

# Child Support

## *Parents' Finances, Child's Age Considered*

By K. Dean Kantaras and Taylor Henderson

Commonly asked questions in the genesis of family law cases involving minor children or dependents are “What will I have to pay in child support?” or “What will I receive in child support?” Child support is awarded in paternity, dissolution of marriage or petitions for support during marriage actions. It is essential to create realistic expectations for the payor and payee by giving clients a deeper understanding of the ultimate goals behind the child support guidelines. Contrary to the popular belief of many clients, child support is a more complex issue than need based on expenses, or the inverse mere lack based on expenses.

Child support is a court-ordered monthly fiscal responsibility placed upon a party by the court related to a minor child, minor children or dependent. A child support order is produced after child support guidelines are calculated by the court, counsel or the parties. Pursuant to Fla. Stat. 61.30: The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact must order as child support for a minor child, or a child who is dependent in fact and between the ages of 18 and 19 and who is still in high school and is performing in good faith with a reasonable expectation of graduation before he or she reaches the age of 19...

Fla. Stat. 61.30 also highlights the various factors the court may consider when entering a child support order including needs of the child or children, age, station in life, standard of living, and financial status and ability of each parent.

The two primary factors at play in the child support guidelines calculations include parties' income and overnights exercised by each party. In accordance with Fla. Stat. 61.30, income includes the following: salary, wages, bonuses,



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commission, allowances, overtime, tips, business income, disability benefits, all workers' compensation benefits and settlements, reemployment assistance, unemployment compensation, pension, retirement, social security benefits, spousal support from previous marriages, interest and dividends, rental income, income from royalties, trusts, or estates, reimbursement expenses and gains derived from dealings in property.

Other factors that may significantly change child support guidelines include health insurance costs associated with the minor child or children, the party that receives the tax credit exemption for the minor child or children, and credit for childcare costs associated with the child or children and the responsible party.

Although court orders are considered final there are certain factual circumstances that demand a modification of a current child support order. A substantial change in circumstances must be demonstrated

by the parties to request a modification. A substantial change in circumstance may include a change in overnights, or a change in the parties' income.

It is also in the discretion of the court to award retroactive child support. Retroactive child support is child support that is retroactive to the entry of the order or to a modification of existing order. Retroactive child support can be awarded up to two years prior to filing a paternity, dissolution of marriage or support during marriage petition. Retroactive child support may also be granted where a party is awarded timesharing and then ceases exercising said timesharing.

If a payor becomes delinquent in child support payments, there are severe consequences that could be levied against the payor. These consequences include income deduction orders, license suspension, passport suspension, and jail time.

Importantly, if the parties agree and the court finds good cause, there is also a path to deviation. A deviation is a request by the parties based upon an agreement to pay an amount that differs from the amount established by the child support guidelines. This deviation must be in the best interest of the children. ❖

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