

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:

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

28 61.30 Child support guidelines; retroactive child

29 | support.—

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

34 | 1. Extraordinary medical, psychological, educational, or
35 | dental expenses.

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

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

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

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

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

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

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

57 9. An application of the child support guidelines schedule
58 that requires a person to pay another person more than 55
59 percent of his or her gross income for a child support
60 obligation for current support resulting from a single support
61 order.

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

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

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

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

84 2. Calculate the percentage of overnight stays the child

85 spends with each parent.

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

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

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

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

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

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

113 overnights of the year.

114 (c) A parent's failure to regularly exercise the time-
115 sharing schedule set forth in the parenting plan, a court-
116 ordered ~~or agreed~~ time-sharing schedule, or a particular time-
117 sharing arrangement exercised by agreement of the parties not
118 caused by the other parent which resulted in the adjustment of
119 the amount of child support pursuant to subparagraph (a)10. or
120 paragraph (b) shall be deemed a substantial change of
121 circumstances for purposes of modifying the child support award.
122 A modification pursuant to this paragraph is retroactive to the
123 date the noncustodial parent first failed to regularly exercise
124 the court-ordered or agreed time-sharing schedule.

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

127 90.204 Determination of propriety of judicial notice and
128 nature of matter noticed.-

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

141 Section 3. Paragraph (b) of subsection (5) of section
 142 741.30, Florida Statutes, is amended to read:

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

147 (5)

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

161 Section 4. Paragraph (b) of subsection (6) of section
 162 784.046, Florida Statutes, is amended to read:

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

167 (6)

168 (b) Except as provided in s. 90.204, in a hearing ex parte

169 for the purpose of obtaining such temporary injunction, no
170 evidence other than the verified pleading or affidavit shall be
171 used as evidence, unless the respondent appears at the hearing
172 or has received reasonable notice of the hearing.

173 Section 5. Paragraph (b) of subsection (5) of section
174 784.0485, Florida Statutes, is amended to read:

175 784.0485 Stalking; injunction; powers and duties of court
176 and clerk; petition; notice and hearing; temporary injunction;
177 issuance of injunction; statewide verification system;
178 enforcement.—

179 (5)

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

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