

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 905 (2013)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Steube offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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.

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

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

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

29 7. Total available assets of the obligee, obligor, and the
30 child.

31 8. The impact of the Internal Revenue Service Child &
32 Dependent Care Tax Credit, Earned Income Tax Credit, and
33 dependency exemption and waiver of that exemption. The court may
34 order a parent to execute a waiver of the Internal Revenue
35 Service dependency exemption if the paying parent is current in
36 support payments.

37 9. An application of the child support guidelines schedule
38 that requires a person to pay another person more than 55
39 percent of his or her gross income for a child support
40 obligation for current support resulting from a single support
41 order.

42 10. The particular parenting plan, a court-ordered time-
43 sharing schedule, or a time-sharing arrangement exercised by
44 agreement of the parties, such as where the child spends a
45 significant amount of time, but less than 20 percent of the
46 overnights, with one parent, thereby reducing the financial

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47 expenditures incurred by the other parent; or the refusal of a
48 parent to become involved in the activities of the child.

49 11. Any other adjustment that is needed to achieve an
50 equitable result which may include, but not be limited to, a
51 reasonable and necessary existing expense or debt. Such expense
52 or debt may include, but is not limited to, a reasonable and
53 necessary expense or debt that the parties jointly incurred
54 during the marriage.

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

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

64 2. Calculate the percentage of overnight stays the child
65 spends with each parent.

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

69 4. The difference between the amounts calculated in
70 subparagraph 3. shall be the monetary transfer necessary between
71 the parents for the care of the child, subject to an adjustment
72 for day care and health insurance expenses.

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

76 6. Adjust the support obligation owed by each parent
77 pursuant to subparagraph 4. by crediting or debiting the amount
78 calculated in subparagraph 5. This amount represents the child
79 support which must be exchanged between the parents.

80 7. The court may deviate from the child support amount
81 calculated pursuant to subparagraph 6. based upon the deviation
82 factors in paragraph (a), as well as the obligee parent's low
83 income and ability to maintain the basic necessities of the home
84 for the child, the likelihood that either parent will actually
85 exercise the time-sharing schedule set forth in the parenting
86 plan, a court-ordered time-sharing schedule, or a particular
87 time-sharing arrangement exercised by agreement of the parties
88 ~~granted by the court,~~ and whether all of the children are
89 exercising the same time-sharing schedule.

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

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

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circumstances for purposes of modifying the child support award.

A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.

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

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

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

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

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

(5)

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

141 Section 4. Paragraph (b) of subsection (6) of section
142 784.046, Florida Statutes, is amended to read:

143 784.046 Action by victim of repeat violence, sexual
144 violence, or dating violence for protective injunction; dating
145 violence investigations, notice to victims, and reporting;
146 pretrial release violations; public records exemption.—

147 (6)

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

153 Section 5. Paragraph (b) of subsection (5) of section
154 784.0485, Florida Statutes, is amended to read:

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155 784.0485 Stalking; injunction; powers and duties of court
156 and clerk; petition; notice and hearing; temporary injunction;
157 issuance of injunction; statewide verification system;
158 enforcement.—

159 (5)

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

173 Section 6. This act shall take effect July 1, 2013.
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176 -----
177 **T I T L E A M E N D M E N T**

178 Remove everything before the enacting clause and insert:

179 A bill to be entitled

180 An act relating to family law; amending s. 61.30,
181 F.S.; providing for consideration of time-sharing
182 schedules or time-sharing arrangements as a factor in

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183 the adjustment of awards of child support; amending s.
184 90.204, F.S.; authorizing judges in family cases to
185 take judicial notice of certain court records without
186 prior notice to the parties when imminent danger to
187 persons or property has been alleged and it is
188 impractical to give prior notice; providing for a
189 deferred opportunity to present evidence; requiring a
190 notice of such judicial notice having been taken to be
191 filed within a specified period; providing that the
192 term "family cases" has the same meaning as provided
193 in the Rules of Judicial Administration; amending ss.
194 741.30, 784.046, and 784.0485, F.S.; creating an
195 exception to a prohibition against using evidence
196 other than the verified pleading or affidavit in an ex
197 parte hearing for a temporary injunction for
198 protection against domestic violence, repeat violence,
199 sexual violence, dating violence, or stalking;
200 providing an effective date.