

By the Committee on Judiciary; and Senator Soto

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1                   A bill to be entitled  
2           An act relating to family law; amending s. 61.30,  
3           F.S.; providing for consideration of time-sharing  
4           schedules as a factor in the adjustment of awards of  
5           child support; amending s. 90.204, F.S.; authorizing  
6           judges in family cases to take judicial notice of  
7           certain court records without prior notice to the  
8           parties when imminent danger to persons or property  
9           has been alleged and it is impractical to give prior  
10          notice; providing for a deferred opportunity to  
11          present evidence; requiring a notice of such judicial  
12          notice having been taken to be filed within a  
13          specified period; providing that the term "family  
14          cases" has the same meaning as provided in the Rules  
15          of Judicial Administration; amending s. 409.2564,  
16          F.S.; providing that the Department of Revenue may not  
17          undertake certain actions regarding paternity or  
18          support except in certain circumstances; providing  
19          that a parent is not eligible to receive assistance  
20          from the department for certain actions if the parent  
21          is being represented by a private attorney unless  
22          public assistance is being received; amending ss.  
23          741.30, 784.046, and 784.0485, F.S.; creating an  
24          exception to a prohibition against using evidence  
25          other than the verified pleading or affidavit in an ex  
26          parte hearing for a temporary injunction for  
27          protection against domestic violence, repeat violence,  
28          sexual violence, dating violence, or stalking;  
29          amending ss. 61.14, 61.1814, and 61.30, F.S.;

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30 conforming cross-references; providing an effective  
31 date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Paragraphs (a) and (b) of subsection (11) of  
36 section 61.30, Florida Statutes, are amended to read:

37 61.30 Child support guidelines; retroactive child support.-

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

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

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

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

48 4. Seasonal variations in one or both parents' incomes or  
49 expenses.

50 5. The age of the child, taking into account the greater  
51 needs of older children.

52 6. Special needs, such as costs that may be associated with  
53 the disability of a child, that have traditionally been met  
54 within the family budget even though fulfilling those needs will  
55 cause the support to exceed the presumptive amount established  
56 by the guidelines.

57 7. Total available assets of the obligee, obligor, and the  
58 child.

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59           8. The impact of the Internal Revenue Service Child &  
60   Dependent Care Tax Credit, Earned Income Tax Credit, and  
61   dependency exemption and waiver of that exemption. The court may  
62   order a parent to execute a waiver of the Internal Revenue  
63   Service dependency exemption if the paying parent is current in  
64   support payments.

65           9. An application of the child support guidelines schedule  
66   that requires a person to pay another person more than 55  
67   percent of his or her gross income for a child support  
68   obligation for current support resulting from a single support  
69   order.

70           10. The particular parenting plan, court-ordered time-  
71   sharing schedule, or particular time-sharing schedule exercised  
72   by agreement of the parties, such as where the child spends a  
73   significant amount of time, but less than 20 percent of the  
74   overnights, with one parent, thereby reducing the financial  
75   expenditures incurred by the other parent; or the refusal of a  
76   parent to become involved in the activities of the child.

77           11. Any other adjustment that is needed to achieve an  
78   equitable result which may include, but not be limited to, a  
79   reasonable and necessary existing expense or debt. Such expense  
80   or debt may include, but is not limited to, a reasonable and  
81   necessary expense or debt that the parties jointly incurred  
82   during the marriage.

83           (b) Whenever a particular parenting plan, court-ordered  
84   time-sharing schedule, or particular time-sharing schedule  
85   exercised by agreement of the parties provides that each child  
86   spend a substantial amount of time with each parent, the court  
87   shall adjust any award of child support, as follows:

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

92           2. Calculate the percentage of overnight stays the child  
93 spends with each parent.

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

97           4. The difference between the amounts calculated in  
98 subparagraph 3. shall be the monetary transfer necessary between  
99 the parents for the care of the child, subject to an adjustment  
100 for day care and health insurance expenses.

101           5. Pursuant to subsections (7) and (8), calculate the net  
102 amounts owed by each parent for the expenses incurred for day  
103 care and health insurance coverage for the child.

104           6. Adjust the support obligation owed by each parent  
105 pursuant to subparagraph 4. by crediting or debiting the amount  
106 calculated in subparagraph 5. This amount represents the child  
107 support which must be exchanged between the parents.

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

116           8. For purposes of adjusting any award of child support

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117 under this paragraph, "substantial amount of time" means that a  
118 parent exercises time-sharing at least 20 percent of the  
119 overnights of the year.

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

122 90.204 Determination of propriety of judicial notice and  
123 nature of matter noticed.—

124 (4) In family cases, the court may take judicial notice of  
125 any matter described in s. 90.202(6) when imminent danger to  
126 persons or property has been alleged and it is impractical to  
127 give prior notice to the parties of the intent to take judicial  
128 notice. Opportunity to present evidence relevant to the  
129 propriety of taking judicial notice under subsection (1) may be  
130 deferred until after judicial action has been taken. If judicial  
131 notice is taken under this subsection, the court shall, within 2  
132 business days, file a notice in the pending case of the matters  
133 judicially noticed. For purposes of this subsection, the term  
134 "family cases" has the same meaning as provided in the Rules of  
135 Judicial Administration.

136 Section 3. Subsections (4) through (13) of section  
137 409.2564, Florida Statutes, are renumbered as subsections (5)  
138 through (14), respectively, and a new subsection (4) is added to  
139 that section, to read:

140 409.2564 Actions for support.—

141 (4) (a) The Department of Revenue shall not undertake an  
142 action to determine paternity, to establish an obligation of  
143 support, or to enforce or modify an obligation of support  
144 unless:

145 1. Public assistance is being received by one of the

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146 parents, both parents, or the dependent child or children; or

147 2. The custodial parent or the parent entitled to receive  
148 support has requested the Department of Revenue's assistance in  
149 enforcing or modifying a child support order and has filed a  
150 signed application for services under Title IV-D of the Social  
151 Security Act.

152 (b) Notwithstanding subparagraph (a)2., a parent is not  
153 eligible to receive assistance from the Department of Revenue to  
154 determine paternity, to establish an obligation of support, or  
155 to enforce or modify an obligation of support, whichever is  
156 applicable, if that parent is being represented by a private  
157 attorney in proceedings to determine paternity, to establish an  
158 obligation of support, or to enforce or modify an obligation of  
159 support, whichever is applicable, unless public assistance is  
160 being received by that parent, the other parent, or the  
161 dependent child or children.

162 Section 4. Paragraph (b) of subsection (5) of section  
163 741.30, Florida Statutes, is amended to read:

164 741.30 Domestic violence; injunction; powers and duties of  
165 court and clerk; petition; notice and hearing; temporary  
166 injunction; issuance of injunction; statewide verification  
167 system; enforcement; public records exemption.-

168 (5)

169 (b) Except as provided in s. 90.204, in a hearing ex parte  
170 for the purpose of obtaining such ex parte temporary injunction,  
171 no evidence other than verified pleadings or affidavits shall be  
172 used as evidence, unless the respondent appears at the hearing  
173 or has received reasonable notice of the hearing. A denial of a  
174 petition for an ex parte injunction shall be by written order

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175 noting the legal grounds for denial. When the only ground for  
176 denial is no appearance of an immediate and present danger of  
177 domestic violence, the court shall set a full hearing on the  
178 petition for injunction with notice at the earliest possible  
179 time. Nothing herein affects a petitioner's right to promptly  
180 amend any petition, or otherwise be heard in person on any  
181 petition consistent with the Florida Rules of Civil Procedure.

182 Section 5. Paragraph (b) of subsection (6) of section  
183 784.046, Florida Statutes, is amended to read:

184 784.046 Action by victim of repeat violence, sexual  
185 violence, or dating violence for protective injunction; dating  
186 violence investigations, notice to victims, and reporting;  
187 pretrial release violations; public records exemption.—

188 (6)

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

194 Section 6. Paragraph (b) of subsection (5) of section  
195 784.0485, Florida Statutes, is amended to read:

196 784.0485 Stalking; injunction; powers and duties of court  
197 and clerk; petition; notice and hearing; temporary injunction;  
198 issuance of injunction; statewide verification system;  
199 enforcement.—

200 (5)

201 (b) Except as provided in s. 90.204, in a hearing ex parte  
202 for the purpose of obtaining such ex parte temporary injunction,  
203 evidence other than verified pleadings or affidavits may not be

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204 used as evidence, unless the respondent appears at the hearing  
205 or has received reasonable notice of the hearing. A denial of a  
206 petition for an ex parte injunction shall be by written order  
207 noting the legal grounds for denial. If the only ground for  
208 denial is no appearance of an immediate and present danger of  
209 stalking, the court shall set a full hearing on the petition for  
210 injunction with notice at the earliest possible time. This  
211 paragraph does not affect a petitioner's right to promptly amend  
212 any petition, or otherwise be heard in person on any petition  
213 consistent with the Florida Rules of Civil Procedure.

214 Section 7. Paragraph (c) of subsection (1) of section  
215 61.14, Florida Statutes, is amended to read:

216 61.14 Enforcement and modification of support, maintenance,  
217 or alimony agreements or orders.—

218 (1)

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

226 Section 8. Paragraph (e) of subsection (2) of section  
227 61.1814, Florida Statutes, is amended to read:

228 61.1814 Child Support Enforcement Application and Program  
229 Revenue Trust Fund.—

230 (2) With the exception of fees required to be deposited in  
231 the Clerk of the Court Child Support Enforcement Collection  
232 System Trust Fund under s. 61.181(2)(b) and collections



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233 determined to be undistributable or unidentifiable under s.  
234 409.2558, the fund shall be used for the deposit of Title IV-D  
235 program income received by the department. Each type of program  
236 income received shall be accounted for separately. Program  
237 income received by the department includes, but is not limited  
238 to:

239 (e) Fines imposed under ss. 409.256(7)(b), 409.2464(8)  
240 ~~409.2564(7)~~, and 409.2578; and

241 Section 9. Paragraph (c) of subsection (1) of section  
242 61.30, Florida Statutes, is amended to read:

243 61.30 Child support guidelines; retroactive child support.-

244 (1)

245 (c) For each support order reviewed by the department as  
246 required by s. 409.2564(12) ~~409.2564(11)~~, if the amount of the  
247 child support award under the order differs by at least 10  
248 percent but not less than \$25 from the amount that would be  
249 awarded under this section, the department shall seek to have  
250 the order modified and any modification shall be made without a  
251 requirement for proof or showing of a change in circumstances.

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