

By the Committees on Rules; and Judiciary; and Senators Berman, Book, Hutson, Garcia, Harrell, and Yarborough

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1 A bill to be entitled
2 An act relating to domestic violence; providing a
3 short title; amending s. 61.13, F.S.; requiring the
4 court with jurisdiction over the proceeding to
5 consider certain factors in deciding whether shared
6 parental responsibility is detrimental to the child;
7 making technical and conforming changes; providing
8 additional conduct regarding domestic violence which
9 the court must consider when ordering a parenting
10 plan; amending s. 741.30, F.S.; providing an
11 additional factor that the court must consider in
12 determining whether a petitioner of a domestic
13 violence injunction is in imminent danger; conforming
14 a provision to changes made by the act; providing an
15 effective date.

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

18
19 Section 1. This act may be cited as "Greyson's Law."

20 Section 2. Paragraph (c) of subsection (2) and paragraph
21 (m) of subsection (3) of section 61.13, Florida Statutes, are
22 amended to read:

23 61.13 Support of children; parenting and time-sharing;
24 powers of court.—

25 (2)

26 (c) The court shall determine all matters relating to
27 parenting and time-sharing of each minor child of the parties in
28 accordance with the best interests of the child and in
29 accordance with the Uniform Child Custody Jurisdiction and

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30 Enforcement Act, except that modification of a parenting plan
31 and time-sharing schedule requires a showing of a substantial,
32 material, and unanticipated change of circumstances.

33 1. It is the public policy of this state that each minor
34 child has frequent and continuing contact with both parents
35 after the parents separate or the marriage of the parties is
36 dissolved and to encourage parents to share the rights and
37 responsibilities, and joys, of childrearing. Except as otherwise
38 provided in this paragraph, there is no presumption for or
39 against the father or mother of the child or for or against any
40 specific time-sharing schedule when creating or modifying the
41 parenting plan of the child.

42 2. The court shall order that the parental responsibility
43 for a minor child be shared by both parents unless the court
44 finds that shared parental responsibility would be detrimental
45 to the child. In determining detriment to the child, the court
46 shall consider:

47 a. Evidence of domestic violence, as defined in s. 741.28;

48 b. Whether either parent has or has had reasonable cause to
49 believe that he or she or his or her minor child or children are
50 or have been in imminent danger of becoming victims of an act of
51 domestic violence as defined in s. 741.28 or sexual violence as
52 defined in s. 784.046(1)(c) by the other parent against the
53 parent or against the child or children whom the parents share
54 in common regardless of whether a cause of action has been
55 brought or is currently pending in the court;

56 c. Whether either parent has or has had reasonable cause to
57 believe that his or her minor child or children are or have been
58 in imminent danger of becoming victims of an act of abuse as

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59 defined in s. 39.01(2), abandonment as defined in s. 39.01(1),
60 or neglect as defined in s. 39.01(50) by the other parent
61 against the child or children whom the parents share in common
62 regardless of whether a cause of action has been brought or is
63 currently pending in the court; and

64 d. Any other relevant factors.

65 3. The following evidence creates a rebuttable presumption
66 that shared parental responsibility is detrimental ~~of detriment~~
67 to the child:

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

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

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

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

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

78

79 If the presumption is not rebutted after the convicted parent is
80 advised by the court that the presumption exists, shared
81 parental responsibility, including time-sharing with the child,
82 and decisions made regarding the child, may not be granted to
83 the convicted parent. However, the convicted parent is not
84 relieved of any obligation to provide financial support. If the
85 court determines that shared parental responsibility would be
86 detrimental to the child, it may order sole parental
87 responsibility and make such arrangements for time-sharing as

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88 specified in the parenting plan as will best protect the child
89 or abused spouse from further harm. Whether or not there is a
90 conviction of any offense of domestic violence or child abuse or
91 the existence of an injunction for protection against domestic
92 violence, the court shall consider evidence of domestic violence
93 or child abuse as evidence of detriment to the child.

94 ~~4.3.~~ In ordering shared parental responsibility, the court
95 may consider the expressed desires of the parents and may grant
96 to one party the ultimate responsibility over specific aspects
97 of the child's welfare or may divide those responsibilities
98 between the parties based on the best interests of the child.
99 Areas of responsibility may include education, health care, and
100 any other responsibilities that the court finds unique to a
101 particular family.

102 ~~5.4.~~ The court shall order sole parental responsibility for
103 a minor child to one parent, with or without time-sharing with
104 the other parent if it is in the best interests of the minor
105 child.

106 ~~6.5.~~ There is a rebuttable presumption against granting
107 time-sharing with a minor child if a parent has been convicted
108 of or had adjudication withheld for an offense enumerated in s.
109 943.0435(1)(h)1.a., and at the time of the offense:

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

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

113
114 A parent may rebut the presumption upon a specific finding in
115 writing by the court that the parent poses no significant risk
116 of harm to the child and that time-sharing is in the best

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117 interests of the minor child. If the presumption is rebutted,
118 the court must ~~shall~~ consider all time-sharing factors in
119 subsection (3) when developing a time-sharing schedule.

120 7.6. Access to records and information pertaining to a
121 minor child, including, but not limited to, medical, dental, and
122 school records, may not be denied to either parent. Full rights
123 under this subparagraph apply to either parent unless a court
124 order specifically revokes these rights, including any
125 restrictions on these rights as provided in a domestic violence
126 injunction. A parent having rights under this subparagraph has
127 the same rights upon request as to form, substance, and manner
128 of access as are available to the other parent of a child,
129 including, without limitation, the right to in-person
130 communication with medical, dental, and education providers.

131 (3) For purposes of establishing or modifying parental
132 responsibility and creating, developing, approving, or modifying
133 a parenting plan, including a time-sharing schedule, which
134 governs each parent's relationship with his or her minor child
135 and the relationship between each parent with regard to his or
136 her minor child, the best interest of the child shall be the
137 primary consideration. A determination of parental
138 responsibility, a parenting plan, or a time-sharing schedule may
139 not be modified without a showing of a substantial, material,
140 and unanticipated change in circumstances and a determination
141 that the modification is in the best interests of the child.
142 Determination of the best interests of the child shall be made
143 by evaluating all of the factors affecting the welfare and
144 interests of the particular minor child and the circumstances of
145 that family, including, but not limited to:

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146 (m) Evidence of domestic violence, sexual violence, child
147 abuse, child abandonment, or child neglect or evidence that a
148 parent has or has had reasonable cause to believe that he or she
149 or his or her minor child or children are in imminent danger of
150 becoming victims of an act of domestic violence, regardless of
151 whether a prior or pending action relating to those issues has
152 been brought. If the court accepts evidence of prior or pending
153 actions regarding domestic violence, sexual violence, child
154 abuse, child abandonment, or child neglect, the court must
155 specifically acknowledge in writing that such evidence was
156 considered when evaluating the best interests of the child.

157 Section 3. Paragraph (b) of subsection (3) and paragraph
158 (b) of subsection (6) of section 741.30, Florida Statutes, are
159 amended to read:

160 741.30 Domestic violence; injunction; powers and duties of
161 court and clerk; petition; notice and hearing; temporary
162 injunction; issuance of injunction; statewide verification
163 system; enforcement; public records exemption.—

164 (3)

165 (b) The sworn petition shall be in substantially the
166 following form:

167

168 PETITION FOR
169 INJUNCTION FOR PROTECTION
170 AGAINST DOMESTIC VIOLENCE

171

172 Before me, the undersigned authority, personally appeared
173 Petitioner ...(Name)..., who has been sworn and says that the
174 following statements are true:

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175 (a) Petitioner resides at: ...(address)...

176 (Petitioner may furnish address to the court in a separate

177 confidential filing if, for safety reasons, the petitioner

178 requires the location of the current residence to be

179 confidential.)

180 (b) Respondent resides at: ...(last known address)...

181 (c) Respondent's last known place of employment: ...(name

182 of business and address)...

183 (d) Physical description of respondent:.....

184 Race.....

185 Sex.....

186 Date of birth.....

187 Height.....

188 Weight.....

189 Eye color.....

190 Hair color.....

191 Distinguishing marks or scars.....

192 (e) Aliases of respondent:.....

193 (f) Respondent is the spouse or former spouse of the

194 petitioner or is any other person related by blood or marriage

195 to the petitioner or is any other person who is or was residing

196 within a single dwelling unit with the petitioner, as if a

197 family, or is a person with whom the petitioner has a child in

198 common, regardless of whether the petitioner and respondent are

199 or were married or residing together, as if a family.

200 (g) The following describes any other cause of action

201 currently pending between the petitioner and respondent:.....

202

203 The petitioner should also describe any previous or pending

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204 attempts by the petitioner to obtain an injunction for
 205 protection against domestic violence in this or any other
 206 circuit, and the results of that attempt:.....
 207
 208 Case numbers should be included if available.

209 (h) Petitioner is either a victim of domestic violence or
 210 has reasonable cause to believe he or she is in imminent danger
 211 of becoming a victim of domestic violence because respondent
 212 has: ... (mark all sections that apply and describe in the spaces
 213 below the incidents of violence or threats of violence,
 214 specifying when and where they occurred, including, but not
 215 limited to, locations such as a home, school, place of
 216 employment, or visitation exchange)...

217
 218

219 ...committed or threatened to commit domestic violence
 220 defined in s. 741.28, Florida Statutes, as any assault,
 221 aggravated assault, battery, aggravated battery, sexual assault,
 222 sexual battery, stalking, aggravated stalking, kidnapping, false
 223 imprisonment, or any criminal offense resulting in physical
 224 injury or death of one family or household member by another.
 225 With the exception of persons who are parents of a child in
 226 common, the family or household members must be currently
 227 residing or have in the past resided together in the same single
 228 dwelling unit.

229 ...previously threatened, harassed, stalked, or physically
 230 abused the petitioner.

231 ...attempted to harm the petitioner or family members or
 232 individuals closely associated with the petitioner.

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233 threatened to conceal, kidnap, or harm the petitioner's
234 child or children.

235 intentionally injured or killed a family pet.

236 used, or has threatened to use, against the petitioner
237 any weapons such as guns or knives.

238 physically restrained the petitioner from leaving the
239 home or calling law enforcement.

240 a criminal history involving violence or the threat of
241 violence (if known).

242 another order of protection issued against him or her
243 previously or from another jurisdiction (if known).

244 destroyed personal property, including, but not limited
245 to, telephones or other communication equipment, clothing, or
246 other items belonging to the petitioner.

247 engaged in a pattern of abusive, threatening,
248 intimidating, or controlling behavior composed of a series of
249 acts over a period of time, however short.

250 engaged in any other behavior or conduct that leads the
251 petitioner to have reasonable cause to believe he or she is in
252 imminent danger of becoming a victim of domestic violence.

253 (i) Petitioner alleges the following additional specific
254 facts: ... (mark appropriate sections)...

255 A minor child or minor children reside with the
256 petitioner whose names and ages are as follows:

257

258 Petitioner needs the exclusive use and possession of
259 the dwelling that the parties share.

260 Petitioner is unable to obtain safe alternative housing
261 because:

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262

263 Petitioner genuinely fears that respondent imminently
264 will abuse, remove, or hide the minor child or children from
265 petitioner because:

266

267 (j) Petitioner genuinely fears imminent domestic violence
268 by respondent.

269 (k) Petitioner seeks an injunction: ...(mark appropriate
270 section or sections)...

271 Immediately restraining the respondent from committing
272 any acts of domestic violence.

273 Restraining the respondent from committing any acts of
274 domestic violence.

275 Awarding to the petitioner the temporary exclusive use
276 and possession of the dwelling that the parties share or
277 excluding the respondent from the residence of the petitioner.

278 Providing a temporary parenting plan, including a
279 temporary time-sharing schedule, with regard to the minor child
280 or children of the parties which might involve prohibiting or
281 limiting time-sharing or requiring that it be supervised by a
282 third party.

283 Establishing temporary support for the minor child or
284 children or the petitioner.

285 Directing the respondent to participate in a batterers'
286 intervention program.

287 Providing any terms the court deems necessary for the
288 protection of a victim of domestic violence, or any minor
289 children of the victim, including any injunctions or directives
290 to law enforcement agencies.

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- 291 (6)
- 292 (b) In determining whether a petitioner has reasonable
293 cause to believe he or she is in imminent danger of becoming a
294 victim of domestic violence, the court shall consider and
295 evaluate all relevant factors alleged in the petition,
296 including, but not limited to:
- 297 1. The history between the petitioner and the respondent,
298 including threats, harassment, stalking, and physical abuse.
- 299 2. Whether the respondent has attempted to harm the
300 petitioner or family members or individuals closely associated
301 with the petitioner.
- 302 3. Whether the respondent has threatened to conceal,
303 kidnap, or harm the petitioner's child or children.
- 304 4. Whether the respondent has intentionally injured or
305 killed a family pet.
- 306 5. Whether the respondent has used, or has threatened to
307 use, against the petitioner any weapons such as guns or knives.
- 308 6. Whether the respondent has physically restrained the
309 petitioner from leaving the home or calling law enforcement.
- 310 7. Whether the respondent has a criminal history involving
311 violence or the threat of violence.
- 312 8. The existence of a verifiable order of protection issued
313 previously or from another jurisdiction.
- 314 9. Whether the respondent has destroyed personal property,
315 including, but not limited to, telephones or other
316 communications equipment, clothing, or other items belonging to
317 the petitioner.
- 318 10. Whether the respondent has or had engaged in a pattern
319 of abusive, threatening, intimidating, or controlling behavior

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320 composed of a series of acts over a period of time, however
321 short, which evidences a continuity of purpose and which
322 reasonably causes the petitioner to believe that the petitioner
323 or his or her minor child or children are in imminent danger of
324 becoming victims of any act of domestic violence.

325 11. Whether the respondent engaged in any other behavior or
326 conduct that leads the petitioner to have reasonable cause to
327 believe that he or she is in imminent danger of becoming a
328 victim of domestic violence.

329

330 In making its determination under this paragraph, the court is
331 not limited to those factors enumerated in subparagraphs 1.-11.
332 ~~1.-10.~~

333 Section 4. This act shall take effect July 1, 2023.