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LEGISLATIVE ACTION

Senate

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House

Senator Polsky moved the following:

Senate Amendment (with title amendment)

Before line 45

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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12 both parents, to a third party who has custody in accordance
13 with the child support guidelines schedule in s. 61.30. Child
14 support may be ordered under this section for an unborn child
15 beginning at the gestational age of 15 weeks. If paternity of
16 the obligor is disputed, the court must await the outcome of the
17 paternity proceeding before ordering child support payments and
18 must award child support retroactive to the date when the
19 gestational age of the unborn child was 15 weeks.

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

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

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

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

33 2. The court initially entering an order requiring one or
34 both parents to make child support payments has continuing
35 jurisdiction after the entry of the initial order to modify the
36 amount and terms and conditions of the child support payments if
37 the modification is found by the court to be in the best
38 interests of the child; when the child reaches majority; if
39 there is a substantial change in the circumstances of the
40 parties; if s. 743.07(2) applies; or when a child is



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

49 (b) Each order for support shall contain a provision for
50 health insurance for the minor child when health insurance is
51 reasonable in cost and accessible to the child. For child
52 support orders involving unborn children, the provision for
53 health insurance must include coverage for the pregnant woman
54 for the duration of the pregnancy and any related postpartum
55 care needed immediately after the child is born. Health
56 insurance is presumed to be reasonable in cost if the
57 incremental cost of adding health insurance for the child or
58 children does not exceed 5 percent of the gross income, as
59 defined in s. 61.30, of the parent responsible for providing
60 health insurance. Health insurance is accessible to the child if
61 the health insurance is available to be used in the county of
62 the child's primary residence or in another county if the parent
63 who has the most time under the time-sharing plan agrees. If the
64 time-sharing plan provides for equal time-sharing, health
65 insurance is accessible to the child if the health insurance is
66 available to be used in either county where the child resides or
67 in another county if both parents agree. The court may require
68 the obligor to provide health insurance or to reimburse the
69 obligee for the cost of health insurance for the minor child



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

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

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

98 b. The obligee serves written notice of intent to enforce



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99 an order for health insurance on the obligor by mail at the
100 obligor's last known address; and

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

104 2.a. A support order enforced under Title IV-D of the
105 Social Security Act which requires that the obligor provide
106 health insurance is enforceable by the department through the
107 use of the national medical support notice, and an amendment to
108 the support order is not required. The department shall transfer
109 the national medical support notice to the obligor's union or
110 employer. The department shall notify the obligor in writing
111 that the notice has been sent to the obligor's union or
112 employer, and the written notification must include the
113 obligor's rights and duties under the national medical support
114 notice. The obligor may contest the withholding required by the
115 national medical support notice based on a mistake of fact. To
116 contest the withholding, the obligor must file a written notice
117 of contest with the department within 15 business days after the
118 date the obligor receives written notification of the national
119 medical support notice from the department. Filing with the
120 department is complete when the notice is received by the person
121 designated by the department in the written notification. The
122 notice of contest must be in the form prescribed by the
123 department. Upon the timely filing of a notice of contest, the
124 department shall, within 5 business days, schedule an informal
125 conference with the obligor to discuss the obligor's factual
126 dispute. If the informal conference resolves the dispute to the
127 obligor's satisfaction or if the obligor fails to attend the



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

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

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

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



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157 beneficiary in the group health plan regardless of any
158 restrictions on the enrollment period, and the union or employer
159 must withhold any required premium from the obligor's income
160 upon notification by the plan administrator that the child is
161 enrolled. The child shall be enrolled in the group health plan
162 in which the obligor is enrolled. If the group health plan in
163 which the obligor is enrolled is not available where the child
164 resides or if the obligor is not enrolled in group coverage, the
165 child shall be enrolled in the lowest cost group health plan
166 that is accessible to the child.

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

174 5.a. The amount withheld by a union or employer in
175 compliance with a support order may not exceed the amount
176 allowed under s. 303(b) of the Consumer Credit Protection Act,
177 15 U.S.C. s. 1673(b), as amended. The union or employer shall
178 withhold the maximum allowed by the Consumer Credit Protection
179 Act in the following order:

- 180 (I) Current support, as ordered.
- 181 (II) Premium payments for health insurance, as ordered.
- 182 (III) Past due support, as ordered.
- 183 (IV) Other medical support or insurance, as ordered.

184 b. If the combined amount to be withheld for current
185 support plus the premium payment for health insurance exceed the



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186 amount allowed under the Consumer Credit Protection Act, and the
187 health insurance cannot be obtained unless the full amount of
188 the premium is paid, the union or employer may not withhold the
189 premium payment. However, the union or employer shall withhold
190 the maximum allowed in the following order:

191 (I) Current support, as ordered.

192 (II) Past due support, as ordered.

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

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

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

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

208 (d)1. All child support orders shall provide the full name
209 and date of birth of each minor child who is the subject of the
210 child support order. For child support orders involving unborn
211 children, the order shall specify that the order is for the
212 benefit of an unborn child and include the gestational age and
213 intended full name, if any, of the unborn child.

214 2. If both parties request and the court finds that it is



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215 in the best interest of the child, support payments need not be
216 subject to immediate income deduction. Support orders that are
217 not subject to immediate income deduction may be directed
218 through the depository under s. 61.181 or made payable directly
219 to the obligee. Payments made by immediate income deduction
220 shall be made to the State Disbursement Unit. The court shall
221 provide a copy of the order to the depository.

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

240
241 ===== T I T L E A M E N D M E N T =====

242 And the title is amended as follows:

243 Delete line 3



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244 and insert:
245 mortality; amending s. 61.13, F.S.; providing that
246 child support may be ordered for unborn children
247 beginning at a specified gestational age; requiring
248 the court to await the outcome of paternity
249 proceedings in disputed paternity cases before
250 ordering child support payments; providing for
251 retroactive child support payments under certain
252 circumstances; requiring the court to review and
253 modify, if appropriate, child support orders involving
254 unborn children when the child is born; requiring
255 child support orders involving unborn children to
256 include health insurance coverage for the pregnant
257 woman for a specified time; requiring that child
258 support orders involving unborn children include
259 specified information; amending s. 381.84, F.S.;
260 revising the