

By Senator Soto

14-01021A-13

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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 as a factor in the adjustment of awards of  
5       child support; amending s. 90.204, F.S.; authorizing  
6       the court in family cases to take judicial notice of  
7       certain court records without prior notice to the  
8       parties when imminent danger to persons or property  
9       has been alleged and it is impractical to give prior  
10      notice; providing for a deferred opportunity to  
11      present evidence; requiring a notice of such judicial  
12      notice having been taken to be filed within a  
13      specified period; providing that term "family cases"  
14      has the same meaning as provided in the Rules of  
15      Judicial Administration; amending ss. 741.30, 784.046,  
16      and 784.0485, F.S.; creating an exception to a  
17      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:

25  
26       Section 1. Paragraphs (a) and (b) of subsection (11) of  
27       section 61.30, Florida Statutes, are amended to read:

28       61.30 Child support guidelines; retroactive child support.-  
29       (11) (a) The court may adjust the total minimum child

14-01021A-13

20131210\_\_

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

14-01021A-13

20131210

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

61 10. The particular parenting plan, court-ordered time-  
62 sharing schedule, or particular time-sharing schedule exercised  
63 by 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, court-ordered  
75 time-sharing schedule, or particular time-sharing schedule  
76 exercised by agreement of the parties provides that each child  
77 spend a substantial amount of time with each parent, the court  
78 shall 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.

14-01021A-13

20131210\_\_

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 granted by the court, and whether all of the children are  
106 exercising the same time-sharing schedule.

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

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

113           90.204 Determination of propriety of judicial notice and  
114 nature of matter noticed.—

115           (4) In family cases, the court may take judicial notice of  
116 any matter described in s. 90.202(6) when imminent danger to

14-01021A-13

20131210

117 persons or property has been alleged and it is impractical to  
118 give prior notice to the parties of the intent to take judicial  
119 notice. Opportunity to present evidence relevant to the  
120 propriety of taking judicial notice under subsection (1) may be  
121 deferred until after judicial action has been taken. If judicial  
122 notice is taken under this subsection, the court shall, within 2  
123 business days, file a notice in the pending case of the matters  
124 judicially noticed. For purposes of this subsection, the term  
125 "family cases" has the same meaning as provided in the Rules of  
126 Judicial Administration.

127 Section 3. Paragraph (b) of subsection (5) of section  
128 741.30, Florida Statutes, is amended to read:

129 741.30 Domestic violence; injunction; powers and duties of  
130 court and clerk; petition; notice and hearing; temporary  
131 injunction; issuance of injunction; statewide verification  
132 system; enforcement; public records exemption.—

133 (5)

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

14-01021A-13

20131210\_\_

146 petition consistent with the Florida Rules of Civil Procedure.

147 Section 4. Paragraph (b) of subsection (6) of section  
148 784.046, Florida Statutes, is amended to read:

149 784.046 Action by victim of repeat violence, sexual  
150 violence, or dating violence for protective injunction; dating  
151 violence investigations, notice to victims, and reporting;  
152 pretrial release violations; public records exemption.—

153 (6)

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

159 Section 5. Paragraph (a) of subsection (5) of section  
160 784.0485, Florida Statutes, is amended to read:

161 784.0485 Stalking; injunction; powers and duties of court  
162 and clerk; petition; notice and hearing; temporary injunction;  
163 issuance of injunction; statewide verification system;  
164 enforcement.—

165 (5)

166 (b) Except as provided in s. 90.204, in a hearing ex parte  
167 for the purpose of obtaining such ex parte temporary injunction,  
168 evidence other than verified pleadings or affidavits may not be  
169 used as evidence, unless the respondent appears at the hearing  
170 or has received reasonable notice of the hearing. A denial of a  
171 petition for an ex parte injunction shall be by written order  
172 noting the legal grounds for denial. If the only ground for  
173 denial is no appearance of an immediate and present danger of  
174 stalking, the court shall set a full hearing on the petition for

14-01021A-13

20131210\_\_

175 injunction with notice at the earliest possible time. This  
176 paragraph does not affect a petitioner's right to promptly amend  
177 any petition, or otherwise be heard in person on any petition  
178 consistent with the Florida Rules of Civil Procedure.

179 Section 6. This act shall take effect July 1, 2013.