

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.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1128

INTRODUCER: Senator Grall

SUBJECT: Family Law

DATE: February 11, 2026 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Pre-meeting
2.			ACJ	
3.			FP	

I. Summary:

SB 1128 addresses issues regarding parenting plans. A parenting plan defines the decisionmaking authority and child custody rights of each parent. These concepts, however, are described as parental responsibility and time-sharing, respectively, in Florida law. Under the bill, courts are required to give priority to proceedings to establish initial temporary parenting plans and to hearings to enforce time-sharing orders and agreements.

If a parent files a pleading to establish an initial temporary parenting plan, the bill requires each parent to file a proposed temporary parenting plan with his or her initial pleading. The court must then adopt the parents' proposed plans to the extent they are in agreement. Absent good cause, the court must hold a hearing within 30 days after the initial pleading is filed to address matters in which the plans are not in agreement. Within 30 days after the hearing, the court must establish a temporary parenting plan by court order.

Additionally, the bill requires that any motion to enforce compliance with a time-sharing order or agreement be heard by the judge assigned to the case within 5 business days. However, if that judge is not available, the duty judge, which is the circuit judge who must be available at all times to conduct hearings with limited notice, must conduct the hearing. The bill provides that the hearing may occur during regular business hours, on a Saturday, Sunday, or holiday, or after hours on a weekday.

With respect to paternity proceedings, the bill requires a paternity court to establish a parenting plan upon motion by a party. The bill also deletes a statutory provision stating that a judgment of paternity which does not include a parenting plan provides the mother with all of the time-sharing and sole parental responsibility.

The bill is estimated to have an undetermined significant negative fiscal impact on the state and on local governments.

The bill is effective July 1, 2026.

II. Present Situation:

Background

A child born out of wedlock may be the subject of a paternity action that establishes paternity. In a final order of paternity, the court may set a parenting plan and a time-sharing schedule. Children of divorce having living parents are similarly the subject of a family law action that establishes a parenting plan, which specifies parental responsibility for decisionmaking and includes a time-sharing schedule. The public policy regarding time-sharing is:

It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child.¹

Accordingly, if both parents are available,² a time-sharing schedule is developed. A “time-sharing schedule” means a timetable that must be included in the parenting plan that specifies the time, including overnights and holidays, that a minor child will spend with each parent. A time-sharing schedule must be either developed and agreed to by the parents of a minor child and approved by the court; or established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court.³

If the parents are both rational and reasonable adults, the time-sharing problems that inevitably arise are worked out between them and without outside help.

Court Enforcement of Time-Sharing Arrangements

If parents cannot work out their differences regarding a parenting plan or the time-sharing schedule, either party may petition for enforcement or modification. Common points of contention include violence or the threat of violence, failure to arrive at the exchange site on time, refusal to allow the child to leave with the other parent, the parent sending an unauthorized person to pick up the child, failure to pack a bag or pack medicines, a parent showing up drunk or high, failure to return the child on time, discovering that the other parent is taking the child to an unsafe housing situation, or failure to return the child at all.

¹ Section 61.13(2)(c)1., F.S.

² A living parent may not be involved with the child for time-sharing purposes because he or she is unknown, disinterested, incarcerated, disabled, dangerous, or is living at a distance that is too difficult to traverse.

³ Section 61.046(23), F.S.

When a parent refuses to honor the time-sharing schedule in the parenting plan without proper cause, the court may treat the matter as a contempt of court or may order other remedies as the court deems appropriate. These are the available remedies:

- After calculating the amount of time-sharing improperly denied, award the parent denied time enough extra time-sharing to compensate for the time-sharing missed. The time-sharing must be ordered as expeditiously as possible in a manner consistent with the best interests of the child and scheduled in a manner that is convenient for the parent deprived of time-sharing. In ordering any makeup time-sharing, the court must schedule the time-sharing in a manner that is consistent with the best interests of the child and which is convenient for the nonoffending parent and at the expense of the noncompliant parent.
- Order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to pay reasonable court costs and attorney fees incurred by the nonoffending parent to enforce the time-sharing schedule.
- Order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to attend a parenting course approved by the judicial circuit.
- Order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to do community service if the order will not interfere with the welfare of the child.
- Order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to have the financial burden of promoting frequent and continuing contact when that parent and child reside further than 60 miles from the other parent.
- If requested by the parent who did not violate the time-sharing schedule, modify the parenting plan if modification is in the best interests of the child.
- Impose any other reasonable sanction as a result of noncompliance.⁴

A petition for enforcement or modification is like most every other civil court motion. It takes time to prepare, file, and wait for an open hearing date with the judge. Sometimes, however, the issue may justify prompt action.

Emergency Relief

Emergency relief, while allowed, is limited by the constitutional requirements of due process. Requesting emergency relief is a form of request for modification of the time-sharing plan. The movant must show a substantial and material change in circumstances, and that the child's best interest will be promoted by such a modification. Generally, both parties must be given notice and opportunity to be heard on the matter prior to any modification, unless there is an actual, demonstrated emergency situation, “such as where a child is threatened with physical harm or is about to be improperly removed from the state.”⁵ Situations in which a child or children are “exposed to substantial emotional abuse or trauma by a parent or custodian” may also warrant emergency relief.⁶ Even in those instances, “every reasonable effort should be made to ensure

⁴ Section 61.13(4)(c), F.S.

⁵ *Smith v. Crider*, 932 So.2d 393, 398 (Fla. 2d DCA 2006); see also *Bronstein v. Bronstein*, 167 So.3d 462 (Fla. 3d DCA 2015); *Gielchinsky v. Gielchinsky*, 662 So.2d 732 (Fla. 4th DCA 1995).

⁶ *Capps v. Capps*, No. 4D2025-3371, 2025 WL 3649320, at *3 (Fla. Dist. Ct. App. Dec. 17, 2025).

both parties have an opportunity to be heard.”⁷ “To conduct a proper inquiry into these issues, both parties must generally be given the opportunity for a full hearing where the parties and their witnesses are given an opportunity to testify.”⁸

Paternity

Chapter 742, F.S. establishes the process for recognizing the parentage of a child. It is clear in nearly all births who the mother is. If the mother is in an intact marriage, a strong legal presumption applies presuming that the husband is the father.⁹ Should these presumptions leave a child without two parents, a paternity case is the means of establishing who the parents are. The court hearing a paternity case may, but is not required to, determine a parenting plan and time-sharing schedule.¹⁰

If the final judgment is only an award of child support, the parent receiving support is considered to have all of the parental responsibility and all of the time-sharing, although those issues are not res judicata and thus may be the subject of a different case.¹¹ If the final judgment is silent regarding a parenting plan and time-sharing, the mother is presumed to have been awarded sole parental responsibility and all of the time-sharing.¹²

Duty Judges

In 1935, the Legislature enacted a requirement that judicial circuits having more than one circuit judge, if possible, have at least one circuit judge available at all times to hold and conduct hearings in chambers.¹³ This judge is commonly referred to as a “duty judge.” The statutory requirement to designate a duty judge in judicial circuits supports the prompt and efficient administration of justice by having a judge available during work hours, after hours, weekends, and holidays to handle emergency judicial matters. These emergency matters may include applications for search or arrest warrants, pen registers, petitions for *ex parte* injunctive relief to prevent domestic and repeat violence, communications intercepts, and medical consents. Over time, the number of circuit judges has grown, and presently all judicial circuits have more than one circuit judge.¹⁴ Accordingly, each circuit maintains a duty judge schedule. Current law requires that:

At least one circuit judge in each circuit [] be available at all times to hold and conduct hearings with limited notice. In each circuit, there must be at least one judge available on Saturdays, Sundays, holidays, and after hours on weekdays to hear motions for a temporary injunction *ex parte* in

⁷ *Ashby v. Murray*, 113 So.3d 951, 954 (Fla. 5th DCA 2013).

⁸ *Haddix v. Emret*, 992 So.2d 883, 886 (Fla. 2d DCA 2008).

⁹ *McGovern v. Clark*, 298 So. 3d 1244, 1248 (Fla. 5th DCA 2020).

¹⁰ Section 741.031(1), F.S.

¹¹ Section 741.031(2), F.S.

¹² Section 741.031(2), F.S.

¹³ Ch. 17085, §4, at 699, Laws of Fla. (1935), codified in s. 26.20, F.S.

¹⁴ The current number of circuit judges in each judicial circuit ranges from 4 in the 16th Judicial Circuit (Monroe County) to 83 in the 11th Judicial Circuit (Miami-Dade County). Section 26.031, F.S.

domestic violence cases. The chief judge may assign a judge for this purpose.¹⁵

Along with growth in the number of circuit judges since 1935, technological innovations have transformed the way judges carry out judicial activities and conduct court proceedings. Judges routinely access case files, issue orders, and conduct hearings from locations other than a physical courthouse or their chambers using case management and communication technologies. The adoption of these technologies has led to greater efficiency for judges and court users and better access to the courts.

Family Courts

Florida's Family Courts use a fully integrated, comprehensive approach to handling all cases involving children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner. The Florida Supreme Court has recognized that families should be able to have their disputes resolved in the most effective and efficient way possible. Court cases involving one family are handled before one judge unless impractical. Since 1991, a series of Florida Supreme Court opinions have been instrumental in shaping family courts throughout the state.¹⁶

For the most recent fiscal year, the state courts system overall received 240,019 family court case filings, received 51,852 petitions to reopen a case because of a motion for civil contempt and enforcement, and had an overall 100.9% clearance rate.¹⁷

III. Effect of Proposed Changes:

SB 1128 addresses issues regarding a parenting plan and a time-sharing arrangement, including issues addressing delay in the time for obtaining relief on a motion or petition for enforcement.

The bill amends s. 26.20, F.S., to expand the authority of a duty judge to allow the duty judge to hear and rule on motions to enforce time-sharing orders and agreements established in family law or paternity proceedings.

The bill amends s. 61.13, F.S., to require that certain issues be given priority on a court's calendar:

- A motion seeking to establish temporary parental responsibility and a time-sharing schedule. Upon filing the motion, the parties must file a proposed plan. Agreed upon items are considered adopted by the court. The court must set an evidentiary hearing within 30 days after filing the motion and must issue an order on temporary parental responsibility and time-sharing within 30 days after the hearing. The parties may agree to mediation, but the court may not order them to attend mediation absent the consent of all parties.

¹⁵ Section 26.20, F.S.

¹⁶ Office of the State Courts Administrator, *History of Family Courts in Florida*, <https://www.flcourts.gov/Services/Family-Courts/History-of-Family-Courts-in-Florida>.

¹⁷ Office of the State Court Administrator, *FY 2024-2025 Statistical Reference Guide*, pages 5-3, 5-21, and 5-22. <https://flcourts-media.flcourts.gov/content/download/2472280/file/2024-25-chapter-5-family-court-ada-20251030.pdf>.

- A motion to enforce compliance with an existing time-sharing order or agreement. The court must set a hearing within 5 business days after the filing. If the judge assigned to the case is not available during those 5 business days, the duty judge must conduct the hearing which may be set for any time (including nights, weekends, and holidays).

The bill amends s. 742.031, F.S., to allow a party to a paternity action to insist that the court issue an order that includes the establishment of a parenting plan and a time-sharing schedule. The bill also amends that section to repeal the default rules that apply if a final judgment of paternity does not establish a parenting plan or time-sharing schedule.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Due Process

The requirement in the bill for a court to conduct a hearing on a motion to enforce a child custody order or agreement within 5 business days raises due process concerns if or to the extent that the bill authorizes hearings without notice to the other party absent an emergency situation. Generally, both parties must be given notice and opportunity to be heard on the matter prior to any modification of a parenting plan, unless there is an actual, demonstrated emergency situation, “such as where a child is threatened with physical harm or is about to be improperly removed from the state.”¹⁸ Situations in which a child or children are exposed to substantial emotional abuse or trauma by a parent or custodian may also warrant emergency relief.¹⁹ Even in those instances, “every

¹⁸ *Smith v. Crider*, 932 So.2d 393, 398 (Fla. 2d DCA 2006); see also *Bronstein v. Bronstein*, 167 So.3d 462 (Fla. 3d DCA 2015); *Gielchinsky v. Gielchinsky*, 662 So.2d 732 (Fla. 4th DCA 1995).

¹⁹ *Capps v. Capps*, No. 4D2025-3371, 2025 WL 3649320, at *3 (Fla. Dist. Ct. App. Dec. 17, 2025).

reasonable effort should be made to ensure both parties have an opportunity to be heard.”²⁰

Rulemaking

The bill may intrude on the Supreme Court’s exclusive authority over practice and procedure under Article V section 2(a) of the State Constitution.

A rule of procedure prescribes the method or order by which a party enforces substantive rights or obtains redress for their invasion. Substantive law creates those rights. Practice and procedure are the machinery of the judicial process as opposed to the product thereof. There can be no doubt that a rule creating priorities among types of civil matters being processed by the state courts is procedural rather than substantive.²¹

The Supreme Court has held that the establishment of time limitations for a court to act, at least in the context of a writ of habeas corpus, is a matter of practice and procedure, and therefore, the judiciary is the only branch of government authorized by the Florida Constitution to set deadlines for court action.²² A law setting deadlines is invalid as an encroachment on this Court's exclusive power to “adopt rules for the practice and procedure in all courts.”²³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may increase costs for parents involved in a parenting plan with a time-sharing schedule.

C. Government Sector Impact:

The bill appears to require significant expenditures by state and local governments.

The bill appears to have an “[i]ndeterminate, but likely significant” negative fiscal impact on the courts.²⁴ Judicial workload may increase to the point that additional judges, with related staff increases, may need to be funded at the state level.

²⁰ *Wolfson v. Wolfson*, 173 So.3d 1136 (Fla. 3rd DCA 2015); *Ashby v. Murray*, 113 So.3d 951, 954 (Fla. 5th DCA 2013); see also *Haddix v. Emret*, 992 So.2d 883, 886 (Fla. 2^d DCA 2008) (“To conduct a proper inquiry into these issues, both parties must generally be given the opportunity for a full hearing where the parties and their witnesses are given an opportunity to testify”).

²¹ *Mil. Park Fire Control Tax Dist. No. 4 v. DeMarois*, 407 So. 2d 1020, 1021 (Fla. 4th DCA 1981).

²² *Allen v. Butterworth*, 756 So. 2d 52, 64 (Fla. 2000).

²³ *Id.*

²⁴ Office of the State Courts Administrator, *2026 Judicial Impact Statement [for SB 1128]*, February 8, 2026, on file with the Senate Judiciary Committee.

This bill appears to require courts to conduct evidentiary hearings outside of normal business hours. Accordingly, this bill may require local governments to incur significant additional expenditures for clerks, bailiffs, security, and building maintenance (who would likely have to be paid on an overtime basis).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.20, 61.13, and 742.031.

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.