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LEGISLATIVE ACTION

Senate

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House

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03/02/2022 04:59 PM

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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