

By Senator Hill

1-00722A-09

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1 A bill to be entitled
2 An act relating to spousal and child support; amending
3 s. 61.13, F.S.; providing requirements for child
4 support and income deduction orders relating to
5 termination of child support; amending s. 61.14, F.S.;
6 specifying how payments on alimony or spousal support
7 judgments shall be applied; providing for enforcement
8 of interest payments on child support and alimony or
9 spousal support judgments; providing that interest not
10 accrue on postjudgment interest; amending s. 61.30,
11 F.S.; specifying a definition relating to payment of
12 child support varying from the guideline amount
13 whenever any of the children are required by court
14 order to spend a substantial amount of time with
15 either parent; requiring specified findings in order
16 for a court to impute income beyond minimum wage;
17 prohibiting use of certain factors in imputing income
18 beyond minimum wage unless a court makes specified
19 findings; revising provisions relating to income tax
20 calculations used in determining net income; deleting
21 certain net income amounts from the child support
22 guidelines schedule; providing that certain
23 percentages used for combined monthly net income
24 greater than the amount set out in the guidelines
25 schedule shall not be used to determine child support
26 beyond the amount necessary to satisfy the reasonable
27 needs of the child or children; eliminating a
28 reduction in the child care cost added to the basic
29 support obligation; providing for determination of the

1-00722A-09

20092166__

30 total minimum child support need; providing for
31 payment of a parent's share of the minimum total child
32 support need; deleting provisions relating to
33 adjustment of a minimum child support award relating
34 to the Internal Revenue Service dependency exemption;
35 providing for adjustment of a party's minimum child
36 support award when application of the child support
37 guidelines leaves the party with a net income lower
38 than the federal poverty guidelines; allowing a court
39 to order a party to execute a waiver of the Internal
40 Revenue Service dependency exemption for a child for
41 good cause shown; amending s. 409.2563, F.S.; revising
42 provisions relating to a presumption of minimum wage
43 earning capacity for purposes of administrative
44 support orders; amending s. 742.08, F.S.; providing
45 for enforcement of interest payments on support
46 judgments; providing that interest shall not accrue on
47 postjudgment interest; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Paragraph (a) of subsection (1) of section
52 61.13, Florida Statutes, is amended to read:

53 61.13 Support of children; parenting and time-sharing;
54 powers of court.—

55 (1) (a) In a proceeding under this chapter, the court may at
56 any time order either or both parents who owe a duty of support
57 to a child to pay support to the other parent or, in the case of
58 both parents, to the person with custody in accordance with the

1-00722A-09

20092166__

59 child support guidelines schedule in s. 61.30.

60 1. All child support orders and income deduction orders
61 entered on or after October 1, 2009, shall provide for the
62 following:

63 a. Termination of child support upon a child's 18th
64 birthday, unless the court finds or has previously found that s.
65 743.07(2) applies or unless otherwise agreed to by the parties.

66 b. A schedule, based upon the record existing at the time
67 of the order, stating the amount of the monthly child support
68 obligation for all the minor children at the time of the order
69 and the amount of child support that will be owed for the
70 remaining children for whom child support will continue when any
71 child is no longer entitled to receive child support under this
72 subparagraph.

73 c. The month and year that the reduction or termination of
74 child support becomes effective.

75 2. Notwithstanding subparagraph 1., the court initially
76 entering an order requiring one or both parents to make child
77 support payments has continuing jurisdiction after the entry of
78 the initial order to modify the amount and terms and conditions
79 of the child support payments when the modification is found
80 necessary by the court in the best interests of the child, when
81 the child reaches majority, when there is a substantial change
82 in the circumstances of the parties, when s. 743.07(2) applies,
83 or when a child is emancipated, marries, joins the armed
84 services, or dies. The court initially entering a child support
85 order has continuing jurisdiction to require the obligee to
86 report to the court on terms prescribed by the court regarding
87 the disposition of the child support payments.

1-00722A-09

20092166__

88 Section 2. Paragraph (d) of subsection (6) of section
89 61.14, Florida Statutes, is amended, and subsection (12) is
90 added to that section, to read:

91 61.14 Enforcement and modification of support, maintenance,
92 or alimony agreements or orders.—

93 (6)

94 (d) The court shall hear the obligor's motion to contest
95 the impending judgment within 15 days after the date of filing
96 of the motion. Upon the court's denial of the obligor's motion,
97 the amount of the delinquency and all other amounts that become
98 due, together with costs and a service charge of up to \$25,
99 become a final judgment by operation of law against the obligor.
100 The depository shall charge interest at the rate established in
101 s. 55.03 on all judgments for support. Payments on judgments
102 shall be applied first to the current child support due, then to
103 any delinquent principal, and then to interest on the support
104 judgment. Payments on alimony or spousal support judgments shall
105 be applied first to the current alimony or spousal support due,
106 then to any delinquent principal, and then to interest on the
107 alimony or spousal support judgment.

108 (12) Interest on child support and alimony or spousal
109 support judgments shall be enforceable through all of the
110 methods available to enforce the underlying support order,
111 including contempt. Interest shall not accrue on postjudgment
112 interest.

113 Section 3. Paragraph (a) of subsection (1), paragraph (b)
114 of subsection (2), paragraph (a) of subsection (3), and
115 subsections (6), (7), (10), and (11) of section 61.30, Florida
116 Statutes, are amended, and subsection (18) is added to that

1-00722A-09

20092166__

117 section, to read:

118 61.30 Child support guidelines; retroactive child support.-

119 (1) (a) The child support guideline amount as determined by
120 this section presumptively establishes the amount the trier of
121 fact shall order as child support in an initial proceeding for
122 such support or in a proceeding for modification of an existing
123 order for such support, whether the proceeding arises under this
124 or another chapter. The trier of fact may order payment of child
125 support which varies, plus or minus 5 percent, from the
126 guideline amount, after considering all relevant factors,
127 including the needs of the child or children, age, station in
128 life, standard of living, and the financial status and ability
129 of each parent. The trier of fact may order payment of child
130 support in an amount which varies more than 5 percent from such
131 guideline amount only upon a written finding explaining why
132 ordering payment of such guideline amount would be unjust or
133 inappropriate. Notwithstanding the variance limitations of this
134 section, the trier of fact shall order payment of child support
135 which varies from the guideline amount as provided in paragraph
136 (11) (b) whenever any of the children are required by court order
137 ~~or mediation agreement~~ to spend a substantial amount of time
138 with either parent as defined by subparagraph (11) (b) 8. This
139 requirement applies to any living arrangement, whether temporary
140 or permanent.

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

143 (b) 1. Income on a monthly basis shall be imputed to an
144 unemployed or underemployed parent when such employment or
145 underemployment is found by the court to be voluntary on that

1-00722A-09

20092166__

146 parent's part, absent a finding of fact by the court of physical
147 or mental incapacity or other circumstances over which the
148 parent has no control. In the event of such voluntary
149 unemployment or underemployment, the employment potential and
150 probable earnings level of the parent shall be determined based
151 upon his or her recent work history, occupational
152 qualifications, and prevailing earnings level in the community
153 as provided in this paragraph; however, the court may refuse to
154 impute income to a parent if the court finds it necessary for
155 the parent to stay home with the child who is the subject of a
156 child support calculation.

157 2. In order for the court to impute income beyond minimum
158 wage under subparagraph 1., the court must make specific
159 findings of fact consistent with the requirements of this
160 subparagraph. The party seeking to impute income has the burden
161 to present competent, substantial evidence showing the
162 following:

163 a. That the unemployment or underemployment is voluntary.

164 b. The amount and source of the imputed income, through
165 evidence of income from available employment for which the party
166 is suitably qualified by education, experience, current
167 licensure, or geographic location, with due consideration being
168 given to the parties' time-sharing schedule and their historical
169 exercise of the time-sharing provided in the parenting plan or
170 relevant order.

171 3. There shall be a rebuttable presumption entitling the
172 court to impute Florida minimum wage on a full-time basis to a
173 parent, absent a finding by the court that:

174 a. The parent has a physical or mental incapacity that

1-00722A-09

20092166__

175 renders the parent unemployable or underemployed;

176 b. The parent needs to stay home to care for a child who is
177 the subject of the child support calculation, thereby preventing
178 the parent's employment or rendering the parent underemployed;
179 or

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

183
184 If evidence is produced that demonstrates that the parent is a
185 resident of another state, that state's minimum wage law shall
186 apply. In the absence of a state minimum wage, the federal
187 minimum wage as determined by the United States Department of
188 Labor shall apply.

189 4. Unless the court makes the appropriate findings under
190 sub-subparagraph 2.b., income may not be imputed beyond minimum
191 wage requirements in subparagraph 3. based upon:

192 a. Income records that are more than 5 years old at the
193 time of the hearing or trial at which imputation is sought; or

194 b. Income at a level that a party has never earned in the
195 past, unless recently degreed, licensed, certified, relicensed,
196 or recertified and thus qualified for, subject to geographic
197 location, with due consideration of the parties' existing time-
198 sharing schedule and their historical exercise of the time-
199 sharing provided in the parenting plan or relevant order.

200 (3) Net income is obtained by subtracting allowable
201 deductions from gross income. Allowable deductions shall
202 include:

203 (a) Federal, state, and local income tax, which shall be

1-00722A-09

20092166__

204 calculated using gross income deductions, adjusted for actual
 205 filing status, personal and dependency exemptions, applicable
 206 deductions, earned income credits, child and dependent care
 207 credits, and other allowable tax credits and allowable
 208 dependents and income tax liabilities.

209 (6) The following guidelines schedule shall be applied to
 210 the combined net income to determine the minimum child support
 211 need:

Combined Monthly

Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
650.00	<u>74</u>	<u>75</u>	<u>75</u>	<u>76</u>	<u>77</u>	<u>78</u>
700.00	<u>119</u>	<u>120</u>	<u>121</u>	<u>123</u>	<u>124</u>	<u>125</u>
750.00	<u>164</u>	<u>166</u>	<u>167</u>	<u>169</u>	<u>171</u>	<u>173</u>
800.00	190	211	213	216	218	220
850.00	202	257	259	262	265	268
900.00	213	302	305	309	312	315
950.00	224	347	351	355	359	363
1000.00	235	365	397	402	406	410

1-00722A-09

20092166__

222	1050.00	246	382	443	448	453	458
223	1100.00	258	400	489	495	500	505
224	1150.00	269	417	522	541	547	553
225	1200.00	280	435	544	588	594	600
226	1250.00	290	451	565	634	641	648
227	1300.00	300	467	584	659	688	695
228	1350.00	310	482	603	681	735	743
229	1400.00	320	498	623	702	765	790
230	1450.00	330	513	642	724	789	838
231	1500.00	340	529	662	746	813	869
232	1550.00	350	544	681	768	836	895
233	1600.00	360	560	701	790	860	920
234	1650.00	370	575	720	812	884	945
235	1700.00	380	591	740	833	907	971
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	1-00722A-09					20092166__	
237	1750.00	390	606	759	855	931	996
238	1800.00	400	622	779	877	955	1022
239	1850.00	410	638	798	900	979	1048
240	1900.00	421	654	818	923	1004	1074
241	1950.00	431	670	839	946	1029	1101
242	2000.00	442	686	859	968	1054	1128
243	2050.00	452	702	879	991	1079	1154
244	2100.00	463	718	899	1014	1104	1181
245	2150.00	473	734	919	1037	1129	1207
246	2200.00	484	751	940	1060	1154	1234
247	2250.00	494	767	960	1082	1179	1261
248	2300.00	505	783	980	1105	1204	1287
249	2350.00	515	799	1000	1128	1229	1314
250	2400.00	526	815	1020	1151	1254	1340
	2450.00	536	831	1041	1174	1279	1367

1-00722A-09

20092166__

251	2500.00	547	847	1061	1196	1304	1394
252	2550.00	557	864	1081	1219	1329	1420
253	2600.00	568	880	1101	1242	1354	1447
254	2650.00	578	896	1121	1265	1379	1473
255	2700.00	588	912	1141	1287	1403	1500
256	2750.00	597	927	1160	1308	1426	1524
257	2800.00	607	941	1178	1328	1448	1549
258	2850.00	616	956	1197	1349	1471	1573
259	2900.00	626	971	1215	1370	1494	1598
260	2950.00	635	986	1234	1391	1517	1622
261	3000.00	644	1001	1252	1412	1540	1647
262	3050.00	654	1016	1271	1433	1563	1671
263	3100.00	663	1031	1289	1453	1586	1695
264	3150.00	673	1045	1308	1474	1608	1720
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	1-00722A-09					20092166__	
266	3200.00	682	1060	1327	1495	1631	1744
267	3250.00	691	1075	1345	1516	1654	1769
268	3300.00	701	1090	1364	1537	1677	1793
269	3350.00	710	1105	1382	1558	1700	1818
270	3400.00	720	1120	1401	1579	1723	1842
271	3450.00	729	1135	1419	1599	1745	1867
272	3500.00	738	1149	1438	1620	1768	1891
273	3550.00	748	1164	1456	1641	1791	1915
274	3600.00	757	1179	1475	1662	1814	1940
275	3650.00	767	1194	1493	1683	1837	1964
276	3700.00	776	1208	1503	1702	1857	1987
277	3750.00	784	1221	1520	1721	1878	2009
278	3800.00	793	1234	1536	1740	1899	2031
279	3850.00	802	1248	1553	1759	1920	2053
	3900.00	811	1261	1570	1778	1940	2075

1-00722A-09

20092166__

280	3950.00	819	1275	1587	1797	1961	2097
281	4000.00	828	1288	1603	1816	1982	2119
282	4050.00	837	1302	1620	1835	2002	2141
283	4100.00	846	1315	1637	1854	2023	2163
284	4150.00	854	1329	1654	1873	2044	2185
285	4200.00	863	1342	1670	1892	2064	2207
286	4250.00	872	1355	1687	1911	2085	2229
287	4300.00	881	1369	1704	1930	2106	2251
288	4350.00	889	1382	1721	1949	2127	2273
289	4400.00	898	1396	1737	1968	2147	2295
290	4450.00	907	1409	1754	1987	2168	2317
291	4500.00	916	1423	1771	2006	2189	2339
292	4550.00	924	1436	1788	2024	2209	2361
293	4600.00	933	1450	1804	2043	2230	2384
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	1-00722A-09					20092166__	
295	4650.00	942	1463	1821	2062	2251	2406
296	4700.00	951	1477	1838	2081	2271	2428
297	4750.00	959	1490	1855	2100	2292	2450
298	4800.00	968	1503	1871	2119	2313	2472
299	4850.00	977	1517	1888	2138	2334	2494
300	4900.00	986	1530	1905	2157	2354	2516
301	4950.00	993	1542	1927	2174	2372	2535
302	5000.00	1000	1551	1939	2188	2387	2551
303	5050.00	1006	1561	1952	2202	2402	2567
304	5100.00	1013	1571	1964	2215	2417	2583
305	5150.00	1019	1580	1976	2229	2432	2599
306	5200.00	1025	1590	1988	2243	2447	2615
307	5250.00	1032	1599	2000	2256	2462	2631
308	5300.00	1038	1609	2012	2270	2477	2647
	5350.00	1045	1619	2024	2283	2492	2663

1-00722A-09

20092166__

309	5400.00	1051	1628	2037	2297	2507	2679
310	5450.00	1057	1638	2049	2311	2522	2695
311	5500.00	1064	1647	2061	2324	2537	2711
312	5550.00	1070	1657	2073	2338	2552	2727
313	5600.00	1077	1667	2085	2352	2567	2743
314	5650.00	1083	1676	2097	2365	2582	2759
315	5700.00	1089	1686	2109	2379	2597	2775
316	5750.00	1096	1695	2122	2393	2612	2791
317	5800.00	1102	1705	2134	2406	2627	2807
318	5850.00	1107	1713	2144	2418	2639	2820
319	5900.00	1111	1721	2155	2429	2651	2833
320	5950.00	1116	1729	2165	2440	2663	2847
321	6000.00	1121	1737	2175	2451	2676	2860
322	6050.00	1126	1746	2185	2462	2688	2874
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	1-00722A-09					20092166__	
324	6100.00	1131	1754	2196	2473	2700	2887
325	6150.00	1136	1762	2206	2484	2712	2900
326	6200.00	1141	1770	2216	2495	2724	2914
327	6250.00	1145	1778	2227	2506	2737	2927
328	6300.00	1150	1786	2237	2517	2749	2941
329	6350.00	1155	1795	2247	2529	2761	2954
330	6400.00	1160	1803	2258	2540	2773	2967
331	6450.00	1165	1811	2268	2551	2785	2981
332	6500.00	1170	1819	2278	2562	2798	2994
333	6550.00	1175	1827	2288	2573	2810	3008
334	6600.00	1179	1835	2299	2584	2822	3021
335	6650.00	1184	1843	2309	2595	2834	3034
336	6700.00	1189	1850	2317	2604	2845	3045
337	6750.00	1193	1856	2325	2613	2854	3055
	6800.00	1196	1862	2332	2621	2863	3064

1-00722A-09

20092166__

338	6850.00	1200	1868	2340	2630	2872	3074
339	6900.00	1204	1873	2347	2639	2882	3084
340	6950.00	1208	1879	2355	2647	2891	3094
341	7000.00	1212	1885	2362	2656	2900	3103
342	7050.00	1216	1891	2370	2664	2909	3113
343	7100.00	1220	1897	2378	2673	2919	3123
344	7150.00	1224	1903	2385	2681	2928	3133
345	7200.00	1228	1909	2393	2690	2937	3142
346	7250.00	1232	1915	2400	2698	2946	3152
347	7300.00	1235	1921	2408	2707	2956	3162
348	7350.00	1239	1927	2415	2716	2965	3172
349	7400.00	1243	1933	2423	2724	2974	3181
350	7450.00	1247	1939	2430	2733	2983	3191
351	7500.00	1251	1945	2438	2741	2993	3201
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	1-00722A-09					20092166__	
353	7550.00	1255	1951	2446	2750	3002	3211
354	7600.00	1259	1957	2453	2758	3011	3220
355	7650.00	1263	1963	2461	2767	3020	3230
356	7700.00	1267	1969	2468	2775	3030	3240
357	7750.00	1271	1975	2476	2784	3039	3250
358	7800.00	1274	1981	2483	2792	3048	3259
359	7850.00	1278	1987	2491	2801	3057	3269
360	7900.00	1282	1992	2498	2810	3067	3279
361	7950.00	1286	1998	2506	2818	3076	3289
362	8000.00	1290	2004	2513	2827	3085	3298
363	8050.00	1294	2010	2521	2835	3094	3308
364	8100.00	1298	2016	2529	2844	3104	3318
365	8150.00	1302	2022	2536	2852	3113	3328
366	8200.00	1306	2028	2544	2861	3122	3337
	8250.00	1310	2034	2551	2869	3131	3347

1-00722A-09

20092166__

367	8300.00	1313	2040	2559	2878	3141	3357
368	8350.00	1317	2046	2566	2887	3150	3367
369	8400.00	1321	2052	2574	2895	3159	3376
370	8450.00	1325	2058	2581	2904	3168	3386
371	8500.00	1329	2064	2589	2912	3178	3396
372	8550.00	1333	2070	2597	2921	3187	3406
373	8600.00	1337	2076	2604	2929	3196	3415
374	8650.00	1341	2082	2612	2938	3205	3425
375	8700.00	1345	2088	2619	2946	3215	3435
376	8750.00	1349	2094	2627	2955	3224	3445
377	8800.00	1352	2100	2634	2963	3233	3454
378	8850.00	1356	2106	2642	2972	3242	3464
379	8900.00	1360	2111	2649	2981	3252	3474
380	8950.00	1364	2117	2657	2989	3261	3484
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	1-00722A-09					20092166__	
382	9000.00	1368	2123	2664	2998	3270	3493
383	9050.00	1372	2129	2672	3006	3279	3503
384	9100.00	1376	2135	2680	3015	3289	3513
385	9150.00	1380	2141	2687	3023	3298	3523
386	9200.00	1384	2147	2695	3032	3307	3532
387	9250.00	1388	2153	2702	3040	3316	3542
388	9300.00	1391	2159	2710	3049	3326	3552
389	9350.00	1395	2165	2717	3058	3335	3562
390	9400.00	1399	2171	2725	3066	3344	3571
391	9450.00	1403	2177	2732	3075	3353	3581
392	9500.00	1407	2183	2740	3083	3363	3591
393	9550.00	1411	2189	2748	3092	3372	3601
394	9600.00	1415	2195	2755	3100	3381	3610
395	9650.00	1419	2201	2763	3109	3390	3620
	9700.00	1422	2206	2767	3115	3396	3628

1-00722A-09

20092166__

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9750.00	1425	2210	2772	3121	3402	3634
9800.00	1427	2213	2776	3126	3408	3641
9850.00	1430	2217	2781	3132	3414	3647
9900.00	1432	2221	2786	3137	3420	3653
9950.00	1435	2225	2791	3143	3426	3659
10000.00	1437	2228	2795	3148	3432	3666

For combined monthly net income less than the amount set out on the above guidelines schedule, the parent should be ordered to pay a child support amount, determined on a case-by-case basis, to establish the principle of payment and lay the basis for increased orders should the parent's income increase in the future. For combined monthly net income greater than the amount set out in the above guidelines schedule, the obligation shall be the minimum amount of support provided by the guidelines schedule plus the following percentages multiplied by the amount of income over \$10,000:

Child or Children

One	Two	Three	Four	Five	Six
5.0%	7.5%	9.5%	11.0%	12.0%	12.5%

1-00722A-09

20092166__

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418 These percentages shall not be used to determine child support
419 beyond the amount necessary to satisfy the reasonable needs of
420 the child or children.

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

432 (10) The total minimum child support need shall be
433 determined by adding child care costs and health insurance costs
434 to the minimum child support need. Each parent's actual dollar
435 share of the total minimum child support need shall be
436 determined by multiplying the minimum child support need by each
437 parent's percentage share of the combined monthly net income.
438 The resulting amount shall be paid by the parent having less
439 than 40 percent of the overnight time-sharing to the parent
440 having more than 60 percent of the overnight time-sharing.

441 (11) (a) The court may adjust the total minimum child
442 support award, or either or both parents' share of the total
443 minimum child support award, based upon the following deviation
444 factors:

1-00722A-09

20092166__

- 445 1. Extraordinary medical, psychological, educational, or
446 dental expenses.
- 447 2. Independent income of the child, not to include moneys
448 received by a child from supplemental security income.
- 449 3. The payment of support for a parent which regularly has
450 been paid and for which there is a demonstrated need.
- 451 4. Seasonal variations in one or both parents' incomes or
452 expenses.
- 453 5. The age of the child, taking into account the greater
454 needs of older children.
- 455 6. Special needs, such as costs that may be associated with
456 the disability of a child, that have traditionally been met
457 within the family budget even though the fulfilling of those
458 needs will cause the support to exceed the presumptive amount
459 established by the guidelines.
- 460 7. Total available assets of the obligee, obligor, and the
461 child.
- 462 ~~8. The impact of the Internal Revenue Service dependency
463 exemption and waiver of that exemption. The court may order a
464 parent to execute a waiver of the Internal Revenue Service
465 dependency exemption if the paying parent is current in support
466 payments.~~
- 467 8.9. When application of the child support guidelines
468 schedule requires a person to pay another person more than 55
469 percent of his or her gross income for a child support
470 obligation for current support resulting from a single support
471 order or when the application of the child support guidelines
472 leaves a party with a net income that is lower than the current
473 federal poverty guidelines.

1-00722A-09

20092166__

474 ~~9.10.~~ The particular parenting plan, such as where the
475 child spends a significant amount of time, but less than 40
476 percent of the overnights, with one parent, thereby reducing the
477 financial expenditures incurred by the other parent; or the
478 refusal of a parent to become involved in the activities of the
479 child.

480 ~~10.11.~~ Any other adjustment which is needed to achieve an
481 equitable result which may include, but not be limited to, a
482 reasonable and necessary existing expense or debt. Such expense
483 or debt may include, but is not limited to, a reasonable and
484 necessary expense or debt which the parties jointly incurred
485 during the marriage.

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

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

493 2. Calculate the percentage of overnight stays the child
494 spends with each parent.

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

498 4. The difference between the amounts calculated in
499 subparagraph 3. shall be the monetary transfer necessary between
500 the parents for the care of the child, subject to an adjustment
501 for day care and health insurance expenses.

502 5. Pursuant to subsections (7) and (8), calculate the net

1-00722A-09

20092166__

503 amounts owed by each parent for the expenses incurred for day
504 care and health insurance coverage for the child. ~~Day care shall~~
505 ~~be calculated without regard to the 25-percent reduction applied~~
506 ~~by subsection (7).~~

507 6. Adjust the support obligation owed by each parent
508 pursuant to subparagraph 4. by crediting or debiting the amount
509 calculated in subparagraph 5. This amount represents the child
510 support which must be exchanged between the parents.

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

519 8. For purposes of adjusting any award of child support
520 under this paragraph, "substantial amount of time" means that a
521 parent exercises time-sharing ~~visitation~~ at least 40 percent of
522 the overnights of the year.

523 (c) A parent's failure to regularly exercise the court-
524 ordered ~~or agreed~~ time-sharing schedule not caused by the other
525 parent which resulted in the adjustment of the amount of child
526 support pursuant to subparagraph (a) 9.10. or paragraph (b) shall
527 be deemed a substantial change of circumstances for purposes of
528 modifying the child support award. A modification pursuant to
529 this paragraph shall be retroactive to the date the ~~noncustodial~~
530 parent first failed to regularly exercise the court-ordered ~~or~~
531 ~~agreed~~ time-sharing schedule.

1-00722A-09

20092166__

532 (18) The court may, for good cause shown, order the parent
533 otherwise entitled to the Internal Revenue Service dependency
534 exemption for a child to execute a waiver of the dependency
535 exemption.

536 Section 4. Paragraph (a) of subsection (5) of section
537 409.2563, Florida Statutes, is amended to read:

538 409.2563 Administrative establishment of child support
539 obligations.-

540 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.-

541 (a) After serving notice upon a parent in accordance with
542 subsection (4), the department shall calculate that parent's
543 child support obligation under the child support guidelines
544 schedule as provided by s. 61.30, based on any timely financial
545 affidavits received and other information available to the
546 department. If either parent fails to comply with the
547 requirement to furnish a financial affidavit, the department may
548 proceed on the basis of information available from any source,
549 if such information is sufficiently reliable and detailed to
550 allow calculation of guideline schedule amounts under s. 61.30.
551 If a parent receives public assistance and fails to submit a
552 financial affidavit, the department may submit a financial
553 affidavit for that parent pursuant to s. 61.30(15). If there is
554 a lack of sufficient reliable information concerning a parent's
555 actual earnings for a current or past period, there shall be a
556 rebuttable presumption ~~it shall be presumed~~ for the purpose of
557 establishing a support obligation that the parent had an earning
558 capacity equal to the Florida federal minimum wage on a full-
559 time basis during the applicable period, unless evidence is
560 presented that the parent is a resident of another state, in

1-00722A-09

20092166__

561 which case that state's minimum wage shall apply. In the absence
562 of a state minimum wage, the federal minimum wage as determined
563 by the United States Department of Labor shall apply.

564 Section 5. Section 742.08, Florida Statutes, is amended to
565 read:

566 742.08 Default of support payments.—Upon default in payment
567 of any moneys ordered by the court to be paid, the court may
568 enter a judgment for the amount in default, plus interest,
569 administrative costs, filing fees, and other expenses incurred
570 by the clerk of the circuit court which shall be a lien upon all
571 property of the defendant both real and personal. Interest on
572 support judgments shall be enforceable through all of the
573 methods available to enforce the underlying support order,
574 including contempt. Interest shall not accrue on postjudgment
575 interest. Costs and fees shall be assessed only after the court
576 makes a determination of the nonprevailing party's ability to
577 pay such costs and fees. In Title IV-D cases, any costs,
578 including filing fees, recording fees, mediation costs, service
579 of process fees, and other expenses incurred by the clerk of the
580 circuit court, shall be assessed only against the nonprevailing
581 obligor after the court makes a determination of the
582 nonprevailing obligor's ability to pay such costs and fees. The
583 Department of Revenue shall not be considered a party for
584 purposes of this section; however, fees may be assessed against
585 the department pursuant to s. 57.105(1). Willful failure to
586 comply with an order of the court shall be deemed a contempt of
587 the court entering the order and shall be punished as such. The
588 court may require bond of the defendant for the faithful
589 performance of his or her obligation under the order of the

1-00722A-09

20092166__

590 court in such amount and upon such conditions as the court shall
591 direct.

592 Section 6. This act shall take effect July 1, 2009.