

1 A bill to be entitled
 2 An act relating to parenting and time-sharing of a
 3 minor child for a convicted parent; amending s. 61.13,
 4 F.S.; creating a rebuttable presumption against shared
 5 parental responsibility and time-sharing with a minor
 6 child for certain parents who have been convicted of
 7 or had adjudication withheld for a specified offense;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (c) of subsection (2) of section
 13 61.13, Florida Statutes, is amended to read:

14 61.13 Support of children; parenting and time-sharing;
 15 powers of court.—

16 (2)

17 (c) The court shall determine all matters relating to
 18 parenting and time-sharing of each minor child of the parties in
 19 accordance with the best interests of the child and in
 20 accordance with the Uniform Child Custody Jurisdiction and
 21 Enforcement Act, except that modification of a parenting plan
 22 and time-sharing schedule requires a showing of a substantial,
 23 material, and unanticipated change of circumstances.

24 1. It is the public policy of this state that each minor
 25 child has frequent and continuing contact with both parents

26 | after the parents separate or the marriage of the parties is
 27 | dissolved and to encourage parents to share the rights and
 28 | responsibilities, and joys, of childrearing. Except as otherwise
 29 | provided in this paragraph, there is no presumption for or
 30 | against the father or mother of the child or for or against any
 31 | specific time-sharing schedule when creating or modifying the
 32 | parenting plan of the child.

33 | 2. The court shall order that the parental responsibility
 34 | for a minor child be shared by both parents unless the court
 35 | finds that shared parental responsibility would be detrimental
 36 | to the child. The following evidence creates a rebuttable
 37 | presumption of detriment to the child: ~~that~~

38 | a. A parent has been convicted of a misdemeanor of the
 39 | first degree or higher involving domestic violence, as defined
 40 | in s. 741.28 and chapter 775; ~~or~~

41 | b. A parent meets the criteria of s. 39.806(1)(d); or

42 | c. A parent has been convicted of or had adjudication
 43 | withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and
 44 | at the time of the offense:

45 | (I) The parent was 18 years of age or older.

46 | (II) The victim was under 18 years of age or the parent
 47 | believed the victim to be under 18 years of age, ~~creates a~~
 48 | ~~rebuttable presumption of detriment to the child.~~

49 |
 50 | If the presumption is not rebutted after the convicted parent is

51 | advised by the court that the presumption exists, shared
52 | parental responsibility, including time-sharing with the child,
53 | and decisions made regarding the child, may not be granted to
54 | the convicted parent. However, the convicted parent is not
55 | relieved of any obligation to provide financial support. If the
56 | court determines that shared parental responsibility would be
57 | detrimental to the child, it may order sole parental
58 | responsibility and make such arrangements for time-sharing as
59 | specified in the parenting plan as will best protect the child
60 | or abused spouse from further harm. Whether or not there is a
61 | conviction of any offense of domestic violence or child abuse or
62 | the existence of an injunction for protection against domestic
63 | violence, the court shall consider evidence of domestic violence
64 | or child abuse as evidence of detriment to the child.

65 | ~~3.a.~~ In ordering shared parental responsibility, the court
66 | may consider the expressed desires of the parents and may grant
67 | to one party the ultimate responsibility over specific aspects
68 | of the child's welfare or may divide those responsibilities
69 | between the parties based on the best interests of the child.
70 | Areas of responsibility may include education, health care, and
71 | any other responsibilities that the court finds unique to a
72 | particular family.

73 | ~~4.b.~~ The court shall order sole parental responsibility
74 | for a minor child to one parent, with or without time-sharing
75 | with the other parent if it is in the best interests of the

76 | minor child.

77 | 5. There is a rebuttable presumption against granting
78 | time-sharing with a minor child if a parent has been convicted
79 | of or had adjudication withheld for an offense enumerated in s.
80 | 943.0435(1)(h)1.a., and at the time of the offense:

81 | a. The parent was 18 years of age or older.

82 | b. The victim was under 18 years of age or the parent
83 | believed the victim to be under 18 years of age.

84 |
85 | A parent may rebut the presumption upon a specific finding in
86 | writing by the court that the parent poses no significant risk
87 | of harm to the child and that time-sharing is in the best
88 | interests of the minor child. If the presumption is rebutted,
89 | the court shall consider all time-sharing factors in subsection
90 | (3) when developing a time-sharing schedule.

91 | ~~6.3.~~ Access to records and information pertaining to a
92 | minor child, including, but not limited to, medical, dental, and
93 | school records, may not be denied to either parent. Full rights
94 | under this subparagraph apply to either parent unless a court
95 | order specifically revokes these rights, including any
96 | restrictions on these rights as provided in a domestic violence
97 | injunction. A parent having rights under this subparagraph has
98 | the same rights upon request as to form, substance, and manner
99 | of access as are available to the other parent of a child,
100 | including, without limitation, the right to in-person

CS/HB 141

2021

101 | communication with medical, dental, and education providers.

102 | Section 2. This act shall take effect July 1, 2021.