

By Senator Campbell

38-01146-17

2017702__

1 A bill to be entitled
2 An act relating to child support; amending s. 61.13,
3 F.S.; requiring a court to suspend an order requiring
4 a parent to pay child support under certain
5 circumstances; amending s. 61.14, F.S.; requiring a
6 court to suspend an order requiring a parent to pay
7 child support and to deny an order of contempt under
8 certain circumstances; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Paragraph (a) of subsection (1) of section
13 61.13, Florida Statutes, is amended to read:

14 61.13 Support of children; parenting and time-sharing;
15 powers of court.—

16 (1) (a) In a proceeding under this chapter, the court may at
17 any time order either or both parents who owe a duty of support
18 to a child to pay support to the other parent or, in the case of
19 both parents, to a third party who has custody in accordance
20 with the child support guidelines schedule in s. 61.30.

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

23 a. For child support to terminate on a child's 18th
24 birthday unless the court finds or previously found that s.
25 743.07(2) applies, or is otherwise agreed to by the parties;

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

32 c. The month, day, and year that the reduction or

38-01146-17

2017702__

33 termination of child support becomes effective.

34 2. The court initially entering an order requiring one or
35 both parents to make child support payments has continuing
36 jurisdiction after the entry of the initial order to modify the
37 amount and terms and conditions of the child support payments if
38 the modification is found by the court to be in the best
39 interests of the child; when the child reaches majority; if
40 there is a substantial change in the circumstances of the
41 parties; if s. 743.07(2) applies; or when a child is
42 emancipated, marries, joins the armed services, or dies. The
43 court initially entering a child support order has continuing
44 jurisdiction to require the obligee to report to the court on
45 terms prescribed by the court regarding the disposition of the
46 child support payments.

47 3. The court shall suspend an order requiring a parent to
48 make child support payments while such parent is involuntarily
49 unemployed as a result of his or her incarceration lasting
50 longer than 30 days. The suspension must continue for at least
51 30 days after such parent is released from incarceration.

52 Section 2. Paragraph (a) of subsection (1) and paragraph
53 (a) of subsection (5) of section 61.14, Florida Statutes, are
54 amended to read:

55 61.14 Enforcement and modification of support, maintenance,
56 or alimony agreements or orders.—

57 (1) (a) When the parties enter into an agreement for
58 payments for, or instead of, support, maintenance, or alimony,
59 whether in connection with a proceeding for dissolution or
60 separate maintenance or with any voluntary property settlement,
61 or when a party is required by court order to make any payments,

38-01146-17

2017702__

62 and the circumstances or the financial ability of either party
63 changes or the child who is a beneficiary of an agreement or
64 court order as described herein reaches majority after the
65 execution of the agreement or the rendition of the order, either
66 party may apply to the circuit court of the circuit in which the
67 parties, or either of them, resided at the date of the execution
68 of the agreement or reside at the date of the application, or in
69 which the agreement was executed or in which the order was
70 rendered, for an order decreasing or increasing the amount of
71 support, maintenance, or alimony, and the court has jurisdiction
72 to make orders as equity requires, with due regard to the
73 changed circumstances or the financial ability of the parties or
74 the child, decreasing, increasing, or confirming the amount of
75 separate support, maintenance, or alimony provided for in the
76 agreement or order. A finding that medical insurance is
77 reasonably available or the child support guidelines schedule in
78 s. 61.30 may constitute changed circumstances. The court shall
79 suspend an order requiring a parent to make child support
80 payments while such parent is involuntarily unemployed as a
81 result of his or her incarceration lasting longer than 30 days.
82 The suspension must continue for at least 30 days after such
83 parent is released from incarceration. Except as otherwise
84 provided in s. 61.30(11)(c), the court may modify an order of
85 support, maintenance, or alimony by increasing or decreasing the
86 support, maintenance, or alimony retroactively to the date of
87 the filing of the action or supplemental action for modification
88 as equity requires, giving due regard to the changed
89 circumstances or the financial ability of the parties or the
90 child.

38-01146-17

2017702__

91 (5) (a) When a court of competent jurisdiction enters an
92 order for the payment of alimony or child support or both, the
93 court shall make a finding of the obligor's imputed or actual
94 present ability to comply with the order. If the obligor
95 subsequently fails to pay alimony or support and a contempt
96 hearing is held, the original order of the court creates a
97 presumption that the obligor has the present ability to pay the
98 alimony or support and to purge himself or herself from the
99 contempt. At the contempt hearing, the obligor shall have the
100 burden of proof to show that he or she lacks the ability to
101 purge himself or herself from the contempt. This presumption is
102 adopted as a presumption under s. 90.302(2) to implement the
103 public policy of this state that children shall be maintained
104 from the resources of their parents and as provided for in s.
105 409.2551, and that spouses be maintained as provided for in s.
106 61.08. The court shall state in its order the reasons for
107 granting or denying the contempt. The court shall deny the
108 contempt if the obligor failed to make child support payments
109 while he or she was involuntary unemployed as a result of his or
110 her incarceration lasting longer than 30 days or during the 30
111 days after the obligor was released from incarceration.

112 Section 3. This act shall take effect July 1, 2017.