

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

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

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

29 61.30 Child support guidelines; retroactive child support.-

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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 with
45 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

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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

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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 time-sharing
107 arrangement exercised by agreement of the parties ~~granted by the~~
108 ~~court~~, and whether all of the children are exercising the same
109 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 time-sharing

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

125 Section 2. If another bill passes in the 2014 legislative
126 session which includes provisions amending s. 61.30, Florida
127 Statutes, similar to those in this bill, it is the intent of the
128 Legislature that the provisions of this bill shall prevail.

129 Section 3. Subsection (4) is added to section 90.204,
130 Florida Statutes, to read:

131 90.204 Determination of propriety of judicial notice and
132 nature of matter noticed.—

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

145 Section 4. Paragraph (b) of subsection (5) of section

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146 741.30, Florida Statutes, is amended to read:

147 741.30 Domestic violence; injunction; powers and duties of
148 court and clerk; petition; notice and hearing; temporary
149 injunction; issuance of injunction; statewide verification
150 system; enforcement; public records exemption.-

151 (5)

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

165 Section 5. Paragraph (b) of subsection (6) of section
166 784.046, Florida Statutes, is amended to read:

167 784.046 Action by victim of repeat violence, sexual
168 violence, or dating violence for protective injunction; dating
169 violence investigations, notice to victims, and reporting;
170 pretrial release violations; public records exemption.-

171 (6)

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

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

177 Section 6. Paragraph (b) of subsection (5) of section
178 784.0485, Florida Statutes, is amended to read:

179 784.0485 Stalking; injunction; powers and duties of court
180 and clerk; petition; notice and hearing; temporary injunction;
181 issuance of injunction; statewide verification system;
182 enforcement.—

183 (5)

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

197 Section 7. This act shall take effect July 1, 2014.