

1 A bill to be entitled
2 An act relating to family law; amending s. 61.30,
3 F.S.; providing for consideration of time-sharing
4 schedules as a factor in the adjustment of awards of
5 child support; amending s. 90.204, F.S.; authorizing
6 judges in family cases to take judicial notice of
7 certain court records without prior notice to the
8 parties when imminent danger to persons or property
9 has been alleged and it is impractical to give prior
10 notice; providing for a deferred opportunity to
11 present evidence; requiring a notice of such judicial
12 notice having been taken to be filed within a
13 specified period; providing that the term "family
14 cases" has the same meaning as provided in the Rules
15 of Judicial Administration; amending s. 409.2564,
16 F.S.; providing that the Department of Revenue may not
17 undertake certain actions regarding paternity or
18 support except in certain circumstances; providing
19 that a parent is not eligible to receive assistance
20 from the department for certain actions if the parent
21 is being represented by a private attorney unless
22 public assistance is being received; amending ss.
23 741.30, 784.046, and 784.0485, F.S.; creating an
24 exception to a prohibition against using evidence
25 other than the verified pleading or affidavit in an ex
26 parte hearing for a temporary injunction for
27 protection against domestic violence, repeat violence,
28 sexual violence, dating violence, or stalking;

29 | amending ss. 61.14, 61.1814, and 61.30, F.S.;

30 | conforming cross-references; providing an effective

31 | date.

32 |

33 | Be It Enacted by the Legislature of the State of Florida:

34 |

35 | Section 1. Paragraphs (a) and (b) of subsection (11) of

36 | section 61.30, Florida Statutes, are amended to read:

37 | 61.30 Child support guidelines; retroactive child

38 | support.—

39 | (11) (a) The court may adjust the total minimum child

40 | support award, or either or both parents' share of the total

41 | minimum child support award, based upon the following deviation

42 | factors:

43 | 1. Extraordinary medical, psychological, educational, or

44 | dental expenses.

45 | 2. Independent income of the child, not to include moneys

46 | received by a child from supplemental security income.

47 | 3. The payment of support for a parent which has been

48 | regularly paid and for which there is a demonstrated need.

49 | 4. Seasonal variations in one or both parents' incomes or

50 | expenses.

51 | 5. The age of the child, taking into account the greater

52 | needs of older children.

53 | 6. Special needs, such as costs that may be associated

54 | with the disability of a child, that have traditionally been met

55 | within the family budget even though fulfilling those needs will

56 | cause the support to exceed the presumptive amount established

57 | by the guidelines.

58 | 7. Total available assets of the obligee, obligor, and the
59 | child.

60 | 8. The impact of the Internal Revenue Service Child &
61 | Dependent Care Tax Credit, Earned Income Tax Credit, and
62 | dependency exemption and waiver of that exemption. The court may
63 | order a parent to execute a waiver of the Internal Revenue
64 | Service dependency exemption if the paying parent is current in
65 | support payments.

66 | 9. An application of the child support guidelines schedule
67 | that requires a person to pay another person more than 55
68 | percent of his or her gross income for a child support
69 | obligation for current support resulting from a single support
70 | order.

71 | 10. The particular parenting plan, court-ordered time-
72 | sharing schedule, or particular time-sharing schedule exercised
73 | by agreement of the parties, such as where the child spends a
74 | significant amount of time, but less than 20 percent of the
75 | overnights, with one parent, thereby reducing the financial
76 | expenditures incurred by the other parent; or the refusal of a
77 | parent to become involved in the activities of the child.

78 | 11. Any other adjustment that is needed to achieve an
79 | equitable result which may include, but not be limited to, a
80 | reasonable and necessary existing expense or debt. Such expense
81 | or debt may include, but is not limited to, a reasonable and
82 | necessary expense or debt that the parties jointly incurred
83 | during the marriage.

84 | (b) Whenever a particular parenting plan, court-ordered

85 | time-sharing schedule, or particular time-sharing schedule
86 | exercised by agreement of the parties provides that each child
87 | spend a substantial amount of time with each parent, the court
88 | shall adjust any award of child support, as follows:

89 | 1. In accordance with subsections (9) and (10), calculate
90 | the amount of support obligation apportioned to each parent
91 | without including day care and health insurance costs in the
92 | calculation and multiply the amount by 1.5.

93 | 2. Calculate the percentage of overnight stays the child
94 | spends with each parent.

95 | 3. Multiply each parent's support obligation as calculated
96 | in subparagraph 1. by the percentage of the other parent's
97 | overnight stays with the child as calculated in subparagraph 2.

98 | 4. The difference between the amounts calculated in
99 | subparagraph 3. shall be the monetary transfer necessary between
100 | the parents for the care of the child, subject to an adjustment
101 | for day care and health insurance expenses.

102 | 5. Pursuant to subsections (7) and (8), calculate the net
103 | amounts owed by each parent for the expenses incurred for day
104 | care and health insurance coverage for the child.

105 | 6. Adjust the support obligation owed by each parent
106 | pursuant to subparagraph 4. by crediting or debiting the amount
107 | calculated in subparagraph 5. This amount represents the child
108 | support which must be exchanged between the parents.

109 | 7. The court may deviate from the child support amount
110 | calculated pursuant to subparagraph 6. based upon the deviation
111 | factors in paragraph (a), as well as the obligee parent's low
112 | income and ability to maintain the basic necessities of the home

113 for the child, the likelihood that either parent will actually
114 exercise the time-sharing schedule set forth in the parenting
115 plan granted by the court, and whether all of the children are
116 exercising the same time-sharing schedule.

117 8. For purposes of adjusting any award of child support
118 under this paragraph, "substantial amount of time" means that a
119 parent exercises time-sharing at least 20 percent of the
120 overnights of the year.

121 Section 2. Subsection (4) is added to section 90.204,
122 Florida Statutes, to read:

123 90.204 Determination of propriety of judicial notice and
124 nature of matter noticed.—

125 (4) In family cases, the court may take judicial notice of
126 any matter described in s. 90.202(6) when imminent danger to
127 persons or property has been alleged and it is impractical to
128 give prior notice to the parties of the intent to take judicial
129 notice. Opportunity to present evidence relevant to the
130 propriety of taking judicial notice under subsection (1) may be
131 deferred until after judicial action has been taken. If judicial
132 notice is taken under this subsection, the court shall, within 2
133 business days, file a notice in the pending case of the matters
134 judicially noticed. For purposes of this subsection, the term
135 "family cases" has the same meaning as provided in the Rules of
136 Judicial Administration.

137 Section 3. Subsections (4) through (13) of section
138 409.2564, Florida Statutes, are renumbered as subsections (5)
139 through (14), respectively, and a new subsection (4) is added to
140 that section, to read:

141 409.2564 Actions for support.—

142 (4) (a) The Department of Revenue shall not undertake an
143 action to determine paternity, to establish an obligation of
144 support, or to enforce or modify an obligation of support
145 unless:

146 1. Public assistance is being received by one of the
147 parents, both parents, or the dependent child or children; or

148 2. The custodial parent or the parent entitled to receive
149 support has requested the Department of Revenue's assistance in
150 enforcing or modifying a child support order and has filed a
151 signed application for services under Title IV-D of the Social
152 Security Act.

153 (b) Notwithstanding subparagraph (a)2., a parent is not
154 eligible to receive assistance from the Department of Revenue to
155 determine paternity, to establish an obligation of support, or
156 to enforce or modify an obligation of support, whichever is
157 applicable, if that parent is being represented by a private
158 attorney in proceedings to determine paternity, to establish an
159 obligation of support, or to enforce or modify an obligation of
160 support, whichever is applicable, unless public assistance is
161 being received by that parent, the other parent, or the
162 dependent child or children.

163 Section 4. Paragraph (b) of subsection (5) of section
164 741.30, Florida Statutes, is amended to read:

165 741.30 Domestic violence; injunction; powers and duties of
166 court and clerk; petition; notice and hearing; temporary
167 injunction; issuance of injunction; statewide verification
168 system; enforcement; public records exemption.—

169 (5)

170 (b) Except as provided in s. 90.204, in a hearing ex parte
171 for the purpose of obtaining such ex parte temporary injunction,
172 no evidence other than verified pleadings or affidavits shall be
173 used as evidence, unless the respondent appears at the hearing
174 or has received reasonable notice of the hearing. A denial of a
175 petition for an ex parte injunction shall be by written order
176 noting the legal grounds for denial. When the only ground for
177 denial is no appearance of an immediate and present danger of
178 domestic violence, the court shall set a full hearing on the
179 petition for injunction with notice at the earliest possible
180 time. Nothing herein affects a petitioner's right to promptly
181 amend any petition, or otherwise be heard in person on any
182 petition consistent with the Florida Rules of Civil Procedure.

183 Section 5. Paragraph (b) of subsection (6) of section
184 784.046, Florida Statutes, is amended to read:

185 784.046 Action by victim of repeat violence, sexual
186 violence, or dating violence for protective injunction; dating
187 violence investigations, notice to victims, and reporting;
188 pretrial release violations; public records exemption.—

189 (6)

190 (b) Except as provided in s. 90.204, in a hearing ex parte
191 for the purpose of obtaining such temporary injunction, no
192 evidence other than the verified pleading or affidavit shall be
193 used as evidence, unless the respondent appears at the hearing
194 or has received reasonable notice of the hearing.

195 Section 6. Paragraph (b) of subsection (5) of section
196 784.0485, Florida Statutes, is amended to read:

197 784.0485 Stalking; injunction; powers and duties of court
 198 and clerk; petition; notice and hearing; temporary injunction;
 199 issuance of injunction; statewide verification system;
 200 enforcement.—

201 (5)

202 (b) Except as provided in s. 90.204, in a hearing ex parte
 203 for the purpose of obtaining such ex parte temporary injunction,
 204 evidence other than verified pleadings or affidavits may not be
 205 used as evidence, unless the respondent appears at the hearing
 206 or has received reasonable notice of the hearing. A denial of a
 207 petition for an ex parte injunction shall be by written order
 208 noting the legal grounds for denial. If the only ground for
 209 denial is no appearance of an immediate and present danger of
 210 stalking, the court shall set a full hearing on the petition for
 211 injunction with notice at the earliest possible time. This
 212 paragraph does not affect a petitioner's right to promptly amend
 213 any petition, or otherwise be heard in person on any petition
 214 consistent with the Florida Rules of Civil Procedure.

215 Section 7. Paragraph (c) of subsection (1) of section
 216 61.14, Florida Statutes, is amended to read:

217 61.14 Enforcement and modification of support,
 218 maintenance, or alimony agreements or orders.—

219 (1)

220 (c) For each support order reviewed by the department as
 221 required by s. 409.2564(12) ~~409.2564(11)~~, if the amount of the
 222 child support award under the order differs by at least 10
 223 percent but not less than \$25 from the amount that would be
 224 awarded under s. 61.30, the department shall seek to have the

225 order modified and any modification shall be made without a
226 requirement for proof or showing of a change in circumstances.

227 Section 8. Paragraph (e) of subsection (2) of section
228 61.1814, Florida Statutes, is amended to read:

229 61.1814 Child Support Enforcement Application and Program
230 Revenue Trust Fund.—

231 (2) With the exception of fees required to be deposited in
232 the Clerk of the Court Child Support Enforcement Collection
233 System Trust Fund under s. 61.181(2)(b) and collections
234 determined to be undistributable or unidentifiable under s.
235 409.2558, the fund shall be used for the deposit of Title IV-D
236 program income received by the department. Each type of program
237 income received shall be accounted for separately. Program
238 income received by the department includes, but is not limited
239 to:

240 (e) Fines imposed under ss. 409.256(7)(b), 409.2464(8)
241 ~~409.2564(7)~~, and 409.2578; and

242 Section 9. Paragraph (c) of subsection (1) of section
243 61.30, Florida Statutes, is amended to read:

244 61.30 Child support guidelines; retroactive child
245 support.—

246 (1)

247 (c) For each support order reviewed by the department as
248 required by s. 409.2564(12) ~~409.2564(11)~~, if the amount of the
249 child support award under the order differs by at least 10
250 percent but not less than \$25 from the amount that would be
251 awarded under this section, the department shall seek to have
252 the order modified and any modification shall be made without a

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253 | requirement for proof or showing of a change in circumstances.

254 | Section 10. This act shall take effect July 1, 2013.