

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/SB 2246

INTRODUCER: The Children, Families, and Elder Affairs Committee and Senator Storms

SUBJECT: Child Support Guidelines

DATE: March 18, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hansson	Walsh	CF	Fav/CS
2.			JU	
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute provides that all child support and income deduction orders for child support will terminate on the child's 18th birthday, unless certain statutory circumstances exist. When a court issues a child support order, the court will provide the amount of the monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more children is no longer entitled to receive child support.

The bill outlines the basic principles the court shall adhere to in implementing the child support guidelines schedule, including a description of the income shares model.

The bill amends the provisions for imputing income to a voluntarily unemployed or underemployed parent. The bill creates a rebuttable presumption of census level wages if information about the earnings level is not provided. The bill provides that the burden of proof is on the party to seeking to impute the income to the other party. The amendment prohibits imputing income for out of date records or unprecedented earnings.

The bill removes the first three lines of the child support guidelines schedule, in order to assist low-income families.

The bill changes the calculation of obligation amounts for incomes that fall below the minimum amount set forth in the child support guidelines schedule and applies the obligor parent's net income to determine if the income falls below the lowest obligation amount in the schedule.

The bill eliminates the 25 percent federal income tax credit for childcare expenses. The bill allows the court, when adjusting the total minimum child support award, to consider the impact of the Child & Dependent Care Tax Credit and the Earned Income Tax Credit.

The bill amends the 40 percent parenting threshold, which is considered by the court in deviating from the guidelines. It allows the court to adjust the obligation based on any parenting time spent with the child.

The bill creates s. 61.29, Florida Statutes, and substantially amends the following sections of the Florida Statutes: 61.13 and 61.30.

The bill provides an effective date of January 1, 2011.

II. Present Situation:

In 1984, Congress recognized the potential value of requiring states to implement guidelines to be used in the determination of the amount of child support obligations. The federal Child Support Enforcement Amendments of 1984 required states to establish non-binding child support guidelines either by law or judicial or administrative action no later than October 1, 1987.¹ The Family Support Act of 1988 made state child support guidelines presumptive and required states to review their child support guidelines at least once every four years in order to ensure that their application results in child support award amounts that are appropriate. As part of the review process, states must analyze case data related to the application of, and deviations from, the guidelines, and they must also consider economic data related to the cost of raising children.² With the exception of these two requirements, states have broad discretion and latitude in conducting guideline reviews.

Florida's child support guidelines are enacted in chapter 61, F.S.³ The Florida schedule of obligations, based on the income shares model,⁴ was reviewed in 1992 and updated in 1993 to reflect changes in the Consumer Price Index. The guidelines were reviewed again in 1997 and in 2004, both times with recommendations for significant changes in the schedule and the

¹ Child Support Enforcement Amendments of 1984, 42 U.S.C. §§ 657-662 (1984).

² Family Support Act of 1988, 42 U.S.C. §§ 654, 666-667 (1988).

³ The "guidelines" are the body of laws describing the intent and relating to child support administration. *See* FLA. STAT. § 61 (2008). The "schedule" is a table of support obligations or payments which should reflect the philosophy set forth in guidelines. *See* FLA. STAT. § 61.30(6) (2008).

⁴ The premise of the income shares model is that a child should receive the same amount of expenditure as if the family were intact, even if the child is not the product of an intact family. The obligation is determined as a percentage of the combined income of both parents.

underlying methodology.⁵ Neither set of recommendations was adopted by the Legislature. Although specific provisions of the guidelines have been modified, the schedule that specifies the dollar amount of child support obligation for each income level has remained unchanged since 1993.

The most recent review was conducted in 2008 by Florida State University (FSU or the university), under contract with the Legislature.⁶ This review included:

1. Update Florida's existing schedule amounts based on the latest available economic data in anticipation of Florida continuing to use the income shares model to incorporate more recent data on family income shares allocated to children to the extent such data is publicly available.
2. Update the existing schedule amounts to reflect the effects of inflation and evaluate the methodological validity of this approach.
3. Within the context of the income shares model, determine how selected other states using the income shares model treat the apportionment of child support to accommodate visitation arrangements and cases of joint or shared custody.⁷
4. Within the context of the income shares model, evaluate the treatment of low-income parents and suggest possible alternatives based on the experience in other states that mitigate or avoid the anomalies created by the "self-support reserve" in the income shares model.
5. Evaluate the problems created by imputation of income and consider alternative methods of imputing income, including the possible consequences of not imputing income, based on experience in other states using the income shares model.
6. Evaluate the methodological validity of adjusting the schedule of obligations to account for intrastate variations in the cost of living.
7. Itemize the tax benefits and burdens of child support in regard to the child care tax credit.⁸

Modifications to Existing Support Orders

Section 61.13, F.S., gives the court authority to order either or both parents who owe a duty of support to a child to pay support to the other parent, or in the case of both parents, to the person with custody in accordance with the child support guidelines schedule. The court that initially enters a child support order requiring one or both parents to make child support payments has continuing jurisdiction after the entry of the initial order to modify the amount and terms and conditions of support payments. The modification is permitted when the modification is found necessary by the court in the best interest of the child, when the child reaches majority, when there is a substantial change in the circumstances of the parties, when the child is over eighteen years of age but has not yet graduated from high school, or when a child is emancipated, joins the armed services, or dies. The court initially entering a child support order also has continuing

⁵ Thomas S. McCaleb, *et al.*, *Review and Update of Florida's Child Support Guidelines, Report to the Florida Legislature*, Dep't of Economics, Florida State University (March 5, 2004).

⁶ Thomas S. McCaleb *et al.*, *Review and Update of Florida's Child Support Guidelines, Report to the Florida Legislature*, Dep't of Economics, Florida State University, at iv (November 17, 2008).

⁷ As of 2007, the terminology for many of the dissolution of marriage and child support terms contained in s. 61.046, F.S., was changed. However, for purposes of this report, the original terminology will be used, in order to conform with the language in the FSU report.

⁸ Committee staff presented FSU's recommendations in Interim Project 2010-210, *Review of Child Support Guidelines*, at its January 13, 2010 meeting. Members of the Committee of Children, Families, and Elder Affairs directed staff to prepare SB 7046 to reflect the recommendations. This bill represents the committee's deliberations on the bill.

jurisdiction to require the obligee parent to report to the court on terms prescribed by the court regarding the disposition of the child support payments.

Self-Support Reserve

Florida's schedule of child support obligations, like those in other income shares states, includes a "self support reserve"⁹ and a range of incomes over which the full child support obligation is phased in. This is to ensure that the payment of a child support obligation does not push a noncustodial parent into poverty. According to the FSU report, these provisions are not effective because they apply to very few parents. To avoid a situation in which income earned by the custodial parent increases the noncustodial parent's child support payment, possibly pushing the noncustodial parent into poverty, the report recommended applying the self-support reserve and the phase-in to the noncustodial parent's income alone.

The report also found that the amount of the self-support reserve has not been indexed to the poverty guideline and is out of date. The university stated that over time, provisions designed to prevent child support from pushing an individual into poverty may lose their applicability and effectiveness if the schedule is not regularly updated.¹⁰ The report recommended adopting procedures for annual or biannual updating of the schedule of basic child support obligations to reflect changes in the federal single-person poverty guidelines.

The current child support provisions are only applied to the basic child support obligations and not to the total obligation including childcare and children's health expenses.¹¹ The university states that if the objective is to prevent child support from pushing parents into poverty, it is the total support payment that matters and not just the basic obligations. The report recommended applying the self-support reserve to the total child support payment rather than to the basic support obligation only.

Imputation of Income

Most states impute income¹² when the parent is unemployed or income is unknown. The reasons for imputation are to reduce or eliminate incentives for parents to:¹³

- Hide income,
- Seek employment in the underground economy,
- Avoid employment or seek part-time employment instead of full-time employment, and
- Fail to provide relevant information or appear in court.

The university's report states that income is usually imputed as if the parent earned the minimum wage for full-time year-round work. This results in 34 percent of the Title IV-D¹⁴ cases and 5

⁹ The inclusion of a self-support reserve ensures that obligors have sufficient income to maintain a minimum standard of living, that is, to avoid being pushed into poverty by payment of child support or, if they are already in poverty, to avoid exacerbation of poverty.

¹⁰ McCaleb, *supra* note 6.

¹¹ *Id.*

¹² FLA. STAT. § 61.30(2)(b) (2008).

¹³ McCaleb, *supra* note 6, at 97.

¹⁴ Title IV-D means services provided pursuant to Title IV-D of the Social Security Act, 42 U.S.C. s. 666(a)(19). FLA. STAT. § 61.046(8) (2008).

percent of the private cases in a sample of Florida child support cases having this level of income despite the fact that only 1 percent of U.S. workers earn the minimum wage. The university believes that this appears to indicate an overreliance on the use of minimum wage incomes for imputation of income in Florida. If income is imputed to both parents at this level, then the low-income provisions will not be effective.¹⁵

According to the report, actual income should be used wherever possible. The report recommended limiting imputation of incomes to those cases where one of the parties does not appear, and no information is available from any other source; and to impute more realistic incomes based on the actual earnings of similar individuals.

Visitation and Shared Parenting

The income shares model is based on the premise that child support is intended to ensure that the custodial parent has sufficient resources to provide the child with the same amount of spending as would be available for a child in an otherwise similar intact family.¹⁶

According to the FSU report, Florida's current treatment of visitation and shared parenting suffers from three problems. First, the guidelines discourage noncustodial parents from having substantive contact with their children unless they are able and willing to exercise visitation rights for at least 40 percent of the time or unless the court order deviates from the guideline amount to compensate for the additional costs of visitation. Second, even if a court is willing to deviate, the guidelines provide no guidance to judges, hearing officers, or parents about the appropriate amount of the deviation. Finally, the 40 percent threshold creates a cliff effect that encourages disputes and litigation over visitation and shared parenting arrangements.¹⁷ The report recommended adopting a visitation and shared parenting adjustment that applies to all levels of shared parenting but increases with the amount of the noncustodial parent's parenting time.

Tax Benefits in Child Support Guidelines

A noncustodial parent's child support payment equals the parent's prorated share of the basic obligation plus the parent's prorated share of actual children's health and childcare expenses. The amount of the latter payment is reduced by 25 percent, apparently due to the availability to the custodial parent of a federal income tax credit for childcare expenses. However, the 25 percent tax credit is not available to all custodial parents; applies only over a narrow range of custodial parent incomes; and for most custodial parents in the upper range of incomes, the tax benefit is only about 20 percent.¹⁸

The reduction in the noncustodial parent's share of childcare expenses is the only recognition in the child support guidelines of the tax benefits associated with children. However, other tax benefits exist and can be substantial. In low-income cases, these tax benefits are as high as 72 percent of the estimated cost of a child. The university found that by only recognizing the childcare credit, the current guidelines treat the tax benefits inconsistently. The report recommended reducing or eliminating the 25 percent reduction in the noncustodial parent's share

¹⁵ McCaleb, *supra* note 6, at vi.

¹⁶ *Id.* at 103.

¹⁷ *Id.* at 112.

¹⁸ *Id.* at vi.

of childcare expenses and including an adjustment to the child support obligation to reflect the tax benefits of children in the child support worksheet.¹⁹

Explanatory Section Preceding Statute

Child support guidelines rely on the basic premise that both parents have a duty to support their child, whether they live together or not.²⁰ To calculate child support payments, Florida adopted the income shares model, which provides the child should receive the same amount of expenditure as if the family were intact. The rationale behind this model is that if the parents lived together, they would pool their income and spend for the benefit of household members, including children. Thus, when the parents no longer live together they should be paying the same proportion as if they did live together.²¹

In Florida, only the noncustodial parent is legally obligated to pay a court-ordered amount based on the statutory schedule for support. The custodial parent does not have a legal obligation, but a moral obligation to pay.²² The rationale is that while living with the child, the custodial parent will spend an equal amount on food, clothes, and basic needs of the child, providing directly to the child.²³ This situation has created confusion for some noncustodial parents, who question why the custodial parent is not ordered by the court in a child support proceeding to pay a certain amount of money.²⁴ To help alleviate this confusion, some states have included an explanatory memorandum in their statutes which describes how the payments for child support are assessed and the reason that the noncustodial parent is ordered to pay child support.

A clear statement of legislative intent relating to s. 61.30, F.S., may help citizens by informing them of the purpose of the statutory guidelines and addressing the principles that control the decisions the court makes, thereby increasing the transparency of the judicial process with regard to child support matters. The Interim Project Report, *Review of Child Support Guidelines*, suggested inserting an explanatory section immediately preceding the statute which briefly explains the principles on which the child support statute was based.²⁵

III. Effect of Proposed Changes:

Section 1

The bill provides that all child support and income deduction orders for child support will terminate on the child's 18th birthday, unless certain statutory circumstances exist, such as such as a disabled child, one that has not graduated from high school, or the parties have otherwise agreed. When a court issues a child support order, the court will provide the amount of the

¹⁹ *Id.*

²⁰ *Id.* at iv.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ The approach adopted in Florida is also known as the cross credit model. Within the child support worksheet or in a separate shared parenting worksheet, a separate support obligation for each parent is computed. Then a credit is provided against each parent's obligation for that share of parenting time and two obligations are offset to determine a net child support payment. For example, instead of charging the noncustodial parent, \$500 per month and the custodial parent \$200 per month, based on their relative incomes, the noncustodial parent will just be ordered to pay \$300 per month. *Id.* at 118.

²⁵ The Florida Senate, Committee on Children, Families, and Elder Affairs, *Review of Child Support Guidelines* (Interim Project Report 2010-210) (October 2009).

monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more children is no longer entitled to receive child support. The order will also provide the specific date that the reduction or termination of child support will become effective.

Section 2

The bill creates s. 61.29, F.S., which explains the income shares model and establishes the public policy of the State of Florida in the creation of child support guidelines:

- Each parent has a fundamental obligation to support his or his or minor or legally dependent child;
- The guidelines schedule is based on the parent's combined net income estimated to have been allocated to the child as if the parents and children as if the parents and children were living in an intact household; and
- The guidelines encourage fair and efficient settlement of support issues between parents and minimizes the need for litigation.

Section 3

The bill amends s. 61.30, F.S. changing the way income on a monthly basis is imputed to an unemployed or underemployed parent when such employment or underemployment is found to be voluntary on the parent's part. If the court finds voluntary unemployment or underemployment on the part of the parent, the bill provides that the employment potential and probable earnings shall be based upon prevailing wage levels in the community, his or her recent work history, and occupational qualifications, if the information is available.

If either: (1) the information concerning a parent's income is unavailable, (2) a parent fails to participate in a child support proceeding, or (3) a parent fails to supply adequate financial information in a child support proceeding,²⁶ income shall be automatically imputed to the parent and there shall be a rebuttable presumption that the parent has income equivalent to the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of Census.²⁷

However, the court may refuse to impute income to a parent if the court finds it necessary for that parent to stay home with the child who is the subject of a child support calculation or as set forth below:

- In order for the court to impute income at an amount other than the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of Census, the court must make specific

²⁶ In a proceeding for child support in Florida, parents are required to provide various documents of the court as evidence of the current financial status, including: a sworn financial affidavit, tax returns, W-2 forms, and pay stubs. Florida Courts, *Instruction for Florida Family Law Rules of Procedure Form 12.932, Certificate of Compliance with Mandatory Disclosure*, http://www.flcourts.org/gen_public/family/forms_rules/932.pdf (last visited Feb. 1, 2010).

²⁷ The current median income for full-time year round workers in Florida is \$47,778. U.S. Census Bureau, *Median Household Income for States, 2007 and 2008 American Community Surveys*, <http://www.census.gov/prod/2009pubs/acsbr08-2.pdf> (last visited Feb. 1, 2010).

- findings of fact. The party seeking to impute income has the burden²⁸ to present competent, substantial evidence that:
- The unemployment or underemployment is voluntary; and
 - Identifies the amount and source of the imputed income, through evidence of income from available employment for which the party is suitably qualified by education, experience, current licensure, or geographic location, with due consideration being given to the parties' time-sharing schedule and their historical exercise of that time-sharing provided in the parenting plan or relevant order.
- Income may not be imputed based upon:
 - Income records that are more than 5 years old at the time of the hearing or trial at which imputation is sought; or
 - Income at a level that a party has never earned in the past, unless recently degreed, licensed, certified, relicensed, or recertified and this qualified for, subject to geographic location, with due consideration of the parties' existing time-sharing schedule and their historical exercise of the time-sharing provided in the parenting plan or relevant order.

The bill removes the first three levels of the child support guidelines schedule. The combined monthly net income levels and corresponding obligation amounts for \$650.00, \$700.00, and \$750.00 are removed.

The bill changes the way that child support obligations are calculated for income levels that fall below the minimum amount set forth in the child support guidelines schedule.

- The bill applies the obligor parent's net income to the child support guidelines level, to determine if the income falls below the minimum guidelines schedule amount, instead of the combined monthly net income of both parents.²⁹
- The bill maintains that 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.
- The obligor parent's child support payment shall be the lesser of the obligor parent's actual dollar share of the total minimum child support amount and 90 percent of the difference between the obligor parent's monthly net income and the current poverty guidelines, as measured by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for a single individual living alone.³⁰

The bill also provides that the current poverty guidelines amount shall be used, allowing the court to adjust the poverty guidelines amount in the child support worksheet when the new poverty guidelines amount is released each year.

²⁸ This change aligns the statute with case law. *Ensley v. Ensley*, 578 So.2d. 497, 499 (Fla. 5th DCA 1991); *Brown v. Cannady-Brown*, 954 So.2d. 1206, 1207 (Fla. 4th DCA 2007).

²⁹ "Obligor" means a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support. FLA. STAT. § 61.046(13) (2009).

³⁰ The 2009 poverty guidelines amount for a single person living alone is \$10,830. U.S. Department of Health & Human Services, *The 2009 HHS Poverty Guidelines*, available at: <http://aspe.hhs.gov/poverty/09poverty.shtml> (last visited Feb. 1, 2010).

The bill amends s. 61.30(7), F.S., to eliminate the 25 percent federal income tax credit for childcare expenses. Accordingly, the obligor parent's prorated share of actual children's health and childcare expenses will not be reduced by 25 percent in calculating the total support payment.

The bill amends section 61.20(11)(a), F.S., to allow the court, when adjusting the total minimum child support award, to consider the impact of the Child & Dependent Care Tax Credit and the Earned Income tax credit, along with the dependency exemption and waiver of that exemption.³¹

The bill eliminates the 40 percent threshold (or cliff effect), which is considered by the court in deviating from the guidelines schedule. The bill allows the court to adjust the obligation based on any parenting time spent with the child, and directs the court to calculate the obligation as follows:

1. Calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation;
2. Calculate the percentage of overnight stays the child spends with each parent;
3. Multiply each parent's support obligation as calculated in 1. by the sum of one and the smaller percentage calculated in 2.
4. Multiple each parent's support obligation as calculated in 3. by the percentage of the other parent's overnight stays with the child as calculated in 2.
5. The difference between the amounts calculated in 4. is the monetary transfer between the parents for the care of the child, subject to an adjustment for day care and health care expenses.

Section 4

The bill provides an effective date of January 1, 2011, in order to provide the court time to prepare forms and schedules consistent with the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³¹ The Child & Dependent Care Tax Credit is available for a parent who pays someone to care for a dependent child who is under the age of 13 or for a spouse or dependent who is not able to care for him or herself. There are numerous eligibility requirements, including that the expenses be paid so that the parent can look for work. Internal Revenue Service, *Child and Dependent Care Expenses*, Dec. 10, 2009, available at: <http://www.irs.gov/pub/irs-pdf/p503.pdf> (last visited Feb. 1, 2010). The Earned Income Tax Credit (EITC) is a refundable federal income tax credit for low to moderate income working individuals and families. When the EITC exceeds the amount of taxes owed, it results in a tax refund to those who claim and qualify for the credit. Internal Revenue Service, *EITC Home Page*, Jan. 29, 2010, available at: <http://www.irs.gov/individuals/article/0,,id=96406.00.html> (last visited Feb. 1, 2010).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Implementation of several provisions of the bill would adjust the order amount some obligor parents would be required to pay. In these situations, the obligee parent may be entitled to receive less money each month than he or she would under the existing statute. This may negatively impact the obligee parent by making it harder to raise a child with the support payment provided. However, the adjustment in obligations is not expected to be significant and may result in increased compliance. Several studies show that the highest (in dollars) order is not necessarily the best order, and strong evidence exists that if lower support payments are ordered for low-income obligor parents, then compliance rates may subsequently increase.³²

C. Government Sector Impact:

Implementation of several provisions of the bill would require the courts to fashion new child support guidelines worksheets. Thus, the courts may incur some expenses related to preparing and implementing new guidelines worksheets, but the impact is not expected to be significant.

VI. Technical Deficiencies:

The bill requires that all child support orders and income deduction orders be accompanied by a schedule stating the amount of the monthly child support obligation for all minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more of the children is no longer entitled to receive child support.

The Florida Department of Revenue (DOR) identified that stricter guidelines may need to be implemented for the courts in establishing the schedule, pursuant to the proposed bill. Without clearer guidelines, different courts may base the schedule on different provisions of the child support statutes, which would result in unequal justice for families. DOR recommends a clearer standard, such as directing the court to look at the combined monthly net income on the schedule

³² See The Florida Senate, Committee on Children, Families, and Elder Affairs, *Review of Child Support Guidelines* (Interim Project Report 2010-210) (October 2009) at 7-8 (citing *Setting Appropriate Child Support Orders: Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States*, National Judicial Child Support Task Force Avoiding Inappropriate Orders Subcommittee, Department of Health and Human Services Administration for Children and Families (Aug. 2007), available at <http://www/acf/hhs.gov/programs/cse/pol/DCL/2009/dcl-09-15a.pdf>). Additionally, the Florida Department of Revenue reports that lower obligation amounts have lower compliance rates. Florida Department of Revenue, *FFY 2008-2009 Current Support Collections by Monthly Obligation Amount* (Feb., 1, 2010) (on file with the committee).

of obligations and adjust the obligation for fewer children in accordance with the amounts provided in the schedule.

Additionally, DOR identified that complications may arise from the requirement that guidelines be fashioned when one or more of the children is no longer entitled to receive support. Some of the grounds for modification included in the bill are when a child marries, joins the military, or dies. When these events occur the child is no longer entitled to receipt support; however, DOR provides that these are unknown future contingencies that cannot be anticipated when the original support order is entered. Thus, DOR recommends amending the bill to expressly limit the requirement of fashioning a schedule to when a child reaches age 18 or is still in high school. This would limit and clarify future contingencies.

DOR also notes that the bill provides that the schedule must be included in all child support orders and income deduction orders. The circuit court routinely enters an income deduction order when enforcing unpaid support. However, in a proceeding for enforcement only, including contempt, the court has no jurisdiction to modify the terms of the support order. DOR recommends that the requirement to include the schedule be limited to original proceedings and proceedings to modify support.³³

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 18, 2010:

The committee substitute makes changes to the basic principles the court shall adhere to in implementing the child support guidelines schedule.

The committee substitute amends the provisions for imputing income to a voluntarily unemployed or underemployed parent. The bill creates a rebuttable presumption of census level wages if information about the earnings level is not provided. The bill provides that the burden of proof is on the party to seeking to impute the income to the other party. The bill prohibits imputing income for out of date records or unprecedented earnings.

The committee substitute removes the first three lines of the child support guidelines schedule, in order to assist low-income families.

B. Amendments:

None.

³³ Florida Department of Revenue 2010 Bill Analysis for SB 2246, on file with the Children, Families, and Elder Affairs Committee.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
