

By the Committee on Children, Families, and Elder Affairs; and
Senator Jones

586-03092-23

20231292c1

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; establishing the
8 manner in which to rebut such presumption; providing
9 an effective date.

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

12
13 Section 1. Paragraph (c) of subsection (2) and subsection
14 (3) of section 61.13, Florida Statutes, are amended to read:

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

17 (2)

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

25 1. It is the public policy of this state that each minor
26 child has frequent and continuing contact with both parents
27 after the parents separate or the marriage of the parties is
28 dissolved and to encourage parents to share the rights and
29 responsibilities, and joys, of childrearing. Unless otherwise

586-03092-23

20231292c1

30 provided in this section or agreed to by the parties, there is a
31 presumption that equal time-sharing of a minor child is in the
32 best interests of the minor child who is common to the parties
33 ~~Except as otherwise provided in this paragraph, there is no~~
34 ~~presumption for or against the father or mother of the child or~~
35 ~~for or against any specific time-sharing schedule when creating~~
36 or modifying the parenting plan of the child. To rebut this
37 presumption, the party in opposition to equal time-sharing must
38 prove by competent and substantial evidence that equal time-
39 sharing is not in the best interests of the minor child who is
40 common to the parties.

41 2. The court shall order that the parental responsibility
42 for a minor child be shared by both parents unless the court
43 finds that shared parental responsibility would be detrimental
44 to the child. The following evidence creates a rebuttable
45 presumption of detriment to the child:

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

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

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

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

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

56
57 If the presumption is not rebutted after the convicted parent is
58 advised by the court that the presumption exists, shared

586-03092-23

20231292c1

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

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

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

83 5. There is a rebuttable presumption against granting time-
84 sharing with a minor child if a parent has been convicted of or
85 had adjudication withheld for an offense enumerated in s.

86 943.0435(1)(h)1.a., and at the time of the offense:

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

586-03092-23

20231292c1

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

90
91 A parent may rebut the presumption upon a specific finding in
92 writing by the court that the parent poses no significant risk
93 of harm to the child and that time-sharing is in the best
94 interests of the minor child. If the presumption is rebutted,
95 the court shall consider all time-sharing factors in subsection
96 (3) when developing a time-sharing schedule.

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

108 (3) For purposes of establishing or modifying parental
109 responsibility and creating, developing, approving, or modifying
110 a parenting plan, including a time-sharing schedule, which
111 governs each parent's relationship with his or her minor child
112 and the relationship between each parent with regard to his or
113 her minor child, the best interests ~~interest~~ of the child shall
114 be the primary consideration. A determination of parental
115 responsibility, a parenting plan, or a time-sharing schedule may
116 not be modified without a showing of a substantial, material,

586-03092-23

20231292c1

117 and unanticipated change in circumstances and a determination
118 that the modification is in the best interests of the child. For
119 purposes of modifying a parenting plan and time-sharing
120 schedule, a parent's permanent relocation from a residence more
121 than 50 miles from the primary residence of the child to a
122 residence within 50 miles of the primary residence of the child
123 is presumed to be a substantial, material, and unanticipated
124 change in circumstances. Determination of the best interests of
125 the child shall be made by evaluating all of the factors
126 affecting the welfare and interests of the particular minor
127 child and the circumstances of that family, including, but not
128 limited to:

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

133 (b) The anticipated division of parental responsibilities
134 after the litigation, including the extent to which parental
135 responsibilities will be delegated to third parties.

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

139 (d) The length of time the child has lived in a stable,
140 satisfactory environment and the desirability of maintaining
141 continuity.

142 (e) The geographic viability of the parenting plan, with
143 special attention paid to the needs of school-age children and
144 the amount of time to be spent traveling to effectuate the
145 parenting plan. This factor does not create a presumption for or

586-03092-23

20231292c1

146 against relocation of either parent with a child.

147 (f) The moral fitness of the parents.

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

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

150 (i) The reasonable preference of the child, if the court
151 deems the child to be of sufficient intelligence, understanding,
152 and experience to express a preference.

153 (j) The demonstrated knowledge, capacity, and disposition
154 of each parent to be informed of the circumstances of the minor
155 child, including, but not limited to, the child's friends,
156 teachers, medical care providers, daily activities, and favorite
157 things.

158 (k) The demonstrated capacity and disposition of each
159 parent to provide a consistent routine for the child, such as
160 discipline, and daily schedules for homework, meals, and
161 bedtime.

162 (l) The demonstrated capacity of each parent to communicate
163 with and keep the other parent informed of issues and activities
164 regarding the minor child, and the willingness of each parent to
165 adopt a unified front on all major issues when dealing with the
166 child.

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

586-03092-23

20231292c1

175 (n) Evidence that either parent has knowingly provided
176 false information to the court regarding any prior or pending
177 action regarding domestic violence, sexual violence, child
178 abuse, child abandonment, or child neglect.

179 (o) The particular parenting tasks customarily performed by
180 each parent and the division of parental responsibilities before
181 the institution of litigation and during the pending litigation,
182 including the extent to which parenting responsibilities were
183 undertaken by third parties.

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

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

190 (r) The capacity and disposition of each parent to protect
191 the child from the ongoing litigation as demonstrated by not
192 discussing the litigation with the child, not sharing documents
193 or electronic media related to the litigation with the child,
194 and refraining from disparaging comments about the other parent
195 to the child.

196 (s) The developmental stages and needs of the child and the
197 demonstrated capacity and disposition of each parent to meet the
198 child's developmental needs.

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

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