



316752

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
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The Committee on Judiciary (Lee) recommended the following:

1 **Senate Substitute for Amendment (209714) (with title**
2 **amendment)**

3
4 Between lines 410 and 411
5 insert:

6 Section 3. Paragraph (c) of subsection (2) of section
7 61.13, Florida Statutes, is amended to read:

8 61.13 Support of children; parenting and time-sharing;
9 powers of court.-

10 (2)

11 (c) The court shall determine all matters relating to
12 parenting and time-sharing of each minor child of the parties in
13 accordance with the best interests of the child and in



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14 accordance with the Uniform Child Custody Jurisdiction and
15 Enforcement Act, except that modification of a parenting plan
16 and time-sharing schedule requires a showing of a substantial,
17 material, and unanticipated change of circumstances.

18 1. It is the public policy of this state that each minor
19 child has frequent and continuing contact with both parents
20 after the parents separate or the marriage of the parties is
21 dissolved and to encourage parents to share the rights and
22 responsibilities, and joys, of childrearing. There is no
23 presumption for or against the father or mother of the child or
24 for or against any specific time-sharing schedule when creating
25 or modifying the parenting plan of the child. Equal time-sharing
26 with a minor child by both parents is presumed to be in the best
27 interests of the child unless the court finds that:

28 a. The safety, well-being, and physical, mental, and
29 emotional health of the child would be endangered by equal time-
30 sharing, that visitation would be presumed detrimental
31 consistent with s. 39.0139(3), or that supervised visitation is
32 appropriate, if any is appropriate;

33 b. Clear and convincing evidence of extenuating
34 circumstances justify a departure from equal time-sharing and
35 the court makes written findings justifying the departure from
36 equal time-sharing;

37 c. A parent is incarcerated;

38 d. The distance between parental residences makes equal
39 time-sharing impracticable;

40 e. A parent does not request at least 50 percent time-
41 sharing;

42 f. A parent has been convicted of a misdemeanor of the



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43 first degree or higher involving domestic violence; or

44 g. A parent is subject to an injunction for protection
45 against domestic violence.

46 2. The court shall order that the parental responsibility
47 for a minor child be shared by both parents unless the court
48 finds that shared parental responsibility would be detrimental
49 to the child. Evidence that a parent has been convicted of a
50 misdemeanor of the first degree or higher involving domestic
51 violence, as defined in s. 741.28 and chapter 775, or meets the
52 criteria of s. 39.806(1)(d), creates a rebuttable presumption of
53 detriment to the child. If the presumption is not rebutted after
54 the convicted parent is advised by the court that the
55 presumption exists, shared parental responsibility, including
56 time-sharing with the child, and decisions made regarding the
57 child, may not be granted to the convicted parent. However, the
58 convicted parent is not relieved of any obligation to provide
59 financial support. If the court determines that shared parental
60 responsibility would be detrimental to the child, it may order
61 sole parental responsibility and make such arrangements for
62 time-sharing as specified in the parenting plan as will best
63 protect the child or abused spouse from further harm. Whether or
64 not there is a conviction of any offense of domestic violence or
65 child abuse or the existence of an injunction for protection
66 against domestic violence, the court shall consider evidence of
67 domestic violence or child abuse as evidence of detriment to the
68 child.

69 a. In ordering shared parental responsibility, the court
70 may consider the expressed desires of the parents and may grant
71 to one party the ultimate responsibility over specific aspects



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72 of the child's welfare or may divide those responsibilities
73 between the parties based on the best interests of the child.
74 Areas of responsibility may include education, health care, and
75 any other responsibilities that the court finds unique to a
76 particular family.

77 b. The court shall order sole parental responsibility for a
78 minor child to one parent, with or without time-sharing with the
79 other parent if it is in the best interests of the minor child.

80 3. Access to records and information pertaining to a minor
81 child, including, but not limited to, medical, dental, and
82 school records, may not be denied to either parent. Full rights
83 under this subparagraph apply to either parent unless a court
84 order specifically revokes these rights, including any
85 restrictions on these rights as provided in a domestic violence
86 injunction. A parent having rights under this subparagraph has
87 the same rights upon request as to form, substance, and manner
88 of access as are available to the other parent of a child,
89 including, without limitation, the right to in-person
90 communication with medical, dental, and education providers.

91 Section 4. The amendment by this act to s. 61.13, Florida
92 Statutes, which creates a presumption in favor of equal time-
93 sharing applies prospectively to initial final custody orders
94 made on or after July 1, 2013. The amendments do not constitute
95 a substantial change in circumstances which warrant the
96 modification of a final custody order entered before July 1,
97 2013.

98
99 ===== T I T L E A M E N D M E N T =====

100 And the title is amended as follows:



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101 Delete line 28
102 and insert:
103 alimony; amending 61.13, F.S.; establishing a
104 presumption that it is in the best interests of the
105 child for the court to order equal time-sharing for
106 each minor child; providing exceptions; amending s.
107 61.14, F.S.; providing for prospective application of
108 the presumption in favor of equal time-sharing;
109 authorizing a party