



973258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2009	.	
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The Committee on Children, Families, and Elder Affairs (Storms) recommended the following:

1 **Senate Amendment to Amendment (613968) (with title**
2 **amendment)**

3
4 Delete lines 84 - 506
5 and insert:

6 Section 3. Paragraph (a) of subsection (1), paragraph (b)
7 of subsection (2), paragraph (a) of subsection (3), and
8 subsections (7), (10), and (11) of section 61.30, Florida
9 Statutes, are amended, and subsection (18) is added to that
10 section, to read:

11 61.30 Child support guidelines; retroactive child support.-



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12 (1) (a) The child support guideline amount as determined by
13 this section presumptively establishes the amount the trier of
14 fact shall order as child support in an initial proceeding for
15 such support or in a proceeding for modification of an existing
16 order for such support, whether the proceeding arises under this
17 or another chapter. The trier of fact may order payment of child
18 support which varies, plus or minus 5 percent, from the
19 guideline amount, after considering all relevant factors,
20 including the needs of the child or children, age, station in
21 life, standard of living, and the financial status and ability
22 of each parent. The trier of fact may order payment of child
23 support in an amount which varies more than 5 percent from such
24 guideline amount only upon a written finding explaining why
25 ordering payment of such guideline amount would be unjust or
26 inappropriate. Notwithstanding the variance limitations of this
27 section, the trier of fact shall order payment of child support
28 which varies from the guideline amount as provided in paragraph
29 (11) (b) whenever any of the children are required by court order
30 or mediation agreement to spend a substantial amount of time
31 with either parent as defined by subparagraph (11) (b) 8. This
32 requirement applies to any living arrangement, whether temporary
33 or permanent.

34 (2) Income shall be determined on a monthly basis for each
35 parent as follows:

36
37 (b) 1. Income on a monthly basis shall be imputed to an
38 unemployed or underemployed parent when such employment or
39 underemployment is found by the court to be voluntary on that
40 parent's part, absent a finding of fact by the court of physical



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41 or mental incapacity or other circumstances over which the
42 parent has no control. In the event of such voluntary
43 unemployment or underemployment, the employment potential and
44 probable earnings level of the parent shall be determined based
45 upon his or her recent work history, occupational
46 qualifications, and prevailing earnings level in the community
47 as provided in this paragraph; however, the court may refuse to
48 impute income to a parent if the court finds it necessary for
49 the parent to stay home with the child who is the subject of a
50 child support calculation.

51 2. There shall be a rebuttable presumption entitling the
52 court to impute Florida minimum wage on a full-time basis to a
53 parent, absent a finding by the court that:

54 a. The parent has a physical or mental incapacity that
55 renders the parent unemployable or underemployed;

56 b. The parent needs to stay home to care for a child who is
57 the subject of the child support calculation, thereby preventing
58 the parent's employment or rendering the parent underemployed;
59 or

60 c. There are other circumstances over which the parent has
61 no control, except for penal incarceration, that prevent the
62 parent from earning an income.

63
64 If evidence is produced that demonstrates that the parent is a
65 resident of another state, that state's minimum wage law shall
66 apply. In the absence of a state minimum wage, the federal
67 minimum wage as determined by the United States Department of
68 Labor shall apply.

69 (3) Net income is obtained by subtracting allowable



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70 deductions from gross income. Allowable deductions shall
71 include:

72 (a) Federal, state, and local income tax which shall be
73 calculated using gross income deductions, adjusted for actual
74 filing status, personal and dependency exemptions, applicable
75 deductions, earned income credits, child and dependent care
76 credits, and other allowable tax credits and allowable
77 dependents and income tax liabilities.

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

89 (10) The total minimum child support need shall be
90 determined by adding child care costs and health insurance costs
91 to the minimum child support need. Each parent's actual dollar
92 share of the total minimum child support need shall be
93 determined by multiplying the minimum child support need by each
94 parent's percentage share of the combined monthly net income.
95 The resulting amount shall be paid by the parent having less
96 than 20 percent of the overnight time-sharing to the parent
97 having more than 80 percent of the overnight time-sharing.

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



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99 support award, or either or both parents' share of the total
100 minimum child support award, based upon the following deviation
101 factors:

102 1. Extraordinary medical, psychological, educational, or
103 dental expenses.

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

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

108 4. Seasonal variations in one or both parents' incomes or
109 expenses.

110 5. The age of the child, taking into account the greater
111 needs of older children.

112 6. Special needs, such as costs that may be associated with
113 the disability of a child, that have traditionally been met
114 within the family budget even though the fulfilling of those
115 needs will cause the support to exceed the presumptive amount
116 established by the guidelines.

117 7. Total available assets of the obligee, obligor, and the
118 child.

119 ~~8. The impact of the Internal Revenue Service dependency~~
120 ~~exemption and waiver of that exemption. The court may order a~~
121 ~~parent to execute a waiver of the Internal Revenue Service~~
122 ~~dependency exemption if the paying parent is current in support~~
123 ~~payments.~~

124 8.9. When application of the child support guidelines
125 schedule requires a person to pay another person more than 55
126 percent of his or her gross income for a child support
127 obligation for current support resulting from a single support



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128 order or when the application of the child support guidelines
129 leaves a party with a net income that is lower than the current
130 federal poverty guidelines.

131 ~~9.10.~~ The particular parenting plan, such as where the
132 child spends a significant amount of time, but less than 20 ~~40~~
133 percent of the overnights, with one parent, thereby reducing the
134 financial expenditures incurred by the other parent; or the
135 refusal of a parent to become involved in the activities of the
136 child.

137 ~~10.11.~~ Any other adjustment which is needed to achieve an
138 equitable result which may include, but not be limited to, a
139 reasonable and necessary existing expense or debt. Such expense
140 or debt may include, but is not limited to, a reasonable and
141 necessary expense or debt which the parties jointly incurred
142 during the marriage.

143 (b) Whenever a particular parenting plan provides that each
144 child spend a substantial amount of time with each parent, the
145 court shall adjust any award of child support, as follows:

146 1. In accordance with subsections (9) and (10), calculate
147 the amount of support obligation apportioned to each parent
148 without including day care and health insurance costs in the
149 calculation and multiply the amount by 1.5.

150 2. Calculate the percentage of overnight stays the child
151 spends with each parent.

152 3. Multiply each parent's support obligation as calculated
153 in subparagraph 1. by the percentage of the other parent's
154 overnight stays with the child as calculated in subparagraph 2.

155 4. The difference between the amounts calculated in
156 subparagraph 3. shall be the monetary transfer necessary between



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157 the parents for the care of the child, subject to an adjustment
158 for day care and health insurance expenses.

159 5. Pursuant to subsections (7) and (8), calculate the net
160 amounts owed by each parent for the expenses incurred for day
161 care and health insurance coverage for the child. ~~Day care shall~~
162 ~~be calculated without regard to the 25-percent reduction applied~~
163 ~~by subsection (7).~~

164 6. Adjust the support obligation owed by each parent
165 pursuant to subparagraph 4. by crediting or debiting the amount
166 calculated in subparagraph 5. This amount represents the child
167 support which must be exchanged between the parents.

168 7. The court may deviate from the child support amount
169 calculated pursuant to subparagraph 6. based upon the deviation
170 factors in paragraph (a), as well as the obligee parent's low
171 income and ability to maintain the basic necessities of the home
172 for the child, the likelihood that either parent will actually
173 exercise the time-sharing schedule set forth in the parenting
174 plan granted by the court, and whether all of the children are
175 exercising the same time-sharing schedule.

176 8. For purposes of adjusting any award of child support
177 under this paragraph, "substantial amount of time" means that a
178 parent exercises time-sharing visitation at least 20 ~~40~~ percent
179 of the overnights of the year.

180 (c) A parent's failure to regularly exercise the court-
181 ordered or agreed time-sharing schedule not caused by the other
182 parent which resulted in the adjustment of the amount of child
183 support pursuant to subparagraph (a) ~~9.10.~~ or paragraph (b) shall
184 be deemed a substantial change of circumstances for purposes of
185 modifying the child support award. A modification pursuant to



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186 this paragraph shall be retroactive to the date the noncustodial
187 parent first failed to regularly exercise the court-ordered or
188 agreed time-sharing schedule.

189 (18) The court may, for good cause shown, order the parent
190 otherwise entitled to the Internal Revenue Service dependency
191 exemption for a child to execute a waiver of the dependency
192 exemption.

193
194 ===== T I T L E A M E N D M E N T =====

195 And the title is amended as follows:

196 Delete lines 582 - 614

197 and insert:

198 postjudgment interest; amending s. 61.30, F.S.; specifying a
199 definition relating to payment of child support varying from the
200 guideline amount whenever any of the children are required by
201 court order to spend a substantial amount of time with either
202 parent; prohibiting use of certain factors in imputing income
203 beyond minimum wage unless a court makes specified findings;
204 revising provisions relating to income tax calculations used in
205 determining net income; eliminating a reduction in the child
206 care cost added to the basic support obligation; providing for
207 determination of the total minimum child support need; providing
208 for payment of a parent's share of the minimum total child
209 support need; deleting provisions relating to adjustment of a
210 minimum child support award relating to the Internal Revenue
211 Service dependency exemption; providing for adjustment of a
212 party's minimum child support award when application of the
213 child support guidelines leaves the party with a net income
214 lower than the federal poverty guidelines; revising the



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215 percentage of overnight time-sharing that is considered
216 significant for certain purposes; allowing a court to order a
217 party to execute a waiver of the Internal Revenue Service
218 dependency exemption for a child for good cause shown; amending