

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Steube offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 61-62 and insert:

5 Section 3. Subsection (11) of section 61.30, Florida  
6 Statutes, is amended to read:

7 61.30 Child support guidelines; retroactive child support.-

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

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

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

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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, a court-ordered time-  
41 sharing schedule, or a time-sharing arrangement exercised by  
42 agreement of the parties, such as where the child spends a  
43 significant amount of time, but less than 20 percent of the

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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, a court-ordered  
54 time-sharing schedule, or a time-sharing arrangement exercised  
55 by agreement of the parties provides that each child spend a  
56 substantial amount of time with each parent, the court shall  
57 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.

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71 5. Pursuant to subsections (7) and (8), calculate the net  
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, a court-ordered time-sharing schedule, or a particular  
85 time-sharing arrangement exercised by agreement of the parties  
86 ~~granted by the court~~, and whether all of the children are  
87 exercising the same time-sharing schedule.

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

92 (c) A parent's failure to regularly exercise the time-  
93 sharing schedule set forth in the parenting plan, a court-  
94 ordered ~~or agreed~~ time-sharing schedule, or a particular time-  
95 sharing arrangement exercised by agreement of the parties not  
96 caused by the other parent which resulted in the adjustment of  
97 the amount of child support pursuant to subparagraph (a)10. or  
98 paragraph (b) shall be deemed a substantial change of

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99 circumstances for purposes of modifying the child support award.  
100 A modification pursuant to this paragraph is retroactive to the  
101 date the noncustodial parent first failed to regularly exercise  
102 the court-ordered or agreed time-sharing schedule.

103 Section 4. If another act includes provisions amending s.  
104 61.30, Florida Statutes, similar to those in this act and such  
105 legislation is adopted in the same legislative session or an  
106 extension thereof, it is the intent of the Legislature that the  
107 provisions of this act prevail.

108 Section 5. Subsection (4) is added to section 90.204,  
109 Florida Statutes, to read:

110 90.204 Determination of propriety of judicial notice and  
111 nature of matter noticed.—

112 (4) In family cases, the court may take judicial notice of  
113 any matter described in s. 90.202(6) when imminent danger to  
114 persons or property has been alleged and it is impractical to  
115 give prior notice to the parties of the intent to take judicial  
116 notice. Opportunity to present evidence relevant to the  
117 propriety of taking judicial notice under subsection (1) may be  
118 deferred until after judicial action has been taken. If judicial  
119 notice is taken under this subsection, the court shall, within 2  
120 business days, file a notice in the pending case of the matters  
121 judicially noticed. For purposes of this subsection, the term  
122 "family cases" has the same meaning as provided in the Rules of  
123 Judicial Administration.

124 Section 6. Paragraph (b) of subsection (5) of section  
125 741.30, Florida Statutes, is amended to read:

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126 741.30 Domestic violence; injunction; powers and duties of  
127 court and clerk; petition; notice and hearing; temporary  
128 injunction; issuance of injunction; statewide verification  
129 system; enforcement; public records exemption.—

130 (5)

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

144 Section 7. Paragraph (b) of subsection (6) of section  
145 784.046, Florida Statutes, is amended to read:

146 784.046 Action by victim of repeat violence, sexual  
147 violence, or dating violence for protective injunction; dating  
148 violence investigations, notice to victims, and reporting;  
149 pretrial release violations; public records exemption.—

150 (6)

151 (b) Except as provided in s. 90.204, in a hearing ex parte  
152 for the purpose of obtaining such temporary injunction, no  
153 evidence other than the verified pleading or affidavit shall be

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154 used as evidence, unless the respondent appears at the hearing  
155 or has received reasonable notice of the hearing.

156 Section 8. Paragraph (b) of subsection (5) of section  
157 784.0485, Florida Statutes, is amended to read:

158 784.0485 Stalking; injunction; powers and duties of court  
159 and clerk; petition; notice and hearing; temporary injunction;  
160 issuance of injunction; statewide verification system;  
161 enforcement.-

162 (5)

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

176 Section 9. This act shall take effect July 1, 2013, and the  
177 amendments made by this act to ss. 39.806 and 39.811, Florida  
178 Statutes, apply to all unlawful acts of sexual battery occurring  
179 before,

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**T I T L E   A M E N D M E N T**

182  
183       Remove lines 2-17 and insert:  
184       An act relating to children; amending s. 39.806, F.S.;  
185       providing that a parent's rights may be terminated if  
186       the court determines, by clear and convincing  
187       evidence, that the child was conceived during an act  
188       of unlawful sexual battery; creating a presumption  
189       that termination of parental rights is in the best  
190       interest of the child if the child was conceived as a  
191       result of an unlawful sexual battery; requiring the  
192       court to accept a guilty plea or conviction as  
193       conclusive proof that the child was conceived by a  
194       violation of criminal law; providing that a petition  
195       to terminate parental rights may be filed at any time;  
196       amending s. 39.811, F.S.; providing for termination of  
197       parental rights of only one parent if conception was  
198       the result of an unlawful sexual battery; amending s.  
199       61.30, F.S.; providing for consideration of time-  
200       sharing schedules or time-sharing arrangements as a  
201       factor in the adjustment of awards of child support;  
202       providing legislative intent; amending s. 90.204,  
203       F.S.; authorizing judges in family cases to take  
204       judicial notice of certain court records without prior  
205       notice to the parties when imminent danger to persons  
206       or property has been alleged and it is impractical to  
207       give prior notice; providing for a deferred  
208       opportunity to present evidence; requiring a notice of  
209       such judicial notice having been taken to be filed

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210 within a specified period; providing that the term  
211 "family cases" has the same meaning as provided in the  
212 Rules of Judicial Administration; amending ss. 741.30,  
213 784.046, and 784.0485, F.S.; creating an exception to  
214 a prohibition against using evidence other than the  
215 verified pleading or affidavit in an ex parte hearing  
216 for a temporary injunction for protection against  
217 domestic violence, repeat violence, sexual violence,  
218 dating violence, or stalking; providing for  
219 retroactive application of specified provisions;