



329914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2009	.	
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The Committee on Children, Families, and Elder Affairs (Rich) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

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

(13) "Parenting plan" means a document created to govern the relationship between the parents ~~parties~~ relating to ~~the~~ decisions that must be made regarding the minor child and must ~~shall~~ contain a time-sharing schedule for the parents and child.



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12 The issues concerning the minor child may include, but are not  
13 limited to, the child's education, health care, and physical,  
14 social, and emotional well-being. In creating the plan, all  
15 circumstances between the parents parties, including their the  
16 parties' historic relationship, domestic violence, and other  
17 factors must be taken into consideration.

18 (a) The parenting plan must shall be:

19 1. Developed and agreed to by the parents and approved by a  
20 court; or

21 2. If the parents cannot agree or their agreed plan is not  
22 approved by the court, established by the court with or without  
23 the use of a court-ordered parenting plan recommendation.

24 (b) ~~(a)~~ Any parenting plan formulated under this chapter  
25 must address all jurisdictional issues, including, ~~but not~~  
26 ~~limited to~~, the Uniform Child Custody Jurisdiction and  
27 Enforcement Act, part II of this chapter, the International  
28 Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the  
29 Parental Kidnapping Prevention Act, and the Convention on the  
30 Civil Aspects of International Child Abduction enacted at the  
31 Hague on October 25, 1980.

32 (c) ~~(b)~~ For purposes of the ~~application of the~~ Uniform Child  
33 Custody Jurisdiction and Enforcement Act, part II of this  
34 chapter, a judgment or order incorporating a parenting plan  
35 under this part is a child custody determination under part II  
36 of this chapter.

37 (d) ~~(c)~~ For purposes of the International Child Abduction  
38 Remedies Act, 42 U.S.C. ss. 11601 et seq., and the Convention on  
39 the Civil Aspects of International Child Abduction, enacted at  
40 the Hague on October 25, 1980, rights of custody and rights of



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41 access are ~~shall be~~ determined pursuant to ~~under~~ the parenting  
42 plan under this part.

43 (14) "Parenting plan recommendation" means a nonbinding  
44 recommendation concerning one or more elements of a parenting  
45 plan made by a court-appointed mental health practitioner or  
46 other professional designated pursuant to s. 61.20, s. 61.401,  
47 or Florida Family Law Rules of Procedure 12.363 ~~psychologist~~  
48 ~~licensed under chapter 490.~~

49 Section 2. Paragraph (d) of subsection (1) and subsections  
50 (2), (3), and (6) of section 61.13, Florida Statutes, are  
51 amended to read:

52 61.13 Support of children; parenting and time-sharing;  
53 powers of court.-

54 (1)

55 (d)1. Unless the provisions of subparagraph 2. ~~3.~~ apply,  
56 all child support orders must require ~~entered on or after~~  
57 January 1, 1985, ~~shall direct that~~ child support ~~the payments be~~  
58 made of child support be made as provided in s. 61.181 through  
59 the depository in the county where the court is located as  
60 provided in s. 61.181. All child support orders must ~~shall~~  
61 provide the full name and date of birth of each minor child who  
62 is the subject of the child support order.

63 ~~2. Unless the provisions of subparagraph 3. apply, all~~  
64 ~~child support orders entered before January 1, 1985, shall be~~  
65 ~~modified by the court to direct that payments of child support~~  
66 ~~shall be made through the depository in the county where the~~  
67 ~~court is located upon the subsequent appearance of either or~~  
68 ~~both parents to modify or enforce the order, or in any related~~  
69 ~~proceeding.~~



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70           ~~2.3.~~ If both parties request and the court finds that it is  
71 in the best interest of the child, support payments need not be  
72 directed through the depository. The order of support must ~~shall~~  
73 provide, or shall be deemed to provide, that either party may  
74 subsequently apply to the depository to require that direction  
75 ~~of~~ the payments be made through the depository. The court shall  
76 provide a copy of the order to the depository.

77           ~~3.4.~~ If the parties elect not to require that support  
78 payments be made through the depository, any party may  
79 subsequently file an affidavit with the depository alleging a  
80 default in payment of child support and stating that the party  
81 wishes to require that payments be made through the depository.  
82 The party shall provide copies of the affidavit to the court and  
83 to the ~~each~~ other party. Fifteen days after receipt of the  
84 affidavit, the depository shall notify both parties that future  
85 payments must ~~shall~~ be paid through the depository.

86           ~~4.5.~~ In IV-D cases, the IV-D agency has ~~shall have~~ the same  
87 rights as the obligee in requesting that payments be made  
88 through the depository.

89           (2) (a) The court may ~~shall have jurisdiction to~~ approve,  
90 grant, or modify a parenting plan, notwithstanding that the  
91 child is not physically present in this state at the time of  
92 filing any proceeding under this chapter, if it appears to the  
93 court that the child was removed from this state for the primary  
94 purpose of removing the child from the court's jurisdiction ~~of~~  
95 ~~the court~~ in an attempt to avoid the court's approval, creation,  
96 or modification of a parenting plan.

97           (b) A ~~Any~~ parenting plan approved by the court must, at a  
98 minimum, describe in adequate detail how the parents will share



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99 and be responsible for the daily tasks associated with the  
100 upbringing of the child;~~7~~ the time-sharing schedule arrangements  
101 that specify the time that the minor child will spend with each  
102 parent;~~7~~ a designation of who will be responsible for any and  
103 all forms of health care, school-related matters including the  
104 address to be used for school-boundary determination and  
105 registration, and other activities;~~7~~ and the methods and  
106 technologies that the parents will use to communicate with the  
107 child.

108 (c)~~4~~. The court shall determine all matters relating to  
109 parenting and time-sharing of each minor child of the parties in  
110 accordance with the best interests of the child and in  
111 accordance with the Uniform Child Custody Jurisdiction and  
112 Enforcement Act, except that modification of a parenting plan  
113 and time-sharing schedule requires a showing of a substantial,  
114 material, and unanticipated change of circumstances.

115 1. It is the public policy of this state ~~to assure~~ that  
116 each minor child has frequent and continuing contact with both  
117 parents after the parents separate or the marriage of the  
118 parties is dissolved and to encourage parents to share the  
119 rights and responsibilities, and joys, of childrearing. There is  
120 no presumption for or against the father or mother of the child  
121 or for or against any specific time-sharing schedule when  
122 creating or modifying the parenting plan of the child.

123 2. The court shall order that the parental responsibility  
124 for a minor child be shared by both parents unless the court  
125 finds that shared parental responsibility would be detrimental  
126 to the child. Evidence that a parent has been convicted of a  
127 misdemeanor ~~felony~~ of the first ~~third~~ degree or higher involving



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128 domestic violence, as defined in s. 741.28 and chapter 775, or  
129 meets the criteria of s. 39.806(1)(d), creates a rebuttable  
130 presumption of detriment to the child. If the presumption is not  
131 rebutted, shared parental responsibility, including time-sharing  
132 with the child, and decisions made regarding the child, may not  
133 be granted to the convicted parent. However, the convicted  
134 parent is not relieved of any obligation to provide financial  
135 support. If the court determines that shared parental  
136 responsibility would be detrimental to the child, it may order  
137 sole parental responsibility and make such arrangements for  
138 time-sharing as specified in the parenting plan as will best  
139 protect the child or abused spouse from further harm. Whether or  
140 not there is a conviction of any offense of domestic violence or  
141 child abuse or the existence of an injunction for protection  
142 against domestic violence, the court shall consider evidence of  
143 domestic violence or child abuse as evidence of detriment to the  
144 child.

145 a. In ordering shared parental responsibility, the court  
146 may consider the expressed desires of the parents and may grant  
147 to one party the ultimate responsibility over specific aspects  
148 of the child's welfare or may divide those responsibilities  
149 between the parties based on the best interests of the child.  
150 Areas of responsibility may include education, health care, and  
151 any other responsibilities that the court finds unique to a  
152 particular family.

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



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157           3. Access to records and information pertaining to a minor  
158 child, including, but not limited to, medical, dental, and  
159 school records, may not be denied to either parent. Full rights  
160 under this subparagraph apply to either parent unless a court  
161 order specifically revokes these rights, including any  
162 restrictions on these rights as provided in a domestic violence  
163 injunction. A parent having rights under this subparagraph has  
164 the same rights upon request as to form, substance, and manner  
165 of access as are available to the other parent of a child,  
166 including, without limitation, the right to in-person  
167 communication with medical, dental, and education providers.

168           (d) The circuit court in the county in which either parent  
169 and the child reside or the circuit court in which the original  
170 order approving or creating the parenting plan was entered may  
171 ~~has jurisdiction to~~ modify the parenting plan. The court may  
172 change the venue in accordance with s. 47.122.

173           (3) For purposes of establishing or modifying parental  
174 responsibility and creating, developing, approving, or modifying  
175 a parenting plan, including a time-sharing schedule, which  
176 governs each parent's relationship with his or her minor child  
177 and the relationship between each parent with regard to his or  
178 her minor child, the best interest of the child shall be the  
179 primary consideration. A determination of parental  
180 responsibility, a parenting plan, or a time-sharing schedule may  
181 not be modified without a showing of a substantial, material,  
182 and unanticipated change in circumstances and a determination  
183 that the modification is in the best interests of the child.  
184 Determination of the best interests of the child shall be made  
185 by evaluating all of the factors affecting the welfare and



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186 interests of the particular minor child and the circumstances of  
187 that family, including, but not limited to:

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

192 (b) The anticipated division of parental responsibilities  
193 after the litigation, including the extent to which parental  
194 responsibilities will be delegated to third parties.

195 (c) The demonstrated capacity and disposition of each  
196 parent to determine, consider, and act upon the needs of the  
197 child as opposed to the needs or desires of the parent.

198 (d) The length of time the child has lived in a stable,  
199 satisfactory environment and the desirability of maintaining  
200 continuity.

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

206 (f) The moral fitness of the parents.

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

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

209 (i) The reasonable preference of the child, if the court  
210 deems the child to be of sufficient intelligence, understanding,  
211 and experience to express a preference.

212 (j) The demonstrated knowledge, capacity, and disposition  
213 of each parent to be informed of the circumstances of the minor  
214 child, including, but not limited to, the child's friends,





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215 teachers, medical care providers, daily activities, and favorite  
216 things.

217 (k) The demonstrated capacity and disposition of each  
218 parent to provide a consistent routine for the child, such as  
219 discipline, and daily schedules for homework, meals, and  
220 bedtime.

221 (l) The demonstrated capacity of each parent to communicate  
222 with and keep the other parent informed of issues and activities  
223 regarding the minor child, and the willingness of each parent to  
224 adopt a unified front on all major issues when dealing with the  
225 child.

226 (m) Evidence of domestic violence, sexual violence, child  
227 abuse, child abandonment, or child neglect, regardless of  
228 whether a prior or pending action relating to those issues has  
229 been brought. If the court accepts evidence of prior or pending  
230 actions regarding domestic violence, sexual violence, child  
231 abuse, child abandonment, or child neglect, the court must  
232 specifically acknowledge in writing that such evidence was  
233 considered when evaluating the best interests of the child.

234 (n) Evidence that either parent has knowingly provided  
235 false information to the court regarding any prior or pending  
236 action regarding domestic violence, sexual violence, child  
237 abuse, child abandonment, or child neglect.

238 (o) The particular parenting tasks customarily performed by  
239 each parent and the division of parental responsibilities before  
240 the institution of litigation and during the pending litigation,  
241 including the extent to which parenting responsibilities were  
242 undertaken by third parties.

243 (p) The demonstrated capacity and disposition of each



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244 parent to participate and be involved in the child's school and  
245 extracurricular activities.

246 (q) The demonstrated capacity and disposition of each  
247 parent to maintain an environment for the child which is free  
248 from substance abuse.

249 (r) The capacity and disposition of each parent to protect  
250 the child from the ongoing litigation as demonstrated by not  
251 discussing the litigation with the child, not sharing documents  
252 or electronic media related to the litigation with the child,  
253 and refraining from disparaging comments about the other parent  
254 to the child.

255 (s) The developmental stages and needs of the child and the  
256 demonstrated capacity and disposition of each parent to meet the  
257 child's developmental needs.

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

261 (6) In any proceeding under this section, the court may not  
262 deny shared parental responsibility and time-sharing rights to a  
263 parent solely because that parent is or is believed to be  
264 infected with human immunodeficiency virus, but the court may,  
265 ~~condition such rights to require that parent~~ in an order  
266 approving the parenting plan, require that parent to observe  
267 measures approved by the Centers for Disease Control and  
268 Prevention of the United States Public Health Service or by the  
269 Department of Health for preventing the spread of human  
270 immunodeficiency virus to the child.

271 Section 3. Section 61.13001, Florida Statutes, is amended  
272 to read:



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273 61.13001 Parental relocation with a child.-

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

275 ~~(a) "Change of residence address" means the relocation of a~~  
276 ~~child to a principal residence more than 50 miles away from his~~  
277 ~~or her principal place of residence at the time of the entry of~~  
278 ~~the last order establishing or modifying the parenting plan or~~  
279 ~~the time sharing schedule or both for the minor child, unless~~  
280 ~~the move places the principal residence of the minor child less~~  
281 ~~than 50 miles from either parent.~~

282 (a) ~~(b)~~ "Child" means any person who is under the  
283 jurisdiction of a state court pursuant to the Uniform Child  
284 Custody Jurisdiction and Enforcement Act or is the subject of  
285 any order granting to a parent or other person any right to  
286 time-sharing, residential care, kinship, or custody, as provided  
287 under state law.

288 (b) ~~(c)~~ "Court" means the circuit court in an original  
289 proceeding which has proper venue and jurisdiction in accordance  
290 with the Uniform Child Custody Jurisdiction and Enforcement Act,  
291 the circuit court in the county in which either parent and the  
292 child reside, or the circuit court in which the original action  
293 was adjudicated.

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

299 (d) ~~(e)~~ "Parent" means any person so named by court order or  
300 express written agreement who ~~that~~ is subject to court  
301 enforcement or a person reflected as a parent on a birth



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302 certificate and who is entitled to access to or time-sharing  
303 with the child in whose home a child maintains a residence.

304 (e) (f) "Relocation" means a change in the location of the  
305 principal residence of a parent or other person from his or her  
306 principal place of residence at the time of the last order  
307 establishing or modifying time-sharing, or at the time of filing  
308 the pending action to establish or modify time-sharing. The  
309 change of location must be at least 50 miles from the original  
310 place of residence, and for at least child for a period of 60  
311 consecutive days not including or more but does not include a  
312 temporary absence from the principal residence for purposes of  
313 vacation, education, or the provision of health care for the  
314 child.

315 (2) RELOCATION BY AGREEMENT.—

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

- 320 1. Reflects ~~the~~ consent to the relocation;
- 321 2. Defines an access or a time-sharing schedule for the  
322 nonrelocating parent and any other persons who are entitled to  
323 access or time-sharing; and
- 324 3. Describes, if necessary, any transportation arrangements  
325 related to access or time-sharing ~~the visitation.~~

326 (b) If there is an existing cause of action, judgment, or  
327 decree of record pertaining to the child's residence or a time-  
328 sharing schedule, the parties shall seek ratification of the  
329 agreement by court order without the necessity of an evidentiary  
330 hearing unless a hearing is requested, in writing, by one or



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331 more of the parties to the agreement within 10 days after the  
332 date the agreement is filed with the court. If a hearing is not  
333 timely requested, it shall be presumed that the relocation is in  
334 the best interest of the child and the court may ratify the  
335 agreement without an evidentiary hearing.

336 (3) PETITION NOTICE OF INTENT TO RELOCATE WITH A CHILD.—  
337 Unless an agreement has been entered as described in subsection  
338 (2), a parent or other person seeking relocation must file a  
339 petition to relocate and serve it upon ~~who is entitled to time-~~  
340 ~~sharing with the child shall notify~~ the other parent, and every  
341 other person entitled to access to or time-sharing with the  
342 child, ~~of a proposed relocation of the child's residence.~~ The  
343 pleadings must be in accordance with ~~form of notice shall be~~  
344 ~~according to~~ this section:

345 (a) The petition to relocate must be signed under oath or  
346 affirmation under penalty of perjury and include ~~parent seeking~~  
347 ~~to relocate shall prepare a Notice of Intent to Relocate. The~~  
348 ~~following information must be included with the Notice of Intent~~  
349 ~~to Relocate and signed under oath under penalty of perjury:~~

350 1. A description of the location of the intended new  
351 residence, including the state, city, and specific physical  
352 address, if known.

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

355 3. The home telephone number of the intended new residence,  
356 if known.

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

358 5. A detailed statement of the specific reasons for the  
359 proposed relocation ~~of the child.~~ If one of the reasons is based



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360 upon a job offer that ~~which~~ has been reduced to writing, the  
361 ~~that~~ written job offer must be attached to the petition Notice  
362 ~~of Intent to Relocate~~.

363 6. A proposal for the revised postrelocation schedule for  
364 access and ~~of~~ time-sharing together with a proposal for the  
365 postrelocation transportation arrangements necessary to  
366 effectuate time-sharing with the child. Absent the existence of  
367 a current, valid order abating, terminating, or restricting  
368 access or time-sharing ~~visitation~~ or other good cause predating  
369 the petition Notice of Intent to Relocate, failure to comply  
370 with this provision renders the petition Notice of Intent to  
371 relocate legally insufficient.

372 7. Substantially the following statement, in all capital  
373 letters and in the same size type, or larger, as the type in the  
374 remainder of the notice:

375  
376 A RESPONSE AN OBJECTION TO THE PETITION OBJECTING TO PROPOSED  
377 RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT, AND  
378 SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN  
379 20 30 DAYS AFTER SERVICE OF THIS PETITION NOTICE OF INTENT TO  
380 RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE  
381 RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST  
382 INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A  
383 HEARING.

384 ~~8. The mailing address of the parent or other person~~  
385 ~~seeking to relocate to which the objection filed under~~  
386 ~~subsection (5) to the Notice of Intent to Relocate should be~~  
387 ~~sent.~~

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389 ~~The contents of the Notice of Intent to Relocate are not~~  
390 ~~privileged. For purposes of encouraging amicable resolution of~~  
391 ~~the relocation issue, a copy of the Notice of Intent to Relocate~~  
392 ~~shall initially not be filed with the court but instead served~~  
393 ~~upon the nonrelocating parent, other person, and every other~~  
394 ~~person entitled to time-sharing with the child, and the original~~  
395 ~~thereof shall be maintained by the parent or other person~~  
396 ~~seeking to relocate.~~

397 ~~(b) The parent seeking to relocate shall also prepare a~~  
398 ~~Certificate of Serving Notice of Intent to Relocate. The~~  
399 ~~certificate shall certify the date that the Notice of Intent to~~  
400 ~~Relocate was served on the other parent and on every other~~  
401 ~~person entitled to time-sharing with the child.~~

402 ~~(b)(e) The petition Notice of Intent to relocate must, and~~  
403 ~~the Certificate of Serving Notice of Intent to Relocate, shall~~  
404 ~~be served on the other parent and on every other person entitled~~  
405 ~~to access to and time-sharing with the child. If there is a~~  
406 ~~pending court action regarding the child, service of process may~~  
407 ~~be according to court rule. Otherwise, service of process shall~~  
408 ~~be according to chapters 48 and 49 or via certified mail,~~  
409 ~~restricted delivery, return receipt requested.~~

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

415 ~~(d)(e) If the other parent and any other person entitled to~~  
416 ~~access to or time-sharing with the child fails to timely file a~~  
417 ~~response objecting to the petition to relocate an objection, it~~



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418 ~~is shall be~~ presumed that the relocation is in the best interest  
419 of the child ~~and that,~~ the relocation should ~~shall~~ be allowed,  
420 and the court shall, absent good cause, enter an order  
421 specifying, ~~attaching a copy of the Notice of Intent to~~  
422 ~~Relocate,~~ reflecting that the order is entered as a result of  
423 the failure to respond to the petition ~~object to the Notice of~~  
424 ~~Intent to Relocate,~~ and adopting the access and time-sharing  
425 schedule and transportation arrangements contained in the  
426 petition ~~Notice of Intent to Relocate.~~ The order may be issued  
427 ~~issue~~ in an expedited manner without the necessity of an  
428 evidentiary hearing. If a response ~~an objection~~ is timely filed,  
429 the parent or other person may not relocate, and must proceed to  
430 a temporary hearing or trial and ~~burden returns to the parent or~~  
431 ~~person seeking to relocate to initiate court proceedings to~~  
432 obtain court permission to relocate ~~before doing so.~~

433 ~~(e)-(f)~~ ~~The act of~~ Relocating the child without complying  
434 ~~after failure to comply with the~~ requirements of notice of  
435 ~~intent to relocate procedure described in~~ this subsection  
436 subjects the party in violation ~~thereof~~ to contempt and other  
437 proceedings to compel the return of the child and may be taken  
438 into account by the court in any initial or postjudgment action  
439 seeking a determination or modification of the parenting plan or  
440 the access or ~~the~~ time-sharing schedule, ~~or both,~~ as:

441 1. A factor in making a determination regarding the  
442 relocation of a child.

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

445 3. A basis for ordering the temporary or permanent return  
446 of the child.





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447           4. Sufficient cause to order the parent or other person  
448 seeking to relocate the child to pay reasonable expenses and  
449 attorney's fees incurred by the party objecting to the  
450 relocation.

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

454           (4) APPLICABILITY OF PUBLIC RECORDS LAW.—If the parent or  
455 other person seeking to relocate a child, or the child, is  
456 entitled to prevent disclosure of location information under a  
457 any public records exemption ~~applicable to that person~~, the  
458 court may enter any order necessary to modify the disclosure  
459 requirements of this section in compliance with the public  
460 records exemption.

461           (5) ~~CONTENT OF~~ OBJECTION TO RELOCATION.—An answer objecting  
462 to a proposed relocation ~~objection seeking to prevent the~~  
463 ~~relocation of a child~~ must be verified and ~~served within 30 days~~  
464 ~~after service of the Notice of Intent to Relocate. The objection~~  
465 ~~must~~ include the specific factual basis supporting the reasons  
466 for seeking a prohibition of the relocation, including a  
467 statement of the amount of participation or involvement the  
468 objecting party currently has or has had in the life of the  
469 child.

470           (6) TEMPORARY ORDER.—

471           (a) The court may grant a temporary order restraining the  
472 relocation of a child, order ~~or ordering~~ the return of the  
473 child, if a relocation has previously taken place, or order  
474 other appropriate remedial relief, if the court finds:

475           1. That the petition to relocate does not comply with



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476 subsection (3) ~~The required notice of a proposed relocation of a~~  
477 ~~child was not provided in a timely manner;~~

478 2. That the child ~~already~~ has been relocated without a  
479 ~~notice or~~ written agreement of the parties or without court  
480 approval; or

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

484 (b) The court may grant a temporary order permitting the  
485 relocation of the child pending final hearing, if the court  
486 finds:

487 1. ~~Find~~s That the petition ~~required Notice of Intent~~ to  
488 relocate was properly filed and is otherwise in compliance with  
489 subsection (3) ~~provided in a timely manner;~~ and

490 2. ~~Find~~s From an examination of the evidence presented at  
491 the preliminary hearing, that there is a likelihood that on  
492 final hearing the court will approve the relocation of the  
493 child, which findings must be supported by the same factual  
494 basis as would be necessary to support approving the ~~permitting~~  
495 ~~of~~ relocation in a final judgment.

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

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



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505 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED  
506 RELOCATION.—A presumption ~~does not arise~~ in favor of or against  
507 a request to relocate with the child does not arise if ~~when~~ a  
508 parent or other person seeks to relocate ~~move the child~~ and the  
509 move will materially affect the current schedule of contact,  
510 access, and time-sharing with the nonrelocating parent or other  
511 person. In reaching its decision regarding a proposed temporary  
512 or permanent relocation, the court shall evaluate all of the  
513 following ~~factors~~:

514 (a) The nature, quality, extent of involvement, and  
515 duration of the child's relationship with the parent or other  
516 person proposing to relocate with the child and with the  
517 nonrelocating parent, other persons, siblings, half-siblings,  
518 and other significant persons in the child's life.

519 (b) The age and developmental stage of the child, the needs  
520 of the child, and the likely impact the relocation will have on  
521 the child's physical, educational, and emotional development,  
522 taking into consideration any special needs of the child.

523 (c) The feasibility of preserving the relationship between  
524 the nonrelocating parent or other person and the child through  
525 substitute arrangements that take into consideration the  
526 logistics of contact, access, and time-sharing, as well as the  
527 financial circumstances of the parties; whether those factors  
528 are sufficient to foster a continuing meaningful relationship  
529 between the child and the nonrelocating parent or other person;  
530 and the likelihood of compliance with the substitute  
531 arrangements by the relocating parent or other person once he or  
532 she is out of the jurisdiction of the court.

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



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534 age and maturity of the child.

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

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

541 (g) The current employment and economic circumstances of  
542 each parent or other person and whether ~~or not~~ the proposed  
543 relocation is necessary to improve the economic circumstances of  
544 the parent or other person seeking relocation of the child.

545 (h) That the relocation is sought in good faith and the  
546 extent to which the objecting parent has fulfilled his or her  
547 financial obligations to the parent or other person seeking  
548 relocation, including child support, spousal support, and  
549 marital property and marital debt obligations.

550 (i) The career and other opportunities available to the  
551 objecting parent or ~~objecting~~ other person if the relocation  
552 occurs.

553 (j) A history of substance abuse or domestic violence as  
554 defined in s. 741.28 or which meets the criteria of s.  
555 39.806(1)(d) by either parent, including a consideration of the  
556 severity of such conduct and the failure or success of any  
557 attempts at rehabilitation.

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

560 (8) BURDEN OF PROOF.—The parent or other person wishing to  
561 relocate has the burden of proving ~~proof if an objection is~~  
562 ~~filed and must then initiate a proceeding seeking court~~



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563 ~~permission for relocation. The initial burden is on the parent~~  
564 ~~or person wishing to relocate to prove~~ by a preponderance of the  
565 evidence that relocation is in the best interest of the child.  
566 If that burden of proof is met, the burden shifts to the  
567 nonrelocating parent or other person to show by a preponderance  
568 of the evidence that the proposed relocation is not in the best  
569 interest of the child.

570 (9) ORDER REGARDING RELOCATION.—If relocation is approved  
571 ~~permitted~~:

572 (a) The court may, in its discretion, order contact with  
573 the nonrelocating parent or other person, including access,  
574 time-sharing, telephone, Internet, webcam, and other  
575 arrangements sufficient to ensure that the child has frequent,  
576 continuing, and meaningful contact, ~~access, and time-sharing~~  
577 with the nonrelocating parent or other person ~~persons~~, if  
578 contact is financially affordable and in the best interest of  
579 the child.

580 (b) If applicable, the court shall specify how the  
581 transportation costs are to ~~will~~ be allocated between the  
582 parents and other persons entitled to contact, access, and time-  
583 sharing and may adjust the child support award, as appropriate,  
584 considering the costs of transportation and the respective net  
585 incomes of the parents in accordance with the state child  
586 support guidelines schedule.

587 (10) PRIORITY FOR HEARING OR TRIAL.—An evidentiary hearing  
588 or nonjury trial on a pleading seeking temporary or permanent  
589 relief filed under this section shall be accorded priority on  
590 the court's calendar. If a motion seeking a temporary relocation  
591 is filed, absent good cause, the hearing must occur no later



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592 than 30 days after the motion for a temporary relocation is  
593 filed. If a notice to set the matter for a nonjury trial is  
594 filed, absent good cause, the nonjury trial must occur no later  
595 than 90 days after the notice is filed.

596 (11) APPLICABILITY.—

597 (a) This section applies:

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

602 2. To an order, whether temporary or permanent, regarding  
603 the parenting plan, custody, primary residence, time-sharing, or  
604 access to ~~visitation of or with~~ the child entered on or after  
605 October 1, 2009 ~~2006~~.

606 3. To any relocation or proposed relocation, whether  
607 permanent or temporary, of a child during any proceeding pending  
608 on October 1, 2009 ~~2006~~, wherein the parenting plan, custody,  
609 primary residence, time-sharing, or access to ~~visitation of or~~  
610 ~~with~~ the child is an issue.

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

616 Section 4. Subsection (1) of section 61.183, Florida  
617 Statutes, is amended to read:

618 61.183 Mediation of certain contested issues.—

619 (1) In any proceeding in which the issues of parental  
620 responsibility, primary residence, access to, visitation with,



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621 or support of a child are contested, the court may refer the  
622 parties to mediation in accordance with rules promulgated by the  
623 Supreme Court. In Title IV-D cases, any costs, including filing  
624 fees, recording fees, mediation costs, service of process fees,  
625 and other expenses incurred by the clerk of the circuit court,  
626 shall be assessed only against the nonprevailing obligor after  
627 the court makes a determination of the nonprevailing obligor's  
628 ability to pay such costs and fees.

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

631 61.20 Social investigation and recommendations regarding a  
632 parenting plan.—

633 (3) Except as to persons who obtain certification of  
634 indigence as specified in subsection (2), for whom no costs are  
635 ~~shall be~~ incurred, the parents ~~adult parties~~ involved in a  
636 proceeding to determine a parenting plan where ~~wherein~~ the court  
637 has ordered the performance of a social investigation and study  
638 are ~~shall be~~ responsible for paying ~~the payment of~~ the costs of  
639 the ~~such~~ investigation and study. Upon submitting ~~submission of~~  
640 the study to the court, the agency, staff, or person performing  
641 the study shall include a bill for services, which shall be  
642 taxed and ordered paid as costs in the proceeding.

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

646 61.21 Parenting course authorized; fees; required  
647 attendance authorized; contempt.—

648 (2) The Department of Children and Family Services shall  
649 approve a parenting course which shall be a course of a minimum



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650 of 4 hours designed to educate, train, and assist divorcing  
651 parents in regard to the consequences of divorce on parents and  
652 children.

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

- 659 1. Legal aspects of deciding child-related issues between  
660 parents.
- 661 2. Emotional aspects of separation and divorce on adults.
- 662 3. Emotional aspects of separation and divorce on children.
- 663 4. Family relationships and family dynamics.
- 664 5. Financial responsibilities to a child or children.
- 665 6. Issues regarding spousal or child abuse and neglect.
- 666 7. Skill-based relationship education that may be  
667 generalized to parenting, workplace, school, neighborhood, and  
668 civic relationships.

669 (5) All parties required to complete a parenting course  
670 under this section shall begin the course as expeditiously as  
671 possible. For dissolution of marriage actions, unless excused by  
672 the court pursuant to subsection (4), the petitioner must  
673 complete the course within 45 days after the filing of the  
674 petition, and all other parties must complete the course within  
675 45 days after service of the petition. For paternity actions,  
676 unless excused by the court pursuant to subsection (4), the  
677 petitioner must complete the course within 45 days after filing  
678 the petition, and any other party must complete the course





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679 within 45 days after an acknowledgment of paternity by that  
680 party, an adjudication of paternity of that party, or an order  
681 granting access ~~visitation~~ to or support from that party. Each  
682 party to a dissolution or paternity action shall file proof of  
683 compliance with this subsection with the court prior to the  
684 entry of the final judgment.

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

689 Section 7. Paragraph (b) of subsection (11) of section  
690 61.30, Florida Statutes, is amended to read:

691 61.30 Child support guidelines; retroactive child support.-

692 (11)

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

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

700 2. Calculate the percentage of overnight stays the child  
701 spends with each parent.

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

705 4. The difference between the amounts calculated in  
706 subparagraph 3. shall be the monetary transfer necessary between  
707 the parents for the care of the child, subject to an adjustment



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708 for day care and health insurance expenses.

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

714 6. Adjust the support obligation owed by each parent  
715 pursuant to subparagraph 4. by crediting or debiting the amount  
716 calculated in subparagraph 5. This amount represents the child  
717 support which must be exchanged between the parents.

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

726 8. For purposes of adjusting any award of child support  
727 under this paragraph, "substantial amount of time" means that a  
728 parent exercises access ~~visitation~~ at least 40 percent of the  
729 overnights of the year.

730 Section 8. Paragraph (a) of subsection (5) of section  
731 741.30, Florida Statutes, is amended to read:

732 741.30 Domestic violence; injunction; powers and duties of  
733 court and clerk; petition; notice and hearing; temporary  
734 injunction; issuance of injunction; statewide verification  
735 system; enforcement.—

736 (5) (a) If ~~When~~ it appears to the court that an immediate



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737 and present danger of domestic violence exists, the court may  
738 grant a temporary injunction ex parte, pending a full hearing,  
739 and may grant such relief as the court deems proper, including  
740 an injunction:

741 1. Restraining the respondent from committing any acts of  
742 domestic violence.

743 2. Awarding to the petitioner the temporary exclusive use  
744 and possession of the dwelling that the parties share or  
745 excluding the respondent from the residence of the petitioner.

746 3. On the same basis as provided in s. 61.13, providing the  
747 petitioner a temporary parenting plan, including a time-sharing  
748 schedule, which may award the petitioner up to ~~with~~ 100 percent  
749 of the time-sharing. The temporary parenting plan remains ~~that~~  
750 ~~shall remain~~ in effect until the order expires or an order is  
751 entered by a court of competent jurisdiction in a pending or  
752 subsequent civil action or proceeding affecting the placement  
753 of, access to, parental time with, adoption of, or parental  
754 rights and responsibilities for the minor child.

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

756  
757 ===== T I T L E A M E N D M E N T =====

758 And the title is amended as follows:

759  
760 Delete everything before the enacting clause  
761 and insert:

762 A bill to be entitled  
763 An act relating to parental responsibility and time-  
764 sharing; amending s. 61.046, F.S.; redefining the  
765 terms "parenting plan" and "parenting plan



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766 recommendations"; amending s. 61.13, F.S., relating to  
767 child support, parenting plans, and time-sharing;  
768 deleting obsolete provisions; requiring a parenting  
769 plan to include the address to be used for determining  
770 school boundaries; revising the elements of the  
771 rebuttable presumption that shared parental  
772 responsibility is detrimental to a child when a parent  
773 is convicted of a crime involving domestic violence;  
774 providing that the presumption applies to a crime that  
775 is a misdemeanor of the first degree or higher rather  
776 than to a crime that is a felony of the third degree  
777 or higher; allowing the modification of a parenting  
778 plan only upon a showing of substantially changed  
779 circumstances; requiring a court to make explicit  
780 written findings if, when determining the best  
781 interests of a child for the purposes of shared  
782 parental responsibility and visitation, the court  
783 considered evidence of domestic or sexual violence and  
784 child abuse, abandonment, or neglect; amending s.  
785 61.13001, F.S., relating to parental relocation;  
786 deleting terms and redefining the terms "other  
787 person," "parent," and "relocation"; substituting the  
788 term "access to" for "visitation"; deleting provisions  
789 relating to the requirement for a Notice of Intent to  
790 Relocate and substituting procedures relating to  
791 filing a petition to relocate; requiring a hearing on  
792 a motion seeking a temporary relocation to be held  
793 within a certain time; providing for applicability of  
794 changes made by the act; amending ss. 61.183, 61.20,



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795 61.21, and 61.30, F.S.; conforming provisions to  
796 changes made by the act; amending s. 741.30, F.S.,  
797 relating to domestic violence; authorizing a court to  
798 issue an ex parte injunction that provides a temporary  
799 parenting plan; providing an effective date.