of record pertaining to the child's residence or a time-
 355 sharing schedule, the parties shall seek ratification of the
 356 agreement by court order without the necessity of an evidentiary
 357 hearing unless a hearing is requested, in writing, by one or
 358 more of the parties to the agreement within 10 days after the
 359 date the agreement is filed with the court. If a hearing is not
 360 timely requested, it is ~~shall be~~ presumed that the relocation is
 361 in the best interest of the child and the court may ratify the
 362 agreement without an evidentiary hearing.

363 (3) PETITION ~~NOTICE OF INTENT TO RELOCATE WITH A~~
 364 ~~CHILD~~.--Unless an agreement has been entered as described in

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365 subsection (2), a parent or other person seeking relocation must
 366 file a petition to relocate and serve it upon ~~who is entitled to~~
 367 ~~time-sharing with the child shall notify~~ the other parent, and
 368 every other person entitled to access to or time-sharing with
 369 the child, ~~of a proposed relocation of the child's residence.~~
 370 The pleadings must be in accordance with ~~form of notice shall be~~
 371 ~~according to~~ this section:

372 (a) The petition to relocate must be signed under oath
 373 under penalty of perjury and include ~~parent seeking to relocate~~
 374 ~~shall prepare a Notice of Intent to Relocate. The following~~
 375 ~~information must be included with the Notice of Intent to~~
 376 ~~Relocate and signed under oath under penalty of perjury:~~

377 1. A description of the location of the intended new
 378 residence, including the state, city, and specific physical
 379 address, if known.

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

382 3. The home telephone number of the intended new
 383 residence, if known.

384 4. The date of the intended move or proposed relocation.

385 5. A detailed statement of the specific reasons for the
 386 proposed relocation ~~of the child~~. If one of the reasons is based
 387 upon a job offer that ~~which~~ has been reduced to writing, the
 388 ~~that~~ written job offer must be attached to the petition ~~Notice~~
 389 ~~of Intent to Relocate.~~

390 6. A proposal for the revised postrelocation schedule for
 391 access and ~~of~~ time-sharing together with a proposal for the
 392 postrelocation transportation arrangements necessary to

393 effectuate time-sharing with the child. Absent the existence of
 394 a current, valid order abating, terminating, or restricting
 395 access or time-sharing ~~visitation~~ or other good cause predating
 396 the petition ~~Notice of Intent to Relocate~~, failure to comply
 397 with this provision renders the petition ~~Notice of Intent~~ to
 398 relocate legally insufficient.

399 ~~7. Substantially the following statement, in all capital~~
 400 ~~letters and in the same size type, or larger, as the type in the~~
 401 ~~remainder of the notice:~~

402
 403 ~~AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN WRITING,~~
 404 ~~FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON~~
 405 ~~SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE OF THIS NOTICE~~
 406 ~~OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE~~
 407 ~~RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN~~
 408 ~~THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND~~
 409 ~~WITHOUT A HEARING.~~

410 ~~8. The mailing address of the parent or other person~~
 411 ~~seeking to relocate to which the objection filed under~~
 412 ~~subsection (5) to the Notice of Intent to Relocate should be~~
 413 ~~sent.~~

414
 415 ~~The contents of the Notice of Intent to Relocate are not~~
 416 ~~privileged. For purposes of encouraging amicable resolution of~~
 417 ~~the relocation issue, a copy of the Notice of Intent to Relocate~~
 418 ~~shall initially not be filed with the court but instead served~~
 419 ~~upon the nonrelocating parent, other person, and every other~~
 420 ~~person entitled to time sharing with the child, and the original~~

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421 ~~thereof shall be maintained by the parent or other person~~
422 ~~seeking to relocate.~~

423 ~~(b) The parent seeking to relocate shall also prepare a~~
424 ~~Certificate of Serving Notice of Intent to Relocate. The~~
425 ~~certificate shall certify the date that the Notice of Intent to~~
426 ~~Relocate was served on the other parent and on every other~~
427 ~~person entitled to time sharing with the child.~~

428 ~~(b)(e)~~ The petition Notice of Intent to relocate must, and
429 ~~the Certificate of Serving Notice of Intent to Relocate,~~ shall
430 be served on the other parent and on every other person entitled
431 to access to and time-sharing with the child. If there is a
432 pending court action regarding the child, service of process may
433 be according to court rule. Otherwise, service of process shall
434 be according to chapters 48 and 49 or via certified mail,
435 restricted delivery, return receipt requested.

436 ~~(c)(d)~~ A parent or other person seeking to relocate giving
437 ~~notice of a proposed relocation or change of residence address~~
438 ~~under this section~~ has a continuing duty to provide current and
439 updated information required by this section when that
440 information becomes known.

441 ~~(d)(e)~~ If the other parent and any other person entitled
442 to access to or time-sharing with the child fails to timely
443 respond to the petition to relocate ~~file an objection,~~ it is
444 ~~shall be~~ presumed that the relocation is in the best interest of
445 the child, that the relocation should ~~shall~~ be allowed, and that
446 the court shall, absent good cause, enter an order, ~~attaching a~~
447 ~~copy of the Notice of Intent to Relocate,~~ reflecting that the
448 order is entered as a result of the failure to respond to the

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449 ~~petition object to the Notice of Intent to Relocate,~~ and
450 adopting the access and time-sharing schedule and transportation
451 arrangements contained in the ~~petition Notice of Intent to~~
452 ~~Relocate.~~ The order may be issued ~~issue~~ in an expedited manner
453 without the necessity of an evidentiary hearing. If a response
454 ~~an objection~~ is timely filed, the parent or other person may not
455 relocate, and must proceed to a temporary hearing or trial and
456 ~~the burden returns to the parent or person seeking to relocate~~
457 ~~to initiate court proceedings to~~ obtain court permission to
458 relocate ~~before doing so.~~

459 (f) ~~The act of Relocating the child~~ without complying
460 ~~after failure to comply with the~~ requirements of notice of
461 ~~intent to relocate procedure described in~~ this subsection
462 subjects the party in violation ~~thereof~~ to contempt and other
463 proceedings to compel the return of the child and may be taken
464 into account by the court in any initial or postjudgment action
465 seeking a determination or modification of the parenting plan or
466 the access or ~~the~~ time-sharing schedule, ~~or both,~~ as:

467 1. A factor in making a determination regarding the
468 relocation of a child.

469 2. A factor in determining whether the parenting plan or
470 the access or time-sharing schedule should be modified.

471 3. A basis for ordering the temporary or permanent return
472 of the child.

473 4. Sufficient cause to order the parent or other person
474 seeking to relocate the child to pay reasonable expenses and
475 attorney's fees incurred by the party objecting to the
476 relocation.

477 5. Sufficient cause for the award of reasonable attorney's
 478 fees and costs, including interim travel expenses incident to
 479 access or time-sharing or securing the return of the child.

480 (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the parent or
 481 other person seeking to relocate a child, or the child, is
 482 entitled to prevent disclosure of location information under a
 483 ~~any public records exemption applicable to that person~~, the
 484 court may enter any order necessary to modify the disclosure
 485 requirements of this section in compliance with the public
 486 records exemption.

487 (5) ~~CONTENT OF~~ OBJECTION TO RELOCATION.--An answer
 488 objecting to a proposed relocation ~~objection seeking to prevent~~
 489 ~~the relocation of a child~~ must be verified and ~~served within 30~~
 490 ~~days after service of the Notice of Intent to Relocate. The~~
 491 ~~objection~~ must include the specific factual basis supporting the
 492 reasons for seeking a prohibition of the relocation, including a
 493 statement of the amount of participation or involvement the
 494 objecting party currently has or has had in the life of the
 495 child.

496 (6) TEMPORARY ORDER.--

497 (a) The court may grant a temporary order restraining the
 498 relocation of a child, order ~~or ordering~~ the return of the
 499 child, if a relocation has ~~previously~~ taken place, or order
 500 other appropriate remedial relief, if the court finds:

501 1. The petition to relocate is not in accordance with
 502 subsection (3) ~~The required notice of a proposed relocation of a~~
 503 ~~child was not provided in a timely manner;~~

504 2. The child ~~already~~ has been relocated without notice or

505 written agreement of the parties or without court approval; or

506 3. From an examination of the evidence presented at the
 507 preliminary hearing that there is a likelihood that upon final
 508 hearing the court will not approve the relocation of the child.

509 (b) The court may grant a temporary order permitting the
 510 relocation of the child pending final hearing, if the court
 511 finds:

512 1. ~~Finds~~ That the petition ~~required~~ ~~Notice of Intent~~ to
 513 relocate was properly filed and is otherwise in accordance with
 514 subsection (3) ~~provided in a timely manner;~~ and

515 2. ~~Finds~~ From an examination of the evidence presented at
 516 the preliminary hearing, that there is a likelihood that on
 517 final hearing the court will approve the relocation of the
 518 child, which ~~findings~~ must be supported by the same factual
 519 basis as would be necessary to support approving the ~~permitting~~
 520 ~~of~~ relocation in a final judgment.

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

525 (d) If temporary relocation of a child is approved
 526 ~~permitted~~, the court may require the person relocating the child
 527 to provide reasonable security, financial or otherwise, and
 528 guarantee that ~~the~~ court-ordered contact with the child will not
 529 be interrupted or interfered with by the relocating party.

530 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
 531 RELOCATION.--A presumption ~~does not arise~~ in favor of or against
 532 a request to relocate with the child does not arise if ~~when~~ a

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533 | parent or other person seeks to relocate ~~move the child~~ and the
534 | move will materially affect the current schedule of contact,
535 | access, and time-sharing with the nonrelocating parent or other
536 | person. In reaching its decision regarding a proposed temporary
537 | or permanent relocation, the court shall evaluate all of the
538 | following ~~factors~~:

539 | (a) The nature, quality, extent of involvement, and
540 | duration of the child's relationship with the parent or other
541 | person proposing to relocate with the child and with the
542 | nonrelocating parent or other person, ~~other persons~~, siblings,
543 | half-siblings, and other significant persons in the child's
544 | life.

545 | (b) The age and developmental stage of the child, the
546 | needs of the child, and the likely impact the relocation will
547 | have on the child's physical, educational, and emotional
548 | development, taking into consideration any special needs of the
549 | child.

550 | (c) The feasibility of preserving the relationship between
551 | the nonrelocating parent or other person and the child through
552 | substitute arrangements that take into consideration the
553 | logistics of contact, access, and time-sharing, as well as the
554 | financial circumstances of the parties; whether those factors
555 | are sufficient to foster a continuing meaningful relationship
556 | between the child and the nonrelocating parent or other person;
557 | and the likelihood of compliance with the substitute
558 | arrangements by the relocating parent or other person once he or
559 | she is out of the court's jurisdiction ~~of the court~~.

560 | (d) The child's preference, taking into consideration the

561 age and maturity of the child.

562 (e) Whether the relocation will enhance the general
 563 quality of life for both the parent or other person seeking the
 564 relocation and the child, including, but not limited to,
 565 financial or emotional benefits or educational opportunities.

566 (f) The reasons ~~of~~ each parent or other person is for
 567 seeking or opposing the relocation.

568 (g) The current employment and economic circumstances of
 569 each parent or other person and whether ~~or not~~ the proposed
 570 relocation is necessary to improve the economic circumstances of
 571 the parent or other person seeking relocation of the child.

572 (h) That the relocation is sought in good faith and the
 573 extent to which the objecting parent has fulfilled his or her
 574 financial obligations to the parent or other person seeking
 575 relocation, including child support, spousal support, and
 576 marital property and marital debt obligations.

577 (i) The career and other opportunities available to the
 578 objecting parent or ~~objecting~~ other person if the relocation
 579 occurs.

580 (j) A history of substance abuse or domestic violence as
 581 defined in s. 741.28 or which meets the criteria of s.
 582 39.806(1)(d) by either parent, including ~~a~~ consideration of the
 583 severity of such conduct and the failure or success of any
 584 attempts at rehabilitation.

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

587 (8) BURDEN OF PROOF.--The parent or other person wishing
 588 to relocate has the burden of proving ~~proof if an objection is~~

589 ~~filed and must then initiate a proceeding seeking court~~
 590 ~~permission for relocation. The initial burden is on the parent~~
 591 ~~or person wishing to relocate to prove by a preponderance of the~~
 592 evidence that relocation is in the best interest of the child.
 593 If that burden of proof is met, the burden shifts to the
 594 nonrelocating parent or other person to show by a preponderance
 595 of ~~the~~ evidence that the proposed relocation is not in the best
 596 interest of the child.

597 (9) ORDER REGARDING RELOCATION.--If relocation is approved
 598 ~~permitted~~:

599 (a) The court may, ~~in its discretion,~~ order contact with
 600 the nonrelocating parent or other person, including access,
 601 time-sharing, telephone, Internet, webcam, and other
 602 arrangements sufficient to ensure that the child has frequent,
 603 continuing, and meaningful contact, ~~access, and time-sharing~~
 604 with the nonrelocating parent or other person ~~persons~~, if
 605 contact is financially affordable and in the best interest of
 606 the child.

607 (b) If applicable, the court shall specify how the
 608 transportation costs are to ~~will~~ be allocated between the
 609 parents and other persons entitled to contact, access, and time-
 610 sharing and may adjust the child support award, as appropriate,
 611 considering the costs of transportation and the respective net
 612 incomes of the parents or other persons in accordance with the
 613 state child support guidelines schedule.

614 (10) PRIORITY FOR HEARING OR TRIAL.--An evidentiary
 615 hearing or nonjury trial on a pleading seeking temporary or
 616 permanent relief filed under this section shall be accorded

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617 | priority on the court's calendar. If a motion seeking a
618 | temporary relocation is filed, absent good cause, the hearing
619 | must occur within 30 days. Once the notice to set cause for a
620 | nonjury trial is filed, absent good cause, the nonjury trial
621 | must occur within 90 days.

622 | (11) APPLICABILITY.--

623 | (a) This section applies:

624 | 1. To orders entered before October 1, 2009 ~~2006~~, if the
625 | existing order defining custody, primary residence, the
626 | parenting plan, time-sharing, or access to visitation of or with
627 | the child does not expressly govern the relocation of the child.

628 | 2. To an order, whether temporary or permanent, regarding
629 | the parenting plan, custody, primary residence, time-sharing, or
630 | access to visitation of or with the child entered on or after
631 | October 1, 2009 ~~2006~~.

632 | 3. To any relocation or proposed relocation, whether
633 | permanent or temporary, of a child during any proceeding pending
634 | on October 1, 2009 ~~2006~~, wherein the parenting plan, custody,
635 | primary residence, time-sharing, or access to visitation of or
636 | ~~with~~ the child is an issue.

637 | (b) To the extent that a provision of this section
638 | conflicts with an order existing on October 1, 2009 ~~2006~~, this
639 | section does not apply to the terms of that order which
640 | expressly govern relocation of the child or a change in the
641 | principal residence address of a parent or other person.

642 | Section 4. Subsection (1) of section 61.183, Florida
643 | Statutes, is amended to read:

644 | 61.183 Mediation of certain contested issues.--

645 (1) In any proceeding in which the issues of parental
 646 responsibility, primary residence, access to ~~visitation~~, or
 647 support of a child are contested, the court may refer the
 648 parties to mediation in accordance with rules promulgated by the
 649 Supreme Court. In Title IV-D cases, any costs, including filing
 650 fees, recording fees, mediation costs, service of process fees,
 651 and other expenses incurred by the clerk of the circuit court,
 652 shall be assessed only against the nonprevailing obligor after
 653 the court makes a determination of the nonprevailing obligor's
 654 ability to pay such costs and fees.

655 Section 5. Subsection (3) of section 61.20, Florida
 656 Statutes, is amended to read:

657 61.20 Social investigation and recommendations regarding a
 658 parenting plan.--

659 (3) Except as to persons who obtain certification of
 660 indigence as provided ~~specified~~ in subsection (2), for whom no
 661 costs are ~~shall be~~ incurred, the parents ~~adult parties~~ involved
 662 in a proceeding to determine a parenting plan where ~~wherein~~ the
 663 court has ordered the performance of a social investigation and
 664 study are ~~shall be~~ responsible for the payment of the costs of
 665 such investigation and study. Upon submission of the study to
 666 the court, the agency, staff, or person performing the study
 667 shall include a bill for services, which shall be taxed and
 668 ordered paid as costs in the proceeding.

669 Section 6. Paragraph (a) of subsection (2) and subsections
 670 (5) and (9) of section 61.21, Florida Statutes, are amended to
 671 read:

672 61.21 Parenting course authorized; fees; required

673 attendance authorized; contempt.--

674 (2) The Department of Children and Family Services shall
 675 approve a parenting course which shall be a course of a minimum
 676 of 4 hours designed to educate, train, and assist divorcing
 677 parents in regard to the consequences of divorce on parents and
 678 children.

679 (a) The parenting course referred to in this section shall
 680 be named the Parent Education and Family Stabilization Course
 681 and may include, but need not be limited to, the following
 682 topics as they relate to court actions between parents involving
 683 custody, care, access to ~~visitation~~, and support of a child or
 684 children:

- 685 1. Legal aspects of deciding child-related issues between
 686 parents.
- 687 2. Emotional aspects of separation and divorce on adults.
- 688 3. Emotional aspects of separation and divorce on
 689 children.
- 690 4. Family relationships and family dynamics.
- 691 5. Financial responsibilities to a child or children.
- 692 6. Issues regarding spousal or child abuse and neglect.
- 693 7. Skill-based relationship education that may be
 694 generalized to parenting, workplace, school, neighborhood, and
 695 civic relationships.

696 (5) All parties required to complete a parenting course
 697 under this section shall begin the course as expeditiously as
 698 possible. For dissolution of marriage actions, unless excused by
 699 the court pursuant to subsection (4), the petitioner must
 700 complete the course within 45 days after the filing of the

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701 petition, and all other parties must complete the course within
 702 45 days after service of the petition. For paternity actions,
 703 unless excused by the court pursuant to subsection (4), the
 704 petitioner must complete the course within 45 days after filing
 705 the petition, and any other party must complete the course
 706 within 45 days after an acknowledgment of paternity by that
 707 party, an adjudication of paternity of that party, or an order
 708 granting access ~~visitation~~ to or support from that party. Each
 709 party to a dissolution or paternity action shall file proof of
 710 compliance with this subsection with the court prior to the
 711 entry of the final judgment.

712 (9) The court may hold any parent who fails to attend a
 713 required parenting course in contempt, or that parent may be
 714 denied shared parental responsibility or access ~~visitation~~ or
 715 otherwise sanctioned as the court deems appropriate.

716 Section 7. Paragraph (b) of subsection (11) of section
 717 61.30, Florida Statutes, is amended to read:

718 61.30 Child support guidelines; retroactive child
 719 support.--

720 (11)

721 (b) Whenever a particular parenting plan provides that
 722 each child spend a substantial amount of time with each parent,
 723 the court shall adjust any award of child support, as follows:

724 1. In accordance with subsections (9) and (10), calculate
 725 the amount of support obligation apportioned to each parent
 726 without including day care and health insurance costs in the
 727 calculation and multiply the amount by 1.5.

728 2. Calculate the percentage of overnight stays the child

729 spends with each parent.

730 3. Multiply each parent's support obligation as calculated
 731 in subparagraph 1. by the percentage of the other parent's
 732 overnight stays with the child as calculated in subparagraph 2.

733 4. The difference between the amounts calculated in
 734 subparagraph 3. shall be the monetary transfer necessary between
 735 the parents for the care of the child, subject to an adjustment
 736 for day care and health insurance expenses.

737 5. Pursuant to subsections (7) and (8), calculate the net
 738 amounts owed by each parent for the expenses incurred for day
 739 care and health insurance coverage for the child. Day care shall
 740 be calculated without regard to the 25-percent reduction applied
 741 by subsection (7).

742 6. Adjust the support obligation owed by each parent
 743 pursuant to subparagraph 4. by crediting or debiting the amount
 744 calculated in subparagraph 5. This amount represents the child
 745 support which must be exchanged between the parents.

746 7. The court may deviate from the child support amount
 747 calculated pursuant to subparagraph 6. based upon the deviation
 748 factors in paragraph (a), as well as the obligee parent's low
 749 income and ability to maintain the basic necessities of the home
 750 for the child, the likelihood that either parent will actually
 751 exercise the time-sharing schedule set forth in the parenting
 752 plan granted by the court, and whether all of the children are
 753 exercising the same time-sharing schedule.

754 8. For purposes of adjusting any award of child support
 755 under this paragraph, "substantial amount of time" means that a
 756 parent exercises access ~~visitation~~ at least 40 percent of the

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757 overnights of the year.

758 Section 8. Paragraph (a) of subsection (5) of section
759 741.30, Florida Statutes, is amended to read:

760 741.30 Domestic violence; injunction; powers and duties of
761 court and clerk; petition; notice and hearing; temporary
762 injunction; issuance of injunction; statewide verification
763 system; enforcement.--

764 (5) (a) If ~~When~~ it appears to the court that an immediate
765 and present danger of domestic violence exists, the court may
766 grant a temporary injunction ex parte, pending a full hearing,
767 and may grant such relief as the court deems proper, including
768 an injunction:

769 1. Restraining the respondent from committing any acts of
770 domestic violence.

771 2. Awarding to the petitioner the temporary exclusive use
772 and possession of the dwelling that the parties share or
773 excluding the respondent from the residence of the petitioner.

774 3. On the same basis as provided in s. 61.13, providing
775 the petitioner a temporary parenting plan, including a time-
776 sharing schedule, which may award the petitioner up to with 100
777 percent of the time-sharing. The temporary parenting plan
778 remains ~~that shall remain~~ in effect until the order expires or
779 an order is entered by a court of competent jurisdiction in a
780 pending or subsequent civil action or proceeding affecting the
781 placement of, access to, parental time with, adoption of, or
782 parental rights and responsibilities for the minor child.

783 Section 9. This act shall take effect July 1, 2009.