

By the Committees on Children, Families, and Elder Affairs; and
Children, Families, and Elder Affairs

586-03227-10

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1 A bill to be entitled
2 An act relating to child support guidelines; amending
3 s. 61.13, F.S.; requiring all child support orders
4 after a certain date to contain certain provisions;
5 creating s. 61.29, F.S.; providing principles for
6 implementing the support guidelines schedule; amending
7 s. 61.30, F.S.; creating a rebuttable presumption of
8 census-level wages if information about earnings level
9 is not provided; providing that the burden of proof is
10 on the party seeking to impute income to the other
11 party; prohibiting imputation of income for out-of-
12 date records or unprecedented earnings; removing the
13 first three combined monthly net income amounts on the
14 guidelines schedule; providing for the calculation of
15 the obligor parent's child support payment under
16 certain circumstances; revising the deviation factors
17 that a court may consider when adjusting a parent's
18 share of the child support award; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (a) of subsection (1) of section
24 61.13, Florida Statutes, is amended to read:

25 61.13 Support of children; parenting and time-sharing;
26 powers of court.—

27 (1) (a) In a proceeding under this chapter, the court may at
28 any time order either or both parents who owe a duty of support
29 to a child to pay support to the other parent or, in the case of

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30 both parents, to a third party who has ~~the person with~~ custody
31 in accordance with the child support guidelines schedule in s.
32 61.30.

33 1. All child support orders and income deduction orders
34 entered on or after October 1, 2010, must provide:

35 a. For child support to terminate on a child's 18th
36 birthday unless the court finds or previously found that s.
37 743.07(2) applies, or is otherwise agreed to by the parties;

38 b. A schedule, based on the record existing at the time of
39 the order, stating the amount of the monthly child support
40 obligation for all the minor children at the time of the order
41 and the amount of child support that will be owed for any
42 remaining children after one or more of the children is no
43 longer entitled to receive child support; and

44 c. The month, day, and year that the reduction or
45 termination of child support becomes effective.

46 2. The court initially entering an order requiring one or
47 both parents to make child support payments has continuing
48 jurisdiction after the entry of the initial order to modify the
49 amount and terms and conditions of the child support payments if
50 ~~when~~ the modification is found ~~necessary~~ by the court to be in
51 the best interests of the child; if when the child reaches
52 majority; if, ~~when~~ there is a substantial change in the
53 circumstances of the parties; if, ~~when~~ s. 743.07(2) applies; if or
54 when a child is emancipated, marries, joins the armed services,
55 or dies. The court initially entering a child support order has
56 continuing jurisdiction to require the obligee to report to the
57 court on terms prescribed by the court regarding the disposition
58 of the child support payments.

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59 Section 2. Section 61.29, Florida Statutes, is created to
60 read:

61 61.29 Child support guidelines; principles.-The following
62 principles establish the public policy of the State of Florida
63 in the creation of the child support guidelines:

64 (1) Each parent has a fundamental obligation to support his
65 or her minor or legally dependent child.

66 (2) The guidelines schedule is based on the parent's
67 combined net income estimated to have been allocated to the
68 child as if the parents and children were living in an intact
69 household.

70 (3) The guidelines encourage fair and efficient settlement
71 of support issues between parents and minimizes the need for
72 litigation.

73 Section 3. Paragraph (b) of subsection (2) and subsections
74 (6), (7), and (11) of section 61.30, Florida Statutes, are
75 amended to read:

76 61.30 Child support guidelines; retroactive child support.-

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

79 (b) Monthly income ~~on a monthly basis~~ shall be imputed to
80 an unemployed or underemployed parent ~~if~~ ~~when~~ such unemployment
81 ~~employment~~ or underemployment is found by the court to be
82 voluntary on that parent's part, absent a finding of fact by the
83 court of physical or mental incapacity or other circumstances
84 over which the parent has no control. In the event of such
85 voluntary unemployment or underemployment, the employment
86 potential and probable earnings level of the parent shall be
87 determined based upon his or her recent work history,

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88 occupational qualifications, and prevailing earnings level in
89 the community if such information is available. If the
90 information concerning a parent's income is unavailable, a
91 parent fails to participate in a child support proceeding, or a
92 parent fails to supply adequate financial information in a child
93 support proceeding, income shall be automatically imputed to the
94 parent and there is a rebuttable presumption that the parent has
95 income equivalent to the median income of year-round full-time
96 workers as derived from current population reports or
97 replacement reports published by the United States Bureau of the
98 Census. ~~as provided in this paragraph;~~ However, the court may
99 refuse to impute income to a parent if the court finds it
100 necessary for ~~that~~ ~~the~~ parent to stay home with the child who is
101 the subject of a child support calculation or as set forth
102 below:-

103 1. In order for the court to impute income at an amount
104 other than the median income of year-round full-time workers as
105 derived from current population reports or replacement reports
106 published by the United States Bureau of the Census, the court
107 must make specific findings of fact consistent with the
108 requirements of this paragraph. The party seeking to impute
109 income has the burden to present competent, substantial evidence
110 that:

111 a. The unemployment or underemployment is voluntary; and
112 b. Identifies the amount and source of the imputed income,
113 through evidence of income from available employment for which
114 the party is suitably qualified by education, experience,
115 current licensure, or geographic location, with due
116 consideration being given to the parties' time-sharing schedule

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117 and their historical exercise of the time-sharing provided in
 118 the parenting plan or relevant order.

119 2. Except as set forth in subparagraph 1., income may not
 120 be imputed based upon:

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

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

129 (6) The following guidelines schedule shall be applied to
 130 the combined net income to determine the minimum child support
 131 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

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138	850.00	202	257	259	262	265	268
139	900.00	213	302	305	309	312	315
140	950.00	224	347	351	355	359	363
141	1000.00	235	365	397	402	406	410
142	1050.00	246	382	443	448	453	458
143	1100.00	258	400	489	495	500	505
144	1150.00	269	417	522	541	547	553
145	1200.00	280	435	544	588	594	600
146	1250.00	290	451	565	634	641	648
147	1300.00	300	467	584	659	688	695
148	1350.00	310	482	603	681	735	743
149	1400.00	320	498	623	702	765	790
150	1450.00	330	513	642	724	789	838
151	1500.00	340	529	662	746	813	869
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153	1550.00	350	544	681	768	836	895
154	1600.00	360	560	701	790	860	920
155	1650.00	370	575	720	812	884	945
156	1700.00	380	591	740	833	907	971
157	1750.00	390	606	759	855	931	996
158	1800.00	400	622	779	877	955	1022
159	1850.00	410	638	798	900	979	1048
160	1900.00	421	654	818	923	1004	1074
161	1950.00	431	670	839	946	1029	1101
162	2000.00	442	686	859	968	1054	1128
163	2050.00	452	702	879	991	1079	1154
164	2100.00	463	718	899	1014	1104	1181
165	2150.00	473	734	919	1037	1129	1207
166	2200.00	484	751	940	1060	1154	1234
	2250.00	494	767	960	1082	1179	1261

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167	2300.00	505	783	980	1105	1204	1287
168	2350.00	515	799	1000	1128	1229	1314
169	2400.00	526	815	1020	1151	1254	1340
170	2450.00	536	831	1041	1174	1279	1367
171	2500.00	547	847	1061	1196	1304	1394
172	2550.00	557	864	1081	1219	1329	1420
173	2600.00	568	880	1101	1242	1354	1447
174	2650.00	578	896	1121	1265	1379	1473
175	2700.00	588	912	1141	1287	1403	1500
176	2750.00	597	927	1160	1308	1426	1524
177	2800.00	607	941	1178	1328	1448	1549
178	2850.00	616	956	1197	1349	1471	1573
179	2900.00	626	971	1215	1370	1494	1598
180	2950.00	635	986	1234	1391	1517	1622
181							

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182	3000.00	644	1001	1252	1412	1540 1647
183	3050.00	654	1016	1271	1433	1563 1671
184	3100.00	663	1031	1289	1453	1586 1695
185	3150.00	673	1045	1308	1474	1608 1720
186	3200.00	682	1060	1327	1495	1631 1744
187	3250.00	691	1075	1345	1516	1654 1769
188	3300.00	701	1090	1364	1537	1677 1793
189	3350.00	710	1105	1382	1558	1700 1818
190	3400.00	720	1120	1401	1579	1723 1842
191	3450.00	729	1135	1419	1599	1745 1867
192	3500.00	738	1149	1438	1620	1768 1891
193	3550.00	748	1164	1456	1641	1791 1915
194	3600.00	757	1179	1475	1662	1814 1940
195	3650.00	767	1194	1493	1683	1837 1964
	3700.00	776	1208	1503	1702	1857 1987

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196	3750.00	784	1221	1520	1721	1878	2009
197	3800.00	793	1234	1536	1740	1899	2031
198	3850.00	802	1248	1553	1759	1920	2053
199	3900.00	811	1261	1570	1778	1940	2075
200	3950.00	819	1275	1587	1797	1961	2097
201	4000.00	828	1288	1603	1816	1982	2119
202	4050.00	837	1302	1620	1835	2002	2141
203	4100.00	846	1315	1637	1854	2023	2163
204	4150.00	854	1329	1654	1873	2044	2185
205	4200.00	863	1342	1670	1892	2064	2207
206	4250.00	872	1355	1687	1911	2085	2229
207	4300.00	881	1369	1704	1930	2106	2251
208	4350.00	889	1382	1721	1949	2127	2273
209	4400.00	898	1396	1737	1968	2147	2295
210							

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211	4450.00	907	1409	1754	1987	2168 2317
212	4500.00	916	1423	1771	2006	2189 2339
213	4550.00	924	1436	1788	2024	2209 2361
214	4600.00	933	1450	1804	2043	2230 2384
215	4650.00	942	1463	1821	2062	2251 2406
216	4700.00	951	1477	1838	2081	2271 2428
217	4750.00	959	1490	1855	2100	2292 2450
218	4800.00	968	1503	1871	2119	2313 2472
219	4850.00	977	1517	1888	2138	2334 2494
220	4900.00	986	1530	1905	2157	2354 2516
221	4950.00	993	1542	1927	2174	2372 2535
222	5000.00	1000	1551	1939	2188	2387 2551
223	5050.00	1006	1561	1952	2202	2402 2567
224	5100.00	1013	1571	1964	2215	2417 2583
	5150.00	1019	1580	1976	2229	2432 2599

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225	5200.00	1025	1590	1988	2243	2447	2615
226	5250.00	1032	1599	2000	2256	2462	2631
227	5300.00	1038	1609	2012	2270	2477	2647
228	5350.00	1045	1619	2024	2283	2492	2663
229	5400.00	1051	1628	2037	2297	2507	2679
230	5450.00	1057	1638	2049	2311	2522	2695
231	5500.00	1064	1647	2061	2324	2537	2711
232	5550.00	1070	1657	2073	2338	2552	2727
233	5600.00	1077	1667	2085	2352	2567	2743
234	5650.00	1083	1676	2097	2365	2582	2759
235	5700.00	1089	1686	2109	2379	2597	2775
236	5750.00	1096	1695	2122	2393	2612	2791
237	5800.00	1102	1705	2134	2406	2627	2807
238	5850.00	1107	1713	2144	2418	2639	2820
239							

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240	5900.00	1111	1721	2155	2429	2651	2833
241	5950.00	1116	1729	2165	2440	2663	2847
242	6000.00	1121	1737	2175	2451	2676	2860
243	6050.00	1126	1746	2185	2462	2688	2874
244	6100.00	1131	1754	2196	2473	2700	2887
245	6150.00	1136	1762	2206	2484	2712	2900
246	6200.00	1141	1770	2216	2495	2724	2914
247	6250.00	1145	1778	2227	2506	2737	2927
248	6300.00	1150	1786	2237	2517	2749	2941
249	6350.00	1155	1795	2247	2529	2761	2954
250	6400.00	1160	1803	2258	2540	2773	2967
251	6450.00	1165	1811	2268	2551	2785	2981
252	6500.00	1170	1819	2278	2562	2798	2994
253	6550.00	1175	1827	2288	2573	2810	3008
	6600.00	1179	1835	2299	2584	2822	3021

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254	6650.00	1184	1843	2309	2595	2834	3034
255	6700.00	1189	1850	2317	2604	2845	3045
256	6750.00	1193	1856	2325	2613	2854	3055
257	6800.00	1196	1862	2332	2621	2863	3064
258	6850.00	1200	1868	2340	2630	2872	3074
259	6900.00	1204	1873	2347	2639	2882	3084
260	6950.00	1208	1879	2355	2647	2891	3094
261	7000.00	1212	1885	2362	2656	2900	3103
262	7050.00	1216	1891	2370	2664	2909	3113
263	7100.00	1220	1897	2378	2673	2919	3123
264	7150.00	1224	1903	2385	2681	2928	3133
265	7200.00	1228	1909	2393	2690	2937	3142
266	7250.00	1232	1915	2400	2698	2946	3152
267	7300.00	1235	1921	2408	2707	2956	3162
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269	7350.00	1239	1927	2415	2716	2965 3172
270	7400.00	1243	1933	2423	2724	2974 3181
271	7450.00	1247	1939	2430	2733	2983 3191
272	7500.00	1251	1945	2438	2741	2993 3201
273	7550.00	1255	1951	2446	2750	3002 3211
274	7600.00	1259	1957	2453	2758	3011 3220
275	7650.00	1263	1963	2461	2767	3020 3230
276	7700.00	1267	1969	2468	2775	3030 3240
277	7750.00	1271	1975	2476	2784	3039 3250
278	7800.00	1274	1981	2483	2792	3048 3259
279	7850.00	1278	1987	2491	2801	3057 3269
280	7900.00	1282	1992	2498	2810	3067 3279
281	7950.00	1286	1998	2506	2818	3076 3289
282	8000.00	1290	2004	2513	2827	3085 3298
	8050.00	1294	2010	2521	2835	3094 3308

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283	8100.00	1298	2016	2529	2844	3104	3318
284	8150.00	1302	2022	2536	2852	3113	3328
285	8200.00	1306	2028	2544	2861	3122	3337
286	8250.00	1310	2034	2551	2869	3131	3347
287	8300.00	1313	2040	2559	2878	3141	3357
288	8350.00	1317	2046	2566	2887	3150	3367
289	8400.00	1321	2052	2574	2895	3159	3376
290	8450.00	1325	2058	2581	2904	3168	3386
291	8500.00	1329	2064	2589	2912	3178	3396
292	8550.00	1333	2070	2597	2921	3187	3406
293	8600.00	1337	2076	2604	2929	3196	3415
294	8650.00	1341	2082	2612	2938	3205	3425
295	8700.00	1345	2088	2619	2946	3215	3435
296	8750.00	1349	2094	2627	2955	3224	3445
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298	8800.00	1352	2100	2634	2963	3233 3454
299	8850.00	1356	2106	2642	2972	3242 3464
300	8900.00	1360	2111	2649	2981	3252 3474
301	8950.00	1364	2117	2657	2989	3261 3484
302	9000.00	1368	2123	2664	2998	3270 3493
303	9050.00	1372	2129	2672	3006	3279 3503
304	9100.00	1376	2135	2680	3015	3289 3513
305	9150.00	1380	2141	2687	3023	3298 3523
306	9200.00	1384	2147	2695	3032	3307 3532
307	9250.00	1388	2153	2702	3040	3316 3542
308	9300.00	1391	2159	2710	3049	3326 3552
309	9350.00	1395	2165	2717	3058	3335 3562
310	9400.00	1399	2171	2725	3066	3344 3571
311	9450.00	1403	2177	2732	3075	3353 3581
	9500.00	1407	2183	2740	3083	3363 3591

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9550.00	1411	2189	2748	3092	3372	3601
9600.00	1415	2195	2755	3100	3381	3610
9650.00	1419	2201	2763	3109	3390	3620
9700.00	1422	2206	2767	3115	3396	3628
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

(a) If the obligor parent's ~~For combined monthly~~ net income is less than the amount in ~~set out on~~ the above guidelines schedule:⁷

1. 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 support orders should the parent's income increase ~~in the future~~.

2. The obligor parent's child support payment shall be the

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331 lesser of the obligor parent's actual dollar share of the total
 332 minimum child support amount, as determined in subparagraph 1.,
 333 and 90 percent of the difference between the obligor parent's
 334 monthly net income and the current poverty guidelines as
 335 periodically updated in the Federal Register by the United
 336 States Department of Health and Human Services pursuant to 42
 337 U.S.C. s. 9902(2) for a single individual living alone.

338 (b) For combined monthly net income greater than the amount
 339 ~~set out~~ in the ~~above~~ guidelines schedule, the obligation is
 340 ~~shall be~~ the minimum amount of support provided by the
 341 guidelines schedule plus the following percentages multiplied by
 342 the amount of income over \$10,000:

Child or Children

	One	Two	Three	Four	Five	Six
344						
345	5.0%	7.5%	9.5%	11.0%	12.0%	12.5%
346						

347 (7) Child care costs incurred ~~on behalf of the children~~ due
 348 to employment, job search, or education calculated to result in
 349 employment or to enhance income of current employment of either
 350 parent ~~shall be reduced by 25 percent and then~~ shall be added to
 351 the basic obligation. After the ~~adjusted~~ child care costs are
 352 ~~added to the basic obligation~~, any moneys prepaid by a parent
 353 for child care costs for the child or children of this action
 354 shall be deducted from that parent's child support obligation
 355 for that child or those children. Child care costs may ~~shall~~ not
 356 exceed the level required to provide quality care from a

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357 licensed source ~~for the children~~.

358 (11) (a) The court may adjust the total minimum child
359 support award, or either or both parents' share of the total
360 minimum child support award, based upon the following deviation
361 factors:

362 1. Extraordinary medical, psychological, educational, or
363 dental expenses.

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

366 3. The payment of support for a parent which ~~regularly~~ has
367 been regularly paid and for which there is a demonstrated need.

368 4. Seasonal variations in one or both parents' incomes or
369 expenses.

370 5. The age of the child, taking into account the greater
371 needs of older children.

372 6. Special needs, such as costs that may be associated with
373 the disability of a child, that have traditionally been met
374 within the family budget even though ~~the~~ fulfilling ~~of~~ those
375 needs will cause the support to exceed the presumptive amount
376 established by the guidelines.

377 7. Total available assets of the obligee, obligor, and the
378 child.

379 8. The impact of the Internal Revenue Service Child &
380 Dependent Care Tax Credit, Earned Income Tax Credit, and
381 dependency exemption and waiver of that exemption. The court may
382 order a parent to execute a waiver of the Internal Revenue
383 Service dependency exemption if the paying parent is current in
384 support payments.

385 9. An ~~When~~ application of the child support guidelines

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386 schedule that requires a person to pay another person more than
387 55 percent of his or her gross income for a child support
388 obligation for current support resulting from a single support
389 order.

390 10. The particular parenting plan, ~~such as where the child~~
391 ~~spends a significant amount of time, but less than 40 percent of~~
392 ~~the overnights, with one parent, thereby reducing the financial~~
393 ~~expenditures incurred by the other parent;~~ or the refusal of a
394 parent to become involved in the activities of the child.

395 11. Any other adjustment that ~~which~~ is needed to achieve an
396 equitable result which may include, but not be limited to, a
397 reasonable and necessary existing expense or debt. Such expense
398 or debt may include, but is not limited to, a reasonable and
399 necessary expense or debt that ~~which~~ the parties jointly
400 incurred during the marriage.

401 (b) ~~If Whenever~~ a particular parenting plan provides that
402 each child spend ~~a substantial amount of~~ time with each parent,
403 the court shall adjust any award of child support, as follows:

404 1. In accordance with subsections (9) and (10), calculate
405 the amount of support obligation apportioned to each parent
406 without including day care and health insurance costs in the
407 calculation ~~and multiply the amount by 1.5.~~

408 2. Calculate the percentage of overnight stays the child
409 spends with each parent.

410 3. Multiply each parent's support obligation as calculated
411 in subparagraph 1. by the sum of one and the smaller percentage
412 calculated in subparagraph 2.

413 ~~4.3.~~ Multiply each parent's support obligation as
414 calculated in subparagraph 3. ~~4.~~ by the percentage of the other

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415 parent's overnight stays with the child as calculated in
416 subparagraph 2.

417 ~~5.4.~~ The difference between the amounts calculated in
418 subparagraph 4. ~~is 3.~~ shall be the monetary transfer necessary
419 between the parents for the care of the child, subject to an
420 adjustment for day care and health insurance expenses.

421 ~~6.5.~~ Pursuant to subsections (7) and (8), calculate the net
422 amounts owed by each parent for the expenses incurred for day
423 care and health insurance coverage for the child. ~~Day care shall~~
424 ~~be calculated without regard to the 25 percent reduction applied~~
425 ~~by subsection (7).~~

426 ~~7.6.~~ Adjust the support obligation owed by each parent
427 pursuant to subparagraph 5. ~~4.~~ by crediting or debiting the
428 amount calculated in subparagraph 6. ~~5.~~ This amount represents
429 the child support which must be exchanged between the parents.

430 ~~8.7.~~ The court may deviate from the child support amount
431 calculated pursuant to subparagraph 7. ~~6.~~ based upon the
432 deviation factors in paragraph (a), as well as the obligee
433 parent's low income and ability to maintain the basic
434 necessities of the home for the child, the likelihood that
435 either parent will actually exercise the time-sharing schedule
436 set forth in the parenting plan granted by the court, and
437 whether all of the children are exercising the same time-sharing
438 schedule.

439 ~~8.~~ For purposes of adjusting any award of child support
440 under this paragraph, "substantial amount of time" means that a
441 parent exercises visitation at least 40 percent of the
442 overnights of the year.

443 (c) A parent's failure to regularly exercise the court-

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444 ordered or agreed time-sharing schedule not caused by the other
445 parent which resulted in the adjustment of the amount of child
446 support pursuant to subparagraph (a)10. or paragraph (b) shall
447 be deemed a substantial change of circumstances for purposes of
448 modifying the child support award. A modification pursuant to
449 this paragraph is ~~shall be~~ retroactive to the date the
450 noncustodial parent first failed to regularly exercise the
451 court-ordered or agreed time-sharing schedule.

452 Section 4. This act shall take effect January 1, 2011.