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CS/CS/HB 755, Engrossed 1

2014 Legislature

1
2 An act relating to the courts; 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 taking such judicial notice to be filed
13 within a specified period; providing that the term
14 "family cases" has the same meaning as provided in the
15 Rules of Judicial Administration; amending s. 454.021,
16 F.S.; authorizing the Supreme Court to admit a bar
17 applicant who is an unauthorized immigrant under
18 certain circumstances; amending ss. 741.30, 784.046,
19 and 784.0485, F.S.; creating an exception to a
20 prohibition against using evidence other than the
21 verified pleading or affidavit in an ex parte hearing
22 for a temporary injunction for protection against
23 domestic violence, repeat violence, sexual violence,
24 dating violence, or stalking; providing an effective
25 date.



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

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

61.30 Child support guidelines; retroactive child support.—

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

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

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

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

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

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

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



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51 | by the guidelines.

52 | 7. Total available assets of the obligee, obligor, and the
53 | child.

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

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

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

72 | 11. Any other adjustment that is needed to achieve an
73 | equitable result which may include, but not be limited to, a
74 | reasonable and necessary existing expense or debt. Such expense
75 | or debt may include, but is not limited to, a reasonable and



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76 necessary expense or debt that the parties jointly incurred
77 during the marriage.

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

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

87 2. Calculate the percentage of overnight stays the child
88 spends with each parent.

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

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

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

99 6. Adjust the support obligation owed by each parent
100 pursuant to subparagraph 4. by crediting or debiting the amount



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101 | calculated in subparagraph 5. This amount represents the child
102 | support which must be exchanged between the parents.

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

113 | 8. For purposes of adjusting any award of child support
114 | under this paragraph, "substantial amount of time" means that a
115 | parent exercises time-sharing at least 20 percent of the
116 | overnights of the year.

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



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126 noncustodial parent first failed to regularly exercise the
127 court-ordered or agreed time-sharing schedule.

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

130 90.204 Determination of propriety of judicial notice and
131 nature of matter noticed.—

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

144 Section 3. Subsection (3) is added to section 454.021,
145 Florida Statutes, to read:

146 454.021 Attorneys; admission to practice law; Supreme
147 Court to govern and regulate.—

148 (3) Upon certification by the Florida Board of Bar
149 Examiners that an applicant who is an unauthorized immigrant who
150 was brought to the United States as a minor; has been present in



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151 | the United States for more than 10 years; has received
152 | documented employment authorization from the United States
153 | Citizenship and Immigration Services (USCIS); has been issued a
154 | social security number; if a male, has registered with the
155 | Selective Service System if required to do so under the Military
156 | Selective Service Act, 50 U.S.C. App. 453; and has fulfilled all
157 | requirements for admission to practice law in this state, the
158 | Supreme Court of Florida may admit that applicant as an attorney
159 | at law authorized to practice in this state and may direct an
160 | order be entered upon the court's records to that effect.

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

163 | 741.30 Domestic violence; injunction; powers and duties of
164 | court and clerk; petition; notice and hearing; temporary
165 | injunction; issuance of injunction; statewide verification
166 | system; enforcement; public records exemption.—

167 | (5)

168 | (b) Except as provided in s. 90.204, in a hearing ex parte
169 | for the purpose of obtaining such ex parte temporary injunction,
170 | no evidence other than verified pleadings or affidavits shall be
171 | used as evidence, unless the respondent appears at the hearing
172 | or has received reasonable notice of the hearing. A denial of a
173 | petition for an ex parte injunction shall be by written order
174 | noting the legal grounds for denial. When the only ground for
175 | denial is no appearance of an immediate and present danger of



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176 domestic violence, the court shall set a full hearing on the
177 petition for injunction with notice at the earliest possible
178 time. Nothing herein affects a petitioner's right to promptly
179 amend any petition, or otherwise be heard in person on any
180 petition consistent with the Florida Rules of Civil Procedure.

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

183 784.046 Action by victim of repeat violence, sexual
184 violence, or dating violence for protective injunction; dating
185 violence investigations, notice to victims, and reporting;
186 pretrial release violations; public records exemption.—

187 (6)

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

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

195 784.0485 Stalking; injunction; powers and duties of court
196 and clerk; petition; notice and hearing; temporary injunction;
197 issuance of injunction; statewide verification system;
198 enforcement.—

199 (5)

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



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

213 | Section 7. This act shall take effect upon becoming a law.