

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 580

INTRODUCER: Judiciary Committee and Senator Yarborough

SUBJECT: Safe Exchange of Minor Children

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Bond</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 580 requires each sheriff to designate at least one parking lot at the sheriff's office or a substation as a safe exchange location. The purpose is to provide a place where parents may bring their minor child for purposes of exchanging the child to comply with court-ordered timesharing. The location must be marked and have at least one surveillance camera with recordings maintained for at least 45 days. The bill does not require the sheriff to actively monitor the location, and thus provides that a sheriff and the sheriff's employees are not civilly liable for an incident that may occur as the result of the exchange of a child at a safe exchange location.

The bill is named the "Cassie Carli Law." Cassie Carli is believed to have been kidnapped and murdered by the father of their daughter after meeting him for the purpose of timesharing.

The bill is effective July 1, 2024.

II. Present Situation:

Rights and Responsibilities of a Parent

In a dissolution of marriage case with a minor child involved, or in a paternity case involving a minor child, issues of parenting must be resolved. The United States Supreme Court and Florida courts have consistently ruled that a parent's desire and right to the companionship, care, custody, and management of his or her children is an important interest that warrants deference

and, absent a powerful countervailing interest, protection.¹ Further, a parent has general responsibilities owed to his or her children, including supervision, health and safety, education, care, and protection. In Florida, parenting is broken down into two distinct components: parental responsibility (decision-making) and timesharing (physical visitation with the child based on a parenting plan).

Timesharing and Parental Responsibility

Section 61.13, F.S., provides guidelines to assist courts in determining matters related to parenting² and time-sharing³ of minor children, in accordance with the best interests of the child while balancing the rights of parents. As a threshold consideration, the Legislature has declared that:

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.⁴

In establishing time-sharing, the court must consider the best interests of the child⁵ as the primary consideration and evaluate all factors affecting the welfare and interests of the child and the circumstances of the family.⁶

A court may order compliance with a “parenting plan”⁷ by which the parents are ordered to share decision-making and physical custody of the minor child. The parenting plan may order parents to exercise shared parental responsibility, delegate decision-making authority over specific matters to one parent, or grant a parent sole parental responsibility over the minor child. Common issues concerning a minor child may relate to education, healthcare, and social or emotional well-being. Further, once a court has established parental responsibility, a parenting plan or time-sharing plan⁸ may be ordered, and such plan may not be modified without a showing of a substantial and material change in circumstances and a determination that the modification is in the best interests of the child.⁹

¹ See *Lassiter v. Dep't of Soc. Services of Durham Cnty., N. C.*, 452 U.S. 18 (1981) (calling the right “plain beyond the need for multiple citation” and quoting *Stanley v. Illinois*, 405 U.S. 645 (1972)); *I.T. v. Dep't of Children & Families*, 338 So. 3d 6 (Fla. 3d DCA 2022); *D.M.T. v. T.M.H.*, 129 So. 3d 320 (Fla. 2013); *F.R. v. Adoption of Baby Boy Born November 2, 2010*, 135 So. 3d 301 (Fla. 1st DCA 2012); *In Interest of J.D.*, 510 So. 2d 623 (Fla. 1st DCA 1987).

² Parenting or parental responsibility refers to the responsibility and right to make important decisions about the child’s welfare, such as education and medical care after the parents separate. See CustodyXChange, *Parental Rights and Parental Responsibilities: Know Yours*, available at <https://www.custodyxchange.com/topics/custody/legal-concepts/parental-rights-responsibility.php> (last visited March 15, 2023)

³ Time-sharing refers to the time, including overnights and holidays, which the child spends with each parent. Section 61.046(23), F.S.

⁴ Section 61.13(2)(c)1., F.S.

⁵ Section 61.13(2)(c), F.S.

⁶ Section 61.13(3), F.S.

⁷ A “parenting plan” is a document created to govern the relationship between the parents relating to decisions which must be made regarding the child and must contain a timesharing schedule for the parents and child. Section 61.046(14), F.S. If a parenting plan is agreed to by the parties, it must be approved by the court.

⁸ Section 61.13(2)(b), F.S.

⁹ Section 61.13(3), F.S.

Domestic Violence

Section 741.30, F.S., addresses domestic violence issues by creating a cause of action for an injunction for protection against domestic violence. The section applies whether or not the parties are or were married. Where appropriate, a trial court may issue an injunction prohibiting domestic violence and restraining the respondent from having contact with the victim. The injunction often must address related issues of child custody, child support, and visitation. Inherent in the issue of visitation is the development of standards and procedures for transferring physical custody of the children from one parent to the other.

Supervised Visitation Programs

While most parents living apart reasonably and rationally handle the issues related to visitation with their minor children, some parents do not. Where there is a danger of abuse or kidnapping, supervised visitation programs provide a safer alternative for visitation that avoids having the child forego all visitation. Chapter 753, F.S., governs the establishment and operation of supervised visitation programs. A “supervised visitation program” means a program created to offer structured contact between a parent or caregiver and one or more children in the presence of a third person responsible for observing and ensuring the safety of those involved. Supervised visitation programs may also include exchange monitoring of children who are participating in court-ordered visitation programs or exchange monitoring where there has been mutual consent between parties for the purposes of facilitating a visitation.¹⁰

Cassie Carli

In March of 2022, 37-year-old Cassie Carli was the mother of 4-year-old daughter Saylor. She was not married to or living with the father, and their child custody and child support case was unusually contentious. The court had required exchanges of Saylor for the purpose of visitation to occur at the parking lot of a national retailer, but Cassie agreed to an exchange at a restaurant close to her home in Navarre Beach. Cassie and Saylor disappeared, and Cassie’s body was found days later in a shallow grave inside a barn in Springville, Alabama. It is believed that the father abducted Cassie and Saylor at the exchange. The father is currently awaiting trial for felonies related to Cassie’s disappearance and death.¹¹ Saylor was recovered alive.¹²

III. Effect of Proposed Changes:

The bill requires a court order setting a timesharing schedule to specify the location for the exchange of a child subject to visitation. This requirement is in addition to the other statutory requirements for a timesharing order. The parents may jointly waive the requirement and work out their own arrangements, but the waiver must be in writing. This new statutory requirement

¹⁰ Section 753.01(4), F.S.

¹¹ Dateline NBC, NBC NEWS, *Body of 37-year-old Florida mother Cassie Carli found in shallow grave in Alabama* (Apr. 3, 2022), <https://weartv.com/news/local/cassie-carlis-daughter-reunited-with-carli-family-in-navarre>

¹² Kai Davis, WEAR NEWS, *Cassie Carli’s daughter reunited with Carli family in Navarre* (Apr. 6, 2022), <https://www.nbcnews.com/dateline/body-37-year-old-florida-mother-cassie-carli-found-shallow-n1293968>.

conforms to current practice as the standard parenting plan form includes a section entitled “Transportation and Exchange of Child(ren).”¹³

Where the court is setting a place for exchange, the court may order that the location of the exchange be at a safe exchange location at the sheriff’s office or at a location designated by a local supervised visitation center if:

- There is a risk or an imminent threat of harm to a party or a child;
- The requirement to use a safe exchange location is necessary to ensure the safety of a parent or child; and
- Using a safe exchange location is in the best interest of the child.

The bill requires each sheriff to designate at least one parking lot at the sheriff’s office, or at a sheriff’s substation, as a public safe exchange location for parents to exchange custody of a child. The safe exchange location must:

- Display a purple light or a sign on the premises of the parking lot to identify the location as a designated public exchange location.
- Be accessible 24 hours a day, 7 days a week.
- Provide adequate lighting.
- Provide external video surveillance that records continuously, 24 hours a day, 7 days a week, and that meets all of the following criteria:
 - At least one camera is fixed on the parking lot.
 - The recordings from the camera must record images clearly and must display the accurate date and time of the recording.
 - The sheriff must retain the video recordings or images for at least 45 days.

The bill does not require active real-time monitoring of the safe exchange location, implying that the bill does not create a duty to actively monitor the exchanges that are taking place. In conformity with the intent that active monitoring is not required, the bill provides that a county, sheriff, law enforcement officer, or employee is not liable for any act or omission related to an incident related to an exchange at a safe exchange location.

The bill amends s. 741.30, F.S., a statute governing petitions for protection from domestic violence, to add provisions allowing the petitioner to ask for, and the court to order, the use of a public safe exchange location in conformance with the changes made by this bill. If the parties to a domestic violence injunction proceeding already have an existing parenting plan that requires that a safe exchange location be used, a court granting the petition for an injunction against domestic violence must order the use of a safe exchange location as a part of the injunction.

The bill is named the “Cassie Carli Law.”

The bill takes effect July 1, 2024.

¹³ Florida Supreme Court Approved Family Law Form 12,995(a), Parenting Plan (02/18), available at: https://www.flcourts.gov/content/download/686031/file_pdf/995a.pdf.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires local governments to expend funds on sheriff offices designated as public safe exchange locations to:

- Install certain lighting and video surveillance equipment.
- Install a sign or light.
- Retain/store video or images for at least 45 days.

Article VII, section 18(a) of the Florida Constitution provides in part that a county or municipality is not bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Article VII, section 18(d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2024-2025 was forecast at approximately \$2.3 million. Whether this bill is exempt from the constitutional restrictions on mandates cannot be determined at this time due to a lack of reliable data. None of the other constitutional exceptions appear to apply.

If the bill does qualify as a mandate, in order to be binding upon cities and counties the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house. The bill does not contain a finding of important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appears to have an indeterminate negative fiscal impact on sheriff's offices as they may be required to spend funds to install certain lighting, signs, and video surveillance equipment to comply with the bill's requirements. There will also be continuing costs for storage of recordings and for complying with requests to view and copy such recordings. It is possible that some sheriffs may not have sufficient usable space in their parking lot to accommodate the parents using the safe exchange procedure, thus requiring the acquisition of additional parking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.13, 61.455, 125.01, and 741.30.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on January 9, 2024:

The committee substitute removes an unnecessary reference to an appellate review standard and added the provision by which a sheriff and others are not liable in a civil action related to an incident that may occur as the result of the exchange of a child at a safe exchange location.

B. Amendments:

None.