

By the Committee on Judiciary; and Senator Soto

590-03523-14

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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; 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 ss. 741.30,  
16          784.046, and 784.0485, F.S.; creating an exception to  
17          a prohibition against using evidence other than the  
18          verified pleading or affidavit in an ex parte hearing  
19          for a temporary injunction for protection against  
20          domestic violence, repeat violence, sexual violence,  
21          dating violence, or stalking; providing an effective  
22          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 support.-  
29           (11) (a) The court may adjust the total minimum child

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30 support award, or either or both parents' share of the total  
31 minimum child support award, based upon the following deviation  
32 factors:

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

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

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

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

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

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

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

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

56 9. An application of the child support guidelines schedule  
57 that requires a person to pay another person more than 55  
58 percent of his or her gross income for a child support

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59 obligation for current support resulting from a single support  
60 order.

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

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

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

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

83 2. Calculate the percentage of overnight stays the child  
84 spends with each parent.

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

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

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

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

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

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

113 (c) A parent's failure to regularly exercise the time-  
114 sharing schedule set forth in the parenting plan, a court-  
115 ordered or agreed time-sharing schedule, or a time-sharing  
116 arrangement exercised by agreement of the parties not caused by

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117 the other parent which resulted in the adjustment of the amount  
118 of child support pursuant to subparagraph (a)10. or paragraph  
119 (b) shall be deemed a substantial change of circumstances for  
120 purposes of modifying the child support award. A modification  
121 pursuant to this paragraph is retroactive to the date the  
122 noncustodial parent first failed to regularly exercise the  
123 court-ordered or agreed time-sharing schedule.

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

126 90.204 Determination of propriety of judicial notice and  
127 nature of matter noticed.-

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

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

142 741.30 Domestic violence; injunction; powers and duties of  
143 court and clerk; petition; notice and hearing; temporary  
144 injunction; issuance of injunction; statewide verification  
145 system; enforcement; public records exemption.-

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146 (5)

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

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

162 784.046 Action by victim of repeat violence, sexual  
163 violence, or dating violence for protective injunction; dating  
164 violence investigations, notice to victims, and reporting;  
165 pretrial release violations; public records exemption.—

166 (6)

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

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

174 784.0485 Stalking; injunction; powers and duties of court

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175 and clerk; petition; notice and hearing; temporary injunction;  
176 issuance of injunction; statewide verification system;  
177 enforcement.—

178 (5)

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

192 Section 6. This act shall take effect July 1, 2014.