



Dads Of Florida

Florida Dad Inc.

Suggested Bill Language Relating to Equally Shared Residential Responsibility

A bill to be entitled

An act relating to equally shared residential responsibility; amending s. 61.121, F.S.; providing substitute terminology for rotating custody; providing a definition for equally shared residential responsibility; providing a presumption, a public policy, in favor of equally shared residential responsibility.

Be it Enacted by the Legislature of the State of Florida:

Section 1. Section 61.121, Florida Statutes, is amended, to read:

61.121 ~~Rotating custody~~ Equally Shared Residential Responsibility. ~~The court may order rotating custody if the court finds rotating custody will be in the best interest of the child.~~

(1) Equally shared residential responsibility is defined as a residential arrangement in which a minor child spends approximately equal time residing with each parent.

(2) It is presumed and the public policy of this state that that equally shared residential responsibility shall be the norm.

(3) A parent who may attempt to oppose the strong Public Policy for equally shared residential responsibility shall be required to Plead and prove with clear: and convincible evidence that equally shared residential responsibility would be detrimental to the child.

(4) The trial court shall order equally shared residential responsibility for a minor child unless the trial court makes specific findings of fact and conclusions of law in the decree that equally shared residential responsibility would be detrimental to the child, such as where there is a conviction for domestic involving the child or a conviction for child abuse as referenced in s,61.13(2)b(2). F.S. There shall be no presumption that equally shared residential responsibility, by itself, is detrimental to a child.

(5) When the trial court generates a decree either granting or in the alternative denying equally shared residential, the trial court shall provide specific finding of fact and conclusions of law in the decree.

6) The trial court shall enforce this strong public policy of equally shared residential responsibility on any motion for modification of residential responsibility.

Section 2. This act shall take effect July 1, 2007.

HOUSE SUMMARY

Provides equally shared residential responsibility as the substitute terminology for rotating custody; provides a definition for equally shared residential responsibility; provides that trial courts shall order equally shared residential responsibility unless alleged by the other parent and proven by a burden of clear and convincing evidence that such arrangement would be detrimental to the child; provides a presumption, a public policy, in favor of equally shared residential responsibility. This law shall be retroactively applied.

REASONS FOR LEGISLATORS TO SUPPORT THIS CHANGE IN PUBLIC POLICY TO EQUALLY SHARED RESIDENTIAL RESPONSIBILITY

1. Equally Shared Residential Responsibility discourages a child from being alienated or disenfranchised from the child's parents' lives by geographical relocation or through the interference of one parent with the relationship the child enjoys with the other parent.

2. Equally Shared Residential Responsibility shall give a child the opportunity to gain insight into the unique characteristics and qualities of each parent, which helps the child, develop.

3. Equally Shared Residential Responsibility shall stop or slow down the depriving of the relationships that a child is entitled to have with both their parents. Whether the parents are married or not, each should be assumed to have equally important responsibilities in child rearing and in the development of the child.

Presently, the depriving of the child's relationship with the "non-custodial" parent is detrimental to the child.

4. In families of divorce, as in households where the parents live together, the social attitude concerning the alleged primacy of maternal influence in the lives of children is an unbalanced perspective and is potentially damaging to children. Current psychological studies, including state sponsored projects spanning 38 states, reveal convergent findings that children o~ all ages have better adjustment after divorce when they have full parenting participation from both parents. Custody decisions that exclude or narrowly limit the participation of either parent tend ultimately to have a negative impact on children,

5. When one parent is assigned to sole custody or joint legal custody with primary residence, the other parent is reduced to a peripheral "visitor" status and "granted" four days a month as the standard visitation. In effect

not only do parents get divorced, but children get divorced from one of their parents. An equally shared residential responsibility arrangement would allow the child to enjoy continued contact with both parents and the extended family on each side.

6. Presumptive equally shared residential responsibility protects and shifts the litigation burden away from the cooperative parent, and fosters a context for mediation to the child's advantage. Because equally shared residential responsibility would reduce litigation and re-litigation, it will reduce the stress inherent in the divorce process. To the extent that policy is driven by conflict reduction, equally shared residential responsibility is the obvious starting point,

7. Most importantly, equally shared residential responsibility recognizes that children are not property or bargaining chips. It reassures the child that both parents are equal. As this law would assure that neither parent is demoted in the children's eyes, it affirms to the children what they need to feel: that both parents are equal.