

By Senator Jones

34-01428-23

20231292__

1 A bill to be entitled
2 An act relating to parenting plans; amending s. 61.13,
3 F.S.; creating a presumption that equal time-sharing
4 is in the best interests of the child, with
5 exceptions; creating a presumption for purposes of
6 modifying a parenting plan and time-sharing schedule
7 regarding relocation of a parent; providing an
8 effective date.

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

11
12 Section 1. Paragraph (c) of subsection (2) and subsection
13 (3) of section 61.13, Florida Statutes, are 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. Unless otherwise
29 provided in this section or agreed to by the parties, there is a

34-01428-23

20231292__

30 presumption that equal time-sharing of a minor child is in the
31 best interests of the minor child who is common to the parties
32 ~~Except as otherwise provided in this paragraph, there is no~~
33 ~~presumption for or against the father or mother of the child or~~
34 ~~for or against any specific time-sharing schedule~~ when creating
35 or modifying the parenting plan of the child.

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

41 a. A parent has been convicted of a misdemeanor of the
42 first degree or higher involving domestic violence, as defined
43 in s. 741.28 and chapter 775;

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

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

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

49 (II) The victim was under 18 years of age or the parent
50 believed the victim to be under 18 years of age.

51
52 If the presumption is not rebutted after the convicted parent is
53 advised by the court that the presumption exists, shared
54 parental responsibility, including time-sharing with the child,
55 and decisions made regarding the child, may not be granted to
56 the convicted parent. However, the convicted parent is not
57 relieved of any obligation to provide financial support. If the
58 court determines that shared parental responsibility would be

34-01428-23

20231292__

59 detrimental to the child, it may order sole parental
60 responsibility and make such arrangements for time-sharing as
61 specified in the parenting plan as will best protect the child
62 or abused spouse from further harm. Whether or not there is a
63 conviction of any offense of domestic violence or child abuse or
64 the existence of an injunction for protection against domestic
65 violence, the court shall consider evidence of domestic violence
66 or child abuse as evidence of detriment to the child.

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

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

78 5. There is a rebuttable presumption against granting time-
79 sharing with a minor child if a parent has been convicted of or
80 had adjudication withheld for an offense enumerated in s.
81 943.0435(1)(h)1.a., and at the time of the offense:

82 a. The parent was 18 years of age or older.

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

85

86 A parent may rebut the presumption upon a specific finding in
87 writing by the court that the parent poses no significant risk

34-01428-23

20231292__

88 of harm to the child and that time-sharing is in the best
89 interests of the minor child. If the presumption is rebutted,
90 the court shall consider all time-sharing factors in subsection
91 (3) when developing a time-sharing schedule.

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

103 (3) For purposes of establishing or modifying parental
104 responsibility and creating, developing, approving, or modifying
105 a parenting plan, including a time-sharing schedule, which
106 governs each parent's relationship with his or her minor child
107 and the relationship between each parent with regard to his or
108 her minor child, the best interest of the child shall be the
109 primary consideration. A determination of parental
110 responsibility, a parenting plan, or a time-sharing schedule may
111 not be modified without a showing of a substantial, material,
112 and unanticipated change in circumstances and a determination
113 that the modification is in the best interests of the child. For
114 purposes of modifying a parenting plan and time-sharing
115 schedule, a parent's permanent relocation from a residence more
116 than 50 miles from the primary residence of the child to a

34-01428-23

20231292__

117 residence within 50 miles of the primary residence of the child
118 is presumed to be a substantial, material, and unanticipated
119 change in circumstances. Determination of the best interests of
120 the child shall be made by evaluating all of the factors
121 affecting the welfare and interests of the particular minor
122 child and the circumstances of that family, including, but not
123 limited to:

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

128 (b) The anticipated division of parental responsibilities
129 after the litigation, including the extent to which parental
130 responsibilities will be delegated to third parties.

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

134 (d) The length of time the child has lived in a stable,
135 satisfactory environment and the desirability of maintaining
136 continuity.

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

142 (f) The moral fitness of the parents.

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

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

145 (i) The reasonable preference of the child, if the court

34-01428-23

20231292__

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

148 (j) The demonstrated knowledge, capacity, and disposition
149 of each parent to be informed of the circumstances of the minor
150 child, including, but not limited to, the child's friends,
151 teachers, medical care providers, daily activities, and favorite
152 things.

153 (k) The demonstrated capacity and disposition of each
154 parent to provide a consistent routine for the child, such as
155 discipline, and daily schedules for homework, meals, and
156 bedtime.

157 (l) The demonstrated capacity of each parent to communicate
158 with and keep the other parent informed of issues and activities
159 regarding the minor child, and the willingness of each parent to
160 adopt a unified front on all major issues when dealing with the
161 child.

162 (m) Evidence of domestic violence, sexual violence, child
163 abuse, child abandonment, or child neglect, regardless of
164 whether a prior or pending action relating to those issues has
165 been brought. If the court accepts evidence of prior or pending
166 actions regarding domestic violence, sexual violence, child
167 abuse, child abandonment, or child neglect, the court must
168 specifically acknowledge in writing that such evidence was
169 considered when evaluating the best interests of the child.

170 (n) Evidence that either parent has knowingly provided
171 false information to the court regarding any prior or pending
172 action regarding domestic violence, sexual violence, child
173 abuse, child abandonment, or child neglect.

174 (o) The particular parenting tasks customarily performed by

34-01428-23

20231292__

175 each parent and the division of parental responsibilities before
176 the institution of litigation and during the pending litigation,
177 including the extent to which parenting responsibilities were
178 undertaken by third parties.

179 (p) The demonstrated capacity and disposition of each
180 parent to participate and be involved in the child's school and
181 extracurricular activities.

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

185 (r) The capacity and disposition of each parent to protect
186 the child from the ongoing litigation as demonstrated by not
187 discussing the litigation with the child, not sharing documents
188 or electronic media related to the litigation with the child,
189 and refraining from disparaging comments about the other parent
190 to the child.

191 (s) The developmental stages and needs of the child and the
192 demonstrated capacity and disposition of each parent to meet the
193 child's developmental needs.

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

197 Section 2. This act shall take effect July 1, 2023.