



181790

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2013	.	
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The Committee on Judiciary (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a) and (b) of subsection (11) of
section 61.30, Florida Statutes, are amended to read:

61.30 Child support guidelines; retroactive child support.-

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

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



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

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

18 4. Seasonal variations in one or both parents' incomes or
19 expenses.

20 5. The age of the child, taking into account the greater
21 needs of older children.

22 6. Special needs, such as costs that may be associated with
23 the disability of a child, that have traditionally been met
24 within the family budget even though fulfilling those needs will
25 cause the support to exceed the presumptive amount established
26 by the guidelines.

27 7. Total available assets of the obligee, obligor, and the
28 child.

29 8. The impact of the Internal Revenue Service Child &
30 Dependent Care Tax Credit, Earned Income Tax Credit, and
31 dependency exemption and waiver of that exemption. The court may
32 order a parent to execute a waiver of the Internal Revenue
33 Service dependency exemption if the paying parent is current in
34 support payments.

35 9. An application of the child support guidelines schedule
36 that requires a person to pay another person more than 55
37 percent of his or her gross income for a child support
38 obligation for current support resulting from a single support
39 order.

40 10. The particular parenting plan, court-ordered time-
41 sharing schedule, or particular time-sharing schedule exercised
42 by agreement of the parties, such as where the child spends a



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43 significant amount of time, but less than 20 percent of the
44 overnights, with one parent, thereby reducing the financial
45 expenditures incurred by the other parent; or the refusal of a
46 parent to become involved in the activities of the child.

47 11. Any other adjustment that is needed to achieve an
48 equitable result which may include, but not be limited to, a
49 reasonable and necessary existing expense or debt. Such expense
50 or debt may include, but is not limited to, a reasonable and
51 necessary expense or debt that the parties jointly incurred
52 during the marriage.

53 (b) Whenever a particular parenting plan, court-ordered
54 time-sharing schedule, or particular time-sharing schedule
55 exercised by agreement of the parties provides that each child
56 spend a substantial amount of time with each parent, the court
57 shall adjust any award of child support, as follows:

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

62 2. Calculate the percentage of overnight stays the child
63 spends with each parent.

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

67 4. The difference between the amounts calculated in
68 subparagraph 3. shall be the monetary transfer necessary between
69 the parents for the care of the child, subject to an adjustment
70 for day care and health insurance expenses.

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



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72 amounts owed by each parent for the expenses incurred for day
73 care and health insurance coverage for the child.

74 6. Adjust the support obligation owed by each parent
75 pursuant to subparagraph 4. by crediting or debiting the amount
76 calculated in subparagraph 5. This amount represents the child
77 support which must be exchanged between the parents.

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

86 8. For purposes of adjusting any award of child support
87 under this paragraph, "substantial amount of time" means that a
88 parent exercises time-sharing at least 20 percent of the
89 overnights of the year.

90 Section 2. Subsection (4) is added to section 90.204,
91 Florida Statutes, to read:

92 90.204 Determination of propriety of judicial notice and
93 nature of matter noticed.—

94 (4) In family cases, the court may take judicial notice of
95 any matter described in s. 90.202(6) when imminent danger to
96 persons or property has been alleged and it is impractical to
97 give prior notice to the parties of the intent to take judicial
98 notice. Opportunity to present evidence relevant to the
99 propriety of taking judicial notice under subsection (1) may be
100 deferred until after judicial action has been taken. If judicial



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101 notice is taken under this subsection, the court shall, within 2
102 business days, file a notice in the pending case of the matters
103 judicially noticed. For purposes of this subsection, the term
104 "family cases" has the same meaning as provided in the Rules of
105 Judicial Administration.

106 Section 3. Subsections (4) through (13) of section
107 409.2564, Florida Statutes, are renumbered as subsections (5)
108 through (14), respectively, and a new subsection (4) is added to
109 that section, to read:

110 409.2564 Actions for support.—

111 (4) (a) The Department of Revenue shall not undertake an
112 action to determine paternity, to establish an obligation of
113 support, or to enforce or modify an obligation of support
114 unless:

115 1. Public assistance is being received by one of the
116 parents, both parents, or the dependent child or children; or

117 2. The custodial parent or the parent entitled to receive
118 support has requested the Department of Revenue's assistance in
119 enforcing or modifying a child support order and has filed a
120 signed application for services under Title IV-D of the Social
121 Security Act.

122 (b) Notwithstanding subparagraph (a)2., a parent is not
123 eligible to receive assistance from the Department of Revenue to
124 determine paternity, to establish an obligation of support, or
125 to enforce or modify an obligation of support, whichever is
126 applicable, if that parent is being represented by a private
127 attorney in proceedings to determine paternity, to establish an
128 obligation of support, or to enforce or modify an obligation of
129 support, whichever is applicable, unless public assistance is



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130 being received by that parent, the other parent, or the
131 dependent child or children.

132 Section 4. Paragraph (b) of subsection (5) of section
133 741.30, Florida Statutes, is amended to read:

134 741.30 Domestic violence; injunction; powers and duties of
135 court and clerk; petition; notice and hearing; temporary
136 injunction; issuance of injunction; statewide verification
137 system; enforcement; public records exemption.—

138 (5)

139 (b) Except as provided in s. 90.204, in a hearing ex parte
140 for the purpose of obtaining such ex parte temporary injunction,
141 no evidence other than verified pleadings or affidavits shall be
142 used as evidence, unless the respondent appears at the hearing
143 or has received reasonable notice of the hearing. A denial of a
144 petition for an ex parte injunction shall be by written order
145 noting the legal grounds for denial. When the only ground for
146 denial is no appearance of an immediate and present danger of
147 domestic violence, the court shall set a full hearing on the
148 petition for injunction with notice at the earliest possible
149 time. Nothing herein affects a petitioner's right to promptly
150 amend any petition, or otherwise be heard in person on any
151 petition consistent with the Florida Rules of Civil Procedure.

152 Section 5. Paragraph (b) of subsection (6) of section
153 784.046, Florida Statutes, is amended to read:

154 784.046 Action by victim of repeat violence, sexual
155 violence, or dating violence for protective injunction; dating
156 violence investigations, notice to victims, and reporting;
157 pretrial release violations; public records exemption.—

158 (6)



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159 (b) Except as provided in s. 90.204, in a hearing ex parte
160 for the purpose of obtaining such temporary injunction, no
161 evidence other than the verified pleading or affidavit shall be
162 used as evidence, unless the respondent appears at the hearing
163 or has received reasonable notice of the hearing.

164 Section 6. Paragraph (b) of subsection (5) of section
165 784.0485, Florida Statutes, is amended to read:

166 784.0485 Stalking; injunction; powers and duties of court
167 and clerk; petition; notice and hearing; temporary injunction;
168 issuance of injunction; statewide verification system;
169 enforcement.-

170 (5)

171 (b) Except as provided in s. 90.204, in a hearing ex parte
172 for the purpose of obtaining such ex parte temporary injunction,
173 evidence other than verified pleadings or affidavits may not be
174 used as evidence, unless the respondent appears at the hearing
175 or has received reasonable notice of the hearing. A denial of a
176 petition for an ex parte injunction shall be by written order
177 noting the legal grounds for denial. If the only ground for
178 denial is no appearance of an immediate and present danger of
179 stalking, the court shall set a full hearing on the petition for
180 injunction with notice at the earliest possible time. This
181 paragraph does not affect a petitioner's right to promptly amend
182 any petition, or otherwise be heard in person on any petition
183 consistent with the Florida Rules of Civil Procedure.

184 Section 7. Paragraph (c) of subsection (1) of section
185 61.14, Florida Statutes, is amended to read:

186 61.14 Enforcement and modification of support, maintenance,
187 or alimony agreements or orders.-



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188 (1)

189 (c) For each support order reviewed by the department as
190 required by s. 409.2564(12) ~~409.2564(11)~~, if the amount of the
191 child support award under the order differs by at least 10
192 percent but not less than \$25 from the amount that would be
193 awarded under s. 61.30, the department shall seek to have the
194 order modified and any modification shall be made without a
195 requirement for proof or showing of a change in circumstances.

196 Section 8. Paragraph (e) of subsection (2) of section
197 61.1814, Florida Statutes, is amended to read:

198 61.1814 Child Support Enforcement Application and Program
199 Revenue Trust Fund.—

200 (2) With the exception of fees required to be deposited in
201 the Clerk of the Court Child Support Enforcement Collection
202 System Trust Fund under s. 61.181(2)(b) and collections
203 determined to be undistributable or unidentifiable under s.
204 409.2558, the fund shall be used for the deposit of Title IV-D
205 program income received by the department. Each type of program
206 income received shall be accounted for separately. Program
207 income received by the department includes, but is not limited
208 to:

209 (e) Fines imposed under ss. 409.256(7)(b), 409.2464(8)
210 ~~409.2564(7)~~, and 409.2578; and

211 Section 9. Paragraph (c) of subsection (1) of section
212 61.30, Florida Statutes, is amended to read:

213 61.30 Child support guidelines; retroactive child support.—

214 (1)

215 (c) For each support order reviewed by the department as
216 required by s. 409.2564(12) ~~409.2564(11)~~, if the amount of the



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217 child support award under the order differs by at least 10
218 percent but not less than \$25 from the amount that would be
219 awarded under this section, the department shall seek to have
220 the order modified and any modification shall be made without a
221 requirement for proof or showing of a change in circumstances.

222 Section 10. This act shall take effect July 1, 2013.

223

224 ===== T I T L E A M E N D M E N T =====

225 And the title is amended as follows:

226 Delete everything before the enacting clause
227 and insert:

228

A bill to be entitled

229

An act relating to family law; amending s. 61.30,

230

F.S.; providing for consideration of time-sharing

231

schedules as a factor in the adjustment of awards of

232

child support; amending s. 90.204, F.S.; authorizing

233

judges in family cases to take judicial notice of

234

certain court records without prior notice to the

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parties when imminent danger to persons or property

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has been alleged and it is impractical to give prior

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notice; providing for a deferred opportunity to

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present evidence; requiring a notice of such judicial

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notice having been taken to be filed within a

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specified period; providing that the term "family

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cases" has the same meaning as provided in the Rules

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of Judicial Administration; amending s. 409.2564,

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F.S.; providing that the Department of Revenue may not

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undertake certain actions regarding paternity or

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support except in certain circumstances; providing



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246 that a parent is not eligible to receive assistance
247 from the department for certain actions if the parent
248 is being represented by a private attorney unless
249 public assistance is being received; amending ss.
250 741.30, 784.046, and 784.0485, F.S.; creating an
251 exception to a prohibition against using evidence
252 other than the verified pleading or affidavit in an ex
253 parte hearing for a temporary injunction for
254 protection against domestic violence, repeat violence,
255 sexual violence, dating violence, or stalking;
256 amending ss. 61.14, 61.1814, and 61.30, F.S.;
257 conforming cross-references; providing an effective
258 date.