

CHAPTER 2014-35

Committee Substitute for Committee Substitute for House Bill No. 755

An act relating to the courts; amending s. 61.30, F.S.; providing for consideration of time-sharing schedules or time-sharing arrangements as a factor in the adjustment of awards of child support; amending s. 90.204, F.S.; authorizing judges in family cases to take judicial notice of certain court records without prior notice to the parties when imminent danger to persons or property has been alleged and it is impractical to give prior notice; providing for a deferred opportunity to present evidence; requiring a notice of taking such judicial notice to be filed within a specified period; providing that the term “family cases” has the same meaning as provided in the Rules of Judicial Administration; amending s. 454.021, F.S.; authorizing the Supreme Court to admit a bar applicant who is an unauthorized immigrant under certain circumstances; amending ss. 741.30, 784.046, and 784.0485, F.S.; creating an exception to a prohibition against using evidence other than the verified pleading or affidavit in an ex parte hearing for a temporary injunction for protection against domestic violence, repeat violence, sexual violence, dating violence, or stalking; providing an effective date.

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

Section 1. Subsection (11) of section 61.30, Florida Statutes, is amended to read:

61.30 Child support guidelines; retroactive child support.—

(11)(a) The court may adjust the total minimum child support award, or either or both parents’ share of the total minimum child support award, based upon the following deviation factors:

1. Extraordinary medical, psychological, educational, or dental expenses.
2. Independent income of the child, not to include moneys received by a child from supplemental security income.
3. The payment of support for a parent which has been regularly paid and for which there is a demonstrated need.
4. Seasonal variations in one or both parents’ incomes or expenses.
5. The age of the child, taking into account the greater needs of older children.
6. Special needs, such as costs that may be associated with the disability of a child, that have traditionally been met within the family budget even

though fulfilling those needs will cause the support to exceed the presumptive amount established by the guidelines.

7. Total available assets of the obligee, obligor, and the child.

8. The impact of the Internal Revenue Service Child & Dependent Care Tax Credit, Earned Income Tax Credit, and dependency exemption and waiver of that exemption. The court may order a parent to execute a waiver of the Internal Revenue Service dependency exemption if the paying parent is current in support payments.

9. An application of the child support guidelines schedule that requires a person to pay another person more than 55 percent of his or her gross income for a child support obligation for current support resulting from a single support order.

10. The particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, such as where the child spends a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child.

11. Any other adjustment that is needed to achieve an equitable result which may include, but not be limited to, a reasonable and necessary existing expense or debt. Such expense or debt may include, but is not limited to, a reasonable and necessary expense or debt that the parties jointly incurred during the marriage.

(b) Whenever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:

1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.

2. Calculate the percentage of overnight stays the child spends with each parent.

3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.

4. The difference between the amounts calculated in subparagraph 3. shall be the monetary transfer necessary between the parents for the care of the child, subject to an adjustment for day care and health insurance expenses.

5. Pursuant to subsections (7) and (8), calculate the net amounts owed by each parent for the expenses incurred for day care and health insurance coverage for the child.

6. Adjust the support obligation owed by each parent pursuant to subparagraph 4. by crediting or debiting the amount calculated in subparagraph 5. This amount represents the child support which must be exchanged between the parents.

7. The court may deviate from the child support amount calculated pursuant to subparagraph 6. based upon the deviation factors in paragraph (a), as well as the obligee parent's low income and ability to maintain the basic necessities of the home for the child, the likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties granted by the court, and whether all of the children are exercising the same time-sharing schedule.

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

(c) A parent's failure to regularly exercise the time-sharing schedule set forth in the parenting plan, a court-ordered or agreed time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties not caused by the other parent which resulted in the adjustment of the amount of child support pursuant to subparagraph (a)10. or paragraph (b) shall be deemed a substantial change of circumstances for purposes of modifying the child support award. A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.

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

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

(4) In family cases, the court may take judicial notice of any matter described in s. 90.202(6) when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under subsection (1) may be deferred until after judicial action has been taken. If judicial notice is taken under this subsection, the court shall, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of this subsection, the term "family cases" has the same meaning as provided in the Rules of Judicial Administration.

Section 3. Subsection (3) is added to section 454.021, Florida Statutes, to read:

454.021 Attorneys; admission to practice law; Supreme Court to govern and regulate.—

(3) Upon certification by the Florida Board of Bar Examiners that an applicant who is an unauthorized immigrant who was brought to the United States as a minor; has been present in the United States for more than 10 years; has received documented employment authorization from the United States Citizenship and Immigration Services (USCIS); has been issued a social security number; if a male, has registered with the Selective Service System if required to do so under the Military Selective Service Act, 50 U.S.C. App. 453; and has fulfilled all requirements for admission to practice law in this state, the Supreme Court of Florida may admit that applicant as an attorney at law authorized to practice in this state and may direct an order be entered upon the court's records to that effect.

Section 4. Paragraph (b) of subsection (5) of section 741.30, Florida Statutes, is amended to read:

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

(5)

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

Section 5. Paragraph (b) of subsection (6) of section 784.046, Florida Statutes, is amended to read:

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

(6)

(b) Except as provided in s. 90.204, in a hearing ex parte for the purpose of obtaining such temporary injunction, no evidence other than the verified

pleading or affidavit shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing.

Section 6. Paragraph (b) of subsection (5) of section 784.0485, Florida Statutes, is amended to read:

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

(5)

(b) Except as provided in s. 90.204, in a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, evidence other than verified pleadings or affidavits may not be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. If the only ground for denial is no appearance of an immediate and present danger of stalking, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. This paragraph does not affect a petitioner’s right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.