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The 2016 Florida Statutes

Title VI
CIVIL PRACTICE AND PROCEDURE

Chapter 61
DISSOLUTION OF MARRIAGE; SUPPORT; TIME-SHARING

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CHAPTER 61
DISSOLUTION OF MARRIAGE; SUPPORT; TIME-SHARING

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61.001 Purpose of chapter.—

(1) This chapter shall be liberally construed and applied.

(2) Its purposes are:

(a) To preserve the integrity of marriage and to safeguard meaningful family relationships;

(b) To promote the amicable settlement of disputes that arise between parties to a marriage; and

(c) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage.

History.—s. 1, ch. 71-241; s. 111, ch. 86-220.

61.011 Dissolution in chancery.—Proceedings under this chapter are in chancery.

History.—s. 1, Oct. 31, 1828; RS 1477; GS 1925; RGS 3188; CGL 4980; s. 2, ch. 29737, 1955; s. 16, ch. 67-254; s. 2, ch. 71-241.

Note.—Former s. 65.01.

61.021 Residence requirements.—To obtain a dissolution of marriage, one of the parties to the marriage must reside 6 months in the state before the filing of the petition.

History.—s. 1, ch. 522, 1853; RS 1478; s. 1, ch. 4726, 1899; GS 1926; RGS 3189; CGL 4981; s. 1, ch. 16009, 1933; s. 1, ch. 16975, 1935; s. 1, ch. 57-44; s. 1, ch. 57-1974; s. 16, ch. 67-254; s. 3, ch. 71-241; s. 112, ch. 86-220.

Note.—Former s. 65.02.

61.031 Dissolution of marriage to be a vinculo.—No dissolution of marriage is from bed and board, but is from bonds of matrimony.

History.—s. 3, Feb. 14, 1835; RS 1479; GS 1927; RGS 3190; CGL 4982; s. 16, ch. 67-254; s. 4, ch. 71-241.

Note.—Former s. 65.03.

61.0401 Application of the law of a foreign country in courts relating to matters arising out of or relating to this chapter and chapter 88.—

(1) As used in this section, the term "strong public policy" means public policy of sufficient importance to outweigh the policy of protecting freedom of contract.

(2) A court may not enforce:

(a) A choice of law provision in a contract selecting the law of a foreign country which contravenes the strong public policy of this state or that is unjust or unreasonable.

(b) A forum selection clause in a contract that selects a forum in a foreign country if the clause is shown to be unreasonable or unjust or if strong public policy would prohibit the enforceability of the clause under the specific facts of the case.

(3) Before enforcing a judgment or order of a court of a foreign country, a court must review the judgment or order to ensure that it complies with the rule of comity. A judgment or order of a court of a foreign country is not entitled to comity if the parties were not given adequate notice and the opportunity to be heard, the foreign court did not have jurisdiction, or the judgment or order of the foreign court offends the public policy of this state. As used in this subsection, a "foreign court" or "court of a foreign country" includes any court or tribunal that has jurisdiction under the laws of that nation over the subject of matters governed by this chapter or chapter 88.

(4) Any attempt to apply the law of a foreign country is void if it contravenes the strong public policy of this state or if the law is unjust or unreasonable.

(5) A trial court may not dismiss an action on the grounds that a satisfactory remedy may be more conveniently sought in a foreign country unless the trial court finds in accordance with all the applicable rules of civil procedure and this section that an adequate alternate forum exists.

(6) This section applies only to matters governed by or relating to this chapter or chapter 88.

The purpose of this section is to codify existing case law, and that intent should guide the interpretation of this section.

History.—s. 1, ch. 2014-10.

61.043 Commencement of a proceeding for dissolution of marriage or for alimony and child support; dissolution questionnaire.—

(1) A proceeding for dissolution of marriage or a proceeding under s. 61.09 shall be commenced by filing in the circuit court a petition entitled "In re the marriage of , husband, and , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

(2) Upon filing for dissolution of marriage, the petitioner must complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire. For purposes of anonymity, completed questionnaires must be kept in a separate file for later distribution by the clerk to researchers from the Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from the Florida State University Center for Marriage and Family at their request. The actual questionnaire shall be formulated by researchers from Florida State University who shall distribute them to the clerk of the circuit court in each county.

History.—s. 5, ch. 71-241; s. 11, ch. 98-403.

61.044 Certain existing defenses abolished.—The defenses to divorce and legal separation of condonation, collusion, recrimination, and laches are abolished.

History.—s. 6, ch. 71-241.

61.046 Definitions.—As used in this chapter, the term:

(1) "Business day" means any day other than a Saturday, Sunday, or legal holiday.

(2) "Clerk of Court Child Support Collection System" or "CLERC System" means the automated system established pursuant to s. 61.181(2)(b)1., integrating all clerks of court and depositories and through which payment data and State Case Registry data is transmitted to the department's automated child support enforcement system.

(3) "Department" means the Department of Revenue.

(4) "Depository" means the central governmental depository established pursuant to s. 61.181, created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions and to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments not otherwise required to be processed by the State Disbursement Unit.

(5) "Electronic communication" means contact, other than face-to-face contact, facilitated by tools such as telephones, electronic mail or e-mail, webcams, video-conferencing equipment and software or other wired or wireless technologies, or other means of communication to supplement face-to-face contact between a parent and that parent's minor child.

(6) "Federal Case Registry of Child Support Orders" means the automated registry of support order abstracts and other information established and maintained by the United States Department of Health and Human Services as provided by 42 U.S.C. s. 653(h).

(7) "Health insurance" means coverage under a fee-for-service arrangement, health maintenance organization, or preferred provider organization, and other types of coverage available to either parent, under which medical services could be provided to a dependent child.

(8) "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and reemployment assistance or unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of establishing an amount of support.

(9) "IV-D" means services provided pursuant to Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq.

(10) "Local officer" means an elected or appointed constitutional or charter government official including,

but not limited to, the state attorney and clerk of the circuit court.

(11) "National medical support notice" means the notice required under 42 U.S.C. s. 666(a)(19).

(12) "Obligee" means the person to whom payments are made pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(13) "Obligor" means a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(14) "Parenting plan" means a document created to govern the relationship between the parents relating to decisions that must be made regarding the minor child and must contain a time-sharing schedule for the parents and child. The issues concerning the minor child may include, but are not limited to, the child's education, health care, and physical, social, and emotional well-being. In creating the plan, all circumstances between the parents, including their historic relationship, domestic violence, and other factors must be taken into consideration.

(a) The parenting plan must be:

1. Developed and agreed to by the parents and approved by a court; or

2. Established by the court, with or without the use of a court-ordered parenting plan recommendation, if the parents cannot agree to a plan or the parents agreed to a plan that is not approved by the court.

(b) Any parenting plan formulated under this chapter must address all jurisdictional issues, including the Uniform Child Custody Jurisdiction and Enforcement Act, part II of this chapter, the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the Parental Kidnapping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980.

(c) For purposes of the Uniform Child Custody Jurisdiction and Enforcement Act, part II of this chapter, a judgment or order incorporating a parenting plan under this part is a child custody determination under part II of this chapter.

(d) For purposes of the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., and the Convention on the Civil Aspects of International Child Abduction, enacted at the Hague on October 25, 1980, rights of custody and rights of access are determined pursuant to the parenting plan under this part.

(15) "Parenting plan recommendation" means a nonbinding recommendation concerning one or more elements of a parenting plan made by a court-appointed mental health practitioner or other professional designated pursuant to s. 61.20, s. 61.401, or Florida Family Law Rules of Procedure 12.363.

(16) "Payor" means an employer or former employer or any other person or agency providing or administering income to the obligor.

(17) "Shared parental responsibility" means a court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their child and in which both parents confer with each other so that major decisions affecting the welfare of the child will be determined jointly.

(18) "Sole parental responsibility" means a court-ordered relationship in which one parent makes decisions regarding the minor child.

(19) "State Case Registry" means the automated registry maintained by the Title IV-D agency, containing records of each Title IV-D case and of each support order established or modified in the state on or after October 1, 1998. Such records shall consist of data elements as required by the United States Secretary of Health and Human Services.

(20) "State Disbursement Unit" means the unit established and operated by the Title IV-D agency to provide one central address for collection and disbursement of child support payments made in cases enforced by the department pursuant to Title IV-D of the Social Security Act and in cases not being enforced by the department in which the support order was initially issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction order.

(21) "Support order" means a judgment, decree, or order, whether temporary or final, issued by a court of

competent jurisdiction or administrative agency for the support and maintenance of a child which provides for monetary support, health care, arrearages, or past support. When the child support obligation is being enforced by the Department of Revenue, the term "support order" also means a judgment, decree, or order, whether temporary or final, issued by a court of competent jurisdiction for the support and maintenance of a child and the spouse or former spouse of the obligor with whom the child is living which provides for monetary support, health care, arrearages, or past support.

(22) "Support," unless otherwise specified, means:

(a) Child support and, when the child support obligation is being enforced by the Department of Revenue, spousal support or alimony for the spouse or former spouse of the obligor with whom the child is living.

(b) Child support only in cases not being enforced by the Department of Revenue.

(23) "Time-sharing schedule" means a timetable that must be included in the parenting plan that specifies the time, including overnights and holidays, that a minor child will spend with each parent. The time-sharing schedule shall be:

(a) Developed and agreed to by the parents of a minor child and approved by the court; or

(b) Established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court.

History.—s. 113, ch. 86-220; s. 1, ch. 92-138; s. 1, ch. 93-188; s. 59, ch. 93-268; s. 8, ch. 94-124; s. 1363, ch. 95-147; s. 3, ch. 96-183; s. 1, ch. 97-170; s. 41, ch. 98-397; s. 2, ch. 2001-158; s. 1, ch. 2002-173; s. 1, ch. 2004-334; s. 1, ch. 2007-179; s. 2, ch. 2008-61; s. 1, ch. 2009-90; s. 1, ch. 2009-180; s. 36, ch. 2012-30.

61.052 Dissolution of marriage.—

(1) No judgment of dissolution of marriage shall be granted unless one of the following facts appears, which shall be pleaded generally:

(a) The marriage is irretrievably broken.

(b) Mental incapacity of one of the parties. However, no dissolution shall be allowed unless the party alleged to be incapacitated shall have been adjudged incapacitated according to the provisions of s. 744.331 for a preceding period of at least 3 years. Notice of the proceeding for dissolution shall be served upon one of the nearest blood relatives or guardian of the incapacitated person, and the relative or guardian shall be entitled to appear and to be heard upon the issues. If the incapacitated party has a general guardian other than the party bringing the proceeding, the petition and summons shall be served upon the incapacitated party and the guardian; and the guardian shall defend and protect the interests of the incapacitated party. If the incapacitated party has no guardian other than the party bringing the proceeding, the court shall appoint a guardian ad litem to defend and protect the interests of the incapacitated party. However, in all dissolutions of marriage granted on the basis of incapacity, the court may require the petitioner to pay alimony pursuant to the provisions of s. 61.08.

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met which may be corroborated by a valid Florida driver license, a Florida voter's registration card, a valid Florida identification card issued under s. 322.051, or the testimony or affidavit of a third party, the court shall dispose of the petition for dissolution of marriage when the petition is based on the allegation that the marriage is irretrievably broken as follows:

(a) If there is no minor child of the marriage and if the responding party does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there is a minor child of the marriage, or when the responding party denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person deemed qualified by the court and acceptable to the party or parties ordered

to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor child of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

(3) During any period of continuance, the court may make appropriate orders for the support and alimony of the parties; the parenting plan, support, maintenance, and education of the minor child of the marriage; attorney's fees; and the preservation of the property of the parties.

(4) A judgment of dissolution of marriage shall result in each spouse having the status of being single and unmarried. No judgment of dissolution of marriage renders the child of the marriage a child born out of wedlock.

(5) The court may enforce an antenuptial agreement to arbitrate a dispute in accordance with the law and tradition chosen by the parties.

(6) Any injunction for protection against domestic violence arising out of the dissolution of marriage proceeding shall be issued as a separate order in compliance with chapter 741 and shall not be included in the judgment of dissolution of marriage.

(7) In the initial pleading for a dissolution of marriage as a separate attachment to the pleading, each party is required to provide his or her social security number and the full names and social security numbers of each of the minor children of the marriage.

(8) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Each party is also required to provide the full name, date of birth, and social security number for each minor child of the marriage. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

History.—s. 7, ch. 71-241; s. 26, ch. 73-333; s. 38, ch. 81-259; s. 1, ch. 86-150; s. 114, ch. 86-220; s. 1, ch. 89-61; s. 107, ch. 89-96; s. 1, ch. 91-246; s. 2, ch. 93-188; s. 4, ch. 96-183; s. 1, ch. 96-392; s. 2, ch. 97-170; s. 3, ch. 97-242; s. 12, ch. 98-403; s. 1, ch. 99-375; s. 3, ch. 2008-61.

61.061 Proceedings against nonresidents.—Proceedings may be brought against persons residing out of the state.

History.—s. 1, Feb. 4, 1833; RS 1482; GS 1930; RGS 3193; CGL 4985; s. 2, ch. 29737, 1955; s. 16, ch. 67-254; s. 8, ch. 71-241.

Note.—Former s. 65.06.

61.071 Alimony pendente lite; suit money.—In every proceeding for dissolution of the marriage, a party may claim alimony and suit money in the petition or by motion, and if the petition is well founded, the court shall allow a reasonable sum therefor. If a party in any proceeding for dissolution of marriage claims alimony or suit money in his or her answer or by motion, and the answer or motion is well founded, the court shall allow a reasonable sum therefor.

History.—ss. 1, 2, ch. 3581, 1885; RS 1483; GS 1931; RGS 3194; CGL 4986; s. 2, ch. 29737, 1955; s. 16, ch. 67-254; s. 9, ch. 71-241; s. 319, ch. 95-147.

Note.—Former s. 65.07.

61.075 Equitable distribution of marital assets and liabilities.—

(1) In a proceeding for dissolution of marriage, in addition to all other remedies available to a court to do equity between the parties, or in a proceeding for disposition of assets following a dissolution of marriage by a court which lacked jurisdiction over the absent spouse or lacked jurisdiction to dispose of the assets, the court

shall set apart to each spouse that spouse's nonmarital assets and liabilities, and in distributing the marital assets and liabilities between the parties, the court must begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all relevant factors, including:

(a) The contribution to the marriage by each spouse, including contributions to the care and education of the children and services as homemaker.

(b) The economic circumstances of the parties.

(c) The duration of the marriage.

(d) Any interruption of personal careers or educational opportunities of either party.

(e) The contribution of one spouse to the personal career or educational opportunity of the other spouse.

(f) The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference by the other party.

(g) The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities to, both the marital assets and the nonmarital assets of the parties.

(h) The desirability of retaining the marital home as a residence for any dependent child of the marriage, or any other party, when it would be equitable to do so, it is in the best interest of the child or that party, and it is financially feasible for the parties to maintain the residence until the child is emancipated or until exclusive possession is otherwise terminated by a court of competent jurisdiction. In making this determination, the court shall first determine if it would be in the best interest of the dependent child to remain in the marital home; and, if not, whether other equities would be served by giving any other party exclusive use and possession of the marital home.

(i) The intentional dissipation, waste, depletion, or destruction of marital assets after the filing of the petition or within 2 years prior to the filing of the petition.

(j) Any other factors necessary to do equity and justice between the parties.

(2) If the court awards a cash payment for the purpose of equitable distribution of marital assets, to be paid in full or in installments, the full amount ordered shall vest when the judgment is awarded and the award shall not terminate upon remarriage or death of either party, unless otherwise agreed to by the parties, but shall be treated as a debt owed from the obligor or the obligor's estate to the obligee or the obligee's estate, unless otherwise agreed to by the parties.

(3) In any contested dissolution action wherein a stipulation and agreement has not been entered and filed, any distribution of marital assets or marital liabilities shall be supported by factual findings in the judgment or order based on competent substantial evidence with reference to the factors enumerated in subsection (1). The distribution of all marital assets and marital liabilities, whether equal or unequal, shall include specific written findings of fact as to the following:

(a) Clear identification of nonmarital assets and ownership interests;

(b) Identification of marital assets, including the individual valuation of significant assets, and designation of which spouse shall be entitled to each asset;

(c) Identification of the marital liabilities and designation of which spouse shall be responsible for each liability;

(d) Any other findings necessary to advise the parties or the reviewing court of the trial court's rationale for the distribution of marital assets and allocation of liabilities.

(4) The judgment distributing assets shall have the effect of a duly executed instrument of conveyance, transfer, release, or acquisition which is recorded in the county where the property is located when the judgment, or a certified copy of the judgment, is recorded in the official records of the county in which the property is located.

(5) If the court finds good cause that there should be an interim partial distribution during the pendency of a

dissolution action, the court may enter an interim order that shall identify and value the marital and nonmarital assets and liabilities made the subject of the sworn motion, set apart those nonmarital assets and liabilities, and provide for a partial distribution of those marital assets and liabilities. An interim order may be entered at any time after the date the dissolution of marriage is filed and served and before the final distribution of marital and nonmarital assets and marital and nonmarital liabilities.

(a) Such an interim order shall be entered only upon good cause shown and upon sworn motion establishing specific factual basis for the motion. The motion may be filed by either party and shall demonstrate good cause why the matter should not be deferred until the final hearing.

(b) The court shall specifically take into account and give appropriate credit for any partial distribution of marital assets or liabilities in its final allocation of marital assets or liabilities. Further, the court shall make specific findings in any interim order under this section that any partial distribution will not cause inequity or prejudice to either party as to either party's claims for support or attorney's fees.

(c) Any interim order partially distributing marital assets or liabilities as provided in this subsection shall be pursuant to and comport with the factors in subsections (1) and (3) as such factors pertain to the assets or liabilities made the subject of the sworn motion.

(d) As used in this subsection, the term "good cause" means extraordinary circumstances that require an interim partial distribution.

(6) As used in this section:

(a)1. "Marital assets and liabilities" include:

a. Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them.

b. The enhancement in value and appreciation of nonmarital assets resulting either from the efforts of either party during the marriage or from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both.

c. Interspousal gifts during the marriage.

d. All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.

2. All real property held by the parties as tenants by the entireties, whether acquired prior to or during the marriage, shall be presumed to be a marital asset. If, in any case, a party makes a claim to the contrary, the burden of proof shall be on the party asserting the claim that the subject property, or some portion thereof, is nonmarital.

3. All personal property titled jointly by the parties as tenants by the entireties, whether acquired prior to or during the marriage, shall be presumed to be a marital asset. In the event a party makes a claim to the contrary, the burden of proof shall be on the party asserting the claim that the subject property, or some portion thereof, is nonmarital.

4. The burden of proof to overcome the gift presumption shall be by clear and convincing evidence.

(b) "Nonmarital assets and liabilities" include:

1. Assets acquired and liabilities incurred by either party prior to the marriage, and assets acquired and liabilities incurred in exchange for such assets and liabilities;

2. Assets acquired separately by either party by noninterspousal gift, bequest, devise, or descent, and assets acquired in exchange for such assets;

3. All income derived from nonmarital assets during the marriage unless the income was treated, used, or relied upon by the parties as a marital asset;

4. Assets and liabilities excluded from marital assets and liabilities by valid written agreement of the parties, and assets acquired and liabilities incurred in exchange for such assets and liabilities; and

5. Any liability incurred by forgery or unauthorized signature of one spouse signing the name of the other

spouse. Any such liability shall be a nonmarital liability only of the party having committed the forgery or having affixed the unauthorized signature. In determining an award of attorney's fees and costs pursuant to s. 61.16, the court may consider forgery or an unauthorized signature by a party and may make a separate award for attorney's fees and costs occasioned by the forgery or unauthorized signature. This subparagraph does not apply to any forged or unauthorized signature that was subsequently ratified by the other spouse.

(7) The cut-off date for determining assets and liabilities to be identified or classified as marital assets and liabilities is the earliest of the date the parties enter into a valid separation agreement, such other date as may be expressly established by such agreement, or the date of the filing of a petition for dissolution of marriage. The date for determining value of assets and the amount of liabilities identified or classified as marital is the date or dates as the judge determines is just and equitable under the circumstances. Different assets may be valued as of different dates, as, in the judge's discretion, the circumstances require.

(8) All assets acquired and liabilities incurred by either spouse subsequent to the date of the marriage and not specifically established as nonmarital assets or liabilities are presumed to be marital assets and liabilities. Such presumption is overcome by a showing that the assets and liabilities are nonmarital assets and liabilities. The presumption is only for evidentiary purposes in the dissolution proceeding and does not vest title. Title to disputed assets shall vest only by the judgment of a court. This section does not require the joinder of spouses in the conveyance, transfer, or hypothecation of a spouse's individual property; affect the laws of descent and distribution; or establish community property in this state.

(9) The court may provide for equitable distribution of the marital assets and liabilities without regard to alimony for either party. After the determination of an equitable distribution of the marital assets and liabilities, the court shall consider whether a judgment for alimony shall be made.

(10) To do equity between the parties, the court may, in lieu of or to supplement, facilitate, or effectuate the equitable division of marital assets and liabilities, order a monetary payment in a lump sum or in installments paid over a fixed period of time.

(11) Special equity is abolished. All claims formerly identified as special equity, and all special equity calculations, are abolished and shall be asserted either as a claim for unequal distribution of marital property and resolved by the factors set forth in subsection (1) or as a claim of enhancement in value or appreciation of nonmarital property.

History.—s. 1, ch. 88-98; s. 2, ch. 91-246; s. 3, ch. 93-188; s. 1, ch. 94-204; s. 1, ch. 96-305; s. 1, ch. 2002-244; s. 1, ch. 2008-46.

61.076 Distribution of retirement plans upon dissolution of marriage.—

(1) All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs are marital assets subject to equitable distribution.

(2) If the parties were married for at least 10 years, during which at least one of the parties who was a member of the federal uniformed services performed at least 10 years of creditable service, and if the division of marital property includes a division of uniformed services retired or retainer pay, the final judgment shall include the following:

(a) Sufficient information to identify the member of the uniformed services;

(b) Certification that the Servicemembers Civil Relief Act was observed if the decree was issued while the member was on active duty and was not represented in court;

(c) A specification of the amount of retired or retainer pay to be distributed pursuant to the order, expressed in dollars or as a percentage of the disposable retired or retainer pay.

(3) An order which provides for distribution of retired or retainer pay from the federal uniformed services shall not provide for payment from this source more frequently than monthly and shall not require the payor to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with the order.

History.—s. 3, ch. 88-98; s. 5, ch. 2007-5.

61.077 Determination of entitlement to setoffs or credits upon sale of marital home.—A party is not entitled to any credits or setoffs upon the sale of the marital home unless the parties' settlement agreement, final judgment of dissolution of marriage, or final judgment equitably distributing assets or debts specifically provides that certain credits or setoffs are allowed or given at the time of the sale. In the absence of a settlement agreement involving the marital home, the court shall consider the following factors before determining the issue of credits or setoffs in its final judgment:

(1) Whether exclusive use and possession of the marital home is being awarded, and the basis for the award;

(2) Whether alimony is being awarded to the party in possession and whether the alimony is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;

(3) Whether child support is being awarded to the party in possession and whether the child support is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;

(4) The value to the party in possession of the use and occupancy of the marital home;

(5) The value of the loss of use and occupancy of the marital home to the party out of possession;

(6) Which party will be entitled to claim the mortgage interest payments, real property tax payments, and related payments in connection with the marital home as tax deductions for federal income tax purposes;

(7) Whether one or both parties will experience a capital gains taxable event as a result of the sale of the marital home; and

(8) Any other factor necessary to bring about equity and justice between the parties.

History.—s. 1, ch. 97-249.

61.079 Premarital agreements.—

(1) SHORT TITLE.—This section may be cited as the "Uniform Premarital Agreement Act" and this section applies only to proceedings under the Florida Family Law Rules of Procedure.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(b) "Property" includes, but is not limited to, an interest, present or future, legal or equitable, vested or contingent, in real or personal property, tangible or intangible, including income and earnings, both active and passive.

(3) FORMALITIES.—A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration other than the marriage itself.

(4) CONTENT.—

(a) Parties to a premarital agreement may contract with respect to:

1. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

2. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

3. The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

4. The establishment, modification, waiver, or elimination of spousal support;

5. The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

6. The ownership rights in and disposition of the death benefit from a life insurance policy;

7. The choice of law governing the construction of the agreement; and

8. Any other matter, including their personal rights and obligations, not in violation of either the public policy of this state or a law imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

(5) EFFECT OF MARRIAGE.—A premarital agreement becomes effective upon marriage of the parties.

(6) AMENDMENT; REVOCATION OR ABANDONMENT.—After marriage, a premarital agreement may be amended, revoked, or abandoned only by a written agreement signed by the parties. The amended agreement, revocation, or abandonment is enforceable without consideration.

(7) ENFORCEMENT.—

(a) A premarital agreement is not enforceable in an action proceeding under the Florida Family Law Rules of Procedure if the party against whom enforcement is sought proves that:

1. The party did not execute the agreement voluntarily;

2. The agreement was the product of fraud, duress, coercion, or overreaching; or

3. The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

a. Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

b. Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

c. Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

(8) ENFORCEMENT; VOID MARRIAGE.—If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

(9) LIMITATION OF ACTIONS.—Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

(10) APPLICATION TO PROBATE CODE.—This section does not alter the construction, interpretation, or required formalities of, or the rights or obligations under, agreements between spouses under s. 732.701 or s. 732.702.

History.—s. 1, ch. 2007-171.

61.08 Alimony.—

(1) In a proceeding for dissolution of marriage, the court may grant alimony to either party, which alimony may be bridge-the-gap, rehabilitative, durational, or permanent in nature or any combination of these forms of alimony. In any award of alimony, the court may order periodic payments or payments in lump sum or both. The court may consider the adultery of either spouse and the circumstances thereof in determining the amount of alimony, if any, to be awarded. In all dissolution actions, the court shall include findings of fact relative to the factors enumerated in subsection (2) supporting an award or denial of alimony.

(2) In determining whether to award alimony or maintenance, the court shall first make a specific factual determination as to whether either party has an actual need for alimony or maintenance and whether either party has the ability to pay alimony or maintenance. If the court finds that a party has a need for alimony or maintenance and that the other party has the ability to pay alimony or maintenance, then in determining the proper type and amount of alimony or maintenance under subsections (5)-(8), the court shall consider all relevant factors, including, but not limited to:

(a) The standard of living established during the marriage.

(b) The duration of the marriage.

(c) The age and the physical and emotional condition of each party.

(d) The financial resources of each party, including the nonmarital and the marital assets and liabilities distributed to each.

(e) The earning capacities, educational levels, vocational skills, and employability of the parties and, when applicable, the time necessary for either party to acquire sufficient education or training to enable such party to find appropriate employment.

(f) The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party.

(g) The responsibilities each party will have with regard to any minor children they have in common.

(h) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a nontaxable, nondeductible payment.

(i) All sources of income available to either party, including income available to either party through investments of any asset held by that party.

(j) Any other factor necessary to do equity and justice between the parties.

(3) To the extent necessary to protect an award of alimony, the court may order any party who is ordered to pay alimony to purchase or maintain a life insurance policy or a bond, or to otherwise secure such alimony award with any other assets which may be suitable for that purpose.

(4) For purposes of determining alimony, there is a rebuttable presumption that a short-term marriage is a marriage having a duration of less than 7 years, a moderate-term marriage is a marriage having a duration of greater than 7 years but less than 17 years, and long-term marriage is a marriage having a duration of 17 years or greater. The length of a marriage is the period of time from the date of marriage until the date of filing of an action for dissolution of marriage.

(5) Bridge-the-gap alimony may be awarded to assist a party by providing support to allow the party to make a transition from being married to being single. Bridge-the-gap alimony is designed to assist a party with legitimate identifiable short-term needs, and the length of an award may not exceed 2 years. An award of bridge-the-gap alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award of bridge-the-gap alimony shall not be modifiable in amount or duration.

(6)(a) Rehabilitative alimony may be awarded to assist a party in establishing the capacity for self-support through either:

1. The redevelopment of previous skills or credentials; or

2. The acquisition of education, training, or work experience necessary to develop appropriate employment skills or credentials.

(b) In order to award rehabilitative alimony, there must be a specific and defined rehabilitative plan which shall be included as a part of any order awarding rehabilitative alimony.

(c) An award of rehabilitative alimony may be modified or terminated in accordance with s. 61.14 based upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the rehabilitative plan.

(7) Durational alimony may be awarded when permanent periodic alimony is inappropriate. The purpose of durational alimony is to provide a party with economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis. An award of durational alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. The amount of an award of durational alimony may be modified or terminated based upon a substantial change in circumstances in accordance with s. 61.14. However, the length of an award of durational alimony may not be modified except under exceptional circumstances and may not

exceed the length of the marriage.

(8) Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage. Permanent alimony may be awarded following a marriage of long duration if such an award is appropriate upon consideration of the factors set forth in subsection (2), following a marriage of moderate duration if such an award is appropriate based upon clear and convincing evidence after consideration of the factors set forth in subsection (2), or following a marriage of short duration if there are written findings of exceptional circumstances. In awarding permanent alimony, the court shall include a finding that no other form of alimony is fair and reasonable under the circumstances of the parties. An award of permanent alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award may be modified or terminated based upon a substantial change in circumstances or upon the existence of a supportive relationship in accordance with s. 61.14.

(9) The award of alimony may not leave the payor with significantly less net income than the net income of the recipient unless there are written findings of exceptional circumstances.

(10)(a) With respect to any order requiring the payment of alimony entered on or after January 1, 1985, unless the provisions of paragraph (c) or paragraph (d) apply, the court shall direct in the order that the payments of alimony be made through the appropriate depository as provided in s. 61.181.

(b) With respect to any order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance, on or after that date, of one or both parties before the court having jurisdiction for the purpose of modifying or enforcing the order or in any other proceeding related to the order, or upon the application of either party, unless the provisions of paragraph (c) or paragraph (d) apply, the court shall modify the terms of the order as necessary to direct that payments of alimony be made through the appropriate depository as provided in s. 61.181.

(c) If there is no minor child, alimony payments need not be directed through the depository.

(d)1. If there is a minor child of the parties and both parties so request, the court may order that alimony payments need not be directed through the depository. In this case, the order of support shall provide, or be deemed to provide, that either party may subsequently apply to the depository to require that payments be made through the depository. The court shall provide a copy of the order to the depository.

2. If the provisions of subparagraph 1. apply, either party may subsequently file with the depository an affidavit alleging default or arrearages in payment and stating that the party wishes to initiate participation in the depository program. The party shall provide copies of the affidavit to the court and the other party or parties. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be directed to the depository.

3. In IV-D cases, the IV-D agency shall have the same rights as the obligee in requesting that payments be made through the depository.

History.—ss. 7, 12, Oct. 31, 1828; RS 1484; GS 1932; RGS 3195; CGL 4987; s. 1, ch. 23894, 1947; s. 1, ch. 63-145; s. 16, ch. 67-254; s. 10, ch. 71-241; s. 1, ch. 78-339; s. 1, ch. 84-110; s. 115, ch. 86-220; s. 2. ch. 88-98; s. 3, ch. 91-246; s. 1, ch. 2010-199; s. 79, ch. 2011-92.

Note.—Former s. 65.08.

61.09 Alimony and child support unconnected with dissolution.—If a person having the ability to contribute to the maintenance of his or her spouse and support of his or her minor child fails to do so, the spouse who is not receiving support may apply to the court for alimony and for support for the child without seeking dissolution of marriage, and the court shall enter an order as it deems just and proper.

History.—ss. 1, 2, ch. 3581, 1885; RS 1485; GS 1933; RGS 3196; CGL 4988; s. 2, ch. 29737, 1955; s. 1, ch. 65-498; s. 16, ch. 67-254; s. 11, ch. 71-241; s. 116, ch. 86-220; s. 320, ch. 95-147; s. 4, ch. 2008-61.

Note.—Former s. 65.09.

61.10 Adjudication of obligation to support spouse or minor child unconnected with dissolution; parenting plan.—Except when relief is afforded by some other pending civil action or proceeding, a spouse residing in this state apart from his or her spouse and minor child, whether or not such separation is through his or her fault, may obtain an adjudication of obligation to maintain the spouse and minor child, if any. The court shall adjudicate his or her financial obligations to the spouse and child and shall establish the parenting plan for the parties. Such an action does not preclude either party from maintaining any other proceeding under this chapter for other or additional relief at any time.

History.—s. 1, ch. 61-112; s. 16, ch. 67-254; s. 12, ch. 71-241; s. 117, ch. 86-220; s. 321, ch. 95-147; s. 5, ch. 2008-61.

Note.—Former s. 65.101.

61.11 Writs.—

(1) When either party is about to remove himself or herself or his or her property out of the state, or fraudulently convey or conceal it, the court may award a ne exeat or injunction against the party or the property and make such orders as will secure alimony or support to the party who should receive it.

(2)(a) When the court issues a writ of bodily attachment in connection with a court-ordered support obligation, the writ or attachment to the writ must include, at a minimum, such information on the respondent's physical description and location as is required for entry of the writ into the Florida Crime Information Center telecommunications system and authorization for the assessment and collection of the actual costs associated with the service of the writ and transportation of the respondent in compliance thereof. The writ shall direct that service and execution of the writ may be made on any day of the week and any time of the day or night.

(b) The clerk of the court shall forward a copy of the writ for service to the sheriff of the county in which the writ is issued.

(c) Upon receipt of a writ from the clerk of the court, the sheriff shall enter the information on any unserved writ into the Florida Crime Information Center telecommunications system to make the information available to other law enforcement agencies within the state. The writ shall be enforceable in all counties of the state.

(d) Upon receipt of the purge payment, the receiving agency shall provide the subject with a written receipt acknowledging such payment, which must be carried on the person of the respondent for a period of at least 30 days from the date of payment as proof of such payment. A sheriff receiving such payment shall forward the funds to the sheriff who entered the information about the writ into the Florida Crime Information Center telecommunications system and who shall forward the funds to the appropriate clerk of court.

(e) After a writ is modified, purged, recalled, terminated, or otherwise rendered ineffective by ruling of the court, the clerk of the court shall notify the sheriff receiving the original writ. That agency shall modify or cancel the entry in the Florida Crime Information Center telecommunications system in accordance with such notification.

History.—s. 13, Oct. 31, 1828; RS 1487; GS 1935; RGS 3198; CGL 4990; s. 16, ch. 67-254; s. 13, ch. 71-241; s. 2, ch. 92-138; s. 322, ch. 95-147; s. 52, ch. 96-175; s. 1, ch. 96-190; s. 3, ch. 2001-158.

Note.—Former s. 65.11.

61.12 Attachment or garnishment of amounts due for alimony or child support.—

(1) So much as the court orders of the money or other things due to any person or public officer, state or county, whether the head of a family residing in this state or not, when the money or other thing is due for the personal labor or service of the person or otherwise, is subject to attachment or garnishment to enforce and satisfy the orders and judgments of the court of this state for alimony, suit money, or child support, or other orders in proceedings for dissolution, alimony, or child support; when the money or other thing sought to be attached or garnisheed is the salary of a public officer, state or county, the writ of attachment or garnishment shall be served on the public officer whose duty it is to pay the salary, who shall obey the writ as provided by

law in other cases. It is the duty of the officer to notify the public officer whose duty it is to audit or issue a warrant for the salary sought to be attached immediately upon service of the writ. A warrant for as much of the salary as is ordered held under the writ shall not issue except pursuant to court order unless the writ is dissolved. No more of the salary shall be retained by virtue of the writ than is provided for in the order.

(2) The provisions of chapter 77 or any other provision of law to the contrary notwithstanding, the court may issue a continuing writ of garnishment to an employer to enforce the order of the court for periodic payment of alimony or child support or both. The writ may provide that the salary of any person having a duty of support pursuant to such order be garnisheed on a periodic and continuing basis for so long as the court may determine or until otherwise ordered by the court or a court of competent jurisdiction in a further proceeding. Any disciplinary action against the employee by an employer to whom a writ is issued pursuant to this section solely because such writ is in effect constitutes a contempt of court, and the court may enter such order as it deems just and proper.

History.—s. 1, ch. 4973, 1901; GS 1937; s. 10, ch. 7838, 1919; RGS 3200; CGL 4992; s. 16, ch. 67-254; s. 14, ch. 71-241; s. 1, ch. 77-26; s. 1, ch. 78-63; s. 2, ch. 84-110; s. 1, ch. 84-135.

Note.—Former s. 65.13.

61.122 Parenting plan recommendation; presumption of psychologist's good faith; prerequisite to parent's filing suit; award of fees, costs, reimbursement.—

(1) A psychologist who has been appointed by the court to develop a parenting plan recommendation in a dissolution of marriage, a case of domestic violence, or a paternity matter involving the relationship of a child and a parent, including time-sharing of children, is presumed to be acting in good faith if the psychologist's recommendation has been reached under standards that a reasonable psychologist would use to develop a parenting plan recommendation.

(2) An administrative complaint against a court-appointed psychologist which relates to a parenting plan recommendation conducted by the psychologist may not be filed anonymously. The individual who files an administrative complaint must include in the complaint his or her name, address, and telephone number.

(3) A parent who desires to file a legal action against a court-appointed psychologist who has acted in good faith in developing a parenting plan recommendation must petition the judge who presided over the dissolution of marriage, case of domestic violence, or paternity matter involving the relationship of a child and a parent, including time-sharing of children, to appoint another psychologist. Upon the parent's showing of good cause, the court shall appoint another psychologist. The court shall determine who is responsible for all court costs and attorney's fees associated with making such an appointment.

(4) If a legal action, whether it be a civil action, a criminal action, or an administrative proceeding, is filed against a court-appointed psychologist in a dissolution of marriage, case of domestic violence, or paternity matter involving the relationship of a child and a parent, including time-sharing of children, the claimant is responsible for all reasonable costs and reasonable attorney's fees associated with the action for both parties if the psychologist is held not liable. If the psychologist is held liable in civil court, the psychologist must pay all reasonable costs and reasonable attorney's fees for the claimant.

History.—s. 1, ch. 2003-112; s. 7, ch. 2008-61; s. 4, ch. 2009-21.

61.125 Parenting coordination.—

(1) PURPOSE.—The purpose of parenting coordination is to provide a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations, and, with the prior approval of the parents and the court, making limited decisions within the scope of the court's order of referral.

(2) REFERRAL.—In any action in which a judgment or order has been sought or entered adopting, establishing, or modifying a parenting plan, except for a domestic violence proceeding under chapter 741, and

upon agreement of the parties, the court's own motion, or the motion of a party, the court may appoint a parenting coordinator and refer the parties to parenting coordination to assist in the resolution of disputes concerning their parenting plan.

(3) DOMESTIC VIOLENCE ISSUES.—

(a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party's consent. The court must determine whether each party's consent has been given freely and voluntarily.

(b) In determining whether there has been a history of domestic violence, the court shall consider whether a party has committed an act of domestic violence as defined s. 741.28, or child abuse as defined in s. 39.01, against the other party or any member of the other party's family; engaged in a pattern of behaviors that exert power and control over the other party and that may compromise the other party's ability to negotiate a fair result; or engaged in behavior that leads the other party to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. The court shall consider and evaluate all relevant factors, including, but not limited to, the factors listed in s. 741.30(6)(b).

(c) If there is a history of domestic violence, the court shall order safeguards to protect the safety of the participants, including, but not limited to, adherence to all provisions of an injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings.

(4) QUALIFICATIONS OF A PARENTING COORDINATOR.—A parenting coordinator is an impartial third person whose role is to assist the parents in successfully creating or implementing a parenting plan. Unless there is a written agreement between the parties, the court may appoint only a qualified parenting coordinator.

(a) To be qualified, a parenting coordinator must:

1. Meet one of the following professional requirements:

a. Be licensed as a mental health professional under chapter 490 or chapter 491.

b. Be licensed as a physician under chapter 458, with certification by the American Board of Psychiatry and Neurology.

c. Be certified by the Florida Supreme Court as a family law mediator, with at least a master's degree in a mental health field.

d. Be a member in good standing of The Florida Bar.

2. Complete all of the following:

a. Three years of postlicensure or postcertification practice.

b. A family mediation training program certified by the Florida Supreme Court.

c. A minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.

(b) The court may require additional qualifications to address issues specific to the parties.

(c) A qualified parenting coordinator must be in good standing, or in clear and active status, with his or her respective licensing authority, certification board, or both, as applicable.

(5) DISQUALIFICATIONS OF PARENTING COORDINATOR.—

(a) The court may not appoint a person to serve as parenting coordinator who, in any jurisdiction:

1. Has been convicted or had adjudication withheld on a charge of child abuse, child neglect, domestic violence, parental kidnapping, or interference with custody;

2. Has been found by a court in a child protection hearing to have abused, neglected, or abandoned a child;

3. Has consented to an adjudication or a withholding of adjudication on a petition for dependency; or

4. Is or has been a respondent in a final order or injunction of protection against domestic violence.

(b) A parenting coordinator must discontinue service as a parenting coordinator and immediately report to the court and the parties if any of the disqualifying circumstances described in paragraph (a) occur, or if he or she no longer meets the minimum qualifications in subsection (4), and the court may appoint another parenting coordinator.

(6) FEES FOR PARENTING COORDINATION.—The court shall determine the allocation of fees and costs for parenting coordination between the parties. The court may not order the parties to parenting coordination without their consent unless it determines that the parties have the financial ability to pay the parenting coordination fees and costs.

(a) In determining if a nonindigent party has the financial ability to pay the parenting coordination fees and costs, the court shall consider the party's financial circumstances, including income, assets, liabilities, financial obligations, resources, and whether paying the fees and costs would create a substantial hardship.

(b) If a party is found to be indigent based upon the factors in s. 57.082, the court may not order the party to parenting coordination unless public funds are available to pay the indigent party's allocated portion of the fees and costs or the nonindigent party consents to paying all of the fees and costs.

(7) CONFIDENTIALITY.—Except as otherwise provided in this section, all communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator and each party designated in the order appointing the coordinator may not testify or offer evidence about communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions, except if:

(a) Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination;

(b) The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party or the parenting coordinator;

(c) The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment;

(d) The parenting coordinator reports that the case is no longer appropriate for parenting coordination;

(e) The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed;

(f) The testimony or evidence is necessary pursuant to paragraph (5)(b) or subsection (8);

(g) The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed;

(h) The parties agree that the testimony or evidence be permitted; or

(i) The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence under chapter 741; child abuse, neglect, or abandonment under chapter 39; or abuse, neglect, or exploitation of an elderly or disabled adult under chapter 825.

(8) REPORT OF EMERGENCY TO COURT.—

(a) A parenting coordinator must immediately inform the court by affidavit or verified report without notice to the parties of an emergency situation if:

1. There is a reasonable cause to suspect that a child will suffer or is suffering abuse, neglect, or abandonment as provided under chapter 39;

2. There is a reasonable cause to suspect a vulnerable adult has been or is being abused, neglected, or exploited as provided under chapter 415;

3. A party, or someone acting on a party's behalf, is expected to wrongfully remove or is wrongfully removing the child from the jurisdiction of the court without prior court approval or compliance with the

requirements of s. 61.13001. If the parenting coordinator suspects that the parent has relocated within the state to avoid domestic violence, the coordinator may not disclose the location of the parent and child unless required by court order.

(b) Upon such information and belief, a parenting coordinator shall immediately inform the court by affidavit or verified report and serve a copy on each party of an emergency in which a party obtains a final order or injunction of protection against domestic violence or is arrested for an act of domestic violence as provided under chapter 741.

(9) LIMITATION ON LIABILITY.—A parenting coordinator appointed by the court is not liable for civil damages for any act or omission in the scope of his or her duties pursuant to an order of referral unless such person acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.

History.—s. 2, ch. 2009-180.

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 both parents, to a third party who has custody in accordance with the child support guidelines schedule in s. 61.30.

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

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

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

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

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

(b) Each order for support shall contain a provision for health insurance for the minor child when health insurance is reasonable in cost and accessible to the child. Health insurance is presumed to be reasonable in cost if the incremental cost of adding health insurance for the child or children does not exceed 5 percent of the gross income, as defined in s. 61.30, of the parent responsible for providing health insurance. Health insurance is accessible to the child if the health insurance is available to be used in the county of the child's primary residence or in another county if the parent who has the most time under the time-sharing plan agrees. If the time-sharing plan provides for equal time-sharing, health insurance is accessible to the child if the health insurance is available to be used in either county where the child resides or in another county if both parents agree. The court may require the obligor to provide health insurance or to reimburse the obligee for the cost of health insurance for the minor child when insurance is provided by the obligee. The presumption of reasonable cost may be rebutted by evidence of any of the factors in s. 61.30(11)(a). The court may deviate from what is presumed reasonable in cost only upon a written finding explaining its determination why ordering or not ordering the provision of health insurance or the reimbursement of the obligee's cost for providing health insurance for the minor child would be unjust or inappropriate. In any event, the court shall apportion the cost of health insurance, and any noncovered medical, dental, and prescription medication expenses of the child, to

both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). The court may order that payment of noncovered medical, dental, and prescription medication expenses of the minor child be made directly to the obligee on a percentage basis. In a proceeding for medical support only, each parent's share of the child's noncovered medical expenses shall equal the parent's percentage share of the combined net income of the parents. The percentage share shall be calculated by dividing each parent's net monthly income by the combined monthly net income of both parents. Net income is calculated as specified by s. 61.30(3) and (4).

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

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

b. The obligee serves written notice of intent to enforce an order for health insurance on the obligor by mail at the obligor's last known address; and

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

2.a. A support order enforced under Title IV-D of the Social Security Act which requires that the obligor provide health insurance is enforceable by the department through the use of the national medical support notice, and an amendment to the support order is not required. The department shall transfer the national medical support notice to the obligor's union or employer. The department shall notify the obligor in writing that the notice has been sent to the obligor's union or employer, and the written notification must include the obligor's rights and duties under the national medical support notice. The obligor may contest the withholding required by the national medical support notice based on a mistake of fact. To contest the withholding, the obligor must file a written notice of contest with the department within 15 business days after the date the obligor receives written notification of the national medical support notice from the department. Filing with the department is complete when the notice is received by the person designated by the department in the written notification. The notice of contest must be in the form prescribed by the department. Upon the timely filing of a notice of contest, the department shall, within 5 business days, schedule an informal conference with the obligor to discuss the obligor's factual dispute. If the informal conference resolves the dispute to the obligor's satisfaction or if the obligor fails to attend the informal conference, the notice of contest is deemed withdrawn. If the informal conference does not resolve the dispute, the obligor may request an administrative hearing under chapter 120 within 5 business days after the termination of the informal conference, in a form and manner prescribed by the department. However, the filing of a notice of contest by the obligor does not delay the withholding of premium payments by the union, employer, or health plan administrator. The union, employer, or health plan administrator must implement the withholding as directed by the national medical support notice unless notified by the department that the national medical support notice is terminated.

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

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

4.a. Upon receipt of the national medical support notice under subparagraph 2. in a Title IV-D case, the union or employer shall transfer the notice to the appropriate group health plan administrator within 20 business days after the date on the notice. The plan administrator must enroll the child as a beneficiary in the group health plan regardless of any restrictions on the enrollment period, and the union or employer must withhold

any required premium from the obligor's income upon notification by the plan administrator that the child is enrolled. The child shall be enrolled in the group health plan in which the obligor is enrolled. If the group health plan in which the obligor is enrolled is not available where the child resides or if the obligor is not enrolled in group coverage, the child shall be enrolled in the lowest cost group health plan that is accessible to the child.

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

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

(I) Current support, as ordered.

(II) Premium payments for health insurance, as ordered.

(III) Past due support, as ordered.

(IV) Other medical support or insurance, as ordered.

b. If the combined amount to be withheld for current support plus the premium payment for health insurance exceed the amount allowed under the Consumer Credit Protection Act, and the health insurance cannot be obtained unless the full amount of the premium is paid, the union or employer may not withhold the premium payment. However, the union or employer shall withhold the maximum allowed in the following order:

(I) Current support, as ordered.

(II) Past due support, as ordered.

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

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

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

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

(d)1. All child support orders shall provide the full name and date of birth of each minor child who is the subject of the child support order.

2. If both parties request and the court finds that it is in the best interest of the child, support payments need not be subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181 or made payable directly to the obligee. Payments made by immediate income deduction shall be made to the State Disbursement Unit. The court shall provide a copy of the order to the depository.

3. For support orders payable directly to the obligee, any party, or the department in a IV-D case, may subsequently file an affidavit with the depository alleging a default in payment of child support and stating that the party wishes to require that payments be made through the depository. The party shall provide copies of the affidavit to the court and to each other party. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be paid through the depository, except that income deduction payments shall be made to the State Disbursement Unit.

(2)(a) The court may approve, grant, or modify a parenting plan, notwithstanding that the child is not

physically present in this state at the time of filing any proceeding under this chapter, if it appears to the court that the child was removed from this state for the primary purpose of removing the child from the court's jurisdiction in an attempt to avoid the court's approval, creation, or modification of a parenting plan.

(b) A parenting plan approved by the court must, at a minimum:

1. Describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child;

2. Include the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent;

3. Designate who will be responsible for:

a. Any and all forms of health care. If the court orders shared parental responsibility over health care decisions, the parenting plan must provide that either parent may consent to mental health treatment for the child.

b. School-related matters, including the address to be used for school-boundary determination and registration.

c. Other activities; and

4. Describe in adequate detail the methods and technologies that the parents will use to communicate with the child.

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical,

dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

(d) The circuit court in the county in which either parent and the child reside or the circuit court in which the original order approving or creating the parenting plan was entered may modify the parenting plan. The court may change the venue in accordance with s. 47.122.

(3) For purposes of establishing or modifying parental responsibility and creating, developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration. A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to:

(a) The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

(k) The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

(l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child

abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

(n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

(o) The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

(p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

(4)(a) When a parent who is ordered to pay child support or alimony fails to pay child support or alimony, the parent who should have received the child support or alimony may not refuse to honor the time-sharing schedule presently in effect between the parents.

(b) When a parent refuses to honor the other parent's rights under the time-sharing schedule, the parent whose time-sharing rights were violated shall continue to pay any ordered child support or alimony.

(c) When a parent refuses to honor the time-sharing schedule in the parenting plan without proper cause, the court:

1. Shall, after calculating the amount of time-sharing improperly denied, award the parent denied time a sufficient amount of extra time-sharing to compensate for the time-sharing missed, and such time-sharing shall be ordered as expeditiously as possible in a manner consistent with the best interests of the child and scheduled in a manner that is convenient for the parent deprived of time-sharing. In ordering any makeup time-sharing, the court shall schedule such time-sharing in a manner that is consistent with the best interests of the child or children and that is convenient for the nonoffending parent and at the expense of the noncompliant parent.

2. May order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to pay reasonable court costs and attorney's fees incurred by the nonoffending parent to enforce the time-sharing schedule.

3. May order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to attend a parenting course approved by the judicial circuit.

4. May order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to do community service if the order will not interfere with the welfare of the child.

5. May order the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule to have the financial burden of promoting frequent and continuing contact when that parent and child reside further than 60 miles from the other parent.

6. May, upon the request of the parent who did not violate the time-sharing schedule, modify the parenting plan if modification is in the best interests of the child.

7. May impose any other reasonable sanction as a result of noncompliance.

(d) A person who violates this subsection may be punished by contempt of court or other remedies as the court deems appropriate.

(5) The court may make specific orders regarding the parenting plan and time-sharing schedule as such orders relate to the circumstances of the parties and the nature of the case and are equitable and provide for child support in accordance with the guidelines schedule in s. 61.30. An order for equal time-sharing for a minor child does not preclude the court from entering an order for child support of the child.

(6) In any proceeding under this section, the court may not deny shared parental responsibility and time-sharing rights to a parent solely because that parent is or is believed to be infected with human immunodeficiency virus, but the court may, in an order approving the parenting plan, require that parent to observe measures approved by the Centers for Disease Control and Prevention of the United States Public Health Service or by the Department of Health for preventing the spread of human immunodeficiency virus to the child.

(7)(a) Each party to any paternity or support proceeding is required to file with the tribunal as defined in s. 88.1011 and State Case Registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver license number, and name, address, and telephone number of employer. Each party to any paternity or child support proceeding in a non-Title IV-D case shall meet the above requirements for updating the tribunal and State Case Registry.

(b) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(c) In any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court of competent jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry pursuant to paragraph (a). In any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

(8) At the time an order for child support is entered, each party is required to provide his or her social security number and date of birth to the court, as well as the name, date of birth, and social security number of each minor child that is the subject of such child support order. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. All social security numbers required by this section shall be provided by the parties and maintained by the depository as a separate attachment in the file. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

History.—s. 7, Oct. 31, 1828; RS 1489; GS 1938; RGS 3201; CGL 4993; s. 16, ch. 67-254; s. 15, ch. 71-241; s. 1, ch. 75-67; s. 1, ch. 75-99; s. 26, ch. 77-433; s. 1, ch. 78-5; s. 18, ch. 79-164; ss. 1, 4, ch. 82-96; s. 3, ch. 84-110; s. 1, ch. 84-152; s. 118, ch. 86-220; s. 1, ch. 87-95; s. 4, ch. 88-176; s. 1, ch. 89-183; s. 1, ch. 89-350; s. 4, ch. 91-246; s. 4, ch. 93-188; s. 1, ch. 93-208; s. 1, ch. 93-236; s. 9, ch. 94-134; s. 9, ch. 94-135; s. 14, ch. 95-222; s. 5, ch. 96-183; s. 2, ch. 96-305; s. 24, ch. 97-95; s. 3, ch. 97-155; s. 3, ch. 97-170; s. 4, ch. 97-226; s. 1, ch. 97-242; s. 8, ch. 98-397; s. 122, ch. 98-403; s. 3, ch. 99-8; s. 2, ch. 99-375; s. 7, ch. 2000-151; s. 1, ch. 2001-2; s. 4, ch. 2001-158; s. 3, ch. 2002-65; s. 2, ch. 2002-173; s. 2, ch. 2003-5; s. 2, ch. 2004-334; s. 1, ch. 2005-39; s. 1, ch. 2005-82; s. 7, ch. 2005-239; s. 1, ch. 2006-245; s. 8, ch. 2008-61; s. 2, ch. 2009-90; s. 3, ch. 2009-180; s. 1, ch. 2010-187; s. 3, ch. 2010-199; s. 76, ch. 2011-92; s. 81, ch. 2016-241.

Note.—Former s. 65.14.

61.13001 Parental relocation with a child.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Child" means any person who is under the jurisdiction of a state court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act or is the subject of any order granting to a parent or other person any right to time-sharing, residential care, kinship, or custody, as provided under state law.

(b) "Court" means the circuit court in an original proceeding which has proper venue and jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, the circuit court in the county in which either parent and the child reside, or the circuit court in which the original action was adjudicated.

(c) "Other person" means an individual who is not the parent, but with whom the child resides pursuant to court order, or who has the right of access to, time-sharing with, or visitation with the child.

(d) "Parent" means any person so named by court order or express written agreement who is subject to court enforcement or a person reflected as a parent on a birth certificate and who is entitled to access to or time-sharing with the child.

(e) "Relocation" means a change in the location of the principal residence of a parent or other person from his or her principal place of residence at the time of the last order establishing or modifying time-sharing, or at the time of filing the pending action to establish or modify time-sharing. The change of location must be at least 50 miles from that residence, and for at least 60 consecutive days not including a temporary absence from the principal residence for purposes of vacation, education, or the provision of health care for the child.

(2) RELOCATION BY AGREEMENT.—

(a) If the parents and every other person entitled to access to or time-sharing with the child agree to the relocation of the child, they may satisfy the requirements of this section by signing a written agreement that:

1. Reflects consent to the relocation;

2. Defines an access or time-sharing schedule for the nonrelocating parent and any other persons who are entitled to access or time-sharing; and

3. Describes, if necessary, any transportation arrangements related to access or time-sharing.

(b) If there is an existing cause of action, judgment, or decree of record pertaining to the child's residence or a time-sharing schedule, the parties shall seek ratification of the agreement by court order without the necessity of an evidentiary hearing unless a hearing is requested, in writing, by one or more of the parties to the agreement within 10 days after the date the agreement is filed with the court. If a hearing is not timely requested, it shall be presumed that the relocation is in the best interest of the child and the court may ratify the agreement without an evidentiary hearing.

(3) PETITION TO RELOCATE.—Unless an agreement has been entered as described in subsection (2), a parent or other person seeking relocation must file a petition to relocate and serve it upon the other parent, and every other person entitled to access to or time-sharing with the child. The pleadings must be in accordance with this section:

(a) The petition to relocate must be signed under oath or affirmation under penalty of perjury and include:

1. A description of the location of the intended new residence, including the state, city, and specific physical address, if known.

2. The mailing address of the intended new residence, if not the same as the physical address, if known.

3. The home telephone number of the intended new residence, if known.

4. The date of the intended move or proposed relocation.

5. A detailed statement of the specific reasons for the proposed relocation. If one of the reasons is based upon a job offer that has been reduced to writing, the written job offer must be attached to the petition.

6. A proposal for the revised postrelocation schedule for access and time-sharing together with a proposal for the postrelocation transportation arrangements necessary to effectuate time-sharing with the child. Absent the existence of a current, valid order abating, terminating, or restricting access or time-sharing or other good cause predating the petition, failure to comply with this provision renders the petition to relocate legally insufficient.

7. Substantially the following statement, in all capital letters and in the same size type, or larger, as the type in the remainder of the petition:

A RESPONSE TO THE PETITION OBJECTING TO RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT,

AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN 20 DAYS AFTER SERVICE OF THIS PETITION TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

(b) The petition to relocate must be served on the other parent and on every other person entitled to access to and time-sharing with the child. If there is a pending court action regarding the child, service of process may be according to court rule. Otherwise, service of process shall be according to chapters 48 and 49 or via certified mail, restricted delivery, return receipt requested.

(c) A parent or other person seeking to relocate has a continuing duty to provide current and updated information required by this section when that information becomes known.

(d) If the other parent and any other person entitled to access to or time-sharing with the child fails to timely file a response objecting to the petition to relocate, it is presumed that the relocation is in the best interest of the child and that the relocation should be allowed, and the court shall, absent good cause, enter an order specifying that the order is entered as a result of the failure to respond to the petition and adopting the access and time-sharing schedule and transportation arrangements contained in the petition. The order may be issued in an expedited manner without the necessity of an evidentiary hearing. If a response is timely filed, the parent or other person may not relocate, and must proceed to a temporary hearing or trial and obtain court permission to relocate.

(e) Relocating the child without complying with the requirements of this subsection subjects the party in violation to contempt and other proceedings to compel the return of the child and may be taken into account by the court in any initial or postjudgment action seeking a determination or modification of the parenting plan or the access or time-sharing schedule as:

1. A factor in making a determination regarding the relocation of a child.
2. A factor in determining whether the parenting plan or the access or time-sharing schedule should be modified.
3. A basis for ordering the temporary or permanent return of the child.
4. Sufficient cause to order the parent or other person seeking to relocate the child to pay reasonable expenses and attorney's fees incurred by the party objecting to the relocation.
5. Sufficient cause for the award of reasonable attorney's fees and costs, including interim travel expenses incident to access or time-sharing or securing the return of the child.

(4) APPLICABILITY OF PUBLIC RECORDS LAW.—If the parent or other person seeking to relocate a child, or the child, is entitled to prevent disclosure of location information under a public records exemption, the court may enter any order necessary to modify the disclosure requirements of this section in compliance with the public records exemption.

(5) OBJECTION TO RELOCATION.—An answer objecting to a proposed relocation must be verified and include the specific factual basis supporting the reasons for seeking a prohibition of the relocation, including a statement of the amount of participation or involvement the objecting party currently has or has had in the life of the child.

(6) TEMPORARY ORDER.—

(a) The court may grant a temporary order restraining the relocation of a child, order the return of the child, if a relocation has previously taken place, or order other appropriate remedial relief, if the court finds:

1. That the petition to relocate does not comply with subsection (3);
2. That the child has been relocated without a written agreement of the parties or without court approval; or
3. From an examination of the evidence presented at the preliminary hearing that there is a likelihood that upon final hearing the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending final hearing, if the court finds:

1. That the petition to relocate was properly filed and is otherwise in compliance with subsection (3); and

2. From an examination of the evidence presented at the preliminary hearing, that there is a likelihood that on final hearing the court will approve the relocation of the child, which findings must be supported by the same factual basis as would be necessary to support approving the relocation in a final judgment.

(c) If the court has issued a temporary order authorizing a party seeking to relocate or move a child before a final judgment is rendered, the court may not give any weight to the temporary relocation as a factor in reaching its final decision.

(d) If temporary relocation of a child is approved, the court may require the person relocating the child to provide reasonable security, financial or otherwise, and guarantee that the court-ordered contact with the child will not be interrupted or interfered with by the relocating party.

(7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED RELOCATION.—A presumption in favor of or against a request to relocate with the child does not arise if a parent or other person seeks to relocate and the move will materially affect the current schedule of contact, access, and time-sharing with the nonrelocating parent or other person. In reaching its decision regarding a proposed temporary or permanent relocation, the court shall evaluate all of the following:

(a) The nature, quality, extent of involvement, and duration of the child's relationship with the parent or other person proposing to relocate with the child and with the nonrelocating parent, other persons, siblings, half-siblings, and other significant persons in the child's life.

(b) The age and developmental stage of the child, the needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.

(c) The feasibility of preserving the relationship between the nonrelocating parent or other person and the child through substitute arrangements that take into consideration the logistics of contact, access, and time-sharing, as well as the financial circumstances of the parties; whether those factors are sufficient to foster a continuing meaningful relationship between the child and the nonrelocating parent or other person; and the likelihood of compliance with the substitute arrangements by the relocating parent or other person once he or she is out of the jurisdiction of the court.

(d) The child's preference, taking into consideration the age and maturity of the child.

(e) Whether the relocation will enhance the general quality of life for both the parent or other person seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities.

(f) The reasons each parent or other person is seeking or opposing the relocation.

(g) The current employment and economic circumstances of each parent or other person and whether the proposed relocation is necessary to improve the economic circumstances of the parent or other person seeking relocation of the child.

(h) That the relocation is sought in good faith and the extent to which the objecting parent has fulfilled his or her financial obligations to the parent or other person seeking relocation, including child support, spousal support, and marital property and marital debt obligations.

(i) The career and other opportunities available to the objecting parent or other person if the relocation occurs.

(j) A history of substance abuse or domestic violence as defined in s. 741.28 or which meets the criteria of s. 39.806(1)(d) by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(k) Any other factor affecting the best interest of the child or as set forth in s. 61.13.

(8) BURDEN OF PROOF.—The parent or other person wishing to relocate has the burden of proving by a preponderance of the evidence that relocation is in the best interest of the child. If that burden of proof is met, the burden shifts to the nonrelocating parent or other person to show by a preponderance of the evidence that the proposed relocation is not in the best interest of the child.

(9) ORDER REGARDING RELOCATION.—If relocation is approved:

(a) The court may, in its discretion, order contact with the nonrelocating parent or other person, including access, time-sharing, telephone, Internet, webcam, and other arrangements sufficient to ensure that the child has frequent, continuing, and meaningful contact with the nonrelocating parent or other person, if contact is financially affordable and in the best interest of the child.

(b) If applicable, the court shall specify how the transportation costs are to be allocated between the parents and other persons entitled to contact, access, and time-sharing and may adjust the child support award, as appropriate, considering the costs of transportation and the respective net incomes of the parents in accordance with the state child support guidelines schedule.

(10) PRIORITY FOR HEARING OR TRIAL.—An evidentiary hearing or nonjury trial on a pleading seeking temporary or permanent relief filed under this section shall be accorded priority on the court's calendar. If a motion seeking a temporary relocation is filed, absent good cause, the hearing must occur no later than 30 days after the motion for a temporary relocation is filed. If a notice to set the matter for a nonjury trial is filed, absent good cause, the nonjury trial must occur no later than 90 days after the notice is filed.

(11) APPLICABILITY.—

(a) This section applies:

1. To orders entered before October 1, 2009, if the existing order defining custody, primary residence, the parenting plan, time-sharing, or access to or with the child does not expressly govern the relocation of the child.

2. To an order, whether temporary or permanent, regarding the parenting plan, custody, primary residence, time-sharing, or access to the child entered on or after October 1, 2009.

3. To any relocation or proposed relocation, whether permanent or temporary, of a child during any proceeding pending on October 1, 2009, wherein the parenting plan, custody, primary residence, time-sharing, or access to the child is an issue.

(b) To the extent that a provision of this section conflicts with an order existing on October 1, 2009, this section does not apply to the terms of that order which expressly govern relocation of the child or a change in the principal residence address of a parent or other person.

History.—s. 2, ch. 2006-245; s. 9, ch. 2008-61; s. 5, ch. 2009-21; s. 4, ch. 2009-180.

61.13002 Temporary time-sharing modification and child support modification due to military service.—

(1) If a supplemental petition or a motion for modification of time-sharing and parental responsibility is filed because a parent is activated, deployed, or temporarily assigned to military service and the parent's ability to comply with time-sharing is materially affected as a result, the court may not issue an order or modify or amend a previous judgment or order that changes time-sharing as it existed on the date the parent was activated, deployed, or temporarily assigned to military service, except that a court may enter a temporary order to modify or amend time-sharing if there is clear and convincing evidence that the temporary modification or amendment is in the best interests of the child. However, a parent's activation, deployment, or temporary assignment to military service and the resultant temporary disruption to the child may not be the sole factor in a court's decision to grant a petition for or modification of permanent time-sharing and parental responsibility. When entering a temporary order under this section, the court shall consider and provide for, if feasible, contact between the military servicemember and his or her child, including, but not limited to, electronic communication by webcam, telephone, or other available means. The court shall also permit liberal time-sharing during periods of leave from military service, as it is in the child's best interests to maintain the

parent-child bond during the parent's military service.

(2) If a parent is activated, deployed, or temporarily assigned to military service on orders in excess of 90 days and the parent's ability to comply with time-sharing is materially affected as a result, the parent may designate a person or persons to exercise time-sharing with the child on the parent's behalf. The designation shall be limited to a family member, a stepparent, or a relative of the child by marriage. The designation shall be made in writing and provided to the other parent at least 10 working days before the court-ordered period of time-sharing commences. The other parent may only object to the appointment of the designee on the basis that the designee's time-sharing visitation is not in the best interests of the child. When unable to reach agreement on the delegation, either parent may request an expedited court hearing for a determination on the designation.

(3) The servicemember and the nonmilitary parent shall cooperate with each other in an effort to reach a mutually agreeable resolution of custody, visitation, delegation of visitation, and child support. Each party shall provide information to the other party in an effort to facilitate agreement on custody, visitation, delegation of visitation, and child support. Agreements on designation of persons to exercise time-sharing with the child on the parent's behalf may also be made at the time of dissolution of marriage or other child custody proceedings.

(4) If a temporary order is issued under this section, the court shall reinstate the time-sharing order previously in effect upon the servicemember parent's return from active military service, deployment, or temporary assignment.

(5) Upon motion of either parent for enforcement of rights under this section, the court shall, for good cause shown, hold an expedited hearing in custody and visitation matters instituted under this section, and shall permit the servicemember to testify by telephone, video teleconference, webcam, affidavit, or other means where the military duties of the servicemember parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

(6) If a temporary order is entered under this section, the court may address the issue of support for the child by:

(a) Entering an order of temporary support from the servicemember to the other parent under s. 61.30;

(b) Requiring the servicemember to enroll the child as a military dependent with DEERs, TriCare, or other similar benefits available to military dependents as provided by the service member's branch of service and federal regulations; or

(c) Suspending, abating, or reducing the child support obligation of the nonservice member until the custody judgment or time-share order previously in effect is reinstated.

(7) This section does not apply to permanent change of station moves by military personnel, which shall be governed by s. 61.13001.

History.—s. 1, ch. 2007-132; s. 10, ch. 2008-61; s. 1, ch. 2010-30; s. 1, ch. 2011-188.

61.13003 Court-ordered electronic communication between a parent and a child.—

(1)(a) In connection with proceedings under this chapter, a court may order electronic communication between a parent and a child. Before ordering electronic communication, a court must consider:

1. Whether electronic communication is in a child's best interests;

2. Whether communication equipment and technology to provide electronic communication is reasonably available, accessible, and affordable;

3. Each parent's history of substance abuse or domestic violence; and

4. Any other factor that the court considers material.

(b) Notwithstanding paragraph (a), a rebuttable presumption is created providing that it is in the best interests of a child for a parent and child to have reasonable telephone communication. Unless this presumption is rebutted, the court shall order telephone communication.

(c) The court may set safeguards or guidelines for electronic communication.

(2) If the court finds that one or both parents will incur additional costs in order to implement electronic communication with the child, the court shall allocate such expenses arising solely from the electronic communication between the parents after considering the respective parent's financial circumstances.

(3) If the court enters an order granting electronic communication, each parent shall furnish the other parent with the access information necessary to facilitate electronic communication. Each parent shall notify the other parent of any change in the access information within 7 days after the change.

(4) Electronic communication may be used only to supplement a parent's face-to-face contact with his or her minor child. Electronic communication may not be used to replace or as a substitute for face-to-face contact.

(5) A party to a child custody order that does not prohibit electronic communication may move a court to order electronic communication. Such a party need not prove a substantial change in circumstances.

(6) The court may not consider the availability of electronic communication as the sole determinative factor when considering relocation.

(7) The extent or amount of time that electronic communication with the child is ordered under s. 61.13 may not be used as a factor when the court calculates child support.

(8) This section does not apply to any judgment or order issued before October 1, 2007.

History.—s. 2, ch. 2007-179.

61.1301 Income deduction orders.—

(1) ISSUANCE IN CONJUNCTION WITH AN ORDER ESTABLISHING, ENFORCING, OR MODIFYING AN OBLIGATION FOR ALIMONY OR CHILD SUPPORT.—

(a) Upon the entry of an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, other than a temporary order, the court shall enter a separate order for income deduction if one has not been entered. Upon the entry of a temporary order establishing support or the entry of a temporary order enforcing or modifying a temporary order of support, the court may enter a separate order of income deduction. Copies of the orders shall be served on the obligee and obligor. If the order establishing, enforcing, or modifying the obligation directs that payments be made through the depository, the court shall provide to the depository a copy of the order establishing, enforcing, or modifying the obligation. If the obligee is a recipient of Title IV-D services, the court shall furnish to the Title IV-D agency a copy of the income deduction order and the order establishing, enforcing, or modifying the obligation.

1. In Title IV-D cases, the Title IV-D agency may implement income deduction after receiving a copy of an order from the court under this paragraph or a forwarding agency under UIFSA, URESA, or RURESA by issuing an income deduction notice to the payor.

2. The income deduction notice must state that it is based upon a valid support order and that it contains an income deduction requirement or upon a separate income deduction order. The income deduction notice must contain the notice to payor provisions specified by paragraph (2)(e). The income deduction notice must contain the following information from the income deduction order upon which the notice is based: the case number, the court that entered the order, and the date entered.

3. Payors shall deduct support payments from income, as specified in the income deduction notice, in the manner provided under paragraph (2)(e).

4. In non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the support order upon which the notice is based. In Title IV-D cases, upon request of a payor, the Title IV-D agency shall furnish the payor a copy of the income deduction order.

5. If a support order entered before January 1, 1994, in a non-Title IV-D case does not specify income deduction, income deduction may be initiated upon a delinquency without the need for any amendment to the support order or any further action by the court. In such case the obligee may implement income deduction by serving a notice of delinquency on the obligor as provided for under paragraph (f).

(b) The income deduction order shall:

1. Direct a payor to deduct from all income due and payable to an obligor the amount required by the court to meet the obligor's support obligation including any attorney's fees or costs owed and forward the deducted amount pursuant to the order.

2. State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent or more of the periodic amount specified in the order establishing, enforcing, or modifying the obligation, until full payment is made of any arrearage, attorney's fees and costs owed, provided no deduction shall be applied to attorney's fees and costs until the full amount of any arrearage is paid.

3. Provide that if a delinquency accrues after the order establishing, modifying, or enforcing the obligation has been entered and there is no order for repayment of the delinquency or a preexisting arrearage, a payor shall deduct an additional 20 percent of the current support obligation or other amount agreed to by the parties until the delinquency and any attorney's fees and costs are paid in full. No deduction may be applied to attorney's fees and costs until the delinquency is paid in full.

4. Direct a payor not to deduct in excess of the amounts allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

5. Direct whether a payor shall deduct all, a specified portion, or no income which is paid in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the income deduction notice or the remaining balance thereof, and forward the payment to the governmental depository. For purposes of this subparagraph, "bonus" means a payment in addition to an obligor's usual compensation and which is in addition to any amounts contracted for or otherwise legally due and shall not include any commission payments due an obligor.

6. In Title IV-D cases, direct a payor to provide to the court depository the date on which each deduction is made.

7. In Title IV-D cases, if an obligation to pay current support is reduced or terminated due to emancipation of a child and the obligor owes an arrearage, retroactive support, delinquency, or costs, direct the payor to continue the income deduction at the rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified.

8. Direct that, at such time as the State Disbursement Unit becomes operational, all payments in those cases in which the obligee is receiving Title IV-D services and in those cases in which the obligee is not receiving Title IV-D services in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction, be made payable to and delivered to the State Disbursement Unit. Notwithstanding any other statutory provision to the contrary, funds received by the State Disbursement Unit shall be held, administered, and disbursed by the State Disbursement Unit pursuant to the provisions of this chapter.

(c) The income deduction order is effective immediately unless the court upon good cause shown finds that the income deduction order shall be effective upon a delinquency in an amount specified by the court but not to exceed 1 month's payment, pursuant to the order establishing, enforcing, or modifying the obligation. In order to find good cause, the court must at a minimum make written findings that:

1. Explain why implementing immediate income deduction would not be in the child's best interest;

2. There is proof of timely payment of the previously ordered obligation without an income deduction order in cases of modification; and

3.a. There is an agreement by the obligor to advise the IV-D agency and court depository of any change in payor and health insurance; or

b. There is a signed written agreement providing an alternative arrangement between the obligor and the obligee and, at the option of the IV-D agency, by the IV-D agency in IV-D cases in which there is an assignment of support rights to the state, reviewed and entered in the record by the court.

(d) The income deduction order shall be effective as long as the order upon which it is based is effective or until further order of the court. Notwithstanding the foregoing, however, at such time as the State Disbursement Unit becomes operational, in those cases in which the obligee is receiving Title IV-D services and in those cases in which the obligee is not receiving Title IV-D services in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction, such payments shall be made payable to and delivered to the State Disbursement Unit.

(e) When the court orders the income deduction to be effective immediately, the court shall furnish to the obligor a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state:

1. All fees or interest which shall be imposed.

2. The total amount of income to be deducted for each pay period until the arrearage, if any, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

3. That the income deduction order applies to current and subsequent payors and periods of employment.

4. That a copy of the income deduction order or, in Title IV-D cases, the income deduction notice will be served on the obligor's payor or payors.

5. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the arrearages, or the identity of the obligor, the payor, or the obligee.

6. That the obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the IV-D agency within 7 days of changes in the obligor's address, payors, and the addresses of his or her payors.

7. That in a Title IV-D case, if an obligation to pay current support is reduced or terminated due to emancipation of a child and the obligor owes an arrearage, retroactive support, delinquency, or costs, income deduction continues at the rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified.

(f) If a support order was entered before January 1, 1994, the court orders the income deduction to be effective upon a delinquency as provided in paragraph (c), or a delinquency has accrued under an order entered before July 1, 2006, that established, modified, or enforced the obligation and there is no order for repayment of the delinquency or a preexisting arrearage, the obligee or, in Title IV-D cases, the Title IV-D agency may enforce the income deduction by serving a notice of delinquency on the obligor under this paragraph.

1. The notice of delinquency shall state:

a. The terms of the order establishing, enforcing, or modifying the obligation.

b. The period of delinquency and the total amount of the delinquency as of the date the notice is mailed.

c. All fees or interest which may be imposed.

d. The total amount of income to be deducted for each pay period until the arrearage, and all applicable fees and interest, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

e. That the income deduction order applies to current and subsequent payors and periods of employment.

f. That a copy of the notice of delinquency will be served on the obligor's payor or payors, together with a copy of the income deduction order or, in Title IV-D cases, the income deduction notice, unless the obligor applies to the court to contest enforcement of the income deduction. If the income deduction order being enforced was rendered by the Title IV-D agency pursuant to s. 409.2563 and the obligor contests the deduction, the obligor shall file a petition for an administrative hearing with the Title IV-D agency. The application or petition shall be filed within 15 days after the date the notice of delinquency was served.

g. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the amount of arrearages, or the identity of the obligor, the payor, or the obligee.

h. That the obligor is required to notify the obligee of the obligor's current address and current payors and of the address of current payors. All changes shall be reported by the obligor within 7 days. If the IV-D agency is enforcing the order, the obligor shall make these notifications to the agency instead of to the obligee.

2. The failure of the obligor to receive the notice of delinquency does not preclude subsequent service of the income deduction order or, in Title IV-D cases, the income deduction notice on the obligor's payor. A notice of delinquency which fails to state an arrearage does not mean that an arrearage is not owed.

(g) At any time, any party, including the IV-D agency, may apply to the court to:

1. Modify, suspend, or terminate the income deduction order in accordance with a modification, suspension, or termination of the support provisions in the underlying order; or

2. Modify the amount of income deducted when the arrearage has been paid.

(2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.—

(a) The obligee or his or her agent shall serve an income deduction order and notice to payor, or, in Title IV-D cases, the Title IV-D agency shall issue an income deduction notice, and in the case of a delinquency a notice of delinquency, on the obligor's payor unless the obligor has applied for a hearing to contest the enforcement of the income deduction pursuant to paragraph (c).

(b)1. Service by or upon any person who is a party to a proceeding under this section shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

2. Service upon an obligor's payor or successor payor under this section shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

(c)1. The obligor, within 15 days after service of a notice of delinquency, may apply for a hearing to contest the enforcement of the income deduction on the ground of mistake of fact regarding the amount owed pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, the amount of the arrearage, or the identity of the obligor, the payor, or the obligee. The obligor shall send a copy of the pleading to the obligee and, if the obligee is receiving IV-D services, to the IV-D agency. The timely filing of the pleading shall stay service of an income deduction order or, in Title IV-D cases, income deduction notice on all payors of the obligor until a hearing is held and a determination is made as to whether enforcement of the income deduction order is proper. The payment of a delinquent obligation by an obligor upon entry of an income deduction order shall not preclude service of the income deduction order or, in Title IV-D cases, an income deduction notice on the obligor's payor.

2. When an obligor timely requests a hearing to contest enforcement of an income deduction order, the court, after due notice to all parties and the IV-D agency if the obligee is receiving IV-D services, shall hear the matter within 20 days after the application is filed. The court shall enter an order resolving the matter within 10 days after the hearing. A copy of this order shall be served on the parties and the IV-D agency if the obligee is receiving IV-D services. If the court determines that income deduction is proper, it shall specify the date the income deduction order must be served on the obligor's payor.

(d) When a court determines that an income deduction order is proper pursuant to paragraph (c), the obligee or his or her agent shall cause a copy of the notice of delinquency to be served on the obligor's payors. A copy of the income deduction order or, in Title IV-D cases, income deduction notice, and in the case of a delinquency a notice of delinquency, shall also be furnished to the obligor.

(e) Notice to payor and income deduction notice. The notice to payor or, in Title IV-D cases, income deduction notice shall contain only information necessary for the payor to comply with the order providing for income deduction. The notice shall:

1. Provide the obligor's social security number.

2. Require the payor to deduct from the obligor's income the amount specified in the income deduction order, and in the case of a delinquency the amount specified in the notice of delinquency, and to pay that amount to the obligee or to the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b);

3. Instruct the payor to implement income deduction no later than the first payment date which occurs more than 14 days after the date the income deduction notice was served on the payor, and the payor shall conform the amount specified in the income deduction order or, in Title IV-D cases, income deduction notice to the obligor's pay cycle. The court should request at the time of the order that the payment cycle reflect that of the payor;

4. Instruct the payor to forward, within 2 days after each date the obligor is entitled to payment from the payor, to the obligee or to the depository the amount deducted from the obligor's income, a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order or, in Title IV-D cases, income deduction notice, and the specific date each deduction is made. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of the obligee;

5. Specify that if a payor fails to deduct the proper amount from the obligor's income, the payor is liable for the amount the payor should have deducted, plus costs, interest, and reasonable attorney's fees;

6. Provide that the payor may collect up to $5 against the obligor's income to reimburse the payor for administrative costs for the first income deduction and up to $2 for each deduction thereafter;

7. State that the notice to payor or, in Title IV-D cases, income deduction notice, and in the case of a delinquency the notice of delinquency, are binding on the payor until further notice by the obligee, IV-D agency, or the court or until the payor no longer provides income to the obligor;

8. Instruct the payor that, when he or she no longer provides income to the obligor, he or she shall notify the obligee and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known; and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of to the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order;

9. State that the payor shall not discharge, refuse to employ, or take disciplinary action against an obligor because of the requirement for income deduction and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction, if any alimony or child support obligation is owing. If no alimony or child support obligation is owing, the penalty shall be paid to the obligor;

10. State that an obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of income deduction. The obligor is entitled to reinstatement and all wages and benefits lost, plus reasonable attorney's fees and costs incurred;

11. Inform the payor that the requirement for income deduction has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the notice to payor or income deduction notice, is a complete defense by the payor against any claims of the obligor or his or her creditors as to the sum paid;

12. Inform the payor that, when the payor receives notices to payor or income deduction notices requiring that the income of two or more obligors be deducted and sent to the same depository, the payor may combine the amounts that are to be paid to the depository in a single payment as long as the payments attributable to each obligor are clearly identified;

13. Inform the payor that if the payor receives more than one notice to payor or income deduction notice

against the same obligor, the payor shall contact the court or, in Title IV-D cases, the Title IV-D agency for further instructions. Upon being so contacted, the court or, in Title IV-D cases when all the cases upon which the notices are based are Title IV-D cases, the Title IV-D agency shall allocate amounts available for income deduction as provided in subsection (4); and

14. State that in a Title IV-D case, if an obligation to pay current support is reduced or terminated due to the emancipation of a child and the obligor owes an arrearage, retroactive support, delinquency, or costs, income deduction continues at the rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified.

(f) At any time an income deduction order is being enforced, the obligor may apply to the court for a hearing to contest the continued enforcement of the income deduction on the same grounds set out in paragraph (c), with a copy to the obligee and, in IV-D cases, to the IV-D agency. If the income deduction order being enforced was rendered by the IV-D agency pursuant to s. 409.2563 and the obligor contests the withholding, the obligor shall file a petition for an administrative hearing with the IV-D agency. The application or petition does not affect the continued enforcement of the income deduction until the court or IV-D agency, if applicable, enters an order granting relief to the obligor. The obligee or the IV-D agency is released from liability for improper receipt of moneys pursuant to an income deduction order upon return to the appropriate party of any moneys received.

(g) An obligee or his or her agent shall enforce an income deduction order against an obligor's successor payor who is located in this state in the same manner prescribed in this section for the enforcement of an income deduction order against a payor.

(h)1. When an income deduction order is to be enforced against a payor located outside the state, the obligee who is receiving IV-D services or his or her agent shall promptly request the agency responsible for income deduction in the other state to enforce the income deduction order. The request shall contain all information necessary to enforce the income deduction order, including the amount to be periodically deducted, a copy of the order establishing, enforcing, or modifying the obligation, and a statement of arrearages, if applicable.

2. When the IV-D agency is requested by the agency responsible for income deduction in another state to enforce an income deduction order against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state, the IV-D agency shall act promptly pursuant to the applicable provisions of this section.

3. When an obligor who is subject to an income deduction order enforced against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency responsible for income deduction in another state terminates his or her relationship with his or her payor, the IV-D agency shall notify the agency in the other state and provide it with the name and address of the obligor and the address of any new payor of the obligor, if known.

4.a. The procedural rules and laws of this state govern the procedural aspects of income deduction whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction order in this state.

b. Except with respect to when withholding must be implemented, which is controlled by the state where the order establishing, enforcing, or modifying the obligation was entered, the substantive law of this state shall apply whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction in this state.

c. When the IV-D agency is requested by an agency responsible for income deduction in another state to implement income deduction against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state or when the IV-D agency in this state initiates an income deduction request on behalf of an obligee receiving IV-D services in this state against a payor in another state,

pursuant to this section or the Uniform Interstate Family Support Act, the IV-D agency shall file the interstate income deduction documents, or an affidavit of such request when the income deduction documents are not available, with the depository and if the IV-D agency in this state is responding to a request from another state, provide copies to the payor and obligor in accordance with subsection (1). The depository created pursuant to s. 61.181 shall accept the interstate income deduction documents or affidavit and shall establish an account for the receipt and disbursement of child support or child support and alimony payments and advise the IV-D agency of the account number in writing within 2 days after receipt of the documents or affidavit.

(i) Certified copies of payment records maintained by a depository shall, without further proof, be admitted into evidence in any legal proceeding in this state.

(j)1. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction, if any alimony or child support is owing. If no alimony or child support is owing, the penalty shall be paid to the obligor.

2. An employee may bring a civil action in the courts of this state against an employer who refuses to employ, discharges, or otherwise disciplines an employee because of an income deduction order. The employee is entitled to reinstatement and all wages and benefits lost plus reasonable attorney's fees and costs incurred.

(k) When a payor no longer provides income to an obligor, he or she shall notify the obligee and, if the obligee is a IV-D applicant, the IV-D agency and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known. A payor who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order.

(3)(a) It is the intent of the Legislature that this section may be used to collect arrearages in child support or in alimony payments.

(b) In a Title IV-D case, if an obligation to pay current support is reduced or terminated due to the emancipation of a child and the obligor owes an arrearage, retroactive support, delinquency, or costs, income deduction continues at the rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified. Any income-deducted amount that is in excess of the obligation to pay current support shall be credited against the arrearages, retroactive support, delinquency, and costs owed by the obligor. The department shall send notice of this requirement by regular mail to the payor and the depository operated pursuant to s. 61.181, and the notice shall state the amount of the obligation to pay current support, if any, and the amount owed for arrearages, retroactive support, delinquency, and costs. For income deduction orders entered before July 1, 2004, which do not include this requirement, the department shall send by certified mail, restricted delivery, return receipt requested, to the obligor at the most recent address provided by the obligor to the tribunal that issued the order or a more recent address if known, notice of this requirement, that the obligor may contest the withholding as provided by paragraph (2)(f), and that the obligor may request the tribunal that issued the income deduction to modify the amount of the withholding. This paragraph provides an additional remedy for collection of unpaid support and applies to cases in which a support order or income deduction order was entered before, on, or after July 1, 2004.

(c) If a delinquency accrues after an order establishing, modifying, or enforcing a support obligation has been entered, an income deduction order entered after July 1, 2006, is in effect, and there is no order for repayment of the delinquency or a preexisting arrearage, a payor who is served with an income deduction order or, in a Title IV-D case, an income deduction notice shall deduct an additional 20 percent of the current support obligation or other amount agreed to by the parties until the delinquency and any attorney's fees and costs are paid in full. No deduction may be applied to attorney's fees and costs until the delinquency is paid in full.

(4) When there is more than one income deduction notice against the same obligor, the amounts available for income deduction must be allocated among all obligee families as follows:

(a) For computation purposes, all obligations must be converted to a common payroll frequency, and the percentage of deduction allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended, must be determined. The amount of income available for deduction is determined by multiplying that percentage by the obligor's net income.

(b) If the total monthly support obligation to all families is less than the amount of income available for deduction, the full amount of each obligation must be deducted.

(c) If the total monthly support obligation to all families is greater than the amount of income available for deduction, the amount of the deduction must be prorated, giving priority to current support, so that each family is allocated a percentage of the amount deducted. The percentage to be allocated to each family is determined by dividing each current support obligation by the total of all current support obligations. If the total of all current support obligations is less than the income available for deduction, and past due support is owed to more than one family, then the remainder of the available income must be prorated so that each family is allocated a percentage of the remaining income available for deduction. The percentage to be allocated to each family is determined by dividing each past due support obligation by the total of all past due support obligations.

(5) By July 1, 2006, the department shall provide a payor with Internet access to income deduction and national medical support notices issued by the department on or after July 1, 2006, concerning an obligor to whom the payor pays income. The department shall provide a payor who requests Internet access with a user code and password to allow the payor to receive notices electronically and to download the information necessary to begin income deduction and health insurance enrollment. If a participating payor does not respond to electronic notice by accessing the data posted by the department within 48 hours, the department shall mail the income deduction or medical support notice to the payor.

History.—s. 3, ch. 84-110; s. 4, ch. 85-178; ss. 119, 120, ch. 86-220; s. 2, ch. 87-95; s. 5, ch. 88-176; s. 2, ch. 89-183; s. 13, ch. 91-45; s. 3, ch. 92-138; s. 1, ch. 93-69; s. 5, ch. 93-188; s. 19, ch. 93-208; s. 1, ch. 94-318; s. 1364, ch. 95-147; s. 3, ch. 96-310; s. 4, ch. 97-170; s. 9, ch. 98-397; s. 3, ch. 99-375; s. 5, ch. 2001-158; s. 3, ch. 2004-334; s. 2, ch. 2005-39; s. 3, ch. 2009-90.

61.13015 Petition for suspension or denial of professional licenses and certificates.—

(1) An obligee may petition the court which entered the support order or the court which is enforcing the support order for an order to suspend or deny the license or certificate issued pursuant to chapters 409, 455, 456, 559, and 1012 of any obligor with a delinquent support obligation. However, no petition may be filed until the obligee has exhausted all other available remedies. The purpose of this section is to promote the public policy of s. 409.2551.

(2) The obligee shall give notice to any obligor when a delinquency exists in the support obligation. The notice shall specify that the obligor has 30 days from the date on which service of the notice is complete to pay the delinquency or to reach an agreement with the obligee to pay the delinquency. The notice shall specify that, if payment is not made or an agreement cannot be reached, the license or certificate may be denied or suspended pursuant to a court order.

(3) If a delinquency exists and the obligor fails to pay the delinquency or to reach an agreement to pay the delinquency within 30 days following completion of service of the notice of the delinquency, the obligee shall send a second notice to the obligor stating that the obligor has 30 days to pay the delinquency or reach an agreement with the obligee to pay the delinquency. If the obligor fails to respond to either notice from the obligee or if the obligor fails to pay the delinquency or to reach an agreement to pay the delinquency after the second notice, the obligee may petition the court to deny the application for the license or certificate or to suspend the license or certificate of the obligor. The court may find that it would be inappropriate to deny or suspend a license or certificate if:

(a) Denial or suspension would result in irreparable harm to the obligor or employees of the obligor or would not accomplish the objective of collecting the delinquency; or

(b) The obligor demonstrates that he or she has made a good faith effort to reach an agreement with the obligee.

The court may not deny or suspend a license or certificate if the court determines that an alternative remedy is available to the obligee which is likely to accomplish the objective of collecting the delinquency. If the obligor fails in the defense of a petition for denial or suspension, the court which entered the support order or the court which is enforcing the support order shall enter an order to deny the application for the license or certificate or to suspend the license or certificate of the obligor. In the case of suspension, the court shall order the obligor to surrender the certificate or license to the department or to the licensing board which issued the license or certificate. In the case of denial, the court shall order the appropriate department or licensing board to deny the application.

(4) If the court denies or suspends a license or certificate and the obligor subsequently pays the delinquency or reaches an agreement with the obligee to settle the delinquency and makes the first payment required by the agreement, the license or certificate shall be issued or reinstated upon written proof to the court that the obligor has complied with the court order. Proof of payment shall consist of a certified copy of the payment record issued by the depository. The court shall order the appropriate department or licensing board to issue or reinstate the license or certificate without additional charge to the obligor.

(5) Notice shall be served under this section by mailing it by certified mail, return receipt requested, to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, or if the last address of record with the local depository is incorrect, service shall be by publication as provided in chapter 49. When service of the notice is made by mail, service is complete upon the receipt of the notice by the obligor.

History.—s. 2, ch. 93-208; s. 323, ch. 95-147; s. 1, ch. 2000-160; s. 6, ch. 2001-158; s. 886, ch. 2002-387.

61.13016 Suspension of driver licenses and motor vehicle registrations.—

(1) The driver license and motor vehicle registration of a support obligor who is delinquent in payment or who has failed to comply with subpoenas or a similar order to appear or show cause relating to paternity or support proceedings may be suspended. When an obligor is 15 days delinquent making a payment in support or failure to comply with a subpoena, order to appear, order to show cause, or similar order in IV-D cases, the Title IV-D agency may provide notice to the obligor of the delinquency or failure to comply with a subpoena, order to appear, order to show cause, or similar order and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. When an obligor is 15 days delinquent in making a payment in support in non-IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must provide notice to the obligor of the delinquency and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. In either case, the notice must state:

(a) The terms of the order creating the support obligation;

(b) The period of the delinquency and the total amount of the delinquency as of the date of the notice or describe the subpoena, order to appear, order to show cause, or other similar order that has not been complied with;

(c) That notification will be given to the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license and motor vehicle registration unless, within 20 days after the date that the notice is mailed, the obligor:

1.a. Pays the delinquency in full and any other costs and fees accrued between the date of the notice and the date the delinquency is paid;

b. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or in IV-D cases, complies with a subpoena or order to appear, order to show cause, or a similar order;

c. Files a petition with the circuit court to contest the delinquency action;

d. Demonstrates that he or she receives reemployment assistance or unemployment compensation pursuant to chapter 443;

e. Demonstrates that he or she is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income program or Social Security Disability Insurance program;

f. Demonstrates that he or she receives temporary cash assistance pursuant to chapter 414; or

g. Demonstrates that he or she is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.; and

2. Pays any applicable delinquency fees.

If an obligor in a non-IV-D case enters into a written agreement for payment before the expiration of the 20-day period, the obligor must provide a copy of the signed written agreement to the depository or the clerk of the court. If an obligor seeks to satisfy sub-subparagraph 1.d., sub-subparagraph 1.e., sub-subparagraph 1.f., or sub-subparagraph 1.g. before expiration of the 20-day period, the obligor must provide the applicable documentation or proof to the depository or the clerk of the court.

(2)(a) Upon petition filed by the obligor in the circuit court within 20 days after the mailing date of the notice, the court may, in its discretion, direct the department to issue a license for driving privilege restricted to business purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. As a condition for the court to exercise its discretion under this subsection, the obligor must agree to a schedule of payment on any child support arrearages and to maintain current child support obligations. If the obligor fails to comply with the schedule of payment, the court shall direct the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license.

(b) The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or on the depository or the clerk of the court in non-IV-D cases. When an obligor timely files a petition to set aside a suspension, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition under this subsection stays the intent to suspend until the entry of a court order resolving the matter.

(3) If the obligor does not, within 20 days after the mailing date on the notice, pay the delinquency; enter into a written agreement; comply with the subpoena, order to appear, order to show cause, or other similar order; file a motion to contest; or satisfy sub-subparagraph (1)(c)1.d., sub-subparagraph (1)(c)1.e., sub-subparagraph (1)(c)1.f., or sub-subparagraph (1)(c)1.g., the Title IV-D agency in IV-D cases, or the depository or clerk of the court in non-IV-D cases, may file the notice with the Department of Highway Safety and Motor Vehicles and request the suspension of the obligor's driver license and motor vehicle registration in accordance with s. 322.058.

(4) The obligor may, within 20 days after the mailing date on the notice of delinquency or noncompliance and intent to suspend, file in the circuit court a petition to contest the notice of delinquency or noncompliance and intent to suspend on the ground of mistake of fact regarding the existence of a delinquency or the identity of the obligor. The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or depository or clerk of the court in non-IV-D cases. When an obligor timely files a petition to contest, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition to contest stays the notice of delinquency and intent to suspend until the entry of a court order resolving the matter.

(5) The procedures prescribed in this section and s. 322.058 may be used to enforce compliance with an order to appear for genetic testing.

History.—s. 1, ch. 95-222; s. 6, ch. 97-96; s. 5, ch. 97-170; s. 1, ch. 97-206; s. 4, ch. 99-375; s. 7, ch. 2001-158; s. 3, ch. 2005-39; s. 1, ch. 2005-164; s. 1, ch. 2014-216; s. 9, ch. 2015-2.

61.1354 Sharing of information between consumer reporting agencies and the IV-D agency.—

(1) Upon receipt of a request from a consumer reporting agency as defined in s. 603(f) of the Fair Credit Reporting Act, the IV-D agency or the depository in non-Title IV-D cases shall make available information relating to the amount of current and overdue support owed by an obligor. The IV-D agency or the depository in non-Title IV-D cases shall give the obligor written notice, at least 15 days prior to the release of information, of the IV-D agency's or depository's authority to release information to consumer reporting agencies relating to the amount of current and overdue support owed by the obligor. The obligor shall be informed of his or her right to request a hearing with the IV-D agency or the court in non-Title IV-D cases to contest the accuracy of the information.

(2) The IV-D agency shall report periodically to appropriate consumer reporting agencies, as identified by the IV-D agency, the name and social security number of any delinquent obligor, the amount of overdue support owed by the obligor, and the amount of the obligor's current support obligation when the overdue support is paid. The IV-D agency, or its designee, shall provide the obligor with written notice, at least 15 days prior to the initial release of information, of the IV-D agency's authority to release the information periodically to the consumer reporting agencies. The notice shall state the amount of overdue support owed and the amount of current support owed when the overdue support is paid and shall inform the obligor of the right to request a hearing with the IV-D agency within 15 days after receipt of the notice to contest the accuracy of the information. After the initial notice is given, no further notice or opportunity for a hearing need be given when updated information concerning the same obligor is periodically released to the consumer reporting agencies.

(3) For purposes of determining an individual's income and establishing an individual's capacity to make support payments or for determining the appropriate amount of child support payment to be made by the individual, consumer reporting agencies shall provide, upon request, consumer reports to the head of the IV-D agency pursuant to s. 604 of the Fair Credit Reporting Act, provided that the head of the IV-D agency, or its designee, certifies that:

(a) The consumer report is needed for the purpose of determining an individual's income and establishing an individual's capacity to make support payments or determining the appropriate amount of child support payment to be made by the individual;

(b) Paternity of the child of the individual whose report is sought, if that individual is the father of the child, has been established or acknowledged pursuant to the laws of Florida;

(c) The individual whose report is sought was provided with at least 15 days' prior notice, by certified or registered mail to the individual's last known address, that the report was requested; and

(d) The consumer report will be used solely for the purpose described in paragraph (a).

(4) For purposes of setting an initial or modified child support order, consumer reporting agencies shall provide, upon request, consumer reports to the IV-D agency.

(5) The Department of Revenue is authorized to adopt rules necessary to implement this section.

History.—s. 123, ch. 86-220; s. 4, ch. 92-138; s. 334, ch. 95-147; s. 6, ch. 97-170; s. 9, ch. 2001-158; s. 4, ch. 2005-39; s. 2, ch. 2005-82.

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

(1)(a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments, and the circumstances or the financial ability of either party changes or the child who is a beneficiary of an agreement or court order

as described herein reaches majority after the execution of the agreement or the rendition of the order, either party may apply to the circuit court of the circuit in which the parties, or either of them, resided at the date of the execution of the agreement or reside at the date of the application, or in which the agreement was executed or in which the order was rendered, for an order decreasing or increasing the amount of support, maintenance, or alimony, and the court has jurisdiction to make orders as equity requires, with due regard to the changed circumstances or the financial ability of the parties or the child, decreasing, increasing, or confirming the amount of separate support, maintenance, or alimony provided for in the agreement or order. A finding that medical insurance is reasonably available or the child support guidelines schedule in s. 61.30 may constitute changed circumstances. Except as otherwise provided in s. 61.30(11)(c), the court may modify an order of support, maintenance, or alimony by increasing or decreasing the support, maintenance, or alimony retroactively to the date of the filing of the action or supplemental action for modification as equity requires, giving due regard to the changed circumstances or the financial ability of the parties or the child.

(b)1. The court may reduce or terminate an award of alimony upon specific written findings by the court that since the granting of a divorce and the award of alimony a supportive relationship has existed between the obligee and a person with whom the obligee resides. On the issue of whether alimony should be reduced or terminated under this paragraph, the burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists.

2. In determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship between an obligee and a person who is not related by consanguinity or affinity and with whom the obligee resides, the court shall elicit the nature and extent of the relationship in question. The court shall give consideration, without limitation, to circumstances, including, but not limited to, the following, in determining the relationship of an obligee to another person:

a. The extent to which the obligee and the other person have held themselves out as a married couple by engaging in conduct such as using the same last name, using a common mailing address, referring to each other in terms such as “my husband” or “my wife,” or otherwise conducting themselves in a manner that evidences a permanent supportive relationship.

b. The period of time that the obligee has resided with the other person in a permanent place of abode.

c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

f. The extent to which the obligee or the other person has performed valuable services for the other’s company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

3. This paragraph does not abrogate the requirement that every marriage in this state be solemnized under a license, does not recognize a common law marriage as valid, and does not recognize a de facto marriage. This paragraph recognizes only that relationships do exist that provide economic support equivalent to a marriage and that alimony terminable on remarriage may be reduced or terminated upon the establishment of equivalent

equitable circumstances as described in this paragraph. The existence of a conjugal relationship, though it may be relevant to the nature and extent of the relationship, is not necessary for the application of the provisions of this paragraph.

(c) For each support order reviewed by the department as required by s. 409.2564(11), if the amount of the child support award under the order differs by at least 10 percent but not less than $25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances.

(d) The department shall have authority to adopt rules to implement this section.

(2) When an order or agreement is modified pursuant to subsection (1), the party having an obligation to pay shall pay only the amount of support, maintenance, or alimony directed in the new order, and the agreement or earlier order is modified accordingly. No person may commence an action for modification of a support, maintenance, or alimony agreement or order except as herein provided. No court has jurisdiction to entertain any action to enforce the recovery of separate support, maintenance, or alimony other than as herein provided.

(3) This section is declaratory of existing public policy and of the laws of this state.

(4) If a party applies for a reduction of alimony or child support and the circumstances justify the reduction, the court may make the reduction of alimony or child support regardless of whether or not the party applying for it has fully paid the accrued obligations to the other party at the time of the application or at the time of the order of modification.

(5)(a) When a court of competent jurisdiction enters an order for the payment of alimony or child support or both, the court shall make a finding of the obligor's imputed or actual present ability to comply with the order. If the obligor subsequently fails to pay alimony or support and a contempt hearing is held, the original order of the court creates a presumption that the obligor has the present ability to pay the alimony or support and to purge himself or herself from the contempt. At the contempt hearing, the obligor shall have the burden of proof to show that he or she lacks the ability to purge himself or herself from the contempt. This presumption is adopted as a presumption under s. 90.302(2) to implement the public policy of this state that children shall be maintained from the resources of their parents and as provided for in s. 409.2551, and that spouses be maintained as provided for in s. 61.08. The court shall state in its order the reasons for granting or denying the contempt.

(b) In a proceeding in circuit court to enforce a support order under this chapter, chapter 88, chapter 409, or chapter 742, or any other provision of law, if the court finds that payments due under the support order are delinquent or overdue and that the obligor is unemployed, underemployed, or has no income but is able to work or participate in job training, the court may order the obligor to:

1. Seek employment.

2. File periodic reports with the court, or with the department if the department is providing Title IV-D services, detailing the obligor's efforts to seek and obtain employment during the reporting period.

3. Notify the court or the department, as appropriate, upon obtaining employment, income, or property.

4. Participate in job training, job placement, work experience, or other work programs that may be available pursuant to chapter 445, chapter 446, or any other source.

An obligor who willfully fails to comply with a court order to seek work or participate in other work-related activities may be held in contempt of court. This paragraph is in furtherance of the public policy of the state of ensuring that children are maintained from the resources of their parents to the extent possible.

(6)(a)1. When support payments are made through the local depository or through the State Disbursement Unit, any payment or installment of support which becomes due and is unpaid under any support order is delinquent; and this unpaid payment or installment, and all other costs and fees herein provided for, become, after notice to the obligor and the time for response as set forth in this subsection, a final judgment by operation of law, which has the full force, effect, and attributes of a judgment entered by a court in this state

for which execution may issue. No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment by operation of law process under paragraph (b) until the total amount of support payments due the obligee under the judgment has been paid.

2. A certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment under this paragraph.

3. The judgment under this paragraph is a final judgment as to any unpaid payment or installment of support which has accrued up to the time either party files a motion with the court to alter or modify the support order, and such judgment may not be modified by the court. The court may modify such judgment as to any unpaid payment or installment of support which accrues after the date of the filing of the motion to alter or modify the support order. This subparagraph does not prohibit the court from providing relief from the judgment pursuant to Rule 1.540, Florida Rules of Civil Procedure.

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support and the amount of the delinquency is greater than the periodic payment amount ordered by the court, the local depository shall serve notice on the obligor informing him or her of:

a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a service charge of up to $25, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(c) Within 15 days after service of the notice is complete, the obligor may file with the court that issued the support order, or with the court in the circuit where the local depository which served the notice is located, a motion to contest the impending judgment. An obligor may contest the impending judgment only on the ground of a mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts that become due, together with costs and a service charge of up to $25, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for support. Payments on judgments shall be applied first to the current child support due, then to any delinquent principal, and then to interest on the support judgment.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a service charge of up to $25, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a service charge of up to $25, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a

satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

(g) The local depository shall send the department monthly by electronic means a list of all Title IV-D and non-Title IV-D cases in which a judgment by operation of law has been recorded during the month for which the data is provided. At a minimum, the depository shall provide the names of the obligor and obligee, social security numbers of the obligor and obligee, if available, and depository number.

(7) When modification of an existing order of support is sought, the proof required to modify a settlement agreement and the proof required to modify an award established by court order shall be the same.

(8)(a) When an employee and an employer reach an agreement for a lump-sum settlement under s. 440.20(11), no proceeds of the settlement shall be disbursed to the employee, nor shall any attorney's fees be disbursed, until after a judge of compensation claims reviews the proposed disbursement and enters an order finding the settlement provides for appropriate recovery of any support arrearage. The employee, or the employee's attorney if the employee is represented, shall submit a written statement from the department that indicates whether the employee owes unpaid support and, if so, the amount owed. In addition, the judge of compensation claims may require the employee to submit a similar statement from a local depository established under s. 61.181. A sworn statement by the employee that all existing support obligations have been disclosed is also required. If the judge finds the proposed allocation of support recovery insufficient, the parties may amend the allocation of support recovery within the settlement agreement to make the allocation of proceeds sufficient. The Office of the Judges of Compensation Claims shall adopt procedural rules to implement this paragraph.

(b) In accordance with the provisions of s. 440.22, any compensation due or that may become due an employee under chapter 440 is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child or spousal support obligations.

(9) Unless otherwise ordered by the court or agreed to by the parties, the obligation to pay the current child support for that child is terminated when the child reaches 18 years of age or the disability of nonage is removed. The termination of the current child support obligation does not otherwise terminate the obligation to pay any arrearage, retroactive support, delinquency, or costs owed by the obligor.

(10)(a) In a Title IV-D case, if an obligation to pay current child support is terminated due to the emancipation of the child and the obligor owes an arrearage, retroactive support, delinquency, or costs, the obligor shall continue to pay at the same rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of the order is modified. Any income-deducted amount or amount paid by the obligor which is in excess of the obligation to pay current support shall be credited against the arrearages, retroactive support, delinquency, and costs owed by the obligor.

(b) In a Title IV-D case, if an obligation to pay current child support for multiple children is reduced due to the emancipation of one child and the obligor owes an arrearage, retroactive support, delinquency, or costs, the obligor shall continue to pay at the same rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of the order is modified. Any income-deducted amount or amount paid by the obligor which is in excess of the obligation to pay current support shall be credited against the arrearages, retroactive support, delinquency, and costs owed by the obligor. If an obligation to pay current support for more than one child is not reduced when a child is

emancipated because the order does not allocate support per child, this paragraph does not apply.

(c) Paragraphs (a) and (b) provide an additional remedy for collection of unpaid support and apply to cases in which a support order was entered before, on, or after July 1, 2004.

(11)(a) A court may, upon good cause shown, and without a showing of a substantial change of circumstances, modify, vacate, or set aside a temporary support order before or upon entering a final order in a proceeding.

(b) The modification of the temporary support order may be retroactive to the date of the initial entry of the temporary support order; to the date of filing of the initial petition for dissolution of marriage, initial petition for support, initial petition determining paternity, or supplemental petition for modification; or to a date prescribed in paragraph (1)(a) or s. 61.30(11)(c) or (17), as applicable.

History.—ss. 1, 2, ch. 16780, 1935; CGL 1936 Supp. 4993(1); s. 16, ch. 67-254; s. 16, ch. 71-241; s. 2, ch. 75-67; s. 124, ch. 86-220; s. 5, ch. 87-95; s. 6, ch. 88-176; s. 14, ch. 91-45; s. 5, ch. 92-138; s. 3, ch. 93-208; s. 335, ch. 95-147; s. 15, ch. 95-222; s. 7, ch. 97-170; s. 40, ch. 98-397; s. 5, ch. 99-375; s. 1, ch. 2001-91; ss. 10, 11, ch. 2001-158; s. 3, ch. 2002-173; s. 73, ch. 2003-402; s. 1, ch. 2004-47; s. 50, ch. 2004-265; s. 4, ch. 2004-334; ss. 5, 6, 7, 8, ch. 2005-39; s. 3, ch. 2005-82; s. 1, ch. 2005-168; s. 11, ch. 2008-61; s. 1, ch. 2008-92; s. 28, ch. 2008-111; s. 16, ch. 2010-187.

Note.—Former s. 65.15.

61.16 Attorney's fees, suit money, and costs.—

(1) The court may from time to time, after considering the financial resources of both parties, order a party to pay a reasonable amount for attorney's fees, suit money, and the cost to the other party of maintaining or defending any proceeding under this chapter, including enforcement and modification proceedings and appeals. In those cases in which an action is brought for enforcement and the court finds that the noncompliant party is without justification in the refusal to follow a court order, the court may not award attorney's fees, suit money, and costs to the noncompliant party. An application for attorney's fees, suit money, or costs, whether temporary or otherwise, shall not require corroborating expert testimony in order to support an award under this chapter. The trial court shall have continuing jurisdiction to make temporary attorney's fees and costs awards reasonably necessary to prosecute or defend an appeal on the same basis and criteria as though the matter were pending before it at the trial level. In all cases, the court may order that the amount be paid directly to the attorney, who may enforce the order in that attorney's name. In determining whether to make attorney's fees and costs awards at the appellate level, the court shall primarily consider the relative financial resources of the parties, unless an appellate party's cause is deemed to be frivolous. In Title IV-D cases, attorney's fees, suit money, and costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1).

(2) In an action brought pursuant to Rule 3.840, Florida Rules of Criminal Procedure, whether denominated direct or indirect criminal contempt, the court shall have authority to:

(a) Appoint an attorney to prosecute said contempt.

(b) Assess attorney's fees and costs against the contemptor after the court makes a determination of the contemptor's ability to pay such costs and fees.

(c) Order that the amount be paid directly to the attorney, who may enforce the order in his or her name.

History.—s. 1, ch. 22676, 1945; s. 16, ch. 67-254; s. 17, ch. 71-241; s. 6, ch. 92-138; s. 6, ch. 93-188; s. 4, ch. 93-208; s. 9, ch. 94-124; s. 1, ch. 94-169; s. 1365, ch. 95-147; s. 6, ch. 96-183.

Note.—Former s. 65.17.

61.17 Alimony and child support; additional method for enforcing orders and judgments; costs, expenses.—

(1) An order or judgment for the payment of alimony or child support or either entered by any court of this

state may be enforced by another chancery court in this state in the following manner:

(a) The person to whom such alimony or child support is payable or for whose benefit it is payable may procure a certified copy of the order or judgment and file it with a complaint for enforcement in the circuit court for the county in which the person resides or in the county where the person charged with the payment of the alimony or child support resides or is found.

(b) If the pleadings seek a change in the amount of the alimony or child support money, the court has jurisdiction to adjudicate the application and change the order or judgment. In such event the clerk of the circuit court in which the order is entered changing the original order or judgment shall transmit a certified copy thereof to the court of original jurisdiction, and the new order shall be recorded and filed in the original action and become a part thereof. If the pleadings ask for a modification of the order or judgment, the court may determine that the action should be tried by the court entering the original order or judgment and shall then transfer the action to that court for determination as a part of the original action.

(c) Enforcement of a case certified under Title IV-D of the Social Security Act under this section shall grant to the registering court jurisdiction to address only those issues allowed and reimbursable under Title IV-D of the Social Security Act.

(2) The court in which such an action is brought has jurisdiction to award costs and expenses as are equitable, including the cost of certifying and recording the judgment entered in the action in the court of original jurisdiction and reasonable attorney's fees.

(3) The entry of a judgment for arrearages for child support, alimony, or attorney's fees and costs does not preclude a subsequent contempt proceeding or certification of a IV-D case for intercept, by the United States Internal Revenue Service, for failure of an obligor to pay the child support, alimony, attorney's fees, or costs for which the judgment was entered.

History.—ss. 1, 2, ch. 28187, 1953; s. 16, ch. 67-254; s. 18, ch. 71-241; s. 125, ch. 86-220; s. 7, ch. 92-138.

Note.—Former s. 65.18.

61.18 Alimony and child support; default in undertaking of bond posted to ensure payment.—

(1) When there is a breach of the condition of any bond posted to ensure the payment of alimony or child support, either temporary or permanent, for a party or minor children of the parties, the court in which the order was issued may order payment to the party entitled thereto of the principal of the bond or the part thereof necessary to cure the existing default without further notice from time to time where the amount is liquidated.

(2) The sureties on the bond, or the sheriff or clerk holding a cash bond, shall be ordered to pay into the registry of court, or to any party the court may direct, the sum necessary to cure the default.

(3) If the principal or sureties or sheriff or clerk fails to pay within the time and as required by the order, the court may enforce the payment by contempt against the principal or sureties on the bond or sheriff or clerk without further notice, or may issue an execution against the principal, sureties, sheriff, or clerk for the amount unpaid under any prior order or orders, but no sureties on the bond are liable for more than the penalty of the bond.

History.—ss. 1-3, ch. 28288, 1953; s. 16, ch. 67-254; s. 19, ch. 71-241.

Note.—Former s. 65.19.

61.181 Depository for alimony transactions, support, maintenance, and support payments; fees.—

(1)(a) The office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county, to the maximum extent possible under existing federal law. The depository shall receive reimbursement for services provided under a cooperative agreement with the department pursuant to s. 61.1826. Each depository shall participate in the

State Disbursement Unit and shall implement all statutory and contractual duties imposed on the State Disbursement Unit. Each depository shall receive from and transmit to the State Disbursement Unit required data through the Clerk of Court Child Support Enforcement Collection System. Payments on non-Title IV-D cases without income deduction orders shall not be sent to the State Disbursement Unit.

(b) Upon request by the department, the depository created pursuant to paragraph (a) shall establish an account for the receipt and disbursement of support payments for Title IV-D interstate cases. The department shall provide a copy of the other state's order with the request, and the depository shall advise the department of the account number in writing within 4 business days after receipt of the request.

(2)(a) For payments not required to be processed through the State Disbursement Unit, the depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section. For non-Title IV-D cases required to be processed by the State Disbursement Unit pursuant to this chapter, the State Disbursement Unit shall, on each payment received, collect a fee, and shall transmit to the depository in which the case is located 40 percent of such service charge for the depository's administration, management, and maintenance of such case. If a payment is made to the State Disbursement Unit which is not accompanied by the required fee, the State Disbursement Unit shall not deduct any moneys from the support payment for payment of the fee. The fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. The fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of the Clerk of the Court Child Support Enforcement Collection System to be operated by the depositories, including the automation of civil case information necessary for the State Case Registry. The department shall contract with the Florida Association of Court Clerks and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of online electronic transfer of information to the IV-D agency as otherwise required by this chapter. The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund. Each depository created under this section shall fully participate in the Clerk of the Court Child Support Enforcement Collection System and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the department.

2. Moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

(3)(a) For payments not required to be processed through the State Disbursement Unit, the depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1,

1998, if a payment is made on a Title IV-D case which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency, and when the total of fees and costs which are due but not paid exceeds $50, the judgment by operation of law process set forth in s. 61.14(6)(a) shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income.
2. The obligee's name, address, and social security number.
3. The amount of support due as provided in the court order.
4. The schedule of payment as provided in the court order.
5. The actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement.
6. The unpaid balance of any arrearage due as provided in the court order.
7. Other records as necessary to comply with federal reporting requirements.

(b) The depository may require a payor or obligor to complete an information form, which shall request the following about the payor or obligor who provides payment by check:

1. Full name, address, and home phone number.
2. Driver license number.
3. Social security number.
4. Name, address, and business phone number of obligor's employer.
5. Date of birth.
6. Weight and height.
7. Such other information as may be required by the State Attorney if prosecution for an insufficient check becomes necessary.

If the depository requests such information, and a payor or obligor does not comply, the depository may refuse to accept personal checks from the payor or obligor.

(c) Parties using the depository for support payments shall inform the depository of changes in their names or addresses. An obligor shall, additionally, notify the depository of all changes in employment or sources of income, including the payor's name and address, and changes in the amounts of income received. Notification of all changes shall be made in writing to the depository within 7 days of a change.

(d) When time-sharing of a child is relinquished by a parent who is entitled to receive child support moneys from the depository to the custody of a licensed or registered long-term care child agency, that agency may request from the court an order directing child support payments that would otherwise be distributed to the parent be distributed to the agency for the period of time that the child is with the agency. Thereafter, payments shall be distributed to the agency as if the agency were the parent until further order of the court.

(4) The depository shall provide to the IV-D agency, at least once a month, a listing of IV-D accounts which identifies all delinquent accounts, the period of delinquency, and total amount of delinquency. The list shall be in alphabetical order by name of obligor, shall include the obligee's name and case number, and shall be provided at no cost to the IV-D agency.

(5) The depository shall accept a support payment tendered in the form of a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall disburse the proceeds to the obligee within 2 working days. Payments drawn by check on the account of a payor or obligor shall be disbursed within 4 working days.

Notwithstanding the provisions of s. 28.243, the administrator of the depository shall not be personally liable if the check tendered by the payor or obligor is not paid by the bank.

(6) Certified copies of payment records maintained by a depository shall without further proof be admitted into evidence in any legal proceeding in this state.

(7) The depository shall provide to the Title IV-D agency the date provided by a payor, as required in s. 61.1301, for each payment received and forwarded to the agency. If no date is provided by the payor, the depository shall provide the date of receipt by the depository and shall report to the Title IV-D agency those payors who fail to provide the date the deduction was made.

(8) On or before July 1, 1994, the depository shall provide information required by this chapter to be transmitted to the Title IV-D agency by online electronic transmission pursuant to rules promulgated by the Title IV-D agency.

(9) If the increase in fees as provided by paragraph (2)(b) expires or is otherwise terminated, the depository shall not be required to provide the Title IV-D agency the date provided by a payor as required by s. 61.1301.

(10) Compliance with the requirements of this section shall be included as part of the annual county audit required pursuant to s. 218.39.

History.—s. 1, ch. 73-112; s. 1, ch. 75-148; s. 4, ch. 84-110; s. 5, ch. 85-178; s. 126, ch. 86-220; s. 1, ch. 87-358; s. 24, ch. 88-176; s. 3, ch. 89-183; s. 9, ch. 92-138; s. 14, ch. 93-208; s. 2, ch. 96-190; s. 5, ch. 96-305; s. 8, ch. 97-170; ss. 10, 42, ch. 98-397; s. 1, ch. 99-5; s. 6, ch. 99-375; s. 9, ch. 2000-158; s. 12, ch. 2001-158; s. 4, ch. 2002-173; s. 74, ch. 2003-402; s. 51, ch. 2004-265; s. 4, ch. 2004-305; s. 5, ch. 2004-334; s. 12, ch. 2008-61.

61.1811 Clerk of the Court Child Support Enforcement Collection System Trust Fund.—There is hereby created the Clerk of the Court Child Support Enforcement Collection System Trust Fund to be used to deposit the department's share of the fees generated in s. 61.181(2)(b).

History.—s. 8, ch. 92-138.

61.1812 Child Support Incentive Trust Fund.—

(1) The Child Support Incentive Trust Fund is hereby created, to be administered by the Department of Revenue. All child support enforcement incentive earnings and that portion of the state share of Title IV-A public assistance collections recovered in fiscal year 1996-1997 by the Title IV-D program of the department which is in excess of the amount estimated by the February 1997 Social Services Estimating Conference to be recovered in fiscal year 1996-1997 shall be credited to the trust fund, and no other receipts, except interest earnings, shall be credited thereto. For fiscal years beginning with 1997-1998, in addition to incentive earnings and interest earnings, that portion of the state share of Title IV-A public assistance collections recovered in each fiscal year by the Title IV-D program of the department which is in excess of the amount estimated by the February 1997 Social Services Estimating Conference to be recovered in fiscal year 1997-1998 shall be credited to the trust fund. The purpose of the trust fund is to account for federal incentive payments to the state for child support enforcement and to support the activities of the child support enforcement program under Title IV-D of the Social Security Act. The department shall invest the money in the trust fund pursuant to s. 17.61 and retain all interest earnings in the trust fund. The department shall separately account for receipts credited to the trust fund. When all general revenue appropriations for the child support enforcement program have been shifted to the trust fund, then annually thereafter, on June 30, if revenues deposited into the trust fund, including federal child support incentive earnings, have exceeded state expenditures for the child support enforcement program administered by the department for the prior 12-month period, the revenues in excess of cash flow needs are transferred to the General Revenue Fund.

(2) Notwithstanding the provisions of s. 216.301, and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

History.—s. 1, ch. 95-111; s. 9, ch. 97-170; s. 4, ch. 97-259; ss. 2, 38, ch. 98-46; s. 3, ch. 2000-157; s. 10, ch. 2000-158; s. 4, ch.

2005-82.

61.1814 Child Support Enforcement Application and Program Revenue Trust Fund.—

(1) The Child Support Enforcement Application and Program Revenue Trust Fund is hereby created, to be administered by the Department of Revenue. The purpose of the trust fund is to account for Title IV-D program income and to support the activities of the child support enforcement program under Title IV-D of the Social Security Act. The department shall invest the money in the trust fund pursuant to s. 17.61 and retain all interest earnings in the trust fund. Notwithstanding the provisions of s. 216.301, and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund. In accordance with federal requirements, the federal share of program income shall be credited to the Federal Government.

(2) With the exception of fees required to be deposited in the Clerk of the Court Child Support Enforcement Collection System Trust Fund under s. 61.181(2)(b) and collections determined to be undistributable or unidentifiable under s. 409.2558, the fund shall be used for the deposit of Title IV-D program income received by the department. Each type of program income received shall be accounted for separately. Program income received by the department includes, but is not limited to:

(a) Application fees of nonpublic assistance applicants for child support enforcement services;

(b) Court-ordered costs recovered from child support obligors;

(c) Interest on child support collections;

(d) The balance of fees received under s. 61.181(2)(a) on non-Title IV-D cases required to be processed through the State Disbursement Unit after the clerk's share is paid;

(e) Fines imposed under ss. 409.256(7)(b), 409.2564(7), and 409.2578; and

(f) The annual fee required under s. 409.2567.

History.—s. 46, ch. 96-418; s. 10, ch. 97-170; s. 6, ch. 2004-334; s. 9, ch. 2005-39; s. 2, ch. 2007-85.

61.1816 Child Support Clearing Trust Fund.—

(1) The Child Support Clearing Trust Fund is hereby created, to be administered by the Department of Revenue. Funds shall be credited to the trust fund from child support payments. The purpose of the trust fund is to account for child support collections pending distribution to custodial parents and other state trust funds.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

History.—s. 1, ch. 95-371; s. 48, ch. 96-418.

Note.—Former s. 409.2582.

61.1824 State Disbursement Unit.—

(1) The State Disbursement Unit is hereby created and shall be operated by the Department of Revenue or by a contractor responsible directly to the department. The State Disbursement Unit shall be responsible for the collection and disbursement of payments for:

(a) All support cases enforced by the department pursuant to Title IV-D of the Social Security Act; and

(b) All child support cases not being enforced by the department pursuant to Title IV-D of the Social Security Act in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction.

(2) The State Disbursement Unit must be operated in coordination with the department's child support enforcement automated system in Title IV-D cases.

(3) The State Disbursement Unit shall perform the following functions:

(a) Disburse all receipts from intercepts, including, but not limited to, United States Internal Revenue Service, reemployment assistance or unemployment compensation, lottery, and administrative offset intercepts.

(b) Provide employers and payors with one address to which all income deduction collections are sent.

(c) When there is more than one income deduction order being enforced against the same obligor by the payor, allocate the amounts available for income deduction in the manner set forth in s. 61.1301.

(d) To the extent feasible, use automated procedures for the collection and disbursement of support payments, including, but not limited to, having procedures for:

1. Receipt of payments from obligors, employers, other states and jurisdictions, and other entities.

2. Timely disbursement of payments to obligees, the department, and other state Title IV-D agencies.

3. Accurate identification of payment source and amount.

4. Furnishing any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in paragraph (1)(b), prior to the date the State Disbursement Unit becomes fully operational, the State Disbursement Unit shall not be required to convert and maintain in automated form records of payments kept pursuant to s. 61.181.

5. Electronic disbursement of support payments to obligees. The State Disbursement Unit shall notify obligees of electronic disbursement options. Any payments made to the State Disbursement Unit that are owed to the obligee shall be disbursed electronically. The obligee may designate a personal account for deposit of payments. If the obligee does not designate a personal account, the State Disbursement Unit shall deposit any payments into a stored value account that can be accessed by the obligee.

(e) Information regarding disbursement must be transmitted in the following manner:

1. In Title IV-D cases, the State Disbursement Unit shall transmit, in an electronic format as prescribed by the department, all required information to the department on the same business day the information is received from the employer or other source of periodic income, if sufficient information identifying the payee is provided. The department shall determine distribution allocation of a collection and shall electronically transmit that information to the State Disbursement Unit, whereupon the State Disbursement Unit shall disburse the collection. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages. The State Disbursement Unit may delay the disbursement of Title IV-D collections until authorization by the Title IV-D agency has been received.

2. In non-Title IV-D cases, payment information is not transmitted to the department. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages.

(f) Reconcile all cash receipts and all disbursements daily and provide the department with a daily reconciliation report in a format as prescribed by the department.

(g) Disburse support payments to foreign countries as may be required.

(h) Receive and convert support payments made in foreign currency.

(i) Remit to the department payments for costs due the department.

(j) Handle insufficient funds payments, claims of lost or stolen checks, and stop payment orders.

(k) Issue billing notices and statements of account, in accordance with federal requirements, in a format and frequency prescribed by the department to persons who pay and receive child support in Title IV-D cases.

(l) Provide the department with a weekly report that summarizes and totals all financial transaction activity.

(m) Provide toll-free access to customer assistance representatives and an automated voice response system that will enable the parties to a support case to obtain payment information.

(4) For cases in which the obligor or payor fails to submit payment directly to the central address provided by the State Disbursement Unit, the depositories shall have procedures for accepting a support payment tendered in the form of cash or a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by

cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall remit the payment to the State Disbursement Unit within 1 business day after receipt.

(5) Obligees receiving payments through the State Disbursement Unit shall inform the State Disbursement Unit of changes in their names and addresses. Notification of all changes must be made directly to the State Disbursement Unit within 7 business days after a change. In Title IV-D cases, the State Disbursement Unit shall transmit the information to the department, in an electronic format prescribed by the department, within 1 business day after receipt.

(6) All support payments for cases to which the requirements of this section apply shall be made payable to and delivered to the State Disbursement Unit.

(a) An employer that is required to remit tax payments electronically to the department under s. 213.755 or s. 443.163 shall remit support payments deducted pursuant to an income deduction order or income deduction notice and provide associated case data to the State Disbursement Unit by electronic means approved by the department. The department may waive the requirement to remit payments electronically for an employer that is unable to comply despite good faith efforts or due to circumstances beyond the employer's reasonable control. Grounds for approving a waiver include, but are not limited to, circumstances in which:

1. The employer does not have a computer that meets the minimum standards necessary for electronic remittance.
2. Additional time is needed to program the employer's computer.
3. The employer does not currently file data electronically with any business or government agency.
4. Compliance conflicts with the employer's business procedures.
5. Compliance would cause a financial hardship.

(b) The department shall adopt by rule standards for electronic remittance, data transfer, and waivers that, to the extent feasible, are consistent with the department's rules for electronic filing and remittance of taxes under ss. 213.755 and 443.163. A waiver granted by the department from the requirement to file and remit electronically under s. 213.755 or s. 443.163 constitutes a waiver from the requirement under this subsection.

(7) Notwithstanding any other statutory provision to the contrary, funds received by the State Disbursement Unit shall be held, administered, and disbursed by the State Disbursement Unit pursuant to the provisions of this chapter.

History.—s. 43, ch. 98-397; s. 7, ch. 99-375; s. 13, ch. 2001-158; s. 10, ch. 2005-39; s. 3, ch. 2007-85; s. 2, ch. 2008-92; ss. 21, 22, 54, ch. 2008-153; s. 37, ch. 2012-30.

61.1825 State Case Registry.—

(1) The Department of Revenue or its agent shall operate and maintain a State Case Registry as provided by 42 U.S.C. s. 654A. The State Case Registry must contain records for:

(a) Each case in which services are being provided by the department as the state's Title IV-D agency; and

(b) By October 1, 1998, each support order established or modified in the state on or after October 1, 1998, in which services are not being provided by the Title IV-D agency.

The department shall maintain that part of the State Case Registry that includes support order information for Title IV-D cases on the department's child support enforcement automated system.

(2) By October 1, 1998, for each support order established or modified by a court of this state on or after October 1, 1998, the depository for the court that enters the support order in a non-Title IV-D case shall provide, in an electronic format prescribed by the department, the following information to that component of the State Case Registry that receives, maintains, and transmits support order information for non-Title IV-D cases:

(a) The names of the obligor, obligee, and child or children;

(b) The social security numbers of the obligor, obligee, and child or children;

(c) The dates of birth of the obligor, obligee, and child or children;

(d) Whether a family violence indicator is present;

(e) The date the support order was established or modified;

(f) The case identification number, which is the two-digit numeric county code followed by the civil circuit case number;

(g) The federal information processing system numeric designation for the county and state where the support order was established or modified; and

(h) Any other data as may be required by the United States Secretary of Health and Human Services.

(3)(a) For the purpose of this section, a family violence indicator must be placed on a record when:

1. A party executes a sworn statement requesting that a family violence indicator be placed on that party's record which states that the party has reason to believe that release of information to the Federal Case Registry may result in physical or emotional harm to the party or the child; or

2. A temporary or final injunction for protection against domestic violence has been granted pursuant to s. 741.30(6), an injunction for protection against domestic violence has been issued by a court of a foreign state pursuant to s. 741.315, or a temporary or final injunction for protection against repeat violence has been granted pursuant to s. 784.046; or

3. The department has received information on a Title IV-D case from the Domestic, Dating, Sexual, and Repeat Violence Injunction Statewide Verification System, established pursuant to s. 784.046(8)(b), that a court has granted a party a domestic violence or repeat violence injunction.

(b) Before the family violence indicator can be removed from a record, the protected person must be afforded notice and an opportunity to appear before the court on the issue of whether the disclosure will result in harm.

(4) The depository, using standardized data elements, shall provide the support order information required by subsection (2) to the entity that maintains the non-Title IV-D support order information for the State Case Registry at a frequency and in a format prescribed by the department.

(5) The entity that maintains State Case Registry information for non-Title IV-D cases shall make the information available to the department in a readable and searchable electronic format that is compatible with the department's automated child support enforcement system.

(6) State Case Registry information must be transmitted electronically to the Federal Case Registry of Child Support Orders by the department in a manner and frequency prescribed by the United States Secretary of Health and Human Services.

History.—s. 44, ch. 98-397; s. 8, ch. 99-375; s. 14, ch. 2001-158; s. 39, ch. 2008-61; s. 8, ch. 2013-15.

61.1826 Procurement of services for State Disbursement Unit and the non-Title IV-D component of the State Case Registry; contracts and cooperative agreements; penalties; withholding payment.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the clerks of court play a vital role, as essential participants in the establishment, modification, collection, and enforcement of child support, in securing the health, safety, and welfare of the children of this state. The Legislature further finds and declares that:

(a) It is in the state's best interest to preserve the essential role of the clerks of court in disbursing child support payments and maintaining official records of child support orders entered by the courts of this state.

(b) As official recordkeeper for matters relating to court-ordered child support, the clerks of court are necessary parties to obtaining, safeguarding, and providing child support payment and support order information.

(c) As provided by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state must establish and operate a State Case Registry in full compliance with federal law by October 1, 1998, and a State Disbursement Unit by October 1, 1999.

(d) Noncompliance with federal law could result in a substantial loss of federal funds for the state's child support enforcement program and the temporary assistance for needy families welfare block grant.

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and constitutes an emergency for purposes of s. 287.057(3)(a).

(f) The clerks of court maintain the official payment record of the court for amounts received, payments credited, arrearages owed, liens attached, and current mailing addresses of all parties, payor, obligor, and payee.

(g) The clerks of court have established a statewide Clerk of Court Child Support Enforcement Collection System for the automation of all payment processing using state and local government funds as provided under s. 61.181(2)(b)1.

(h) The Legislature acknowledges the improvements made by and the crucial role of the Clerk of the Court Child Support Enforcement Collection System in speeding payments to the children of Florida.

(i) There is no viable alternative to continuing the role of the clerks of court in collecting, safeguarding, and providing essential child support payment information.

For these reasons, the Legislature hereby directs the Department of Revenue, subject to the provisions of subsection (5), to contract with the Florida Association of Court Clerks and each depository to perform duties with respect to the operation and maintenance of a State Disbursement Unit and the non-Title IV-D component of the State Case Registry as further provided by this section.

(2) COOPERATIVE AGREEMENTS.—Each depository shall enter into a standard cooperative agreement with the department for participation in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry through the Clerk of Court Child Support Enforcement Collection System within 60 days after the effective date of this section. The cooperative agreement shall be a uniform document, mutually developed by the department and the Florida Association of Court Clerks, that applies to all depositories and complies with all state and federal requirements. Each depository shall also enter into a written agreement with the Florida Association of Court Clerks and the department within 60 days after the effective date of this section that requires each depository to participate fully in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry.

(3) CONTRACT.—The Florida Association of Court Clerks shall enter into a written contract with the department that fully complies with all federal and state laws within 60 days after the effective date of this section. The contract shall be mutually developed by the department and the Florida Association of Court Clerks. As required by s. 287.057 and 45 C.F.R. s. 74.43, any subcontracts entered into by the Florida Association of Court Clerks, except for a contract between the Florida Association of Court Clerks and its totally owned subsidiary corporation, must be procured through competitive bidding.

(4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.—The contract between the Florida Association of Court Clerks and the department, and cooperative agreements entered into by the depositories and the department, must contain, but are not limited to, the following terms:

(a) The initial term of the contract and cooperative agreements is for 5 years. The subsequent term of the contract and cooperative agreements is for 3 years, with the option of two 1-year renewal periods, at the sole discretion of the department.

(b) The duties and responsibilities of the Florida Association of Court Clerks, the depositories, and the department.

(c) Under s. 287.058(1)(a), all providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, a report of monthly expenditures in a format prescribed by the department and in sufficient detail for a proper preaudit and postaudit thereof.

(d) All providers and subcontractors shall submit to the department directly, or through the Florida

Association of Court Clerks, management reports in a format prescribed by the department.

(e) All subcontractors shall comply with chapter 280, as may be required.

(f) Federal financial participation for eligible Title IV-D expenditures incurred by the Florida Association of Court Clerks and the depositories shall be at the maximum level permitted by federal law for expenditures incurred for the provision of services in support of child support enforcement in accordance with 45 C.F.R. part 74 and Federal Office of Management and Budget Circulars A-87 and A-122 and based on an annual cost allocation study of each depository. The depositories shall submit directly, or through the Florida Association of Court Clerks, claims for Title IV-D expenditures monthly to the department in a standardized format as prescribed by the department. The Florida Association of Court Clerks shall contract with a certified public accounting firm, selected by the Florida Association of Court Clerks and the department, to audit and certify quarterly to the department all claims for expenditures submitted by the depositories for Title IV-D reimbursement.

(g) Upon termination of the contracts between the department and the Florida Association of Court Clerks or the depositories, the Florida Association of Court Clerks, its agents, and the depositories shall assist the department in making an orderly transition to a private vendor.

(h) Interest on late payment by the department shall be in accordance with s. 215.422.

If either the department or the Florida Association of Court Clerks objects to a term of the standard cooperative agreement or contract specified in subsections (2) and (3), the disputed term or terms shall be presented jointly by the parties to the Attorney General or the Attorney General's designee, who shall act as special magistrate. The special magistrate shall resolve the dispute in writing within 10 days. The resolution of a dispute by the special magistrate is binding on the department and the Florida Association of Court Clerks.

(5) CONTRACT TERMINATION.—If any of the following events occur, the department may discontinue its plans to contract, or terminate its contract, with the Florida Association of Court Clerks and the depositories upon 30 days' written notice by the department and may, through competitive bidding, procure services from a private vendor to perform functions necessary for the department to operate the State Disbursement Unit and the non-Title IV-D component of the State Case Registry with a minimum amount of disruption in service to the children and citizens of the state:

(a) Receipt by the department of final notice by the United States Secretary of Health and Human Services or the secretary's designee that the contractual arrangement between the department, the Florida Association of Court Clerks, and the depositories does not satisfy federal requirements for a State Disbursement Unit or a State Case Registry and that the state's Title IV-D State Plan will not be approved, or that federal Title IV-D funding is not made available to fund the non-Title IV-D component of the State Case Registry or the State Disbursement Unit;

(b) The Florida Association of Court Clerks, a depository, or any subcontractor fails to comply with any material contractual term or state or federal requirement;

(c) The non-Title IV-D component of the State Case Registry is not established and operational, consistent with the terms of the contract, by October 1, 1998; or

(d) The State Disbursement Unit is not established and operational, consistent with the terms of the contract, by October 1, 1999.

If either event specified in paragraph (a) occurs, the depositories are relieved of all responsibilities and duties under this chapter relating to Title IV-D payment processing and data transmission to the department.

(6) PARTICIPATION BY DEPOSITORIES.—

(a) Each depository shall participate in the non-Title IV-D component of the State Case Registry by using an automated system compatible with the department's automated child support enforcement system.

(b) For participation in the State Disbursement Unit, each depository shall:

1. Use the CLERC System;

2. Receive electronically and record payment information from the State Disbursement Unit for each support order entered by the court.

(7) TITLE IV-D PROGRAM INCOME.—Pursuant to 45 C.F.R. s. 304.50, all transaction fees and interest income realized by the State Disbursement Unit constitute and must be reported as program income under federal law and must be transmitted to the Title IV-D agency for deposit in the Child Support Enforcement Application and Program Revenue Trust Fund.

(8) PENALTIES.—All depositories must participate in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry as provided in this chapter. If, after notice and an opportunity to cure an otherwise curable default, a depository fails to comply with the material terms of the cooperative agreement, the failure to comply subjects the county officer or officers responsible for the depository to the sanctions provided in Art. IV of the State Constitution. However, no county officer or officers shall be subject to sanctions under Art. IV of the State Constitution for any noncurable default resulting from circumstances or conditions outside the control of the depository.

(9) WITHHOLDING PAYMENT UNDER CONTRACTS.—If the Florida Association of Court Clerks, its agent, a subcontractor, or a depository does not comply with any material contractual term or state or federal requirement, the department may withhold funds otherwise due under the individual contract with the Florida Association of Court Clerks or the individual cooperative agreement with the depository, or both, at the department's election, to enforce compliance. The department shall provide written notice of noncompliance before withholding funds. Within 10 business days after receipt of written notification of noncompliance, the department must be provided with a written proposed corrective action plan. Within 10 business days after receipt of a corrective action plan, the department shall accept the plan or allow 5 business days within which a revised plan may be submitted. Upon the department's acceptance of a corrective action plan, the agreed-upon plan must be fully completed within 30 business days unless a longer period is permitted by the department. If a proposed corrective action plan is not submitted, is not accepted, or is not fully completed, any funds withheld by the department for noncompliance are forfeited to the department. Withholding or forfeiture of funds may be contested by filing a petition or request for a hearing under the applicable provisions of chapter 120. For the purposes of this section, no party to a dispute involving less than $5,000 in withheld or forfeited funds is deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute.

History.—s. 45, ch. 98-397; s. 9, ch. 99-375; s. 10, ch. 2001-278; ss. 5, 6, ch. 2002-173; s. 1, ch. 2002-207; s. 54, ch. 2004-11; s. 5, ch. 2010-151.

61.1827 Identifying information concerning applicants for and recipients of child support services.—

(1) Any information that reveals the identity of applicants for or recipients of child support services, including the name, address, and telephone number of such persons, held by a non-Title IV-D county child support enforcement agency is confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I of the State Constitution. The use or disclosure of such information by the non-Title IV-D county child support enforcement agency is limited to the purposes directly connected with:

(a) Any investigation, prosecution, or criminal or civil proceeding connected with the administration of any non-Title IV-D county child support enforcement program;

(b) Mandatory disclosure of identifying and location information as provided in s. 61.13(7) by the non-Title IV-D county child support enforcement agency when providing non-Title IV-D services;

(c) Mandatory disclosure of information as required by ss. 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the Social Security Act; or

(d) Disclosure to an authorized person, as defined in 45 C.F.R. s. 303.15, for purposes of enforcing any state or federal law with respect to the unlawful taking or restraint of a child or making or enforcing a parenting plan.

As used in this paragraph, the term "authorized person" includes a parent with whom the child does not currently reside, unless a court has entered an order under s. 741.30, s. 741.31, or s. 784.046.

(2) The non-Title IV-D county child support enforcement agency shall not disclose information that identifies by name and address an applicant for or recipient of child support services or the whereabouts of such party or child to another person against whom a protective order with respect to the former party or the child has been entered if the county agency has reason to believe that the release of information to such person could result in physical or emotional harm to the party or the child.

(3) As used in this section, "non-Title IV-D county child support enforcement agency" means a department, division, or other agency of a county government which is operated by the county, excluding local depositories pursuant to s. 61.181 operated by the clerk of the court, to provide child support enforcement and depository services to county residents.

History.—s. 1, ch. 2001-131; s. 10, ch. 2005-239; s. 1, ch. 2006-156; s. 13, ch. 2008-61.

61.183 Mediation of certain contested issues.—

(1) In any proceeding in which the issues of parental responsibility, primary residence, access to, visitation with, or support of a child are contested, the court may refer the parties to mediation in accordance with rules promulgated by the Supreme Court. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees.

(2) If an agreement is reached by the parties on the contested issues, a consent order incorporating the agreement shall be prepared by the mediator and submitted to the parties and their attorneys for review. Upon approval by the parties, the consent order shall be reviewed by the court and, if approved, entered. Thereafter, the consent order may be enforced in the same manner as any other court order.

(3) Any information from the files, reports, case summaries, mediator's notes, or other communications or materials relating to a mediation proceeding pursuant to this section obtained by any person performing mediation duties is exempt from the provisions of s. 119.07(1).

History.—s. 128, ch. 86-220; s. 4, ch. 89-183; s. 17, ch. 90-360; s. 10, ch. 92-138; s. 20, ch. 96-406; s. 5, ch. 2004-291; s. 5, ch. 2009-180.

61.19 Entry of judgment of dissolution of marriage, delay period.—No final judgment of dissolution of marriage may be entered until at least 20 days have elapsed from the date of filing the original petition for dissolution of marriage; but the court, on a showing that injustice would result from this delay, may enter a final judgment of dissolution of marriage at an earlier date.

History.—s. 1, ch. 57-258; s. 1, ch. 59-64; s. 1, ch. 61-123; s. 16, ch. 67-254; s. 20, ch. 71-241.

Note.—Former s. 65.20.

61.191 Application.—

(1) This act applies to all proceedings commenced on or after July 1, 1971. However, pending actions for divorce are deemed to have been commenced on the bases provided in s. 61.052, and evidence as to such bases for dissolution of marriage after July 1, 1971, shall be in compliance with this act.

(2) This act applies to all proceedings commenced after July 1, 1971, for the modification of a judgment or order entered prior to July 1, 1971.

(3) In any action or proceeding in which an appeal was pending or a new trial was ordered prior to July 1, 1971, the law in effect at the time of the order sustaining the appeal or the new trial governs the appeal, the new trial, and any subsequent trial or appeal.

History.—s. 21, ch. 71-241; s. 19, ch. 79-164.

61.20 Social investigation and recommendations regarding a parenting plan.—

(1) In any action where the parenting plan is at issue because the parents are unable to agree, the court may order a social investigation and study concerning all pertinent details relating to the child and each parent when such an investigation has not been done and the study therefrom provided to the court by the parties or when the court determines that the investigation and study that have been done are insufficient. The agency, staff, or person conducting the investigation and study ordered by the court pursuant to this section shall furnish the court and all parties of record in the proceeding a written study containing recommendations, including a written statement of facts found in the social investigation on which the recommendations are based. The court may consider the information contained in the study in making a decision on the parenting plan, and the technical rules of evidence do not exclude the study from consideration.

(2) A social investigation and study, when ordered by the court, shall be conducted by qualified staff of the court; a child-placing agency licensed pursuant to s. 409.175; a psychologist licensed pursuant to chapter 490; or a clinical social worker, marriage and family therapist, or mental health counselor licensed pursuant to chapter 491. If a certification of indigence based on an affidavit filed with the court pursuant to s. 57.081 is provided by an adult party to the proceeding and the court does not have qualified staff to perform the investigation and study, the court may request that the Department of Children and Families conduct the investigation and study.

(3) Except as to persons who obtain certification of indigence as specified in subsection (2), for whom no costs are incurred, the parents involved in a proceeding to determine a parenting plan where the court has ordered the performance of a social investigation and study are responsible for paying the costs of the investigation and study. Upon submitting the study to the court, the agency, staff, or person performing the study shall include a bill for services, which shall be taxed and ordered paid as costs in the proceeding.

History.—s. 1, ch. 59-186; s. 16, ch. 67-254; ss. 19, 35, ch. 69-106; s. 12, ch. 77-147; s. 27, ch. 77-433; s. 1, ch. 86-101; s. 1, ch. 89-38; s. 4, ch. 99-8; s. 14, ch. 2008-61; s. 6, ch. 2009-180; s. 23, ch. 2014-19.

Note.—Former s. 65.21.

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(a) A large number of children experience the separation or divorce of their parents each year. Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.

(b) Parents are more likely to consider the best interests of their children when determining parental arrangements if courts provide families with information regarding the process by which courts make decisions on issues affecting their children and suggestions as to how parents may ease the coming adjustments in family structure for their children.

(c) It has been found to be beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving time-sharing and child support disputes.
2. The emotional experiences and problems of divorcing adults.
3. The family problems and the emotional concerns and needs of the children.
4. The availability of community services and resources.

(d) Parents who are separating or divorcing are more likely to receive maximum benefit from a program if they attend such program at the earliest stages of their dispute, before extensive litigation occurs and adversarial positions are assumed or intensified.

(2) The Department of Children and Families shall approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named the Parent Education and Family

Stabilization Course and may include, but need not be limited to, the following topics as they relate to court actions between parents involving custody, care, time-sharing, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.
2. Emotional aspects of separation and divorce on adults.
3. Emotional aspects of separation and divorce on children.
4. Family relationships and family dynamics.
5. Financial responsibilities to a child or children.
6. Issues regarding spousal or child abuse and neglect.
7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(3) Each course provider offering a parenting course pursuant to this section must be approved by the Department of Children and Families.

(a) The Department of Children and Families shall provide each judicial circuit with a list of approved course providers and sites at which the parent education and family stabilization course may be completed. Each judicial circuit must make information regarding all course providers approved for their circuit available to all parents.

(b) The Department of Children and Families shall include on the list of approved course providers and sites for each circuit at least one site in that circuit where the parent education and family stabilization course may be completed on a sliding fee scale, if available.

(c) The Department of Children and Families shall include on the list of approved course providers, without limitation as to the area of the state for which the course is approved, a minimum of one statewide approved course to be provided through the Internet and one statewide approved course to be provided through correspondence. The purpose of the Internet and correspondence courses is to ensure that the parent education and stabilization course is available in the home county of each state resident and to those out-of-state persons subject to this section.

(d) The Department of Children and Families may remove a provider who violates this section, or its implementing rules, from the list of approved court providers.

(e) The Department of Children and Families shall adopt rules to administer subsection (2) and this subsection.

(4) All parties to a dissolution of marriage proceeding with minor children or a paternity action that involves issues of parental responsibility shall be required to complete the Parent Education and Family Stabilization Course prior to the entry by the court of a final judgment. The court may excuse a party from attending the parenting course, or from completing the course within the required time, for good cause.

(5) All parties required to complete a parenting course under this section shall begin the course as expeditiously as possible. For dissolution of marriage actions, unless excused by the court pursuant to subsection (4), the petitioner must complete the course within 45 days after the filing of the petition, and all other parties must complete the course within 45 days after service of the petition. For paternity actions, unless excused by

the court pursuant to subsection (4), the petitioner must complete the course within 45 days after filing the petition, and any other party must complete the course within 45 days after an acknowledgment of paternity by that party, an adjudication of paternity of that party, or an order granting time-sharing to or support from that party. Each party to a dissolution or paternity action shall file proof of compliance with this subsection with the court prior to the entry of the final judgment.

(6) All parties to a modification of a final judgment involving a parenting plan or a time-sharing schedule may be required to complete a court-approved parenting course prior to the entry of an order modifying the final judgment.

(7) A reasonable fee may be charged to each parent attending the course.

(8) Information obtained or statements made by the parties at any educational session required under this statute shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such educational session become part of the record of the case unless the parties have stipulated in writing to the contrary.

(9) The court may hold any parent who fails to attend a required parenting course in contempt, or that parent may be denied shared parental responsibility or time-sharing or otherwise sanctioned as the court deems appropriate.

(10) Nothing in this section shall be construed to require the parties to a dissolution of marriage to attend a court-approved parenting course together.

(11) The court may, without motion of either party, prohibit the parenting course from being taken together, if there is a history of domestic violence between the parties.

History.—s. 1, ch. 94-185; s. 13, ch. 98-403; s. 75, ch. 2003-402; s. 8, ch. 2005-239; s. 15, ch. 2008-61; s. 7, ch. 2009-180; s. 24, ch. 2014-19.

61.29 Child support guidelines; principles.—The following principles establish the public policy of the State of Florida in the creation of the child support guidelines:

(1) Each parent has a fundamental obligation to support his or her minor or legally dependent child.

(2) The guidelines schedule is based on the parent's combined net income estimated to have been allocated to the child as if the parents and children were living in an intact household.

(3) The guidelines encourage fair and efficient settlement of support issues between parents and minimizes the need for litigation.

History.—s. 4, ch. 2010-199.

61.30 Child support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

(b) The guidelines may provide the basis for proving a substantial change in circumstances upon which a modification of an existing order may be granted. However, the difference between the existing monthly obligation and the amount provided for under the guidelines shall be at least 15 percent or $50, whichever

amount is greater, before the court may find that the guidelines provide a substantial change in circumstances.

(c) For each support order reviewed by the department as required by s. 409.2564(11), if the amount of the child support award under the order differs by at least 10 percent but not less than $25 from the amount that would be awarded under this section, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances.

(2) Income shall be determined on a monthly basis for each parent as follows:

(a) Gross income shall include, but is not limited to, the following:

1. Salary or wages.

2. Bonuses, commissions, allowances, overtime, tips, and other similar payments.

3. Business income from sources such as self-employment, partnership, close corporations, and independent contracts. “Business income” means gross receipts minus ordinary and necessary expenses required to produce income.

4. Disability benefits.

5. All workers’ compensation benefits and settlements.

6. Reemployment assistance or unemployment compensation.

7. Pension, retirement, or annuity payments.

8. Social security benefits.

9. Spousal support received from a previous marriage or court ordered in the marriage before the court.

10. Interest and dividends.

11. Rental income, which is gross receipts minus ordinary and necessary expenses required to produce the income.

12. Income from royalties, trusts, or estates.

13. Reimbursed expenses or in kind payments to the extent that they reduce living expenses.

14. Gains derived from dealings in property, unless the gain is nonrecurring.

(b) Monthly income shall be imputed to an unemployed or underemployed parent if such unemployment or underemployment is found by the court to be voluntary on that parent’s part, absent a finding of fact by the court of physical or mental incapacity or other circumstances over which the parent has no control. In the event of such voluntary unemployment or underemployment, the employment potential and probable earnings level of the parent shall be determined based upon his or her recent work history, occupational qualifications, and prevailing earnings level in the community if such information is available. If the information concerning a parent’s income is unavailable, a parent fails to participate in a child support proceeding, or a parent fails to supply adequate financial information in a child support proceeding, income shall be automatically imputed to the parent and there is a rebuttable presumption that the parent has income equivalent to the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of the Census. However, the court may refuse to impute income to a parent if the court finds it necessary for that parent to stay home with the child who is the subject of a child support calculation or as set forth below:

1. In order for the court to impute income at an amount other than the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of the Census, the court must make specific findings of fact consistent with the requirements of this paragraph. The party seeking to impute income has the burden to present competent, substantial evidence that:

a. The unemployment or underemployment is voluntary; and

b. Identifies the amount and source of the imputed income, through evidence of income from available employment for which the party is suitably qualified by education, experience, current licensure, or geographic location, with due consideration being given to the parties’ time-sharing schedule and their historical exercise

of the time-sharing provided in the parenting plan or relevant order.

2. Except as set forth in subparagraph 1., income may not be imputed based upon:

a. Income records that are more than 5 years old at the time of the hearing or trial at which imputation is sought; or

b. Income at a level that a party has never earned in the past, unless recently degreed, licensed, certified, relicensed, or recertified and thus qualified for, subject to geographic location, with due consideration of the parties' existing time-sharing schedule and their historical exercise of the time-sharing provided in the parenting plan or relevant order.

(c) Public assistance as defined in s. 409.2554 shall be excluded from gross income.

(3) Net income is obtained by subtracting allowable deductions from gross income. Allowable deductions shall include:

(a) Federal, state, and local income tax deductions, adjusted for actual filing status and allowable dependents and income tax liabilities.

(b) Federal insurance contributions or self-employment tax.

(c) Mandatory union dues.

(d) Mandatory retirement payments.

(e) Health insurance payments, excluding payments for coverage of the minor child.

(f) Court-ordered support for other children which is actually paid.

(g) Spousal support paid pursuant to a court order from a previous marriage or the marriage before the court.

(4) Net income for each parent shall be computed by subtracting allowable deductions from gross income.

(5) Net income for each parent shall be added together for a combined net income.

(6) The following guidelines schedule shall be applied to the combined net income to determine the minimum child support need:

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
800.00	190	211	213	216	218	220
850.00	202	257	259	262	265	268
900.00	213	302	305	309	312	315
950.00	224	347	351	355	359	363
1000.00	235	365	397	402	406	410
1050.00	246	382	443	448	453	458
1100.00	258	400	489	495	500	505
1150.00	269	417	522	541	547	553
1200.00	280	435	544	588	594	600
1250.00	290	451	565	634	641	648
1300.00	300	467	584	659	688	695
1350.00	310	482	603	681	735	743
1400.00	320	498	623	702	765	790
1450.00	330	513	642	724	789	838
1500.00	340	529	662	746	813	869

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
1550.00	350	544	681	768	836	895
1600.00	360	560	701	790	860	920
1650.00	370	575	720	812	884	945
1700.00	380	591	740	833	907	971
1750.00	390	606	759	855	931	996
1800.00	400	622	779	877	955	1022
1850.00	410	638	798	900	979	1048
1900.00	421	654	818	923	1004	1074
1950.00	431	670	839	946	1029	1101
2000.00	442	686	859	968	1054	1128
2050.00	452	702	879	991	1079	1154
2100.00	463	718	899	1014	1104	1181
2150.00	473	734	919	1037	1129	1207
2200.00	484	751	940	1060	1154	1234
2250.00	494	767	960	1082	1179	1261
2300.00	505	783	980	1105	1204	1287
2350.00	515	799	1000	1128	1229	1314
2400.00	526	815	1020	1151	1254	1340
2450.00	536	831	1041	1174	1279	1367
2500.00	547	847	1061	1196	1304	1394
2550.00	557	864	1081	1219	1329	1420
2600.00	568	880	1101	1242	1354	1447
2650.00	578	896	1121	1265	1379	1473
2700.00	588	912	1141	1287	1403	1500
2750.00	597	927	1160	1308	1426	1524
2800.00	607	941	1178	1328	1448	1549
2850.00	616	956	1197	1349	1471	1573
2900.00	626	971	1215	1370	1494	1598
2950.00	635	986	1234	1391	1517	1622
3000.00	644	1001	1252	1412	1540	1647
3050.00	654	1016	1271	1433	1563	1671
3100.00	663	1031	1289	1453	1586	1695
3150.00	673	1045	1308	1474	1608	1720
3200.00	682	1060	1327	1495	1631	1744
3250.00	691	1075	1345	1516	1654	1769
3300.00	701	1090	1364	1537	1677	1793

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
3350.00	710	1105	1382	1558	1700	1818
3400.00	720	1120	1401	1579	1723	1842
3450.00	729	1135	1419	1599	1745	1867
3500.00	738	1149	1438	1620	1768	1891
3550.00	748	1164	1456	1641	1791	1915
3600.00	757	1179	1475	1662	1814	1940
3650.00	767	1194	1493	1683	1837	1964
3700.00	776	1208	1503	1702	1857	1987
3750.00	784	1221	1520	1721	1878	2009
3800.00	793	1234	1536	1740	1899	2031
3850.00	802	1248	1553	1759	1920	2053
3900.00	811	1261	1570	1778	1940	2075
3950.00	819	1275	1587	1797	1961	2097
4000.00	828	1288	1603	1816	1982	2119
4050.00	837	1302	1620	1835	2002	2141
4100.00	846	1315	1637	1854	2023	2163
4150.00	854	1329	1654	1873	2044	2185
4200.00	863	1342	1670	1892	2064	2207
4250.00	872	1355	1687	1911	2085	2229
4300.00	881	1369	1704	1930	2106	2251
4350.00	889	1382	1721	1949	2127	2273
4400.00	898	1396	1737	1968	2147	2295
4450.00	907	1409	1754	1987	2168	2317
4500.00	916	1423	1771	2006	2189	2339
4550.00	924	1436	1788	2024	2209	2361
4600.00	933	1450	1804	2043	2230	2384
4650.00	942	1463	1821	2062	2251	2406
4700.00	951	1477	1838	2081	2271	2428
4750.00	959	1490	1855	2100	2292	2450
4800.00	968	1503	1871	2119	2313	2472
4850.00	977	1517	1888	2138	2334	2494
4900.00	986	1530	1905	2157	2354	2516
4950.00	993	1542	1927	2174	2372	2535
5000.00	1000	1551	1939	2188	2387	2551
5050.00	1006	1561	1952	2202	2402	2567
5100.00	1013	1571	1964	2215	2417	2583

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
5150.00	1019	1580	1976	2229	2432	2599
5200.00	1025	1590	1988	2243	2447	2615
5250.00	1032	1599	2000	2256	2462	2631
5300.00	1038	1609	2012	2270	2477	2647
5350.00	1045	1619	2024	2283	2492	2663
5400.00	1051	1628	2037	2297	2507	2679
5450.00	1057	1638	2049	2311	2522	2695
5500.00	1064	1647	2061	2324	2537	2711
5550.00	1070	1657	2073	2338	2552	2727
5600.00	1077	1667	2085	2352	2567	2743
5650.00	1083	1676	2097	2365	2582	2759
5700.00	1089	1686	2109	2379	2597	2775
5750.00	1096	1695	2122	2393	2612	2791
5800.00	1102	1705	2134	2406	2627	2807
5850.00	1107	1713	2144	2418	2639	2820
5900.00	1111	1721	2155	2429	2651	2833
5950.00	1116	1729	2165	2440	2663	2847
6000.00	1121	1737	2175	2451	2676	2860
6050.00	1126	1746	2185	2462	2688	2874
6100.00	1131	1754	2196	2473	2700	2887
6150.00	1136	1762	2206	2484	2712	2900
6200.00	1141	1770	2216	2495	2724	2914
6250.00	1145	1778	2227	2506	2737	2927
6300.00	1150	1786	2237	2517	2749	2941
6350.00	1155	1795	2247	2529	2761	2954
6400.00	1160	1803	2258	2540	2773	2967
6450.00	1165	1811	2268	2551	2785	2981
6500.00	1170	1819	2278	2562	2798	2994
6550.00	1175	1827	2288	2573	2810	3008
6600.00	1179	1835	2299	2584	2822	3021
6650.00	1184	1843	2309	2595	2834	3034
6700.00	1189	1850	2317	2604	2845	3045
6750.00	1193	1856	2325	2613	2854	3055
6800.00	1196	1862	2332	2621	2863	3064
6850.00	1200	1868	2340	2630	2872	3074
6900.00	1204	1873	2347	2639	2882	3084

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
6950.00	1208	1879	2355	2647	2891	3094
7000.00	1212	1885	2362	2656	2900	3103
7050.00	1216	1891	2370	2664	2909	3113
7100.00	1220	1897	2378	2673	2919	3123
7150.00	1224	1903	2385	2681	2928	3133
7200.00	1228	1909	2393	2690	2937	3142
7250.00	1232	1915	2400	2698	2946	3152
7300.00	1235	1921	2408	2707	2956	3162
7350.00	1239	1927	2415	2716	2965	3172
7400.00	1243	1933	2423	2724	2974	3181
7450.00	1247	1939	2430	2733	2983	3191
7500.00	1251	1945	2438	2741	2993	3201
7550.00	1255	1951	2446	2750	3002	3211
7600.00	1259	1957	2453	2758	3011	3220
7650.00	1263	1963	2461	2767	3020	3230
7700.00	1267	1969	2468	2775	3030	3240
7750.00	1271	1975	2476	2784	3039	3250
7800.00	1274	1981	2483	2792	3048	3259
7850.00	1278	1987	2491	2801	3057	3269
7900.00	1282	1992	2498	2810	3067	3279
7950.00	1286	1998	2506	2818	3076	3289
8000.00	1290	2004	2513	2827	3085	3298
8050.00	1294	2010	2521	2835	3094	3308
8100.00	1298	2016	2529	2844	3104	3318
8150.00	1302	2022	2536	2852	3113	3328
8200.00	1306	2028	2544	2861	3122	3337
8250.00	1310	2034	2551	2869	3131	3347
8300.00	1313	2040	2559	2878	3141	3357
8350.00	1317	2046	2566	2887	3150	3367
8400.00	1321	2052	2574	2895	3159	3376
8450.00	1325	2058	2581	2904	3168	3386
8500.00	1329	2064	2589	2912	3178	3396
8550.00	1333	2070	2597	2921	3187	3406
8600.00	1337	2076	2604	2929	3196	3415
8650.00	1341	2082	2612	2938	3205	3425
8700.00	1345	2088	2619	2946	3215	3435

Combined Monthly Net Income	Child or Children					
	One	Two	Three	Four	Five	Six
8750.00	1349	2094	2627	2955	3224	3445
8800.00	1352	2100	2634	2963	3233	3454
8850.00	1356	2106	2642	2972	3242	3464
8900.00	1360	2111	2649	2981	3252	3474
8950.00	1364	2117	2657	2989	3261	3484
9000.00	1368	2123	2664	2998	3270	3493
9050.00	1372	2129	2672	3006	3279	3503
9100.00	1376	2135	2680	3015	3289	3513
9150.00	1380	2141	2687	3023	3298	3523
9200.00	1384	2147	2695	3032	3307	3532
9250.00	1388	2153	2702	3040	3316	3542
9300.00	1391	2159	2710	3049	3326	3552
9350.00	1395	2165	2717	3058	3335	3562
9400.00	1399	2171	2725	3066	3344	3571
9450.00	1403	2177	2732	3075	3353	3581
9500.00	1407	2183	2740	3083	3363	3591
9550.00	1411	2189	2748	3092	3372	3601
9600.00	1415	2195	2755	3100	3381	3610
9650.00	1419	2201	2763	3109	3390	3620
9700.00	1422	2206	2767	3115	3396	3628
9750.00	1425	2210	2772	3121	3402	3634
9800.00	1427	2213	2776	3126	3408	3641
9850.00	1430	2217	2781	3132	3414	3647
9900.00	1432	2221	2786	3137	3420	3653
9950.00	1435	2225	2791	3143	3426	3659
10000.00	1437	2228	2795	3148	3432	3666

(a) If the obligor parent's net income is less than the amount in the guidelines schedule:

1. The parent should be ordered to pay a child support amount, determined on a case-by-case basis, to establish the principle of payment and lay the basis for increased support orders should the parent's income increase.

2. The obligor parent's child support payment shall be the lesser of the obligor parent's actual dollar share of the total minimum child support amount, as determined in subparagraph 1., and 90 percent of the difference between the obligor parent's monthly net income and the current poverty guidelines as periodically updated in the Federal Register by the United States Department of Health and Human Services pursuant to 42 U.S.C. s. 9902(2) for a single individual living alone.

(b) For combined monthly net income greater than the amount in the guidelines schedule, the obligation is the minimum amount of support provided by the guidelines schedule plus the following percentages multiplied

by the amount of income over $10,000:

Child or Children					
One	Two	Three	Four	Five	Six
5.0%	7.5%	9.5%	11.0%	12.0%	12.5%

(7) Child care costs incurred due to employment, job search, or education calculated to result in employment or to enhance income of current employment of either parent shall be added to the basic obligation. After the child care costs are added, any moneys prepaid by a parent for child care costs for the child or children of this action shall be deducted from that parent's child support obligation for that child or those children. Child care costs may not exceed the level required to provide quality care from a licensed source.

(8) Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), and any noncovered medical, dental, and prescription medication expenses of the child, shall be added to the basic obligation unless these expenses have been ordered to be separately paid on a percentage basis. After the health insurance costs are added to the basic obligation, any moneys prepaid by a parent for health-related costs for the child or children of this action shall be deducted from that parent's child support obligation for that child or those children.

(9) Each parent's percentage share of the child support need shall be determined by dividing each parent's net monthly income by the combined net monthly income.

(10) Each parent's actual dollar share of the total minimum child support need shall be determined by multiplying the minimum child support need by each parent's percentage share of the combined monthly net income.

(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, 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 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.

(12)(a) A parent with a support obligation may have other children living with him or her who were born or adopted after the support obligation arose. If such subsequent children exist, the court, when considering an upward modification of an existing award, may disregard the income from secondary employment obtained in addition to the parent's primary employment if the court determines that the employment was obtained primarily to support the subsequent children.

(b) Except as provided in paragraph (a), the existence of such subsequent children should not as a general rule be considered by the court as a basis for disregarding the amount provided in the guidelines schedule. The parent with a support obligation for subsequent children may raise the existence of such subsequent children as a justification for deviation from the guidelines schedule. However, if the existence of such subsequent children is raised, the income of the other parent of the subsequent children shall be considered by the court in determining whether or not there is a basis for deviation from the guideline amount.

(c) The issue of subsequent children under paragraph (a) or paragraph (b) may only be raised in a proceeding for an upward modification of an existing award and may not be applied to justify a decrease in an existing award.

(13) If the recurring income is not sufficient to meet the needs of the child, the court may order child support to be paid from nonrecurring income or assets.

(14) Every petition for child support or for modification of child support shall be accompanied by an affidavit which shows the party's income, allowable deductions, and net income computed in accordance with this section. The affidavit shall be served at the same time that the petition is served. The respondent, whether or not a stipulation is entered, shall make an affidavit which shows the party's income, allowable deductions, and net income computed in accordance with this section. The respondent shall include his or her affidavit with the answer to the petition or as soon thereafter as is practicable, but in any case at least 72 hours prior to any hearing on the finances of either party.

(15) For purposes of establishing an obligation for support in accordance with this section, if a person who is receiving public assistance is found to be noncooperative as defined in s. 409.2572, the department may submit to the court an affidavit or written declaration signed under penalty of perjury as specified in s. 92.525(2) attesting to the income of that parent based upon information available to the department.

(16) The Legislature shall review the guidelines schedule established in this section at least every 4 years beginning in 1997.

(17) In an initial determination of child support, whether in a paternity action, dissolution of marriage action, or petition for support during the marriage, the court has discretion to award child support retroactive to the date when the parents did not reside together in the same household with the child, not to exceed a period of 24 months preceding the filing of the petition, regardless of whether that date precedes the filing of the petition. In determining the retroactive award in such cases, the court shall consider the following:

(a) The court shall apply the guidelines schedule in effect at the time of the hearing subject to the obligor's demonstration of his or her actual income, as defined by subsection (2), during the retroactive period. Failure of the obligor to so demonstrate shall result in the court using the obligor's income at the time of the hearing in computing child support for the retroactive period.

(b) All actual payments made by a parent to the other parent or the child or third parties for the benefit of the child throughout the proposed retroactive period.

(c) The court should consider an installment payment plan for the payment of retroactive child support.

History.—s. 3, ch. 87-95; s. 5, ch. 89-183; s. 5, ch. 91-246; s. 11, ch. 92-138; s. 5, ch. 93-208; s. 2, ch. 94-204; s. 2, ch. 94-318; s. 1366, ch. 95-147; s. 53, ch. 96-175; s. 3, ch. 96-305; s. 11, ch. 97-170; s. 11, ch. 98-397; s. 1, ch. 99-359; s. 2, ch. 2001-91; ss. 15, 16, ch. 2001-158; s. 7, ch. 2002-173; s. 11, ch. 2005-39; s. 16, ch. 2008-61; ss. 2, 17, ch. 2010-187; s. 5, ch. 2010-199; s. 3, ch. 2011-4; s. 38, ch. 2012-30; s. 1, ch. 2014-35.

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage or for the creation, approval, or modification of a parenting plan, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for a child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. In such actions which involve an allegation of child abuse, abandonment, or neglect as defined in s. 39.01, which allegation is verified and determined by the court to be well-founded, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.

History.—s. 1, ch. 90-226; s. 3, ch. 94-204; s. 123, ch. 98-403; s. 17, ch. 2008-61.

61.402 Qualifications of guardians ad litem.—

(1) A person appointed as a guardian ad litem pursuant to s. 61.401 must be:

(a) Certified by the Guardian Ad Litem Program pursuant to s. 39.821;

(b) Certified by a not-for-profit legal aid organization as defined in s. 68.096; or

(c) An attorney who is a member in good standing of The Florida Bar.

(2)(a) Prior to certifying a guardian ad litem pursuant to paragraph (1)(b), the not-for-profit legal aid organization must:

1. Conduct a security background investigation as described in s. 39.821 for which the not-for-profit legal aid organization has the sole discretion in determining whether to certify a person based on his or her security background investigation; and

2. Provide training using the uniform objective statewide training program for guardians ad litem developed by The Florida Bar.

(b) The security background investigation and the training program requirements as provided in this subsection must be paid for by the not-for-profit legal aid organization or the person seeking certification as a guardian ad litem through the not-for-profit legal aid organization.

(3) Only a guardian ad litem who qualifies under paragraph (1)(a) or paragraph (1)(c) may be appointed to a case in which the court has determined that there are well-founded allegations of child abuse, abandonment, or neglect as defined in s. 39.01.

(4) Nothing in this section requires the Guardian Ad Litem Program or a not-for-profit legal aid organization to train or certify guardians ad litem appointed under this chapter.

(5) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in an application for a guardian ad litem any material fact used in making a determination as to the applicant's qualifications for such position.

History.—s. 2, ch. 90-226; s. 1, ch. 93-203; s. 4, ch. 94-204; s. 1367, ch. 95-147; s. 3, ch. 96-109; s. 21, ch. 96-406; s. 124, ch. 98-403; s. 1, ch. 2009-114.

61.403 Guardians ad litem; powers and authority.—A guardian ad litem when appointed shall act as next friend of the child, investigator or evaluator, not as attorney or advocate but shall act in the child's best interest. A guardian ad litem shall have the powers, privileges, and responsibilities to the extent necessary to advance the best interest of the child, including, but not limited to, the following:

(1) The guardian ad litem may investigate the allegations of the pleadings affecting the child, and, after proper notice to interested parties to the litigation and subject to conditions set by the court, may interview the child, witnesses, or any other person having information concerning the welfare of the child.

(2) The guardian ad litem, through counsel, may petition the court for an order directed to a specified person, agency, or organization, including, but not limited to, hospitals, medical doctors, dentists, psychologists, and psychiatrists, which order directs that the guardian ad litem be allowed to inspect and copy any records and documents which relate to the minor child or to the child's parents or other custodial persons or household members with whom the child resides. Such order shall be obtained only after notice to all parties and hearing thereon.

(3) The guardian ad litem, through counsel, may request the court to order expert examinations of the child, the child's parents, or other interested parties in the action, by medical doctors, dentists, and other providers of health care including psychiatrists, psychologists, or other mental health professionals.

(4) The guardian ad litem may assist the court in obtaining impartial expert examinations.

(5) The guardian ad litem may address the court and make written or oral recommendations to the court. The guardian ad litem shall file a written report which may include recommendations and a statement of the wishes of the child. The report must be filed and served on all parties at least 20 days prior to the hearing at which it will be presented unless the court waives such time limit. The guardian ad litem must be provided with copies of all pleadings, notices, and other documents filed in the action and is entitled to reasonable notice

before any action affecting the child is taken by either of the parties, their counsel, or the court.

(6) A guardian ad litem, acting through counsel, may file such pleadings, motions, or petitions for relief as the guardian ad litem deems appropriate or necessary in furtherance of the guardian's function. The guardian ad litem, through counsel, is entitled to be present and to participate in all depositions, hearings, and other proceedings in the action, and, through counsel, may compel the attendance of witnesses.

(7) The duties and rights of nonattorney guardians do not include the right to practice law.

(8) The guardian ad litem shall submit his or her recommendations to the court regarding any stipulation or agreement, whether incidental, temporary, or permanent, which affects the interest or welfare of the minor child, within 10 days after the date such stipulation or agreement is served upon the guardian ad litem.

History.—s. 3, ch. 90-226; s. 5, ch. 94-204; s. 1368, ch. 95-147.

61.404 Guardians ad litem; confidentiality.—The guardian ad litem shall maintain as confidential all information and documents received from any source described in s. 61.403(2) and may not disclose such information or documents except, in the guardian ad litem's discretion, in a report to the court, served upon both parties to the action and their counsel or as directed by the court.

History.—s. 4, ch. 90-226.

61.405 Guardians ad litem; immunity.—Any person participating in a judicial proceeding as a guardian ad litem shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

History.—s. 1, ch. 95-163.

61.45 Court-ordered parenting plan; risk of violation; bond.—

(1) In any proceeding in which the court enters a parenting plan, including a time-sharing schedule, including in a modification proceeding, upon the presentation of competent substantial evidence that there is a risk that one party may violate the court's parenting plan by removing a child from this state or country or by concealing the whereabouts of a child, upon stipulation of the parties, upon the motion of another individual or entity having a right under the law of this state, or if the court finds evidence that establishes credible risk of removal of the child, the court may:

(a) Order that a parent may not remove the child from this state without the notarized written permission of both parents or further court order;

(b) Order that a parent may not remove the child from this country without the notarized written permission of both parents or further court order;

(c) Order that a parent may not take the child to a country that has not ratified or acceded to the Hague Convention on the Civil Aspects of International Child Abduction unless the other parent agrees in writing that the child may be taken to the country;

(d) Require a parent to surrender the passport of the child or require that:

1. The petitioner place the child's name in the Children's Passport Issuance Alert Program of the United States Department of State;

2. The respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and

3. The respondent not apply on behalf of the child for a new or replacement passport or visa; or

(e) Require that a party post bond or other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay the reasonable expenses of recovery of the child, including reasonable attorney's fees and costs, if the child is abducted.

(2) If the court enters a parenting plan, including a time-sharing schedule, including in a modification proceeding, that includes a provision entered under paragraph (1)(b) or paragraph (1)(c), a certified copy of the order should be sent by the parent who requested the restriction to the Passport Services Office of the United

States Department of State requesting that they not issue a passport to the child without their signature or further court order.

(3) If the court enters an order under paragraph (1)(a) or paragraph (1)(b) to prevent the removal of the child from this state or country, the order may include one or more of the following:

(a) An imposition of travel restrictions that require that a party traveling with the child outside a designated geographic area provide the other party with the following:

1. The travel itinerary of the child.
2. A list of physical addresses and telephone numbers at which the child can be reached at specified times.
3. Copies of all travel documents.

(b) A prohibition of the respondent directly or indirectly:

1. Removing the child from this state or country or another specified geographic area without permission of the court or the petitioner's written consent;
2. Removing or retaining the child in violation of a child custody determination;
3. Removing the child from school or a child care or similar facility; or
4. Approaching the child at any location other than a site designated for supervised visitation.

(c) A requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state.

(d) As a prerequisite to exercising custody or visitation, a requirement that the respondent provide the following:

1. An authenticated copy of the order detailing passport and travel restrictions for the child to the Office of Children's Issues within the Bureau of Consular Affairs of the United States Department of State and the relevant foreign consulate or embassy.
2. Proof to the court that the respondent has provided the information in subparagraph 1.
3. An acknowledgment to the court in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child.
4. Proof to the petitioner and court of registration with the United States embassy or other United States diplomatic presence in the destination country and with the destination country's central authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between this country and the destination country, unless one of the parties objects.
5. A written waiver under the Privacy Act, 5 U.S.C. s. 552a, as amended, with respect to any document, application, or other information pertaining to the child or the respondent authorizing its disclosure to the court.
6. A written waiver with respect to any document, application, or other information pertaining to the child or the respondent in records held by the United States Bureau of Citizenship and Immigration Services authorizing its disclosure to the court.
7. Upon the court's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in this country.
8. Upon the court's request, a requirement that the respondent be entered in the Prevent Departure Program of the United States Department of State or a similar federal program designed to prevent unauthorized departures to foreign countries.

(e) The court may impose conditions on the exercise of custody or visitation that limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and orders the respondent to pay the costs of supervision.

(4) In assessing the need for a bond or other security, the court may consider any reasonable factor bearing upon the risk that a party may violate a parenting plan by removing a child from this state or country or by concealing the whereabouts of a child, including but not limited to whether:

(a) A court has previously found that a party previously removed a child from Florida or another state in violation of a parenting plan, or whether a court had found that a party has threatened to take a child out of Florida or another state in violation of a parenting plan;

(b) The party has strong family and community ties to Florida or to other states or countries, including whether the party or child is a citizen of another country;

(c) The party has strong financial reasons to remain in Florida or to relocate to another state or country;

(d) The party has engaged in activities that suggest plans to leave Florida, such as quitting employment; sale of a residence or termination of a lease on a residence, without efforts to acquire an alternative residence in the state; closing bank accounts or otherwise liquidating assets; applying for a passport or visa; or obtaining travel documents for the respondent or the child;

(e) Either party has had a history of domestic violence as either a victim or perpetrator, child abuse or child neglect evidenced by criminal history, including but not limited to, arrest, an injunction for protection against domestic violence issued after notice and hearing under s. 741.30, medical records, affidavits, or any other relevant information;

(f) The party has a criminal record;

(g) The party is likely to take the child to a country that:

1. Is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;

2. Is a party to the Hague Convention on the Civil Aspects of International Child Abduction, but:

a. The Hague Convention on the Civil Aspects of International Child Abduction is not in force between this country and that country;

b. Is noncompliant or demonstrating patterns of noncompliance according to the most recent compliance report issued by the United States Department of State; or

c. Lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;

3. Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

4. Has laws or practices that would:

a. Enable the respondent, without due cause, to prevent the petitioner from contacting the child;

b. Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or

c. Restrict the child's ability to legally leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;

5. Is included by the United States Department of State on a current list of state sponsors of terrorism;

6. Does not have an official United States diplomatic presence in the country; or

7. Is engaged in active military action or war, including a civil war, to which the child may be exposed;

(h) The party is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in this country legally;

(i) The party has had an application for United States citizenship denied;

(j) The party has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a social security card, a driver license, or other government-issued identification card or has made a misrepresentation to the United States government;

(k) The party has used multiple names to attempt to mislead or defraud;

(l) The party has been diagnosed with a mental health disorder that the court considers relevant to the risk

of abduction; or

(m) The party has engaged in any other conduct that the court considers relevant to the risk of abduction.

(5) The court must consider the party's financial resources prior to setting the bond amount under this section. Under no circumstances may the court set a bond that is unreasonable.

(6) Any deficiency of bond or security does not absolve the violating party of responsibility to pay the full amount of damages determined by the court.

(7)(a) Upon a material violation of any parenting plan by removing a child from this state or country or by concealing the whereabouts of a child, the court may order the bond or other security forfeited in whole or in part.

(b) This section, including the requirement to post a bond or other security, does not apply to a parent who, in a proceeding to order or modify a parenting plan or time-sharing schedule, is determined by the court to be a victim of an act of domestic violence or provides the court with reasonable cause to believe that he or she is about to become the victim of an act of domestic violence, as defined in s. 741.28. An injunction for protection against domestic violence issued pursuant to s. 741.30 for a parent as the petitioner which is in effect at the time of the court proceeding shall be one means of demonstrating sufficient evidence that the parent is a victim of domestic violence or is about to become the victim of an act of domestic violence, as defined in s. 741.28, and shall exempt the parent from this section, including the requirement to post a bond or other security. A parent who is determined by the court to be exempt from the requirements of this section must meet the requirements of s. 787.03(6) if an offense of interference with the parenting plan or time-sharing schedule is committed.

(8)(a) Upon an order of forfeiture, the proceeds of any bond or other security posted pursuant to this subsection may only be used to:

1. Reimburse the nonviolating party for actual costs or damages incurred in upholding the court's parenting plan.

2. Locate and return the child to the residence as set forth in the parenting plan.

3. Reimburse reasonable fees and costs as determined by the court.

(b) Any remaining proceeds shall be held as further security if deemed necessary by the court, and if further security is not found to be necessary; applied to any child support arrears owed by the parent against whom the bond was required, and if no arrears exists; all remaining proceeds will be allocated by the court in the best interest of the child.

(9) At any time after the forfeiture of the bond or other security, the party who posted the bond or other security, or the court on its own motion may request that the party provide documentation substantiating that the proceeds received as a result of the forfeiture have been used solely in accordance with this subsection. Any party using such proceeds for purposes not in accordance with this section may be found in contempt of court.

(10) A violation of this section may subject the party committing the violation to civil or criminal penalties or a federal or state warrant under federal or state laws, including the International Parental Kidnapping Crime Act, and may subject the violating parent to apprehension by a law enforcement officer.

History.—s. 4, ch. 2002-65; s. 2, ch. 2006-114; s. 18, ch. 2008-61; s. 2, ch. 2010-59.

PART II
UNIFORM CHILD CUSTODY
JURISDICTION AND ENFORCEMENT ACT

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61.501 Short title.—This part may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act."

History.—s. 5, ch. 2002-65.

61.502 Purposes of part; construction of provisions.—The general purposes of this part are to:

(1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being.

(2) Promote cooperation with the courts of other states to the end that a custody decree is rendered in the

state that can best decide the case in the interest of the child.

(3) Discourage the use of the interstate system for continuing controversies over child custody.

(4) Deter abductions.

(5) Avoid relitigating the custody decisions of other states in this state.

(6) Facilitate the enforcement of custody decrees of other states.

(7) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child.

(8) Make uniform the law with respect to the subject of this part among the states enacting it.

History.—s. 5, ch. 2002-65.

61.503 Definitions.—As used in this part, the term:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained 18 years of age.

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, residential care, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, residential care, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under ss. 61.524-61.540.

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the laws of a state to establish, enforce, or modify a child custody determination.

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child custody proceeding. In the case of a child younger than 6 months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) "Initial determination" means the first child custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this part.

(10) "Issuing state" means the state in which a child custody determination is made.

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether it is made by the court that made the previous determination.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, instrumentality, or public corporation; or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of 6 consecutive months, including any temporary absence, within 1 year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded a child-custody determination by a court or claims a right to a child-custody determination under the laws of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States

Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe, or band, or Alaskan Native village that is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

History.—s. 5, ch. 2002-65.

61.504 Proceedings governed by other law.—This part does not govern a proceeding pertaining to the authorization of emergency medical care for a child.

History.—s. 5, ch. 2002-65.

61.505 Application to Indian tribes.—

(1) A child custody proceeding that pertains to an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. ss. 1901 et seq., is not subject to this part to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as if it were a state of the United States for purposes of applying ss. 61.501-61.523.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under ss. 61.524-61.540.

History.—s. 5, ch. 2002-65.

61.506 International application of part.—

(1) A court of this state shall treat a foreign country as if it were a state of the United States for purposes of applying ss. 61.501-61.523.

(2) Except as otherwise provided in subsection (3), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under ss. 61.524-61.540.

(3) A court of this state need not apply this part if the child custody law of a foreign country violates fundamental principles of human rights.

History.—s. 5, ch. 2002-65.

61.507 Effect of child custody determination.—A child custody determination made by a court of this state which had jurisdiction under this part binds all persons who have been served in accordance with the laws of this state or notified in accordance with s. 61.509 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

History.—s. 5, ch. 2002-65.

61.508 Priority.—If a question of existence or exercise of jurisdiction under this part is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

History.—s. 5, ch. 2002-65.

61.509 Notice to persons outside the state.—

(1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the laws of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice, but may be made by publication if other means are not effective.

(2) Proof of service may be made in the manner prescribed by the laws of the state in which the service is made.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the

jurisdiction of the court.

History.—s. 5, ch. 2002-65.

61.510 Appearance and limited immunity.—

(1) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) does not extend to civil litigation based on an act unrelated to the participation in a proceeding under this part which was committed by an individual while present in this state.

History.—s. 5, ch. 2002-65.

61.511 Communication between courts.—

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under this part.

(2) The court shall allow the parties to participate in the communication. If the parties elect to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For purposes of this section, the term “record” means a form of information, including, but not limited to, an electronic recording or transcription by a court reporter which creates a verbatim memorialization of any communication between two or more individuals or entities.

History.—s. 5, ch. 2002-65.

61.512 Taking testimony in another state.—

(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means available in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) Upon agreement of the parties, a court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

History.—s. 5, ch. 2002-65.

61.513 Cooperation between courts; preservation of records.—

(1) A court of this state may request the appropriate court of another state to:

(a) Hold an evidentiary hearing;

(b) Order a person to produce or give evidence pursuant to the laws of that state;

(c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding pursuant to the laws of the state where the proceeding is pending;

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; or

(e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1).

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) may be assessed against the parties according to the laws of this state if the court has personal jurisdiction over the party against whom these expenses are being assessed.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

History.—s. 5, ch. 2002-65.

61.514 Initial child custody jurisdiction.—

(1) Except as otherwise provided in s. 61.517, a court of this state has jurisdiction to make an initial child custody determination only if:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) A court of another state does not have jurisdiction under paragraph (a), or a court of the home state of the child has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum under s. 61.520 or s. 61.521, and:

1. The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(c) All courts having jurisdiction under paragraph (a) or paragraph (b) have declined to exercise jurisdiction on the grounds that a court of this state is the more appropriate forum to determine the custody of the child under s. 61.520 or s. 61.521; or

(d) No court of any other state would have jurisdiction under the criteria specified in paragraph (a), paragraph (b), or paragraph (c).

(2) Subsection (1) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

History.—s. 5, ch. 2002-65.

61.515 Exclusive, continuing jurisdiction.—

(1) Except as otherwise provided in s. 61.517, a court of this state which has made a child custody determination consistent with s. 61.514 or s. 61.516 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that the child, the child's parents, and any person acting as a parent do

not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parent, and any person acting as a parent do not presently reside in this state.

(2) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under s. 61.514.

History.—s. 5, ch. 2002-65.

61.516 Jurisdiction to modify a determination.—Except as otherwise provided in s. 61.517, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under s. 61.514(1)(a) or (b) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under s. 61.515 or that a court of this state would be a more convenient forum under s. 61.520; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

History.—s. 5, ch. 2002-65.

61.517 Temporary emergency jurisdiction.—

(1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child custody determination that is entitled to be enforced under this part, and a child custody proceeding has not been commenced in a court of a state having jurisdiction under ss. 61.514-61.516, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under ss. 61.514-61.516. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under ss. 61.514-61.516, a child custody determination made under this section becomes a final determination if it so provides and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to be enforced under this part, or a child custody proceeding has been commenced in a court of a state having jurisdiction under ss. 61.514-61.516, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under ss. 61.514-61.516. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under ss. 61.514-61.516, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction under ss. 61.514-61.516, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

History.—s. 5, ch. 2002-65; s. 7, ch. 2003-1.

61.518 Notice; opportunity to be heard; joinder.—

(1) Before a child custody determination is made under this part, notice and an opportunity to be heard in accordance with the standards of s. 61.509 must be given to all persons entitled to notice under the laws of this

state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person acting as a parent.

(2) This part does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this part are governed by the laws of this state as in child custody proceedings between residents of this state.

History.—s. 5, ch. 2002-65.

61.519 Simultaneous proceedings.—

(1) Except as otherwise provided in s. 61.517, a court of this state may not exercise its jurisdiction under ss. 61.514-61.524 if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child had been commenced in a court of another state having jurisdiction substantially in conformity with this part, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under s. 61.520.

(2) Except as otherwise provided in s. 61.517, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to s. 61.522. If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this part, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this part does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) Enjoin the parties from continuing with the proceeding for enforcement; or

(c) Proceed with the modification under conditions it considers appropriate.

History.—s. 5, ch. 2002-65.

61.520 Inconvenient forum.—

(1) A court of this state which has jurisdiction under this part to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) The length of time the child has resided outside this state;

(c) The distance between the court in this state and the court in the state that would assume jurisdiction;

(d) The relative financial circumstances of the parties;

(e) Any agreement of the parties as to which state should assume jurisdiction;

(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to

present the evidence; and

(h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under this part if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

History.—s. 5, ch. 2002-65.

61.521 Jurisdiction declined by reason of conduct.—

(1) Except as otherwise provided in s. 61.517 or by other law of this state, if a court of this state has jurisdiction under this part because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) A court of the state otherwise having jurisdiction under ss. 61.514-61.516 determines that this state is a more appropriate forum under s. 61.520; or

(c) No court of any other state would have jurisdiction under the criteria specified in ss. 61.514-61.516.

(2) If a court of this state declines to exercise its jurisdiction under subsection (1), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under ss. 61.514-61.516.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (1), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and expenses for child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this part.

History.—s. 5, ch. 2002-65.

61.522 Information to be submitted to the court.—

(1) Subject to Florida law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) is not furnished, the court, upon motion of a party or its

own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in paragraphs (1)(a)-(c) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state which could affect the current proceeding.

History.—s. 5, ch. 2002-65.

61.523 Appearance of parties and child.—

(1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to s. 61.509 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) or desires to appear in person before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

History.—s. 5, ch. 2002-65.

61.524 Definitions.—As used in ss. 61.524-61.540, the term:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

History.—s. 5, ch. 2002-65.

61.525 Enforcement under the Hague Convention.—Under this part, a court of this state may enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

History.—s. 5, ch. 2002-65.

61.526 Duty to enforce.—

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this part or the determination was made under factual circumstances meeting the jurisdictional standards of this part and the determination has not been modified in accordance with this part.

(2) A court of this state may use any remedy available under other laws of this state to enforce a child custody determination made by a court of another state. The remedies provided by ss. 61.524-61.540 are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

History.—s. 5, ch. 2002-65.

61.527 Temporary visitation.—

(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state which does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under paragraph (1)(b), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in ss. 61.514-61.523. The order remains in effect until an order is obtained from the other court or the period expires.

History.—s. 5, ch. 2002-65.

61.528 Registration of child custody determination.—

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the circuit court of the county where the petitioner or respondent resides or where a simultaneous request for enforcement is sought:

(a) A letter or other document requesting registration;

(b) Two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that, to the best of the knowledge and belief of the person seeking registration, the order has not been modified; and

(c) Except as otherwise provided in s. 61.522, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1), the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to paragraph (1)(c) and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by paragraph (2)(b) must state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(c) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under ss. 61.514-61.523;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under ss. 61.514-61.523; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of s. 61.509 in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes

further contest of the order with respect to any matter that could have been asserted at the time of registration.

History.—s. 5, ch. 2002-65.

61.529 Enforcement of registered determination.—

(1) A court of this state may grant any relief normally available under the laws of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce but may not modify, except in accordance with ss. 61.514-61.523, a registered child custody determination of another state.

History.—s. 5, ch. 2002-65.

61.530 Simultaneous proceedings.—If a proceeding for enforcement under ss. 61.524-61.540 is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under ss. 61.514-61.523, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

History.—s. 5, ch. 2002-65.

61.531 Expedited enforcement of child custody determination.—

(1) A petition under ss. 61.524-61.540 must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination must state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, specify the basis;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this part and, if so, identify the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officers and, if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed under s. 61.528, the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of the hearing at the request of the petitioner.

(4) An order issued under subsection (3) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under s. 61.535 and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under s. 61.528 and that:

1. The issuing court did not have jurisdiction under ss. 61.514-61.523;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under ss. 61.514-61.523; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of s. 61.509 in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under s. 61.528, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under ss. 61.514-61.523.

History.—s. 5, ch. 2002-65.

61.532 Service of petition and order.—Except as otherwise provided in s. 61.534, the petition and order must be served by any method authorized by the laws of this state upon the respondent and any person who has physical custody of the child.

History.—s. 5, ch. 2002-65.

61.533 Hearing and order.—

(1) Unless the court enters a temporary emergency order under s. 61.517, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under s. 61.528 and that:

1. The issuing court did not have jurisdiction under ss. 61.514-61.523;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under ss. 61.514-61.523; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of s. 61.509 in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under s. 61.528, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under ss. 61.514-61.523.

(2) The court shall award the fees, costs, and expenses authorized under s. 61.535 and may grant additional relief, including a request for the assistance of law enforcement officers, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under ss. 61.524-61.540.

History.—s. 5, ch. 2002-65.

61.534 Warrant to take physical custody of child.—

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to imminently suffer serious physical harm or removal from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to imminently suffer serious physical harm or removal from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by s. 61.531(2).

(3) A warrant to take physical custody of a child must:

(a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the

jurisdiction is based;

(b) Direct law enforcement officers to take physical custody of the child immediately; and

(c) Provide for the placement of the child pending final relief.

(4) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

History.—s. 5, ch. 2002-65.

61.535 Costs, fees, and expenses.—

(1) So long as the court has personal jurisdiction over the party against whom the expenses are being assessed, the court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and expenses for child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this part.

History.—s. 5, ch. 2002-65.

61.536 Recognition and enforcement.—A court of this state shall accord full faith and credit to an order issued by another state and consistent with this part which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under ss. 61.514-61.523.

History.—s. 5, ch. 2002-65.

61.537 Appeals.—An appeal may be taken from a final order in a proceeding under ss. 61.524-61.540 in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under s. 61.517, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

History.—s. 5, ch. 2002-65.

61.538 Role of state attorney.—

(1) In a case arising under this part or involving the Hague Convention on the Civil Aspects of International Child Abduction, the state attorney may take any lawful action, including resort to a proceeding under ss. 61.524-61.540 or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination, if there is:

(a) An existing child custody determination;

(b) A request to do so from a court in a pending child custody proceeding;

(c) A reasonable belief that a criminal statute has been violated; or

(d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A state attorney acting under this section acts on behalf of the court and may not represent any party.

History.—s. 5, ch. 2002-65.

61.539 Role of law enforcement officers.—At the request of a state attorney acting under s. 61.538, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a state attorney with responsibilities under s. 61.538.

History.—s. 5, ch. 2002-65.

61.540 Costs and expenses.—The court may assess against the nonprevailing party all direct expenses and costs incurred by the state attorney and law enforcement officers under s. 61.538 or s. 61.539 so long as the court has personal jurisdiction over the nonprevailing party.

History.—s. 5, ch. 2002-65.

61.541 Application and construction.—In applying and construing this part, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History.—s. 5, ch. 2002-65.

61.542 Transitional provision.—A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before the effective date of this part is governed by the law in effect at the time the motion or other request was made.

History.—s. 5, ch. 2002-65.

PART III
COLLABORATIVE LAW PROCESS ACT

61.55 Purpose.
61.56 Definitions.
61.57 Beginning, concluding, and terminating a collaborative law process.
61.58 Confidentiality of a collaborative law communication.

[1]**61.55 Purpose.**—The purpose of this part is to create a uniform system of practice for the collaborative law process in this state. It is the policy of this state to encourage the peaceful resolution of disputes and the early resolution of pending litigation through a voluntary settlement process. The collaborative law process is a unique nonadversarial process that preserves a working relationship between the parties and reduces the emotional and financial toll of litigation.

History.—s. 4, ch. 2016-93.

[1]**Note.**—Section 8, ch. 2016-93, provides that "[s]ections 61.55-61.58, Florida Statutes, as created by this act, shall not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility consistent with this act."

[1]**61.56 Definitions.**—As used in this part, the term:

(1) "Collaborative attorney" means an attorney who represents a party in a collaborative law process.

(2) "Collaborative law communication" means an oral or written statement, including a statement made in a record, or nonverbal conduct that:

(a) Is made in the conduct of or in the course of participating in, continuing, or reconvening for a collaborative law process; and

(b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded or terminated.

(3) "Collaborative law participation agreement" means an agreement between persons to participate in a collaborative law process.

(4) "Collaborative law process" means a process intended to resolve a collaborative matter without intervention by a tribunal and in which persons sign a collaborative law participation agreement and are represented by collaborative attorneys.

(5) "Collaborative matter" means a dispute, a transaction, a claim, a problem, or an issue for resolution,

including a dispute, a claim, or an issue in a proceeding which is described in a collaborative law participation agreement and arises under chapter 61 or chapter 742, including, but not limited to:

(a) Marriage, divorce, dissolution, annulment, and marital property distribution.

(b) Child custody, visitation, parenting plan, and parenting time.

(c) Alimony, maintenance, and child support.

(d) Parental relocation with a child.

(e) Parentage and paternity.

(f) Premarital, marital, and postmarital agreements.

(6) "Law firm" means:

(a) One or more attorneys who practice law in a partnership, professional corporation, sole proprietorship, limited liability company, or association; or

(b) One or more attorneys employed in a legal services organization, the legal department of a corporation or other organization, or the legal department of a governmental entity, subdivision, agency, or instrumentality.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative attorney, who participates in a collaborative law process.

(8) "Party" means a person who signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual; a corporation; a business trust; an estate; a trust; a partnership; a limited liability company; an association; a joint venture; a public corporation; a government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(10) "Proceeding" means a judicial, an administrative, an arbitral, or any other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery.

(11) "Prospective party" means a person who discusses with a prospective collaborative attorney the possibility of signing a collaborative law participation agreement.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "Sign" means, with present intent to authenticate or adopt a record, to:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Tribunal" means a court, an arbitrator, an administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter.

History.—s. 5, ch. 2016-93.

[1]**Note.**—Section 8, ch. 2016-93, provides that "[s]ections 61.55-61.58, Florida Statutes, as created by this act, shall not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility consistent with this act."

[1]61.57 Beginning, concluding, and terminating a collaborative law process.—

(1) The collaborative law process begins, regardless of whether a legal proceeding is pending, when the parties enter into a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by any of the following:

(a) Resolution of a collaborative matter as evidenced by a signed record;

(b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the collaborative matter will not be resolved in the collaborative law process; or

(c) Termination of the collaborative law process.

(4) A collaborative law process terminates when a party:

(a) Gives notice to the other parties in a record that the collaborative law process is concluded;

(b) Begins a proceeding related to a collaborative matter without the consent of all parties;

(c) Initiates a pleading, a motion, an order to show cause, or a request for a conference with a tribunal in a pending proceeding related to a collaborative matter;

(d) Requests that the proceeding be put on the tribunal's active calendar in a pending proceeding related to a collaborative matter;

(e) Takes similar action requiring notice to be sent to the parties in a pending proceeding related to a collaborative matter; or

(f) Discharges a collaborative attorney or a collaborative attorney withdraws from further representation of a party, except as otherwise provided in subsection (7).

(5) A party's collaborative attorney shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative attorney, the collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative attorney required by subsection (5) is sent to the parties:

(a) The unrepresented party engages a successor collaborative attorney;

(b) The parties consent to continue the collaborative law process by reaffirming the collaborative law participation agreement in a signed record;

(c) The collaborative law participation agreement is amended to identify the successor collaborative attorney in a signed record; and

(d) The successor collaborative attorney confirms his or her representation of a party in the collaborative law participation agreement in a signed record.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of a collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods for concluding a collaborative law process.

History.—s. 6, ch. 2016-93.

[1]**Note.**—Section 8, ch. 2016-93, provides that "[s]ections 61.55-61.58, Florida Statutes, as created by this act, shall not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility consistent with this act."

[1]**61.58 Confidentiality of a collaborative law communication.**—Except as provided in this section, a collaborative law communication is confidential to the extent agreed by the parties in a signed record or as otherwise provided by law.

(1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

(a) Subject to subsections (2) and (3), a collaborative law communication is privileged as provided under paragraph (b), is not subject to discovery, and is not admissible into evidence.

(b) In a proceeding, the following privileges apply:

1. A party may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication.

2. A nonparty participant may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication of a nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

(2) WAIVER AND PRECLUSION OF PRIVILEGE.—

(a) A privilege under subsection (1) may be waived orally or in a record during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, if it is expressly waived by the nonparty participant.

(b) A person who makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding may not assert a privilege under subsection (1). This preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

(3) LIMITS OF PRIVILEGE.—

(a) A privilege under subsection (1) does not apply to a collaborative law communication that is:

1. Available to the public under chapter 119 or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

2. A threat, or statement of a plan, to inflict bodily injury or commit a crime of violence;

3. Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

4. In an agreement resulting from the collaborative law process, as evidenced by a record signed by all parties to the agreement.

(b) The privilege under subsection (1) for a collaborative law communication does not apply to the extent that such collaborative law communication is:

1. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or relating to a collaborative law process; or

2. Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or an adult unless the Department of Children and Families is a party to or otherwise participates in the process.

(c) A privilege under subsection (1) does not apply if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

1. A proceeding involving a felony; or

2. A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense is asserted to avoid liability on the contract.

(d) If a collaborative law communication is subject to an exception under paragraph (b) or paragraph (c), only the part of the collaborative law communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under paragraph (b) or paragraph (c) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) The privilege under subsection (1) does not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This paragraph does not apply to a collaborative law communication made by a person who did not receive actual notice of the collaborative law participation agreement before the communication was made.

History.—s. 7, ch. 2016-93.

[1]**Note.**—Section 8, ch. 2016-93, provides that "[s]ections 61.55-61.58, Florida Statutes, as created by this act, shall not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility consistent with this act."