

By the Committee on Judiciary; and Senator Lee

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1 A bill to be entitled
2 An act relating to parenting and time-sharing;
3 amending s. 61.13, F.S.; creating a presumption that
4 approximately equal time-sharing by both parents is in
5 the best interest of the child; revising a finite list
6 of factors that a court must evaluate when determining
7 whether the presumption of approximately equal time-
8 sharing is overcome; requiring a court order to be
9 supported by written findings of fact under certain
10 circumstances; prohibiting the modification of a
11 determination of parental responsibility, a parenting
12 plan, or a time-sharing schedule unless certain
13 determinations are made; providing an effective date.

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

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17 Section 1. Subsection (3) of section 61.13, Florida
18 Statutes, is amended to read:

19 61.13 Support of children; parenting and time-sharing;
20 powers of court.—

21 (3) For purposes of establishing or modifying parental
22 responsibility and creating, developing, approving, or modifying
23 a parenting plan, including a time-sharing schedule, which
24 governs each parent's relationship with his or her minor child
25 and the relationship between each parent with regard to his or
26 her minor child, the best interest of the child shall be the
27 primary consideration.

28 (a) Approximately equal time-sharing with a minor child by
29 both parents is presumed to be in the best interest of the
30 child. In determining whether the presumption is overcome, the
31 court shall evaluate the evidence based on ~~A determination of~~
32 ~~parental responsibility, a parenting plan, or a time-sharing~~

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33 ~~schedule may not be modified without a showing of a substantial,~~
34 ~~material, and unanticipated change in circumstances and a~~
35 ~~determination that the modification is in the best interests of~~
36 ~~the child. Determination of the best interests of the child~~
37 ~~shall be made by evaluating~~ all of the factors affecting the
38 welfare and interests of the particular minor child and the
39 circumstances of that family, including, ~~but not limited to:~~

40 1.(a) The demonstrated capacity or ~~and~~ disposition of each
41 parent to facilitate and encourage a close and continuing
42 parent-child relationship, to honor the time-sharing schedule,
43 and to be reasonable when changes are required.

44 2.(b) The anticipated division of parental responsibilities
45 after the litigation, including the extent to which parental
46 responsibilities will be delegated to third parties.

47 3.(e) The demonstrated capacity and disposition of each
48 parent to determine, consider, and act upon the needs of the
49 child as opposed to the needs or desires of the parent.

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

53 5.(e) The geographic viability of the parenting plan, with
54 special attention paid to the needs of school-age children and
55 the amount of time to be spent traveling to carry out ~~effectuate~~
56 the parenting plan. This factor does not create a presumption
57 for or against relocation of either parent with a child.

58 6.(f) The moral fitness of the parents.

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

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

61 9.(i) The reasonable preference of the child, ~~if the court~~

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62 deems the child to be of sufficient intelligence, understanding,
63 and experience to express a preference.

64 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
65 disposition of each parent to be informed of the circumstances
66 of the minor child, including, but not limited to, the child's
67 friends, teachers, medical care providers, daily activities, and
68 favorite things.

69 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of each
70 parent to provide a consistent routine for the child, such as
71 discipline, ~~and~~ daily schedules for homework, meals, and
72 bedtime.

73 12.~~(l)~~ The demonstrated capacity of each parent to
74 communicate with the other parent and keep the other parent
75 informed of issues and activities regarding the minor child, and
76 the willingness of each parent to adopt a unified front on all
77 major issues when dealing with the child.

78 13.~~(m)~~ Evidence of domestic violence, sexual violence,
79 child abuse, child abandonment, or child neglect, regardless of
80 whether a prior or pending action relating to those issues has
81 been brought. If the court accepts evidence of prior or pending
82 actions regarding domestic violence, sexual violence, child
83 abuse, child abandonment, or child neglect, the court must
84 specifically acknowledge in writing that such evidence was
85 considered when evaluating the best interests of the child.

86 14.~~(n)~~ Evidence that either parent has knowingly provided
87 false information to the court regarding any prior or pending
88 action regarding domestic violence, sexual violence, child
89 abuse, child abandonment, or child neglect.

90 15.~~(o)~~ The demonstrated capacity or disposition of each

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91 parent to perform or ensure the performance of particular
92 parenting tasks customarily performed by the other ~~each~~ parent
93 and the division of parental responsibilities before the
94 institution of litigation and during the pending litigation,
95 including the extent to which parenting responsibilities were
96 undertaken by third parties.

97 16. ~~(p)~~ The demonstrated capacity and disposition of each
98 parent to participate and be involved in the child's school and
99 extracurricular activities.

100 17. ~~(q)~~ The demonstrated capacity and disposition of each
101 parent to maintain an environment for the child which is free
102 from substance abuse.

103 18. ~~(r)~~ The capacity and disposition of each parent to
104 protect the child from the ongoing litigation as demonstrated by
105 not discussing the litigation with the child, not sharing
106 documents or electronic media related to the litigation with the
107 child, and refraining from disparaging comments about the other
108 parent to the child.

109 19. ~~(s)~~ The developmental stages and needs of the child and
110 the demonstrated capacity and disposition of each parent to meet
111 the child's developmental needs.

112 20. The amount of time-sharing requested by each parent.

113 21. The frequency that a parent would likely leave the
114 child in the care of a nonrelative on evenings and weekends when
115 the other parent would be available and willing to provide care.

116 22. ~~(t)~~ Any other factor that is relevant to the
117 determination of a specific parenting plan, including the time-
118 sharing schedule.

119 (b) A court order must be supported by written findings of

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120 fact if the order establishes an initial permanent time-sharing
121 schedule that does not provide for approximately equal time-
122 sharing.

123 (c) A determination of parental responsibility, a parenting
124 plan, or a time-sharing schedule may not be modified without a
125 determination that such modification is in the best interest of
126 the child and upon a showing of a substantial, material, and
127 unanticipated change in circumstances.

128 Section 2. This act shall take effect October 1, 2016.

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