

Change in Child Custody Laws: Time-Sharing in Florida

The Florida legislature recently enacted laws that abolished the concept of “primary” and “secondary” child custody as well as “visitation.” The court system was overwhelmed with parents who were fighting not only about at whose home the child would spend most of his time, but also over who should have the title of primary child custodian. Many believed that, if they were deemed the “secondary” child custodian, then they were also a second-class parent. Further, many parties resented that they had to “visit” the child rather than live with or spend time with the child. In an effort to help parents avoid fighting over semantics, the Florida legislature adopted the concept of “time-sharing” to replace the old regime of awarding custody to one parent or the other.

The Florida Legislature also modified and expanded the factors that courts must consider when making a determination on the issue of time-sharing. The overriding concern remains the best interests of the child. There are now twenty factors for consideration, some of which are highlighted below:

- The ability of each parent to have a close relationship with the child;
- The ability of each parent to work with the other parent;
- The ability of each parent to put the needs of the child before his or her own needs;
- How parental responsibilities will likely be divided when the divorce is finalized;
- Whether each parent will require some sort of child care during his or her time-sharing schedule;
- How long the child has lived in a stable home;
- Whether the parents live near each other and the child’s school;

- How well the child is doing in school;
- How well informed each parent is of the child's scholastic and extracurricular activities;
- Whether each parent is involved in the child's school or extracurricular activities;
- The ability of each parent to provide a routine for the child;
- Whether each parent is morally fit;
- The physical and mental health of each parent;
- The preference of the child;
- Whether there has been any domestic violence or other abuse or neglect;
- Whether either parent has falsely accused the other parent of abuse;
- The responsibilities of each parent toward the child before the petition for divorce was filed;
- Whether either parent has exposed the child to alcohol or drug abuse;
- Whether each parent has shielded the child from the divorce litigation;
- The ability of each parent to meet the child's current and future developmental needs; and
- Anything else that the court believes is relevant.

To review the full text of the new legislation, see section 61.13(3) of the Florida Statutes.

Courts may give each factor different weight based on the circumstances of a particular case. If you have questions concerning how the factors might apply to your case, be sure to consult an attorney experienced in family law.

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