

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

(1)(a) In a proceeding under this chapter, the court may at any time order either or both parents who owe a duty of support to a child to pay support to the other parent or, in the case of both parents, to a third party who has custody in accordance with the child support guidelines schedule in s. 61.30.

1. All child support orders and income deduction orders entered on or after October 1, 2010, must provide:

a. For child support to terminate on a child's 18th birthday unless the court finds or previously found that s. 743.07(2) applies, or is otherwise agreed to by the parties;

b. A schedule, based on the record existing at the time of the order, stating the amount of the monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more of the children are no longer entitled to receive child support; and

c. The month, day, and year that the reduction or termination of child support becomes effective.

2. The court initially entering an order requiring one or both parents to make child support payments has continuing jurisdiction after the entry of the initial order to modify the amount and terms and conditions of the child support payments if the modification is found by the court to be in the best interests of the child; when the child reaches majority; if there is a substantial change in the circumstances of the parties; if s. 743.07(2) applies; or when a child is emancipated, marries, joins the armed services, or dies. The court initially entering a child support order has continuing jurisdiction to require the obligee to report to the court on terms prescribed by the court regarding the disposition of the child support payments.

(b) Each order for support shall contain a provision for health insurance for the minor child when health insurance is reasonable in cost and accessible to the child. Health insurance is presumed to be reasonable in cost if the incremental cost of adding health insurance for the child or children does not exceed 5 percent of the gross income, as defined in s. 61.30, of the parent responsible for providing health insurance. Health insurance is accessible to the child if the health insurance is available to be used in the county of the child's primary residence or in another county if the parent who has the most time under the time-sharing plan agrees. If the time-sharing plan provides for equal time-sharing, health insurance is accessible to the child if the health insurance is available to be used in either county where the child resides or in another county if both parents agree. The court may require the obligor to provide health insurance or to reimburse the obligee for the cost of health insurance for the minor child when insurance is provided by the obligee. The presumption of reasonable cost may be rebutted by evidence of any of the factors in s. 61.30(11)(a). The court may deviate from what is presumed reasonable in cost only upon a written finding explaining its determination why ordering or not ordering the provision of health insurance or the reimbursement of the obligee's cost for providing health insurance for the minor child would be unjust or inappropriate. In any event, the court shall apportion the cost of health insurance, and any noncovered medical, dental, and prescription medication expenses of the child, to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). The court may order that payment of noncovered medical, dental, and prescription medication expenses of the minor child be made directly to the obligee on a percentage basis. In a proceeding for medical support only, each parent's share of the child's noncovered medical expenses shall equal the parent's percentage share of the combined net income of the parents. The percentage share shall be calculated by dividing each parent's net monthly income by the

combined monthly net income of both parents. Net income is calculated as specified by s. 61.30(3) and (4).

1. In a non-Title IV-D case, a copy of the court order for health insurance shall be served on the obligor's union or employer by the obligee when the following conditions are met:

a. The obligor fails to provide written proof to the obligee within 30 days after receiving effective notice of the court order that the health insurance has been obtained or that application for health insurance has been made;

b. The obligee serves written notice of intent to enforce an order for health insurance on the obligor by mail at the obligor's last known address; and

c. The obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee that the health insurance existed as of the date of mailing.

2.a. A support order enforced under Title IV-D of the Social Security Act which requires that the obligor provide health insurance is enforceable by the department through the use of the national medical support notice, and an amendment to the support order is not required. The department shall transfer the national medical support notice to the obligor's union or employer. The department shall notify the obligor in writing that the notice has been sent to the obligor's union or employer, and the written notification must include the obligor's rights and duties under the national medical support notice. The obligor may contest the withholding required by the national medical support notice based on a mistake of fact. To contest the withholding, the obligor must file a written notice of contest with the department within 15 business days after the date the obligor receives written notification of the national medical support notice from the department. Filing with the department is complete when the notice is received by the person designated by the department in the written notification. The notice of contest must be in the form prescribed by the department. Upon the timely filing of a notice of contest, the department shall, within 5 business days, schedule an informal conference with the obligor to discuss the obligor's factual dispute. If the informal conference resolves the dispute to the obligor's satisfaction or if the obligor fails to attend the informal conference, the notice of contest is deemed withdrawn. If the informal conference does not resolve the dispute, the obligor may request an administrative hearing under chapter 120 within 5 business days after the termination of the informal conference, in a form and manner prescribed by the department. However, the filing of a notice of contest by the obligor does not delay the withholding of premium payments by the union, employer, or health plan administrator. The union, employer, or health plan administrator must implement the withholding as directed by the national medical support notice unless notified by the department that the national medical support notice is terminated.

b. In a Title IV-D case, the department shall notify an obligor's union or employer if the obligation to provide health insurance through that union or employer is terminated.

3. In a non-Title IV-D case, upon receipt of the order pursuant to subparagraph 1., or upon application of the obligor pursuant to the order, the union or employer shall enroll the minor child as a beneficiary in the group health plan regardless of any restrictions on the enrollment period and withhold any required premium from the obligor's income. If more than one plan is offered by the union or employer, the child shall be enrolled in the group health plan in which the obligor is enrolled.

4.a. Upon receipt of the national medical support notice under subparagraph 2. in a Title IV-D case, the union or employer shall transfer the notice to the appropriate group health plan administrator within 20 business days after the date on the notice. The plan administrator must

enroll the child as a beneficiary in the group health plan regardless of any restrictions on the enrollment period, and the union or employer must withhold any required premium from the obligor's income upon notification by the plan administrator that the child is enrolled. The child shall be enrolled in the group health plan in which the obligor is enrolled. If the group health plan in which the obligor is enrolled is not available where the child resides or if the obligor is not enrolled in group coverage, the child shall be enrolled in the lowest cost group health plan that is accessible to the child.

b. If health insurance or the obligor's employment is terminated in a Title IV-D case, the union or employer that is withholding premiums for health insurance under a national medical support notice must notify the department within 20 days after the termination and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

5.a. The amount withheld by a union or employer in compliance with a support order may not exceed the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended. The union or employer shall withhold the maximum allowed by the Consumer Credit Protection Act in the following order:

- (I) Current support, as ordered.
- (II) Premium payments for health insurance, as ordered.
- (III) Past due support, as ordered.
- (IV) Other medical support or insurance, as ordered.

b. If the combined amount to be withheld for current support plus the premium payment for health insurance exceed the amount allowed under the Consumer Credit Protection Act, and the health insurance cannot be obtained unless the full amount of the premium is paid, the union or employer may not withhold the premium payment. However, the union or employer shall withhold the maximum allowed in the following order:

- (I) Current support, as ordered.
- (II) Past due support, as ordered.
- (III) Other medical support or insurance, as ordered.

6. An employer, union, or plan administrator who does not comply with the requirements in sub-subparagraph 4.a. is subject to a civil penalty not to exceed \$250 for the first violation and \$500 for subsequent violations, plus attorney's fees and costs. The department may file a petition in circuit court to enforce the requirements of this subparagraph.

7. The department may adopt rules to administer the child support enforcement provisions of this section that affect Title IV-D cases.

(c) To the extent necessary to protect an award of child support, the court may order the obligor to purchase or maintain a life insurance policy or a bond, or to otherwise secure the child support award with any other assets which may be suitable for that purpose.

(d)1. All child support orders shall provide the full name and date of birth of each minor child who is the subject of the child support order.

2. If both parties request and the court finds that it is in the best interest of the child, support payments need not be subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181 or made payable directly to the obligee. Payments made by immediate income deduction shall be made to the State Disbursement Unit. The court shall provide a copy of the order to the depository.

3. For support orders payable directly to the obligee, any party, or the department in a IV-D case, may subsequently file an affidavit with the depository alleging a default in payment of child

support and stating that the party wishes to require that payments be made through the depository. The party shall provide copies of the affidavit to the court and to each other party. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be paid through the depository, except that income deduction payments shall be made to the State Disbursement Unit.

(2)(a) The court may approve, grant, or modify a parenting plan, notwithstanding that the child is not physically present in this state at the time of filing any proceeding under this chapter, if it appears to the court that the child was removed from this state for the primary purpose of removing the child from the court's jurisdiction in an attempt to avoid the court's approval, creation, or modification of a parenting plan.

(b) A parenting plan approved by the court must, at a minimum:

1. Describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child;
2. Include the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent;
3. Designate who will be responsible for:
  - a. Any and all forms of health care. If the court orders shared parental responsibility over health care decisions, the parenting plan must provide that either parent may consent to mental health treatment for the child.
  - b. School-related matters, including the address to be used for school-boundary determination and registration.
  - c. Other activities; and
4. Describe in adequate detail the methods and technologies that the parents will use to communicate with the child.

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

1. 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. There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.
2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect

the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

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

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

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

(d) The circuit court in the county in which either parent and the child reside or the circuit court in which the original order approving or creating the parenting plan was entered may modify the parenting plan. The court may change the venue in accordance with s. 47.122.

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

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

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

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

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

(e) 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. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

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

- (h) The home, school, and community record of the child.
  - (i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
  - (j) The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.
  - (k) 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.
  - (l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.
  - (m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.
  - (n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.
  - (o) The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.
  - (p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
  - (q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
  - (r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.
  - (s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.
  - (t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.
- (4)(a) When a parent who is ordered to pay child support or alimony fails to pay child support or alimony, the parent who should have received the child support or alimony may not refuse to honor the time-sharing schedule presently in effect between the parents.
- (b) When a parent refuses to honor the other parent's rights under the time-sharing schedule, the parent whose time-sharing rights were violated shall continue to pay any ordered child support or alimony.
- (c) When a parent refuses to honor the time-sharing schedule in the parenting plan without proper cause, the court:
1. Shall, after calculating the amount of time-sharing improperly denied, award the parent denied time a sufficient amount of extra time-sharing to compensate for the time-sharing missed, and

such time-sharing shall 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 shall schedule such time-sharing in a manner that is consistent with the best interests of the child or children and that is convenient for the nonoffending parent and at the expense of the noncompliant parent.

2. May 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's fees incurred by the nonoffending parent to enforce the time-sharing schedule.

3. May 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.

4. May 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.

5. May 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.

6. May, upon the request of the parent who did not violate the time-sharing schedule, modify the parenting plan if modification is in the best interests of the child.

7. May impose any other reasonable sanction as a result of noncompliance.

(d) A person who violates this subsection may be punished by contempt of court or other remedies as the court deems appropriate.

(5) The court may make specific orders regarding the parenting plan and time-sharing schedule as such orders relate to the circumstances of the parties and the nature of the case and are equitable and provide for child support in accordance with the guidelines schedule in s. 61.30. An order for equal time-sharing for a minor child does not preclude the court from entering an order for child support of the child.

(6) In any proceeding under this section, the court may not deny shared parental responsibility and time-sharing rights to a parent solely because that parent is or is believed to be infected with human immunodeficiency virus, but the court may, in an order approving the parenting plan, require that parent to observe measures approved by the Centers for Disease Control and Prevention of the United States Public Health Service or by the Department of Health for preventing the spread of human immunodeficiency virus to the child.

(7)(a) Each party to any paternity or support proceeding is required to file with the tribunal as defined in s. 88.1011 and State Case Registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver license number, and name, address, and telephone number of employer. Each party to any paternity or child support proceeding in a non-Title IV-D case shall meet the above requirements for updating the tribunal and State Case Registry.

(b) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(c) In any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court of competent jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry pursuant to paragraph (a). In any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

(8) At the time an order for child support is entered, each party is required to provide his or her social security number and date of birth to the court, as well as the name, date of birth, and social security number of each minor child that is the subject of such child support order. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. All social security numbers required by this section shall be provided by the parties and maintained by the depository as a separate attachment in the file. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(9)(a) A time-sharing plan may not require that a minor child visit a parent who is a resident of a recovery residence, as defined by s. 397.311, between the hours of 9 p.m. and 7 a.m., unless the court makes a specific finding that such visitation is in the best interest of the child. In determining the best interest of the minor child in such cases, the court shall take into account factors including, but not limited to, whether the parent resides in a specialized residence for pregnant women or parents whose children reside with them, the number of adults living in the recovery residence, and the parent's level of recovery.

(b) A time-sharing plan that does not mention a recovery residence may not be interpreted to require that a minor child visit a parent who is a resident of a recovery residence, as defined by s. 397.311, between the hours of 9 p.m. and 7 a.m.

(c) A court may not order visitation at a recovery residence if any resident of the recovery residence is currently required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435.

History.—s. 7, Oct. 31, 1828; RS 1489; GS 1938; RGS 3201; CGL 4993; s. 16, ch. 67-254; s. 15, ch. 71-241; s. 1, ch. 75-67; s. 1, ch. 75-99; s. 26, ch. 77-433; s. 1, ch. 78-5; s. 18, ch. 79-164; ss. 1, 4, ch. 82-96; s. 3, ch. 84-110; s. 1, ch. 84-152; s. 118, ch. 86-220; s. 1, ch. 87-95; s. 4, ch. 88-176; s. 1, ch. 89-183; s. 1, ch. 89-350; s. 4, ch. 91-246; s. 4, ch. 93-188; s. 1, ch. 93-208; s. 1, ch. 93-236; s. 9, ch. 94-134; s. 9, ch. 94-135; s. 14, ch. 95-222; s. 5, ch. 96-183; s. 2, ch. 96-305; s. 24, ch. 97-95; s. 3, ch. 97-155; s. 3, ch. 97-170; s. 4, ch. 97-226; s. 1, ch. 97-242; s. 8, ch. 98-397; s. 122, ch. 98-403; s. 3, ch. 99-8; s. 2, ch. 99-375; s. 7, ch. 2000-151; s. 1, ch. 2001-2; s. 4, ch. 2001-158; s. 3, ch. 2002-65; s. 2, ch. 2002-173; s. 2, ch. 2003-5; s. 2, ch. 2004-334; s. 1, ch. 2005-39; s. 1, ch. 2005-82; s. 7, ch. 2005-239; s. 1, ch. 2006-245; s. 8, ch. 2008-61; s. 2, ch. 2009-90; s. 3, ch. 2009-180; s. 1, ch. 2010-187; s. 3, ch. 2010-199; s. 76, ch. 2011-92; s. 81, ch. 2016-241; s. 1, ch. 2017-80.

Note.—Former s. 65.14.