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1 A bill to be entitled
 2 An act relating to child support; amending s. 61.30, F.S.;
 3 revising the formula for determining child support
 4 obligations with respect to child care costs and federal
 5 child care tax credits; reenacting ss. 39.402(11),
 6 39.521(2)(s), 61.13(1)(a) and (5), 61.14(1),
 7 409.2563(1)(a), (2)(c), (4)(f), (5)(a), and (7)(c),
 8 409.2564(12), and 742.031(1), F.S., for the purpose of
 9 incorporating by reference the amendments to s. 61.30,
 10 F.S.; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsections (7) and (11) of section 61.30,
 15 Florida Statutes, are amended to read:

16 61.30 Child support guidelines; retroactive child
 17 support.--

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

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

32 1. Extraordinary medical, psychological, educational, or
 33 dental expenses.

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

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

38 4. Seasonal variations in one or both parents' incomes or
 39 expenses.

40 5. The age of the child, taking into account the greater
 41 needs of older children.

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

46 7. Total available assets of the obligee, obligor, and the
 47 child.

48 8. The impact of the Internal Revenue Service dependency
 49 exemption and waiver of that exemption and the impact of any
 50 federal child care tax credit. The court may order the primary
 51 residential parent to execute a waiver of the Internal Revenue
 52 Service dependency exemption if the noncustodial parent is
 53 current in support payments.

54 9. When application of the child support guidelines
 55 requires a person to pay another person more than 55 percent of
 56 his or her gross income for a child support obligation for
 57 current support resulting from a single support order.

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58 10. The particular shared parental arrangement, such as
59 where the child spends a significant amount of time, but less
60 than 40 percent of the overnights, with the noncustodial parent,
61 thereby reducing the financial expenditures incurred by the
62 primary residential parent; or the refusal of the noncustodial
63 parent to become involved in the activities of the child.

64 11. Any other adjustment which is needed to achieve an
65 equitable result which may include, but not be limited to, a
66 reasonable and necessary existing expense or debt. Such expense
67 or debt may include, but is not limited to, a reasonable and
68 necessary expense or debt which the parties jointly incurred
69 during the marriage.

70 (b) Whenever a particular shared parental arrangement
71 provides that each child spend a substantial amount of time with
72 each parent, the court shall adjust any award of child support,
73 as follows:

74 1. In accordance with subsections (9) and (10), calculate
75 the amount of support obligation apportioned to the noncustodial
76 parent without including day care and health insurance costs in
77 the calculation and multiply the amount by 1.5.

78 2. In accordance with subsections (9) and (10), calculate
79 the amount of support obligation apportioned to the custodial
80 parent without including day care and health insurance costs in
81 the calculation and multiply the amount by 1.5.

82 3. Calculate the percentage of overnight stays the child
83 spends with each parent.

84 4. Multiply the noncustodial parent's support obligation
85 as calculated in subparagraph 1. by the percentage of the

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86 custodial parent's overnight stays with the child as calculated
87 in subparagraph 3.

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

92 6. The difference between the amounts calculated in
93 subparagraphs 4. and 5. shall be the monetary transfer necessary
94 between the custodial and noncustodial parents for the care of
95 the child, subject to an adjustment for day care and health
96 insurance expenses.

97 7. Pursuant to subsections (7) and (8), calculate the net
98 amounts owed by the custodial and noncustodial parents for the
99 expenses incurred for day care and health insurance coverage for
100 the child. ~~Day care shall be calculated without regard to the~~
101 ~~25-percent reduction applied by subsection (7).~~

102 8. Adjust the support obligation owed by the custodial or
103 noncustodial parent pursuant to subparagraph 6. by crediting or
104 debiting the amount calculated in subparagraph 7. This amount
105 represents the child support which must be exchanged between the
106 custodial and noncustodial parents.

107 9. The court may deviate from the child support amount
108 calculated pursuant to subparagraph 8. based upon the
109 considerations set forth in paragraph (a), as well as the
110 custodial parent's low income and ability to maintain the basic
111 necessities of the home for the child, the likelihood that the
112 noncustodial parent will actually exercise the visitation
113 granted by the court, and whether all of the children are
114 exercising the same shared parental arrangement.

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115 10. For purposes of adjusting any award of child support
 116 under this paragraph, "substantial amount of time" means that
 117 the noncustodial parent exercises visitation at least 40 percent
 118 of the overnights of the year.

119 (c) A noncustodial parent's failure to regularly exercise
 120 court-ordered or agreed visitation not caused by the custodial
 121 parent which resulted in the adjustment of the amount of child
 122 support pursuant to subparagraph (a)10. or paragraph (b) shall
 123 be deemed a substantial change of circumstances for purposes of
 124 modifying the child support award. A modification pursuant to
 125 this paragraph shall be retroactive to the date the noncustodial
 126 parent first failed to regularly exercise court-ordered or
 127 agreed visitation.

128 Section 2. For the purpose of incorporating the amendment
 129 to section 61.30, Florida Statutes, in references thereto,
 130 subsection (11) of section 39.402, Florida Statutes, is
 131 reenacted to read:

132 39.402 Placement in a shelter.--

133 (11) If a child is placed in a shelter pursuant to a court
 134 order following a shelter hearing, the court shall require in
 135 the shelter hearing order that the parents of the child, or the
 136 guardian of the child's estate, if possessed of assets which
 137 under law may be disbursed for the care, support, and
 138 maintenance of the child, to pay, to the department or
 139 institution having custody of the child, fees as established by
 140 the department. When the order affects the guardianship estate,
 141 a certified copy of the order shall be delivered to the judge
 142 having jurisdiction of the guardianship estate. The shelter
 143 order shall also require the parents to provide to the

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144 department and any other state agency or party designated by the
 145 court, within 28 days after entry of the shelter order, the
 146 financial information necessary to accurately calculate child
 147 support pursuant to s. 61.30.

148 Section 3. For the purpose of incorporating the amendment
 149 to section 61.30, Florida Statutes, in references thereto,
 150 paragraph (s) of subsection (2) of section 39.521, Florida
 151 Statutes, is amended to read:

152 39.521 Disposition hearings; powers of disposition.--

153 (2) The predisposition study must provide the court with
 154 the following documented information:

155 (s) If the child has been removed from the home, a
 156 determination of the amount of child support each parent will be
 157 required to pay pursuant to s. 61.30.

158
 159 Any other relevant and material evidence, including other
 160 written or oral reports, may be received by the court in its
 161 effort to determine the action to be taken with regard to the
 162 child and may be relied upon to the extent of its probative
 163 value, even though not competent in an adjudicatory hearing.
 164 Except as otherwise specifically provided, nothing in this
 165 section prohibits the publication of proceedings in a hearing.

166 Section 4. For the purpose of incorporating the amendment
 167 to section 61.30, Florida Statutes, in references thereto,
 168 paragraph (a) of subsection (1) and subsection (5) of section
 169 61.13, Florida Statutes, are reenacted to read:

170 61.13 Custody and support of children; visitation rights;
 171 power of court in making orders.--

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172 (1)(a) In a proceeding for dissolution of marriage, the
 173 court may at any time order either or both parents who owe a
 174 duty of support to a child to pay support in accordance with the
 175 guidelines in s. 61.30. The court initially entering an order
 176 requiring one or both parents to make child support payments
 177 shall have continuing jurisdiction after the entry of the
 178 initial order to modify the amount and terms and conditions of
 179 the child support payments when the modification is found
 180 necessary by the court in the best interests of the child, when
 181 the child reaches majority, or when there is a substantial
 182 change in the circumstances of the parties. The court initially
 183 entering a child support order shall also have continuing
 184 jurisdiction to require the obligee to report to the court on
 185 terms prescribed by the court regarding the disposition of the
 186 child support payments.

187 (5) The court may make specific orders for the care and
 188 custody of the minor child as from the circumstances of the
 189 parties and the nature of the case is equitable and provide for
 190 child support in accordance with the guidelines in s. 61.30. An
 191 award of shared parental responsibility of a minor child does
 192 not preclude the court from entering an order for child support
 193 of the child.

194 Section 5. For the purpose of incorporating the amendment
 195 to section 61.30, Florida Statutes, in references thereto,
 196 subsection (1) of section 61.14, Florida Statutes, is amended to
 197 read:

198 61.14 Enforcement and modification of support,
 199 maintenance, or alimony agreements or orders.--

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200 (1)(a) When the parties enter into an agreement for
201 payments for, or instead of, support, maintenance, or alimony,
202 whether in connection with a proceeding for dissolution or
203 separate maintenance or with any voluntary property settlement,
204 or when a party is required by court order to make any payments,
205 and the circumstances or the financial ability of either party
206 changes or the child who is a beneficiary of an agreement or
207 court order as described herein reaches majority after the
208 execution of the agreement or the rendition of the order, either
209 party may apply to the circuit court of the circuit in which the
210 parties, or either of them, resided at the date of the execution
211 of the agreement or reside at the date of the application, or in
212 which the agreement was executed or in which the order was
213 rendered, for an order decreasing or increasing the amount of
214 support, maintenance, or alimony, and the court has jurisdiction
215 to make orders as equity requires, with due regard to the
216 changed circumstances or the financial ability of the parties or
217 the child, decreasing, increasing, or confirming the amount of
218 separate support, maintenance, or alimony provided for in the
219 agreement or order. A finding that medical insurance is
220 reasonably available or the child support guidelines in s. 61.30
221 may constitute changed circumstances. Except as otherwise
222 provided in s. 61.30(11)(c), the court may modify an order of
223 support, maintenance, or alimony by increasing or decreasing the
224 support, maintenance, or alimony retroactively to the date of
225 the filing of the action or supplemental action for modification
226 as equity requires, giving due regard to the changed
227 circumstances or the financial ability of the parties or the
228 child.

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229 (b) For each support order reviewed by the department as
 230 required by s. 409.2564(12), if the amount of the child support
 231 award under the order differs by at least 10 percent but not
 232 less than \$25 from the amount that would be awarded under s.
 233 61.30, the department shall seek to have the order modified and
 234 any modification shall be made without a requirement for proof
 235 or showing of a change in circumstances.

236 (c) The department shall have authority to adopt rules to
 237 implement this section.

238 Section 6. For the purpose of incorporating the amendment
 239 to section 61.30, Florida Statutes, in references thereto,
 240 paragraph (a) of subsection (1), paragraph (c) of subsection
 241 (2), paragraph (f) of subsection (4), paragraph (a) of
 242 subsection (5), and paragraph (c) of subsection (7) of section
 243 409.2563, Florida Statutes, are reenacted to read:

244 409.2563 Administrative establishment of child support
 245 obligations.--

246 (1) DEFINITIONS.--As used in this section, the term:

247 (a) "Administrative support order" means a final order
 248 rendered by or on behalf of the department pursuant to this
 249 section establishing or modifying the obligation of a
 250 noncustodial parent to contribute to the support and maintenance
 251 of his or her child or children, which may include provisions
 252 for monetary support, retroactive support, health care, and
 253 other elements of support pursuant to chapter 61.

254
 255 Other terms used in this section have the meanings ascribed in
 256 ss. 61.046 and 409.2554.

257 (2) PURPOSE AND SCOPE.--

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258 (c) If there is no support order for a child in a Title
 259 IV-D case whose paternity has been established or is presumed by
 260 law, the department may establish the noncustodial parent's
 261 child support obligation pursuant to this section, s. 61.30, and
 262 other relevant provisions of state law. The noncustodial
 263 parent's obligation determined by the department may include any
 264 obligation to pay retroactive support and any obligation to
 265 provide for health care for a child, whether through insurance
 266 coverage, reimbursement of expenses, or both. The department may
 267 proceed on behalf of:

- 268 1. An applicant or recipient of public assistance, as
 269 provided by ss. 409.2561 and 409.2567;
- 270 2. A former recipient of public assistance, as provided by
 271 s. 409.2569;
- 272 3. An individual who has applied for services as provided
 273 by s. 409.2567;
- 274 4. Itself or the child, as provided by s. 409.2561; or
- 275 5. A state or local government of another state, as
 276 provided by chapter 88.

277 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
 278 SUPPORT ORDER.--To commence a proceeding under this section, the
 279 department shall provide to the custodial parent and serve the
 280 noncustodial parent with a notice of proceeding to establish
 281 administrative support order and a blank financial affidavit
 282 form. The notice must state:

283 (f) That the department will calculate support obligations
 284 based on the child support guidelines in s. 61.30 and using all
 285 available information, as provided by paragraph (5)(a), and will

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286 incorporate such obligations into a proposed administrative
 287 support order;

288
 289 The department may serve the notice of proceeding to establish
 290 administrative support order by certified mail, restricted
 291 delivery, return receipt requested. Alternatively, the
 292 department may serve the notice by any means permitted for
 293 service of process in a civil action. For purposes of this
 294 section, an authorized employee of the department may serve the
 295 notice and execute an affidavit of service. Service by certified
 296 mail is completed when the certified mail is received or refused
 297 by the addressee or by an authorized agent as designated by the
 298 addressee in writing. If a person other than the addressee signs
 299 the return receipt, the department shall attempt to reach the
 300 addressee by telephone to confirm whether the notice was
 301 received, and the department shall document any telephonic
 302 communications. If someone other than the addressee signs the
 303 return receipt, the addressee does not respond to the notice,
 304 and the department is unable to confirm that the addressee has
 305 received the notice, service is not completed and the department
 306 shall attempt to have the addressee served personally. The
 307 department shall provide the custodial parent or caretaker
 308 relative with a copy of the notice by regular mail to the last
 309 known address of the custodial parent or caretaker.

310 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

311 (a) After serving notice upon the noncustodial parent in
 312 accordance with subsection (4), the department shall calculate
 313 the noncustodial parent's child support obligation under the
 314 child support guidelines as provided by s. 61.30, based on any

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315 timely financial affidavits received and other information
 316 available to the department. If either parent fails to comply
 317 with the requirement to furnish a financial affidavit, the
 318 department may proceed on the basis of information available
 319 from any source, if such information is sufficiently reliable
 320 and detailed to allow calculation of guideline amounts under s.
 321 61.30. If the custodial parent receives public assistance and
 322 fails to submit a financial affidavit, the department may submit
 323 a financial affidavit for the custodial parent pursuant to s.
 324 61.30(15). If there is a lack of sufficient reliable information
 325 concerning a parent's actual earnings for a current or past
 326 period, it shall be presumed for the purpose of establishing a
 327 support obligation that the parent had an earning capacity equal
 328 to the federal minimum wage during the applicable period.

329 (7) ADMINISTRATIVE SUPPORT ORDER.--

330 (c) If the noncustodial parent waives the right to a
 331 hearing, or consents in writing to the entry of an order without
 332 a hearing, the department may render an administrative support
 333 order.

334
 335 An income deduction order as provided by s. 61.1301 must be
 336 incorporated into the administrative support order or, if not
 337 incorporated into the administrative support order, the
 338 department or the Division of Administrative Hearings shall
 339 render a separate income deduction order.

340 Section 7. For the purpose of incorporating the amendment
 341 to section 61.30, Florida Statutes, in references thereto,
 342 subsection (12) of section 409.2564, Florida Statutes, is
 343 reenacted to read:

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344 409.2564 Actions for support.--

345 (12) The Title IV-D agency shall review child support
 346 orders in IV-D cases at least every 3 years upon request by
 347 either party, or the agency in cases where there is an
 348 assignment of support to the state under s. 414.095(8), and may
 349 seek adjustment of the order if appropriate under the guidelines
 350 established in s. 61.30. Not less than once every 3 years the
 351 IV-D agency shall provide notice to the parties subject to the
 352 order informing them of their right to request a review and, if
 353 appropriate, an adjustment of the child support order. Said
 354 notice requirement may be met by including appropriate language
 355 in the initial support order or any subsequent orders.

356 Section 8. For the purpose of incorporating the amendment
 357 to section 61.30, Florida Statutes, in references thereto,
 358 subsection (1) of section 742.031, Florida Statutes, is
 359 reenacted to read:

360 742.031 Hearings; court orders for support, hospital
 361 expenses, and attorney's fee.--

362 (1) Hearings for the purpose of establishing or refuting
 363 the allegations of the complaint and answer shall be held in the
 364 chambers and may be restricted to persons, in addition to the
 365 parties involved and their counsel, as the judge in his or her
 366 discretion may direct. The court shall determine the issues of
 367 paternity of the child and the ability of the parents to support
 368 the child. Each party's social security number shall be recorded
 369 in the file containing the adjudication of paternity. If the
 370 court finds that the alleged father is the father of the child,
 371 it shall so order. If appropriate, the court shall order the
 372 father to pay the complainant, her guardian, or any other person

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373 assuming responsibility for the child moneys sufficient to pay
374 reasonable attorney's fees, hospital or medical expenses, cost
375 of confinement, and any other expenses incident to the birth of
376 the child and to pay all costs of the proceeding. Bills for
377 pregnancy, childbirth, and scientific testing are admissible as
378 evidence without requiring third-party foundation testimony, and
379 shall constitute prima facie evidence of amounts incurred for
380 such services or for testing on behalf of the child. The court
381 shall order either or both parents owing a duty of support to
382 the child to pay support pursuant to s. 61.30. The court shall
383 issue, upon motion by a party, a temporary order requiring the
384 provision of child support pursuant to s. 61.30 pending an
385 administrative or judicial determination of parentage, if there
386 is clear and convincing evidence of paternity on the basis of
387 genetic tests or other evidence. The court may also make a
388 determination as to the parental responsibility and residential
389 care and custody of the minor children in accordance with
390 chapter 61.

391 Section 9. This act shall take effect October 1, 2004.