

HB 1155

2022

1                                   A bill to be entitled  
2           An act relating to time-sharing of a minor child;  
3           amending ss. 61.13 and 409.25633, F.S.; providing a  
4           presumption that equal time-sharing with both parents  
5           is in the best interests of a minor child when  
6           creating or modifying certain parenting plans;  
7           providing an effective date.  
8

9   Be It Enacted by the Legislature of the State of Florida:  
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11           Section 1. Paragraph (c) of subsection (2) of section  
12   61.13, Florida Statutes, is amended to read:

13           61.13 Support of children; parenting and time-sharing;  
14   powers of court.—

15           (2)

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

23           1. It is the public policy of the ~~this~~ state that each  
24   minor child has frequent and continuing contact with both  
25   parents after the parents separate or the marriage of the

26 parties is dissolved and to encourage parents to share the  
 27 rights and responsibilities, and joys, of childrearing. ~~Except~~  
 28 ~~as otherwise provided in this paragraph,~~ There is a ~~no~~  
 29 presumption that equal ~~for or against the father or mother of~~  
 30 ~~the child or for or against any specific time-sharing with both~~  
 31 parents is in the best interests of the minor child ~~schedule~~  
 32 when creating or modifying the parenting plan of the child.

33 2. The court shall order that the parental responsibility  
 34 for a minor child be shared by both parents unless the court  
 35 finds that shared parental responsibility would be detrimental  
 36 to the child. The following evidence creates a rebuttable  
 37 presumption of detriment to the child:

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

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

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

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

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

48  
 49 If the presumption is not rebutted after the convicted parent is  
 50 advised by the court that the presumption exists, shared

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

64 3. In ordering shared parental responsibility, the court  
65 may consider the expressed desires of the parents and may grant  
66 to one party the ultimate responsibility over specific aspects  
67 of the child's welfare or may divide those responsibilities  
68 between the parties based on the best interests of the child.  
69 Areas of responsibility may include education, health care, and  
70 any other responsibilities that the court finds unique to a  
71 particular family.

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

76           5. There is a rebuttable presumption against granting  
77 time-sharing with a minor child if a parent has been convicted  
78 of or had adjudication withheld for an offense enumerated in s.  
79 943.0435(1)(h)1.a., and at the time of the offense:

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

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

83  
84 A parent may rebut the presumption upon a specific finding in  
85 writing by the court that the parent poses no significant risk  
86 of harm to the child and that time-sharing is in the best  
87 interests of the minor child. If the presumption is rebutted,  
88 the court shall consider all time-sharing factors in subsection  
89 (3) when developing a time-sharing schedule.

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

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101 Section 2. Section 409.25633, Florida Statutes, is amended  
102 to read:

103 409.25633 Title IV-D Standard Parenting Time Plans.—The  
104 best interests ~~interest~~ of the child is the primary  
105 consideration of the parenting plan, and special consideration  
106 should be given to the age and needs of each child. There is a  
107 ~~no~~ presumption that equal ~~for or against the father or mother of~~  
108 ~~the child or for or against any specific~~ time-sharing with both  
109 parents is in the best interests of the minor child ~~schedule~~  
110 when a parenting time plan is created.

111 (1) A Title IV-D Standard Parenting Time Plan shall be  
112 presented to the parents in any administrative action taken by  
113 the Title IV-D program to establish or modify child support or  
114 to determine paternity. If the parents agree to the Title IV-D  
115 Standard Parenting Time Plan or to another parenting time plan,  
116 the plan must be signed by the parents and incorporated into the  
117 administrative order. If the parents do not agree to a Title IV-  
118 D Standard Parenting Time Plan or if an agreed-upon parenting  
119 time plan is not included, the Department of Revenue must enter  
120 an administrative support order and refer the parents to the  
121 court of appropriate jurisdiction to establish a parenting time  
122 plan. The department must note on the referral that an  
123 administrative support order has been entered. If a parenting  
124 time plan is not included in the administrative support order  
125 entered pursuant to s. 409.2563, the department must provide

126 information to the parents on the process to establish such a  
127 plan.

128 (2) After the incorporation of an agreed-upon parenting  
129 time plan into an administrative order, a modification or  
130 enforcement of the parenting time plan may be sought through a  
131 court of appropriate jurisdiction.

132 (3) The parent who owes support is entitled to parenting  
133 time with the child. If the parents do not have a signed,  
134 agreed-upon parenting time plan, the following Title IV-D  
135 Standard Parenting Time Plan must be incorporated into an  
136 administrative support order if agreed to and signed by the  
137 parents:

138 (a) Every other weekend.—The second and fourth full  
139 weekend of the month from 6 p.m. on Friday through 6 p.m. on  
140 Sunday. The weekends may begin upon the child's release from  
141 school on Friday and end on Sunday at 6 p.m. or when the child  
142 returns to school on Monday morning. The weekend time may be  
143 extended by holidays that fall on Friday or Monday.~~†~~

144 (b) One evening per week.—One weekday beginning at 6 p.m.  
145 and ending at 8 p.m. or, if both parents agree, from when the  
146 child is released from school until 8 p.m.~~†~~

147 (c) Thanksgiving break.—In even-numbered years, the  
148 Thanksgiving break from 6 p.m. on the Wednesday before  
149 Thanksgiving until 6 p.m. on the Sunday following Thanksgiving.  
150 If both parents agree, the Thanksgiving break parenting time may

151 begin upon the child's release from school and end upon the  
152 child's return to school the following Monday.†

153 (d) Winter break.—In odd-numbered years, the first half of  
154 winter break, from the child's release from school, beginning at  
155 6 p.m. or, if both parents agree, upon the child's release from  
156 school, until noon on December 26. In even-numbered years, the  
157 second half of winter break from noon on December 26 until 6  
158 p.m. on the day before school resumes or, if both parents agree,  
159 upon the child's return to school.†

160 (e) Spring break.—In even-numbered years, the week of  
161 spring break from 6 p.m. the day the child is released from  
162 school until 6 p.m. the night before school resumes. If both  
163 parents agree, the spring break parenting time may begin upon  
164 the child's release from school and end upon the child's return  
165 to school the following Monday.~~†~~† and

166 (f) Summer break.—For 2 weeks in the summer beginning at 6  
167 p.m. the first Sunday following the last day of school.

168 (4) In the event the parents have not agreed on a  
169 parenting schedule at the time of the child support hearing, the  
170 department shall enter an administrative support order and refer  
171 the parents to a court of appropriate jurisdiction for the  
172 establishment of a parenting time plan.

173 (5) The Title IV-D Standard Parenting Time Plan is not  
174 intended for the use by, and may not be provided to, parents and  
175 families with domestic or family violence concerns.

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176 (6) If, after the incorporation of an agreed-upon  
177 parenting time plan into an administrative support order, a  
178 parent becomes concerned about the safety of the child during  
179 the child's time with the other parent, a modification of the  
180 parenting time plan may be sought through a court of appropriate  
181 jurisdiction.

182 (7) The department shall create and provide a form for a  
183 petition to establish a parenting time plan for parents who have  
184 not agreed on a parenting schedule at the time of the child  
185 support hearing. The department shall provide the form to the  
186 parents, but may not file the petition or represent either  
187 parent at the hearing.

188 (8) The parents are ~~may~~ not ~~be~~ required to pay a fee to  
189 file the petition to establish a parenting plan.

190 (9) The department may adopt rules to implement and  
191 administer this section.

192 Section 3. This act shall take effect July 1, 2022.