

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 762

INTRODUCER: Senator Baxley

SUBJECT: Child Protection

DATE: March 29, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Parks</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 762 affects child custody disputes where a parent resides in a recovery residence because of a drug or alcohol addiction. The bill provides that in such cases, a court-ordered time-sharing plan may not require a minor child to visit a parent between the hours of 9 p.m. and 7 a.m. if that parent lives in a recovery residence. The bill further provides as a condition of certification by the Department of Children and Families that a recovery residence may not allow a child to visit a resident parent during those hours.

The bill has an effective date of July 1, 2017, and does appear to have a fiscal impact.

**II. Present Situation:**

**Parenting and Time-sharing Plans**

The public policy of Florida is that each minor child should have frequent and continuing contact with both parents.<sup>1</sup> A court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.<sup>2</sup> In determining time-sharing with each parent, a court must consider the best interests of the child based on a list of factors.<sup>3</sup> These factors include:

- The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required;
- The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties;

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<sup>1</sup> Section 61.13(2)(c)1, F.S.

<sup>2</sup> Section 61.13(2)(c)2, F.S.

<sup>3</sup> Section 61.13(3), F.S.

- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent;
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- The geographic viability of the parenting plan;
- The moral fitness of the parents;
- The mental and physical health of the parents;
- The home, school, and community record of the child;
- The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference;
- The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child;
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child;
- The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child; and
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

A final factor allows the court to take into account any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.<sup>4</sup>

### **Recovery Residences**

In section 397.311(36), F.S., a recovery residence is defined as “a residential dwelling unit, or other form of group housing, that is offered or advertised through any means . . . by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”<sup>5</sup> Recovery residences may elect to participate in a voluntary certification program administered through the Department of Children and Families (DCF).<sup>6</sup> Requirements for certification of a recovery residence include:

- Submission of documents, including a policy and procedure manual, rules for residents, intake procedures, refund policy, a code of ethics, proof of insurance, and proof of background screening;<sup>7</sup>
- Active management by a certified recovery residence administrator;<sup>8</sup>
- Submission of all owners, directors, and chief financial officers to a level 2 (nationwide) background screening;<sup>9</sup> and
- An onsite inspection of the recovery residence.<sup>10</sup>

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<sup>4</sup> Section 61.13(3)(t), F.S.

<sup>5</sup> Recovery residences are commonly known as “halfway houses,” but the rehabilitation industry has attempted to move away from that name due to a perceived stigma with it. See Beth Sanders, *Recovery Residence vs. Halfway House: What You Need to Know*, REHABS.COM, <http://www.rehabs.com/pro-talk-articles/halfway-house-vs-recovery-residence-what-you-need-to-know/> (Aug. 5, 2014).

<sup>6</sup> Section 397.487, F.S.

<sup>7</sup> Section 397.487(3), F.S.

<sup>8</sup> Section 397.487(4), F.S.

<sup>9</sup> Section 397.487(6), F.S.

<sup>10</sup> Section 397.487(5), F.S.

The certification of a recovery residence may be suspended or revoked if the residence is not in compliance with any of the requirements for certification above.<sup>11</sup> A person may not advertise a recovery residence as a “certified recovery residence” unless the recovery residence has been issued a certificate of compliance by the Department of Children and Families.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 61.13, F.S., to provide that a court-ordered time-sharing plan may not require a minor child to visit a parent residing in a recovery residence between 9 p.m. and 7 a.m.

The bill also amends s. 397.487, F.S., to provide that as a requirement of certification, a recovery residence may not allow minor children to visit or remain between 9 p.m. and 7 a.m. A certified recovery residence may allow minor children to visit a parent during the other hours of the day. Together, the statutory changes made by the bill prohibit a parent who resides in a recovery residence from exercising overnight visitation with a child while the parent resides at the recovery residence.

The bill takes effect July 1, 2017.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

As most recovery residences are private, the bill will most affect them. The bill should reduce overhead costs for recovery residences, as the operators will have to perform less childproofing in the evenings. Operators will also have to hire less supervision for the residences and will no longer have to worry about subsidizing the care of children (for example, purchasing an extra bed so a child can stay overnight).

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<sup>11</sup> Section 397.487(8)(a), F.S.

<sup>12</sup> Section 397.487(9), F.S.

On the other hand, the bill also stands to possibly increase childcare costs for parents who do not live in recovery residences. These parents will no longer be able to count on dropping their kids off with the other parent for visitation and will have to provide more support for the child themselves during evening hours. These costs can possibly be offset by court orders requiring more child support from the parents who are in recovery residences and cannot host a child overnight. However, parents in recovery often have difficulty finding gainful employment, so a full recouping of costs is not guaranteed.

**C. Government Sector Impact:**

The bill may slightly lower costs for the Department of Children and Families, which will have less to inspect now that recovery residences no longer have to prepare to host children in evening hours.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 61.13 and 397.487 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.