

HB 553

2016

1 A bill to be entitled
2 An act relating to family law; amending s. 61.13,
3 F.S.; creating a presumption that approximately equal
4 time-sharing by both parents is in the best interest
5 of the child; revising a finite list of factors that a
6 court must evaluate when determining whether the
7 presumption of approximately equal time-sharing is
8 overcome; requiring a court order to be supported by
9 written findings of fact under certain circumstances;
10 prohibiting a determination of parental
11 responsibility, a parenting plan, or a time-sharing
12 schedule unless certain determinations are made;
13 providing an effective date.

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

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17 Section 1. Subsection (3) of section 61.13, Florida
18 Statutes, is amended to read:

19 61.13 Support of children; parenting and time-sharing;
20 powers of court.—

21 (3) For purposes of establishing or modifying parental
22 responsibility and creating, developing, approving, or modifying
23 a parenting plan, including a time-sharing schedule, which
24 governs each parent's relationship with his or her minor child
25 and the relationship between each parent with regard to his or
26 her minor child, the best interest of the child shall be the

27 primary consideration.

28 (a) Approximately equal time-sharing with a minor child by
 29 both parents is presumed to be in the best interest of the
 30 child. In determining whether the presumption is overcome, the
 31 court shall evaluate the evidence based on ~~A determination of~~
 32 ~~parental responsibility, a parenting plan, or a time-sharing~~
 33 ~~schedule may not be modified without a showing of a substantial,~~
 34 ~~material, and unanticipated change in circumstances and a~~
 35 ~~determination that the modification is in the best interests of~~
 36 ~~the child. Determination of the best interests of the child~~
 37 ~~shall be made by evaluating all of the factors affecting the~~
 38 ~~welfare and interests of the particular minor child and the~~
 39 ~~circumstances of that family, including, but not limited to:~~

40 1.(a) The demonstrated capacity or ~~and~~ disposition of each
 41 parent to facilitate and encourage a close and continuing
 42 parent-child relationship, to honor the time-sharing schedule,
 43 and to be reasonable when changes are required.

44 2.(b) The anticipated division of parental
 45 responsibilities after the litigation, including the extent to
 46 which parental responsibilities will be delegated to third
 47 parties.

48 3.(c) The demonstrated capacity and disposition of each
 49 parent to determine, consider, and act upon the needs of the
 50 child as opposed to the needs or desires of the parent.

51 4.(d) The length of time the child has lived in a stable,
 52 satisfactory environment and the desirability of maintaining

53 continuity.

54 5.~~(e)~~ The geographic viability of the parenting plan, with
55 special attention paid to the needs of school-age children and
56 the amount of time to be spent traveling to carry out ~~effectuate~~
57 the parenting plan. This factor does not create a presumption
58 for or against relocation of either parent with a child.

59 6.~~(f)~~ The moral fitness of the parents.

60 7.~~(g)~~ The mental and physical health of the parents.

61 8.~~(h)~~ The home, school, and community record of the child.

62 9.~~(i)~~ The reasonable preference of the child~~r~~, if the court
63 deems the child to be of sufficient intelligence, understanding,
64 and experience to express a preference.

65 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
66 disposition of each parent to be informed of the circumstances
67 of the minor child, including, but not limited to, the child's
68 friends, teachers, medical care providers, daily activities, and
69 favorite things.

70 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of
71 each parent to provide a consistent routine for the child, such
72 as discipline~~r~~ and daily schedules for homework, meals, and
73 bedtime.

74 12.~~(l)~~ The demonstrated capacity of each parent to
75 communicate with the other parent and keep the other parent
76 informed of issues and activities regarding the minor child, and
77 the willingness of each parent to adopt a unified front on all
78 major issues when dealing with the child.

79 13.~~(m)~~ Evidence of domestic violence, sexual violence,
80 child abuse, child abandonment, or child neglect, regardless of
81 whether a prior or pending action relating to those issues has
82 been brought. If the court accepts evidence of prior or pending
83 actions regarding domestic violence, sexual violence, child
84 abuse, child abandonment, or child neglect, the court must
85 specifically acknowledge in writing that such evidence was
86 considered when evaluating the best interests of the child.

87 14.~~(n)~~ Evidence that either parent has knowingly provided
88 false information to the court regarding any prior or pending
89 action regarding domestic violence, sexual violence, child
90 abuse, child abandonment, or child neglect.

91 15.~~(o)~~ The demonstrated capacity or disposition of each
92 parent to perform or ensure the performance of particular
93 parenting tasks customarily performed by the other ~~each~~ parent
94 and the division of parental responsibilities before the
95 institution of litigation and during the pending litigation,
96 including the extent to which parenting responsibilities were
97 undertaken by third parties.

98 16.~~(p)~~ The demonstrated capacity and disposition of each
99 parent to participate and be involved in the child's school and
100 extracurricular activities.

101 17.~~(q)~~ The demonstrated capacity and disposition of each
102 parent to maintain an environment for the child which is free
103 from substance abuse.

104 18.~~(r)~~ The capacity and disposition of each parent to

105 protect the child from the ongoing litigation as demonstrated by
106 not discussing the litigation with the child, not sharing
107 documents or electronic media related to the litigation with the
108 child, and refraining from disparaging comments about the other
109 parent to the child.

110 19.~~(s)~~ The developmental stages and needs of the child and
111 the demonstrated capacity and disposition of each parent to meet
112 the child's developmental needs.

113 20. The amount of time-sharing requested by each parent.

114 21. The frequency that a parent would likely leave the
115 child in the care of a nonrelative on evenings and weekends when
116 the other parent would be available and willing to provide care.

117 22.~~(t)~~ Any other factor that is relevant to the
118 determination of a specific parenting plan, including the time-
119 sharing schedule.

120 (b) A court order must be supported by written findings of
121 fact if the order establishes an initial permanent time-sharing
122 schedule that does not provide for approximately equal time-
123 sharing.

124 (c) A determination of parental responsibility, a
125 parenting plan, or a time-sharing schedule may not be modified
126 without a determination that such modification is in the best
127 interest of the child and upon a showing of a substantial,
128 material, and unanticipated change in circumstances.

129 Section 2. This act shall take effect October 1, 2016.