

**By** the Committees on Rules; and Children, Families, and Elder Affairs; and Senator Jones

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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; establishing the manner by which such  
6       presumption may be rebutted; requiring the court to  
7       evaluate certain factors and make specific written  
8       findings of fact under certain circumstances; revising  
9       requirements regarding modifying parental  
10      responsibility, a parenting plan, or a time-sharing  
11      schedule; authorizing the court to consider, under  
12      certain circumstances, a specified move of a parent to  
13      be a substantial and material change in circumstances  
14      for certain purposes; providing an effective date.

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

17  
18       Section 1. Paragraph (c) of subsection (2) and subsection  
19       (3) of section 61.13, Florida Statutes, are amended to read:

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

22       (2)

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

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30 1. It is the public policy of this state that each minor  
31 child has frequent and continuing contact with both parents  
32 after the parents separate or the marriage of the parties is  
33 dissolved and to encourage parents to share the rights and  
34 responsibilities, and joys, of childrearing. Unless ~~Except as~~  
35 otherwise provided in this section or agreed to by the parties  
36 ~~paragraph~~, there is a rebuttable ~~no~~ presumption that equal for  
37 ~~or against the father or mother of the child or for or against~~  
38 any specific time-sharing of a minor child is in the best  
39 interests of the minor child. To rebut this presumption, a party  
40 must prove by a preponderance of the evidence that equal time-  
41 sharing is not in the best interests of the minor child. Except  
42 when a time-sharing schedule is agreed to by the parties and  
43 approved by the court, the court shall evaluate all of the  
44 factors set forth in subsection (3) and make specific written  
45 findings of fact ~~schedule~~ when creating or modifying a time-  
46 sharing schedule ~~the parenting plan of the child.~~

47 2. The court shall order that the parental responsibility  
48 for a minor child be shared by both parents unless the court  
49 finds that shared parental responsibility would be detrimental  
50 to the child. The following evidence creates a rebuttable  
51 presumption of detriment to the child:

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

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

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

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

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

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

79 3. In ordering shared parental responsibility, the court  
80 may consider the expressed desires of the parents and may grant  
81 to one party the ultimate responsibility over specific aspects  
82 of the child's welfare or may divide those responsibilities  
83 between the parties based on the best interests of the child.  
84 Areas of responsibility may include education, health care, and  
85 any other responsibilities that the court finds unique to a  
86 particular family.

87 4. The court must ~~shall~~ order sole parental responsibility

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88 for a minor child to one parent, with or without time-sharing  
89 with the other parent if it is in the best interests of the  
90 minor child.

91 5. There is a rebuttable presumption against granting time-  
92 sharing with a minor child if a parent has been convicted of or  
93 had adjudication withheld for an offense enumerated in s.  
94 943.0435(1)(h)1.a., and at the time of the offense:

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

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

98  
99 A parent may rebut the presumption upon a specific finding in  
100 writing by the court that the parent poses no significant risk  
101 of harm to the child and that time-sharing is in the best  
102 interests of the minor child. If the presumption is rebutted,  
103 the court must ~~shall~~ consider all time-sharing factors in  
104 subsection (3) when developing a time-sharing schedule.

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

116 (3) For purposes of establishing or modifying parental

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117 responsibility and creating, developing, approving, or modifying  
118 a parenting plan, including a time-sharing schedule, which  
119 governs each parent's relationship with his or her minor child  
120 and the relationship between each parent with regard to his or  
121 her minor child, the best interests ~~interest~~ of the child must  
122 ~~shall~~ be the primary consideration. A determination of parental  
123 responsibility, a parenting plan, or a time-sharing schedule may  
124 not be modified without a showing of a substantial and~~,~~  
125 ~~material, and unanticipated~~ change in circumstances and a  
126 determination that the modification is in the best interests of  
127 the child. If the parents of a child are residing greater than  
128 50 miles apart at the time of the entry of the last order  
129 establishing time-sharing and a parent moves within 50 miles of  
130 the other parent, that move may be considered a substantial and  
131 material change in circumstances for the purpose of a  
132 modification to the time-sharing schedule, so long as there is a  
133 determination that the modification is in the best interests of  
134 the child. Determination of the best interests of the child  
135 shall be made by evaluating all of the factors affecting the  
136 welfare and interests of the particular minor child and the  
137 circumstances of that family, including, but not limited to:  
138 (a) The demonstrated capacity and disposition of each  
139 parent to facilitate and encourage a close and continuing  
140 parent-child relationship, to honor the time-sharing schedule,  
141 and to be reasonable when changes are required.  
142 (b) The anticipated division of parental responsibilities  
143 after the litigation, including the extent to which parental  
144 responsibilities will be delegated to third parties.  
145 (c) The demonstrated capacity and disposition of each

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146 parent to determine, consider, and act upon the needs of the  
147 child as opposed to the needs or desires of the parent.

148 (d) The length of time the child has lived in a stable,  
149 satisfactory environment and the desirability of maintaining  
150 continuity.

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

156 (f) The moral fitness of the parents.

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

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

159 (i) The reasonable preference of the child, if the court  
160 deems the child to be of sufficient intelligence, understanding,  
161 and experience to express a preference.

162 (j) The demonstrated knowledge, capacity, and disposition  
163 of each parent to be informed of the circumstances of the minor  
164 child, including, but not limited to, the child's friends,  
165 teachers, medical care providers, daily activities, and favorite  
166 things.

167 (k) The demonstrated capacity and disposition of each  
168 parent to provide a consistent routine for the child, such as  
169 discipline, and daily schedules for homework, meals, and  
170 bedtime.

171 (l) The demonstrated capacity of each parent to communicate  
172 with and keep the other parent informed of issues and activities  
173 regarding the minor child, and the willingness of each parent to  
174 adopt a unified front on all major issues when dealing with the

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175 child.

176 (m) Evidence of domestic violence, sexual violence, child  
177 abuse, child abandonment, or child neglect, regardless of  
178 whether a prior or pending action relating to those issues has  
179 been brought. If the court accepts evidence of prior or pending  
180 actions regarding domestic violence, sexual violence, child  
181 abuse, child abandonment, or child neglect, the court must  
182 specifically acknowledge in writing that such evidence was  
183 considered when evaluating the best interests of the child.

184 (n) Evidence that either parent has knowingly provided  
185 false information to the court regarding any prior or pending  
186 action regarding domestic violence, sexual violence, child  
187 abuse, child abandonment, or child neglect.

188 (o) The particular parenting tasks customarily performed by  
189 each parent and the division of parental responsibilities before  
190 the institution of litigation and during the pending litigation,  
191 including the extent to which parenting responsibilities were  
192 undertaken by third parties.

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

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

199 (r) The capacity and disposition of each parent to protect  
200 the child from the ongoing litigation as demonstrated by not  
201 discussing the litigation with the child, not sharing documents  
202 or electronic media related to the litigation with the child,  
203 and refraining from disparaging comments about the other parent

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204 to the child.

205 (s) The developmental stages and needs of the child and the  
206 demonstrated capacity and disposition of each parent to meet the  
207 child's developmental needs.

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

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