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LEGISLATIVE ACTION

Senate

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House

Senator Polsky moved the following:

Senate Amendment (with title amendment)

Before line 46

insert:

Section 1. Subsection (1) of section 61.13, Florida
Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing;
powers of court.—

(1)(a) In a proceeding under this chapter, the court may at
any time order either or both parents who owe a duty of support
to a child to pay support to the other parent or, in the case of



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both parents, to a third party who has custody in accordance with the child support guidelines schedule in s. 61.30. Child support payments may be ordered under this section for an unborn child beginning at conception. If the paternity of the obligor is disputed, the court must await the outcome of the paternity proceeding before ordering child support payments and must award child support retroactive to the date of conception.

1. All child support orders and income deduction orders entered on or after October 1, 2010, must provide:

a. For child support to terminate on a child's 18th birthday unless the court finds or previously found that s. 743.07(2) applies, or is otherwise agreed to by the parties;

b. A schedule, based on the record existing at the time of the order, stating the amount of the monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more of the children are no longer entitled to receive child support; and

c. The month, day, and year that the reduction or termination of child support becomes effective.

2. The court initially entering an order requiring one or both parents to make child support payments has continuing jurisdiction after the entry of the initial order to modify the amount and terms and conditions of the child support payments if the modification is found by the court to be in the best interests of the child; when the child reaches majority; if there is a substantial change in the circumstances of the parties; if s. 743.07(2) applies; or when a child is emancipated, marries, joins the armed services, or dies. For



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41 child support orders involving unborn children, the court shall
42 review and shall, if appropriate, modify the amount and terms
43 and conditions of child support payments when the child is born.
44 The court initially entering a child support order has
45 continuing jurisdiction to require the obligee to report to the
46 court on terms prescribed by the court regarding the disposition
47 of the child support payments.

48 (b) Each order for support must provide ~~shall contain a~~
49 ~~provision~~ for health insurance for the minor child when health
50 insurance is reasonable in cost and accessible to the child. For
51 child support orders involving unborn children, the order must
52 provide for health insurance coverage for the pregnant woman for
53 at least the duration of the pregnancy and for any related
54 postpartum care needed immediately after the child is born.

55 Health insurance is presumed to be reasonable in cost if the
56 incremental cost of adding health insurance for the child or
57 children does not exceed 5 percent of the gross income, as
58 defined in s. 61.30, of the parent responsible for providing
59 health insurance. Health insurance is accessible to the child if
60 the health insurance is available to be used in the county of
61 the child's primary residence or in another county if the parent
62 who has the most time under the time-sharing plan agrees. If the
63 time-sharing plan provides for equal time-sharing, health
64 insurance is accessible to the child if the health insurance is
65 available to be used in either county where the child resides or
66 in another county if both parents agree. The court may require
67 the obligor to provide health insurance or to reimburse the
68 obligee for the cost of health insurance for the minor child
69 when insurance is provided by the obligee. The presumption of



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reasonable cost may be rebutted by evidence of any of the factors in s. 61.30(11)(a). The court may deviate from what is presumed reasonable in cost only upon a written finding explaining its determination why ordering or not ordering the provision of health insurance or the reimbursement of the obligee's cost for providing health insurance for the minor child would be unjust or inappropriate. In any event, the court shall apportion the cost of health insurance, and any noncovered medical, dental, and prescription medication expenses of the child, to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). The court may order that payment of noncovered medical, dental, and prescription medication expenses of the minor child be made directly to the obligee on a percentage basis. In a proceeding for medical support only, each parent's share of the child's noncovered medical expenses shall equal the parent's percentage share of the combined net income of the parents. The percentage share shall be calculated by dividing each parent's net monthly income by the combined monthly net income of both parents. Net income is calculated as specified by s. 61.30(3) and (4).

1. In a non-Title IV-D case, a copy of the court order for health insurance shall be served on the obligor's union or employer by the obligee when the following conditions are met:

a. The obligor fails to provide written proof to the obligee within 30 days after receiving effective notice of the court order that the health insurance has been obtained or that application for health insurance has been made;

b. The obligee serves written notice of intent to enforce an order for health insurance on the obligor by mail at the



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obligor's last known address; and

c. The obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee that the health insurance existed as of the date of mailing.

2.a. A support order enforced under Title IV-D of the Social Security Act which requires that the obligor provide health insurance is enforceable by the department through the use of the national medical support notice, and an amendment to the support order is not required. The department shall transfer the national medical support notice to the obligor's union or employer. The department shall notify the obligor in writing that the notice has been sent to the obligor's union or employer, and the written notification must include the obligor's rights and duties under the national medical support notice. The obligor may contest the withholding required by the national medical support notice based on a mistake of fact. To contest the withholding, the obligor must file a written notice of contest with the department within 15 business days after the date the obligor receives written notification of the national medical support notice from the department. Filing with the department is complete when the notice is received by the person designated by the department in the written notification. The notice of contest must be in the form prescribed by the department. Upon the timely filing of a notice of contest, the department shall, within 5 business days, schedule an informal conference with the obligor to discuss the obligor's factual dispute. If the informal conference resolves the dispute to the obligor's satisfaction or if the obligor fails to attend the informal conference, the notice of contest is deemed withdrawn.



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If the informal conference does not resolve the dispute, the obligor may request an administrative hearing under chapter 120 within 5 business days after the termination of the informal conference, in a form and manner prescribed by the department. However, the filing of a notice of contest by the obligor does not delay the withholding of premium payments by the union, employer, or health plan administrator. The union, employer, or health plan administrator must implement the withholding as directed by the national medical support notice unless notified by the department that the national medical support notice is terminated.

b. In a Title IV-D case, the department shall notify an obligor's union or employer if the obligation to provide health insurance through that union or employer is terminated.

3. In a non-Title IV-D case, upon receipt of the order pursuant to subparagraph 1., or upon application of the obligor pursuant to the order, the union or employer shall enroll the minor child as a beneficiary in the group health plan regardless of any restrictions on the enrollment period and withhold any required premium from the obligor's income. If more than one plan is offered by the union or employer, the child shall be enrolled in the group health plan in which the obligor is enrolled.

4.a. Upon receipt of the national medical support notice under subparagraph 2. in a Title IV-D case, the union or employer shall transfer the notice to the appropriate group health plan administrator within 20 business days after the date on the notice. The plan administrator must enroll the child as a beneficiary in the group health plan regardless of any



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restrictions on the enrollment period, and the union or employer must withhold any required premium from the obligor's income upon notification by the plan administrator that the child is enrolled. The child shall be enrolled in the group health plan in which the obligor is enrolled. If the group health plan in which the obligor is enrolled is not available where the child resides or if the obligor is not enrolled in group coverage, the child shall be enrolled in the lowest cost group health plan that is accessible to the child.

b. If health insurance or the obligor's employment is terminated in a Title IV-D case, the union or employer that is withholding premiums for health insurance under a national medical support notice must notify the department within 20 days after the termination and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

5.a. The amount withheld by a union or employer in compliance with a support order may not exceed the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended. The union or employer shall withhold the maximum allowed by the Consumer Credit Protection Act in the following order:

(I) Current support, as ordered.

(II) Premium payments for health insurance, as ordered.

(III) Past due support, as ordered.

(IV) Other medical support or insurance, as ordered.

b. If the combined amount to be withheld for current support plus the premium payment for health insurance exceed the amount allowed under the Consumer Credit Protection Act, and the



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health insurance cannot be obtained unless the full amount of the premium is paid, the union or employer may not withhold the premium payment. However, the union or employer shall withhold the maximum allowed in the following order:

(I) Current support, as ordered.

(II) Past due support, as ordered.

(III) Other medical support or insurance, as ordered.

6. An employer, union, or plan administrator who does not comply with the requirements in sub-subparagraph 4.a. is subject to a civil penalty not to exceed \$250 for the first violation and \$500 for subsequent violations, plus attorney's fees and costs. The department may file a petition in circuit court to enforce the requirements of this subparagraph.

7. The department may adopt rules to administer the child support enforcement provisions of this section that affect Title IV-D cases.

(c) To the extent necessary to protect an award of child support, the court may order the obligor to purchase or maintain a life insurance policy or a bond, or to otherwise secure the child support award with any other assets which may be suitable for that purpose.

(d)1. All child support orders must ~~shall~~ provide the full name and date of birth of each minor child who is the subject of the child support order. For child support orders involving unborn children, the order must specify that the order is for the benefit of an unborn child and include the name of the pregnant woman carrying the unborn child.

2. If both parties request and the court finds that it is in the best interest of the child, support payments need not be



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subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181 or made payable directly to the obligee. Payments made by immediate income deduction shall be made to the State Disbursement Unit. The court shall provide a copy of the order to the depository.

3. For support orders payable directly to the obligee, any party may subsequently file an affidavit with the depository alleging a default in payment of child support and stating that the party wishes to require that payments be made through the depository. The party shall provide copies of the affidavit to the court and to each other party. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be paid through the depository, except that payments in Title IV-D cases and income deduction payments shall be made to the State Disbursement Unit. In Title IV-D cases, an affidavit of default or a default in payments is not required to receive depository services. Upon notice by the department that it is providing Title IV-D services in a case with an existing support order, the depository shall transmit case data through, and set up appropriate payment accounts in, regardless of whether there is a delinquency, the Clerk of the Court Child Support Enforcement Collection System as required under s. 61.181(2)(b).

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Between lines 2 and 3
insert:



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amending s. 61.13, F.S.; providing that a court may
order child support payments for unborn children
beginning at conception; requiring the court to await
the outcome of paternity proceedings in disputed
paternity cases before ordering child support
payments; providing for retroactive child support
payments under certain circumstances; requiring the
court to review and, if appropriate, modify child
support orders involving unborn children when the
child is born; requiring that child support orders
involving unborn children include health insurance
coverage for the pregnant woman for a specified time;
requiring that child support orders involving unborn
children include specified information;