

By the Committee on Children and Families; and Senator Campbell

300-1980-04

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A bill to be entitled
An act relating to child support; amending s.
61.30, F.S.; revising certain child care cost
guidelines; deleting a requirement that in
calculating support obligations, certain child
care costs must be reduced; requiring that the
impact of any Federal Child Care Tax Credit be
considered in such calculations; amending ss.
61.14 and 742.031, F.S.; providing for the
modification of temporary support orders;
providing an effective date.

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

Section 1. Subsections (7) and (11) of section 61.30,
Florida Statutes, are amended to read:

61.30 Child support guidelines; retroactive child
support.--

(7) Child care costs incurred on behalf of the
children due to employment, job search, or education
calculated to result in employment or to enhance income of
current employment of either parent shall ~~be reduced by 25
percent and then shall~~ be added to the basic obligation. After
the ~~adjusted~~ child care costs are added to the basic
obligation, any moneys prepaid by the noncustodial parent for
child care costs for the child or children of this action
shall be deducted from that noncustodial parent's child
support obligation for that child or those children. Child
care costs shall not exceed the level required to provide
quality care from a licensed source for the children.

1 (11)(a) The court may adjust the minimum child support
2 award, or either or both parents' share of the minimum child
3 support award, based upon the following considerations:

4 1. Extraordinary medical, psychological, educational,
5 or dental expenses.

6 2. Independent income of the child, not to include
7 moneys received by a child from supplemental security income.

8 3. The payment of support for a parent which regularly
9 has been paid and for which there is a demonstrated need.

10 4. Seasonal variations in one or both parents' incomes
11 or expenses.

12 5. The age of the child, taking into account the
13 greater needs of older children.

14 6. Special needs, such as costs that may be associated
15 with the disability of a child, that have traditionally been
16 met within the family budget even though the fulfilling of
17 those needs will cause the support to exceed the proposed
18 guidelines.

19 7. Total available assets of the obligee, obligor, and
20 the child.

21 8. The impact of the Internal Revenue Service
22 dependency exemption and waiver of that exemption. The court
23 may order the primary residential parent to execute a waiver
24 of the Internal Revenue Service dependency exemption if the
25 noncustodial parent is current in support payments.

26 9. The impact of any Federal Child Care Tax Credit,
27 unless already considered pursuant to subsection (3).

28 ~~10.9.~~ When application of the child support guidelines
29 requires a person to pay another person more than 55 percent
30 of his or her gross income for a child support obligation for
31 current support resulting from a single support order.

1 ~~11.10.~~ The particular shared parental arrangement,
2 such as where the child spends a significant amount of time,
3 but less than 40 percent of the overnights, with the
4 noncustodial parent, thereby reducing the financial
5 expenditures incurred by the primary residential parent; or
6 the refusal of the noncustodial parent to become involved in
7 the activities of the child.

8 ~~12.11.~~ Any other adjustment which is needed to achieve
9 an equitable result which may include, but not be limited to,
10 a reasonable and necessary existing expense or debt. Such
11 expense or debt may include, but is not limited to, a
12 reasonable and necessary expense or debt which the parties
13 jointly incurred during the marriage.

14 (b) Whenever a particular shared parental arrangement
15 provides that each child spend a substantial amount of time
16 with each parent, the court shall adjust any award of child
17 support, as follows:

18 1. In accordance with subsections (9) and (10),
19 calculate the amount of support obligation apportioned to the
20 noncustodial parent without including day care and health
21 insurance costs in the calculation and multiply the amount by
22 1.5.

23 2. In accordance with subsections (9) and (10),
24 calculate the amount of support obligation apportioned to the
25 custodial parent without including day care and health
26 insurance costs in the calculation and multiply the amount by
27 1.5.

28 3. Calculate the percentage of overnight stays the
29 child spends with each parent.

30 4. Multiply the noncustodial parent's support
31 obligation as calculated in subparagraph 1. by the percentage

1 of the custodial parent's overnight stays with the child as
2 calculated in subparagraph 3.

3 5. Multiply the custodial parent's support obligation
4 as calculated in subparagraph 2. by the percentage of the
5 noncustodial parent's overnight stays with the child as
6 calculated in subparagraph 3.

7 6. The difference between the amounts calculated in
8 subparagraphs 4. and 5. shall be the monetary transfer
9 necessary between the custodial and noncustodial parents for
10 the care of the child, subject to an adjustment for day care
11 and health insurance expenses.

12 7. Pursuant to subsections (7) and (8), calculate the
13 net amounts owed by the custodial and noncustodial parents for
14 the expenses incurred for day care and health insurance
15 coverage for the child. ~~Day care shall be calculated without~~
16 ~~regard to the 25-percent reduction applied by subsection (7).~~

17 8. Adjust the support obligation owed by the custodial
18 or noncustodial parent pursuant to subparagraph 6. by
19 crediting or debiting the amount calculated in subparagraph 7.
20 This amount represents the child support which must be
21 exchanged between the custodial and noncustodial parents.

22 9. The court may deviate from the child support amount
23 calculated pursuant to subparagraph 8. based upon the
24 considerations set forth in paragraph (a), as well as the
25 custodial parent's low income and ability to maintain the
26 basic necessities of the home for the child, the likelihood
27 that the noncustodial parent will actually exercise the
28 visitation granted by the court, and whether all of the
29 children are exercising the same shared parental arrangement.

30 10. For purposes of adjusting any award of child
31 support under this paragraph, "substantial amount of time"

1 means that the noncustodial parent exercises visitation at
2 least 40 percent of the overnights of the year.

3 (c) A noncustodial parent's failure to regularly
4 exercise court-ordered or agreed visitation not caused by the
5 custodial parent which resulted in the adjustment of the
6 amount of child support pursuant to subparagraph (a)10. or
7 paragraph (b) shall be deemed a substantial change of
8 circumstances for purposes of modifying the child support
9 award. A modification pursuant to this paragraph shall be
10 retroactive to the date the noncustodial parent first failed
11 to regularly exercise court-ordered or agreed visitation.

12 Section 2. Subsection (9) is added to section 61.14,
13 Florida Statutes, as amended by chapter 2003-402, Laws of
14 Florida, to read:

15 61.14 Enforcement and modification of support,
16 maintenance, or alimony agreements or orders.--

17 (9)(a) A court may, upon good cause shown, and without
18 a showing of a substantial change of circumstances, modify,
19 vacate, or set aside a temporary support order before or upon
20 entering a final order in a proceeding.

21 (b) The change may be retroactive to the date of
22 filing of the initial petition for dissolution of marriage,
23 petition for support, petition determining paternity, or
24 supplemental petition for modification or to a date prescribed
25 in paragraph (1)(a) or s. 61.30(11)(c) or (17), as applicable.

26 Section 3. Subsection (4) is added to section 742.031,
27 Florida Statutes, to read:

28 742.031 Hearings; court orders for support, hospital
29 expenses, and attorney's fee.--

30 (4)(a) A court may, upon good cause shown and without
31 a showing of a substantial change of circumstances, modify,

1 vacate, or set aside a temporary support order before or upon
2 entering a final order in a proceeding.

3 (b) The change may be retroactive to the date of
4 filing of the initial petition for dissolution of marriage,
5 petition for support, petition determining paternity, or
6 supplemental petition for modification or to a date prescribed
7 in s. 61.14(1)(a) or s. 61.30(11)(c) or (17), as applicable.

8 Section 4. This act shall take effect July 1, 2004.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1060

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14 * Authorizes the modifying, vacating, and setting aside of
15 temporary support orders and stipulates the options for
16 retroactive application of the changes made to the
17 temporary support order.
18 * Limits the consideration of the federal child care tax
19 credit in adjusting the child support award to those
20 instances when the tax credit was not considered in
21 calculating the net income.
22 * Revises the title of the bill.
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