

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to child support guidelines; amending s.
7 61.30, F.S.; creating a rebuttable presumption that a
8 parent who is a resident of Florida or whose residence is
9 unknown is able to earn the Florida minimum wage, the
10 minimum wage applicable to the parent's state of
11 residence, or, in the absence of a state minimum wage, the
12 federal minimum wage; amending s. 409.2563, F.S.; revising
13 a presumption that a parent is able to earn a certain
14 minimum wage; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Paragraph (b) of subsection (2) of section
19 61.30, Florida Statutes, is amended to read:

20 61.30 Child support guidelines; retroactive child
21 support.--

22 (2) Income shall be determined on a monthly basis for the
23 obligor and for the obligee as follows:

HB 803

2006
CS

24 (b) Income on a monthly basis shall be imputed to an
25 unemployed or underemployed parent when such employment or
26 underemployment is found to be voluntary on that parent's part,
27 absent physical or mental incapacity or other circumstances over
28 which the parent has no control. In the event of such voluntary
29 unemployment or underemployment, the employment potential and
30 probable earnings level of the parent shall be determined based
31 upon his or her recent work history, occupational
32 qualifications, and prevailing earnings level in the community.
33 For the purpose of establishing imputed income pursuant to this
34 paragraph, there is created a rebuttable presumption that a
35 parent is able to earn the Florida minimum wage, on a full-time
36 basis, unless evidence produced at a hearing demonstrates that
37 the parent is a resident of another state, in which case the
38 state minimum wage applicable to the parent's state of residence
39 shall apply if it is greater than the Florida minimum wage. In
40 the absence of a state minimum wage or if the other state's
41 minimum wage is lower than the Florida minimum wage, the federal
42 minimum wage shall apply. ~~however,~~ The court may refuse to
43 impute income to a primary residential parent if the court finds
44 it necessary for the parent to stay home with the child.

45 Section 2. Paragraph (a) of subsection (5) of section
46 409.2563, Florida Statutes, is amended to read:

47 409.2563 Administrative establishment of child support
48 obligations.--

49 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

50 (a) After serving notice upon the noncustodial parent in
51 accordance with subsection (4), the department shall calculate

HB 803

2006
CS

52 | the noncustodial parent's child support obligation under the
53 | child support guidelines as provided by s. 61.30, based on any
54 | timely financial affidavits received and other information
55 | available to the department. If either parent fails to comply
56 | with the requirement to furnish a financial affidavit, the
57 | department may proceed on the basis of information available
58 | from any source, if such information is sufficiently reliable
59 | and detailed to allow calculation of guideline amounts under s.
60 | 61.30. If the custodial parent receives public assistance and
61 | fails to submit a financial affidavit, the department may submit
62 | a financial affidavit for the custodial parent pursuant to s.
63 | 61.30(15). If there is a lack of sufficient reliable information
64 | concerning a parent's actual earnings for a current or past
65 | period, it shall be presumed for the purpose of establishing a
66 | support obligation that a the parent who is a Florida resident
67 | or whose residence is unknown had an earning capacity equal to
68 | the Florida ~~federal~~ minimum wage during the applicable period,
69 | unless the parent shows that he or she is a resident of another
70 | state, in which case the state minimum wage applicable to the
71 | parent's state of residence shall apply if it is greater than
72 | the Florida minimum wage. In the absence of a state minimum wage
73 | or if the other state's minimum wage is lower than the Florida
74 | minimum wage, the federal minimum wage shall apply.

75 | Section 3. This act shall take effect July 1, 2006.