

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 Rules

BILL: CS/CS/SB 794

INTRODUCER: Children, Families, and Elder Affairs Committee; Judiciary Committee; and Senator Ring

SUBJECT: Dissolution of Marriage Parenting Plans

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	<u>Brown</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 794 revises what must be included in a parenting plan approved by the court. Current law requires parenting plans to adequately describe time-sharing arrangements and parental responsibility in the child’s daily upbringing, health care, school-related matters and other activities, and the methods and technologies of communicating with the child.

Under the bill, if a court orders shared parental responsibility, the parenting plan must authorize either parent to consent to mental health treatment for the child. The costs for any mental health treatment shall be governed by the marital settlement agreement approved by the court or a court order.

II. Present Situation:

Dissolution of Marriage Actions and Minor Children

In instances in which parents to a minor child are parties to a legal dissolution of marriage, the court must approve or determine a parenting plan. A parenting plan is a plan in writing created to “govern the relationship between the parents relating to decisions that must be made regarding the minor child.”¹

¹ Section 61.046(14), F.S.

A court can only modify a determination of parental responsibility, a parenting plan, or a time-sharing schedule upon a showing of a substantial, material, and unanticipated change in circumstances. Additionally, the court must determine that modification is in the best interests of the child.²

Parenting Plan

A parenting plan must include a time-sharing schedule for the parents and child.³ Issues that may be addressed in the plan include the child's education, health care, and physical, social, and emotional well-being.⁴

More specifically:

A parenting plan approved by the court must, at a minimum, describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child; the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent; ***a designation of who will be responsible for any and all forms of health care***, school-related matters including the address to be used for school-boundary determination and registration, and other activities; and the methods and technologies that the parents will use to communicate with the child.⁵

Shared or Sole Parental Responsibility

If a court orders shared parental responsibility, both parents retain full parental rights and responsibilities regarding the child. With shared parental responsibility, major decision-making about the child is jointly shared by the parents.⁶ In contrast, if a court orders sole parental responsibility, one parent makes all decisions regarding the child.⁷

In determining parental responsibility, the court must consider the best interests of the child. A court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.⁸ In ordering shared parental responsibility, the court may consider the wishes of the parents and grant one party exclusive responsibility over certain aspects of the child's welfare, including health care.⁹ Similarly, the court is required to order sole parental responsibility to one parent with or without timesharing if it is in the best interests of the child.¹⁰

² Section 61.13(3), F.S.

³ *Id.*

⁴ Section 61.046(14), F.S.

⁵ Section 61.13(2)(b), F.S.

⁶ Section 61.046(17), F.S.

⁷ Section 61.046(18), F.S.

⁸ Section 61.13 (2)(c)2., F.S.

⁹ Section 61.113(2)(c)a., F.S.

¹⁰ Section 61.13(2)(c)2.b. F.S.

Parental Time-sharing

The public policy of the state is for each minor child to have “frequent and continuing contact with both parents.”¹¹ In determining timesharing with each parent, a court must consider the best interests of the child based on a specific list of factors.

Factors for the court to consider in determining the best interest of the child include:

- The demonstrated capacity of each parent to have a close and continuing parent-child relationship, honor the time-sharing schedule, and be reasonable when changes are required.
- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child, including developmental needs.
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- The moral fitness and the mental and physical health of the parents.
- The reasonable preference of the child, if the child is of sufficient intelligence, understanding, and experience to express a preference.
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime, and to be involved in the child’s school and extracurricular activities.
- The demonstrated capacity of each parent to keep the other parent informed about the minor child, and the willingness of each parent to adopt a unified front on major issues.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has knowingly provided false information about these issues. If the court accepts evidence of prior or pending actions on these issues, the court must acknowledge in writing that the evidence was considered in evaluating best interests.
- The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before and during litigation, including the extent to which parenting responsibilities were undertaken by third parties.
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.¹²

A final factor provides the court with flexibility to consider any other factor relevant in establishing a parenting plan, including a time-sharing schedule.¹³

III. Effect of Proposed Changes:

This bill revises what must be included in a parenting plan approved by the court. Current law requires parenting plans to adequately describe time-sharing arrangements and parental responsibility in the child’s daily upbringing, health care, school-related matters and other activities, and the methods and technologies of communicating with the child.

¹¹ Section 61.13(2)(c)1., F.S.

¹² Section 61.13(3), F.S.

¹³ Section 61.13(3)(t), F.S.

The bill requires a parenting plan to allow either parent to consent to mental health treatment for the child. The scope of what is meant by mental health treatment, however, is not defined. Any mental health treatment costs must be governed by the marital settlement agreement approved by the court or a court order.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If this bill results in disputes between parents over the necessity of psychological treatment or the appropriate type of treatment, those disputes might require resolution by a court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.13 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Children, Families, and Elder Affairs on February 17, 2016:

The CS provides that any costs for mental health treatment for a child shall be governed by the marital settlement agreement approved by the court or a court order.

CS by Judiciary on February 9, 2016:

This CS clarifies that the provision in the bill which requires parenting plans to authorize either parent's approval of mental health treatment only applies in instances involving shared parental responsibility.

- B. **Amendments:**

None.