

By the Committees on Children, Families, and Elder Affairs; and
Judiciary; and Senator Soto

586-03887-13

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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 or time-sharing arrangements as a factor in
5 the adjustment of awards of child support; amending s.
6 90.204, F.S.; authorizing judges in family cases to
7 take judicial notice of certain court records without
8 prior notice to the parties when imminent danger to
9 persons or property has been alleged and it is
10 impractical to give prior notice; providing for a
11 deferred opportunity to present evidence; requiring a
12 notice of such judicial notice having been taken to be
13 filed within a specified period; providing that the
14 term "family cases" has the same meaning as provided
15 in the Rules of Judicial Administration; amending ss.
16 741.30, 784.046, and 784.0485, F.S.; creating an
17 exception to a prohibition against using evidence
18 other than the verified pleading or affidavit in an ex
19 parte hearing for a temporary injunction for
20 protection against domestic violence, repeat violence,
21 sexual violence, dating violence, or stalking;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (11) of section 61.30, Florida
27 Statutes, is amended to read:

28 61.30 Child support guidelines; retroactive child support.-
29 (11) (a) The court may adjust the total minimum child

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30 support award, or either or both parents' share of the total
31 minimum child support award, based upon the following deviation
32 factors:

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

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

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

39 4. Seasonal variations in one or both parents' incomes or
40 expenses.

41 5. The age of the child, taking into account the greater
42 needs of older children.

43 6. Special needs, such as costs that may be associated with
44 the disability of a child, that have traditionally been met
45 within the family budget even though fulfilling those needs will
46 cause the support to exceed the presumptive amount established
47 by the guidelines.

48 7. Total available assets of the obligee, obligor, and the
49 child.

50 8. The impact of the Internal Revenue Service Child &
51 Dependent Care Tax Credit, Earned Income Tax Credit, and
52 dependency exemption and waiver of that exemption. The court may
53 order a parent to execute a waiver of the Internal Revenue
54 Service dependency exemption if the paying parent is current in
55 support payments.

56 9. An application of the child support guidelines schedule
57 that requires a person to pay another person more than 55
58 percent of his or her gross income for a child support

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59 obligation for current support resulting from a single support
60 order.

61 10. The particular parenting plan, a court-ordered time-
62 sharing schedule, or a time-sharing arrangement exercised by
63 agreement of the parties, such as where the child spends a
64 significant amount of time, but less than 20 percent of the
65 overnights, with one parent, thereby reducing the financial
66 expenditures incurred by the other parent; or the refusal of a
67 parent to become involved in the activities of the child.

68 11. Any other adjustment that is needed to achieve an
69 equitable result which may include, but not be limited to, a
70 reasonable and necessary existing expense or debt. Such expense
71 or debt may include, but is not limited to, a reasonable and
72 necessary expense or debt that the parties jointly incurred
73 during the marriage.

74 (b) Whenever a particular parenting plan, a court-ordered
75 time-sharing schedule, or a time-sharing arrangement exercised
76 by agreement of the parties provides that each child spend a
77 substantial amount of time with each parent, the court shall
78 adjust any award of child support, as follows:

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

83 2. Calculate the percentage of overnight stays the child
84 spends with each parent.

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

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88 4. The difference between the amounts calculated in
89 subparagraph 3. shall be the monetary transfer necessary between
90 the parents for the care of the child, subject to an adjustment
91 for day care and health insurance expenses.

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

95 6. Adjust the support obligation owed by each parent
96 pursuant to subparagraph 4. by crediting or debiting the amount
97 calculated in subparagraph 5. This amount represents the child
98 support which must be exchanged between the parents.

99 7. The court may deviate from the child support amount
100 calculated pursuant to subparagraph 6. based upon the deviation
101 factors in paragraph (a), as well as the obligee parent's low
102 income and ability to maintain the basic necessities of the home
103 for the child, the likelihood that either parent will actually
104 exercise the time-sharing schedule set forth in the parenting
105 plan, a court-ordered time-sharing schedule, or a particular
106 time-sharing arrangement exercised by agreement of the parties
107 ~~granted by the court~~, and whether all of the children are
108 exercising the same time-sharing schedule.

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

113 (c) A parent's failure to regularly exercise the time-
114 sharing schedule set forth in the parenting plan, a court-
115 ordered ~~or agreed~~ time-sharing schedule, or a particular time-
116 sharing arrangement exercised by agreement of the parties not

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117 caused by the other parent which resulted in the adjustment of
118 the amount of child support pursuant to subparagraph (a)10. or
119 paragraph (b) shall be deemed a substantial change of
120 circumstances for purposes of modifying the child support award.
121 A modification pursuant to this paragraph is retroactive to the
122 date the noncustodial parent first failed to regularly exercise
123 the court-ordered or agreed time-sharing schedule.

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

126 90.204 Determination of propriety of judicial notice and
127 nature of matter noticed.—

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

140 Section 3. Paragraph (b) of subsection (5) of section
141 741.30, Florida Statutes, is amended to read:

142 741.30 Domestic violence; injunction; powers and duties of
143 court and clerk; petition; notice and hearing; temporary
144 injunction; issuance of injunction; statewide verification
145 system; enforcement; public records exemption.—

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146 (5)

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

160 Section 4. Paragraph (b) of subsection (6) of section
161 784.046, Florida Statutes, is amended to read:

162 784.046 Action by victim of repeat violence, sexual
163 violence, or dating violence for protective injunction; dating
164 violence investigations, notice to victims, and reporting;
165 pretrial release violations; public records exemption.—

166 (6)

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

172 Section 5. Paragraph (b) of subsection (5) of section
173 784.0485, Florida Statutes, is amended to read:

174 784.0485 Stalking; injunction; powers and duties of court

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175 and clerk; petition; notice and hearing; temporary injunction;
176 issuance of injunction; statewide verification system;
177 enforcement.-

178 (5)

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

192 Section 6. This act shall take effect July 1, 2013.