

# 2011 Family Law Abstracts of Legislation Office of the State Courts Administrator



*Prepared by the Office of Community and Intergovernmental Relations  
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## **SB 240 — Violations of Injunctions**

By Senator Arthenia Joyner

### **Impact upon the State Courts System:**

The courts must consider the same circumstances leading to a violation of an injunction for protection against repeat, sexual or dating violence, as a violation of an injunction for protection against domestic violence.

### **Legislative Summary:**

The law creates additional ways an individual can violate an injunction for protection against repeat violence, sexual violence, or dating violence, making it identical to the ways an individual can violate an injunction for protection against domestic violence. The law provides the following additional violations:

- Being within 500 feet of the petitioner’s residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member (currently law doesn’t provide for a distance limitation to those places).
- Knowingly and intentionally coming within 100 feet of the petitioner’s motor vehicle, whether or not that vehicle is occupied.
- Defacing or destroying the petitioner’s personal property, including the petitioner’s motor vehicle.
- Refusing to surrender firearms or ammunition if ordered to do so by the court.

Amends s. 784.047, F.S.

Chapter 2011-146, Laws of Florida  
Effective July 1, 2011  
Approved by the Governor June 17, 2011

## **SB 404 – Transition-to-adulthood Services**

By Senator Stephen Wise

### **Impact upon the State Courts System:**

The law provides that if a child is participating in the transition to adulthood program, the court is permitted to retain jurisdiction over the child for a year beyond their 19th birthday.

**Legislative Summary:**

The law allows the Department of Juvenile Justice to provide older youth in their custody or under their supervision opportunities to participate in activities and services that assist in transition to adulthood. Also, the law ensures the youth who are in the custody of the Department of Children and Family Services and enter a Department of Juvenile Justice residential program, remain eligible for DCF services including independent living transition services.

The law permits the court to retain jurisdiction over a child for a year beyond the child’s 19th birthday if they are participating in the transition to adulthood program.

The law creates the College Preparatory Boarding Academy Pilot Program which would be providing educational opportunities to dependent or at-risk children. The process is established for the State Board of Education to select private non-profit corporations to operate the program. The law provides the criteria for operating the program and establishes annual reporting requirements to track the progress of the program and the students participating.

Creates s. 985.461, F.S.

Amends s. 985.03, 985.0301, F.S.

Chapter 2011-236, Laws of Florida Effective July 1, 2011 Approved by the Governor June 28, 2011
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**[CS / SB 504 – Child Visitation](#)**

By Children, Families, and Elder Affairs; Senator Ellyn Bogdanoff

**Impact upon the State Courts System:**

The law changes the current standard of a parent or caregiver having been the subject of an abuse report to a requirement of a court finding of probable cause. In addition, the law requires a hearing within seven business days of finding out a person is attempting to influence the testimony of the child. The required hearing is to determine whether visitation with the person alleged to have influenced the testimony of the child is in the best interest of the child.

*In re: The Interest of Helen Potts, case no. 07-00742DPAWS (Fla. 6th Jud. Cir. 2007).*

## **Legislative Summary:**

The law amends Florida's Keeping Children Safe Act (Act) to require probable cause of sexual abuse by a parent or caregiver in order to create a presumption of detriment to a child. The law further provides that persons meeting specified criteria may not visit or have contact with a child without a hearing and order by the court. If visitation or contact is denied and the person wishes to begin or resume contact with the child victim, there must be an evidentiary hearing to determine whether contact is appropriate. The law clarifies that *prior* to the hearing, the court shall appoint a guardian ad litem or attorney ad litem for the child.

The law provides that at the hearing, the court may receive evidence, to the extent of its probative value, such as recommendations from the child protective team, the child's therapist, or the child's guardian ad litem or attorney ad litem, even if the evidence may not be admissible under the rules of evidence.

The law provides that once a rebuttable presumption of detriment has arisen or if visitation has already been ordered and a party or participant informs the court that a person is attempting to influence the testimony of the child, the court must hold a hearing within seven business days to determine whether it is in the best interests of the child to prohibit or restrict visitation with the person who is alleged to have influenced the testimony of the child.

The law also amends the legislative intent of the Act to provide that it is the intent to protect children who have been sexually abused or exploited by a parent or caregiver by placing additional requirements on judicial determinations related to contact between a parent or caregiver who meets certain criteria and a child victim in any proceeding pursuant to ch. 39, F.S.

Amends s. 39.0139, F.S.

Chapter 2011-209, Laws of Florida  
Effective July 1, 2011  
Approved by the Governor June 21, 2011

## **[CS / SB 618 – Juvenile Justice](#)**

By Criminal Justice; Senator Greg Evers

### **Impact upon the State Courts System:**

The law eliminates references and provisions for obsolete or little used juvenile justice programs contained in chapter 985. The courts need to be aware that programs such as the serious or habitual juvenile offender program, intensive residential treatment program for offenders under age 13 years of age are being repealed. The Sheriff's training and respect program was repealed last year. As a result, s. 985.494(1) was amended to require that a child adjudicated or where adjudication is withheld, for an act that would be a felony if committed by

an adult, shall be committed to a maximum-risk residential program if the child has completed two different high-risk residential commitment programs.

**Legislative Summary:**

The law repeals numerous sections and provisions containing obsolete language in ch. 985, F.S., to more accurately reflect current practices within the Department of Juvenile Justice (DJJ). The specific provisions which the law deletes include the following:

- Serious or habitual juvenile offender programs and intensive residential treatment programs for offenders under 13 which are underutilized and not needed anymore;
- Sheriff’s Training and Respect programs which have not been operational since 2008;
- Inspectors within the Inspector General’s Office being sworn law enforcement officers when deemed necessary by the Secretary of DJJ (DJJ has never had sworn law enforcement officers); and
- Juvenile Justice Standards and Training Commission which provided staff development and training, except that since it expired in 2001, the department has taken over its training duties

Amends s. 985.0301, 985.47, 985.494, 985.565, 985.66, F.S.

Repeals s. 985.02(5), 985.03(48), 985.03(56), 985.445, 985.47, 985.48(8), 985.483, 985.486, 985.636, F.S.

Chapter 2011-70, Laws of Florida  
Effective July 1, 2011  
Approved by the Governor May 31, 2011

**[CS / HB 621 – Child Custody](#)**

By Civil Justice Subcommittee; Representative Ronald Renuart

**Impact upon the State Courts System:**

The law provides that military service requirements resulting in temporary disruption to the child may not be the court’s sole factor in deciding to grant a petition for modification or permanent time-sharing and parent responsibility.

**Legislative Summary:**

The law provides that a parent’s activation, deployment, or temporary assignment to military service and the resulting temporary disruption to the child may not be the sole factor in a court’s decision to grant a petition for or modification of a permanent time-sharing agreement. The law adds to previously existing law prohibiting a court from modifying time-sharing during the time a parent is away for military service, except to issue a temporary modification order if it is in the best interest of the child, by including a specific provision stating that military service cannot be the sole factor in granting a petition for modification.

Amends s. 61.13002, F.S.

Chapter 2011-188, Laws of Florida Effective July 1, 2011 Approved by the Governor June 21, 2011
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**[CS / HB 997 – Civil Citation](#)**

By Justice Appropriations Subcommittee; Representative Ray Pilon

**Impact upon the State Courts System:**

The law requires the Department of Juvenile Justice and local entities to administer a civil citation or similar diversion program at the local level. An expanded civil citation program or similar diversion program should successfully divert more cases from the juvenile court system which would reduce judicial workload. However, the precise impact cannot be determined and will depend on how many additional civil citations result from the expanded program and the success rate of the civil citation program.

**Legislative Summary:**

The law requires juvenile civil citation programs or other similar diversion programs to be established at the local level. Currently, these local diversion programs are discretionary. The law specifies that they may be operated by any number of entities, including law enforcement, the Department of Juvenile Justice (DJJ), a juvenile assessment center, the county or city, or an entity selected by the county or city. Unlike current law, only first-time juvenile misdemeanants will be eligible to participate in a civil citation program. Current law allows second-time juvenile misdemeanants to participate. The law provides that intervention services will be required during the civil citation program if a needs assessment determines such services are necessary.

Finally, the DJJ is required to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state. The DJJ must

also develop guidelines for the civil citation program which include intervention services. The guidelines must be based on proven civil citation programs or other similar diversion programs within Florida.

Amends s. 985.12, F.S.

Chapter 2011-124, Laws of Florida  
Effective July 1, 2011  
Approved by the Governor June 2, 2011

## **HB 1029 – Interstate Compact for Juveniles**

By Representative Jason Brodeur

### **Impact upon the State Courts System:**

The law will not have a direct fiscal or workload impact on the state courts system. The courts will have the benefit of operating under the uniform provisions of the Interstate Compact for Juvenile to manage and regulate the movement of juveniles between the compact member states. The revised compact establishes the procedures to manage the movements between states of juvenile offenders.

### **Legislative Summary:**

The law reenacts the statutes relating to the Interstate Compact for Juveniles (compact) and the State Council for Interstate Juvenile Offender Supervision (council) that expired by operation of law on August 26, 2010. The compact governs interstate movement of juveniles on probation and parole as well as extradition across state lines of runaways, escapees, absconders, and juveniles charged as delinquent. The law reenacts the compact to do the following:

- Creates the Interstate Commission, which is an independent compact administrative agency with the authority to administer ongoing compact activity;
- Provides rule making authority for the Interstate Commission;
- Establishes a mechanism for all states to collect standardized information and information systems;
- Provides for sanctions against states that do not follow compact rules and regulations;
- Provides for gubernatorial appointments of representatives from member states to the Interstate Commission;
- Provides a mandatory funding mechanism sufficient to support essential compact operations;

- Provides for coordination and cooperation with other interstate compacts; and
- Requires the creation of state councils.

The law also reenacts the Interstate Juvenile Offender Supervision Council (council) to do the following:

- Requires that the council consist of seven members comprised of the Secretary of the Department of Juvenile Justice (DJJ), the compact administrator or his or her designee, the Executive Director of the Florida Department of Law Enforcement (FDLE) or his or her designee, and four remaining members to be appointed by the Governor, who may delegate this appointment power to the Secretary of DJJ in writing on an individual basis;
- Provides that appointees may include one victim’s advocate, employees of the Department of Children and Family Services, employees of the FDLE who work with missing or exploited children, and a parent;
- Applies provisions of public records/open meetings requirements to the council’s proceedings and records;
- Supplies terms of office, record storage, property transfer, and reimbursement for travel and per diem expenses; and
- Creates additional duties and responsibilities for the compact administrator.

Reenacts s. 985.802, 985.8025, F.S.

Chapter 2011-89, Laws of Florida  
Effective May 31, 2011  
Approved by the Governor May 31, 2011

### **[CS / CS / CS / HB 1111 – Family Law](#)**

By Judiciary Committee; Health and Human Services Committee; Civil Justice Subcommittee;  
Representative Debbie Mayfield

#### **Impact upon the State Courts System:**

The law conforms Florida’s Uniform Interstate Family Support Act to the current version of the Uniform Interstate Family Support Act that was amended in 2008. Currently, Florida law has uniform standards for interstate enforcement of support orders, but not international enforcement. Also, revisions are made relating to the determination of awarding alimony.

*M.S. v. Dep't of Children and Families*, 6 So.3d 109 (Fla. 4th DCA 2009).

*S.A. v. Dep't of Children and Families*, 961 So.2d 1066 (Fla. 3d DCA 2007).

### **Legislative Summary:**

The law conform Florida's Uniform Interstate Family Support Act (UIFSA) under ch. 88, F.S., to the current version of UIFSA, which was amended in 2008 and for which implementing legislation is pending approval by Congress, to be eventually adopted in each state. The 2008 UIFSA amendments were made to fully incorporate the provisions promulgated by the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Maintenance Convention). The 2008 UIFSA amendments affect existing state laws, including guidelines for the registration, recognition, enforcement, and modification of foreign support orders from other countries that are parties to the Maintenance Convention. The bill builds on previously existing Florida law providing uniform standards for interstate enforcement of support orders to include enforcement procedures internationally. The law designates the Department of Revenue as the support enforcement agency of the state, and it directs the department to apply for a waiver from the Federal Office of Child Support Enforcement pursuant to the state plan requirement under the Social Security Act upon passage of the bill.

In addition, the law revises Florida law relating to alimony to:

- Provide that the court determine the proper type and amount of alimony or maintenance pursuant to statutory provisions that contain descriptions of the different types of alimony;
- Specify that durational alimony can be awarded following a long-term marriage if there is no need for permanent support;
- Require a showing of clear-and-convincing evidence to award permanent alimony in the case of a marriage of moderate duration;
- Require written findings of exceptional circumstances to award permanent alimony after a short-term marriage;
- Require the court to find that no other form of alimony is fair and reasonable before awarding permanent alimony;
- Specify that an alimony award may not leave the paying party with significantly less income than the receiving party unless there are written findings of exceptional circumstances; and
- Specify that these provisions apply to all initial awards of alimony and modifications of awards of alimony entered after the effective date, but do not

serve as a basis to modify awards entered before the effective date. The provisions are applicable to all cases pending on or filed after the effective date.

The support provisions take effect upon the earlier of 90 days following Congress amending federal law to allow or require states to adopt the 2008 version of the Uniform Interstate Family Support Act, or 90 days following the state obtaining a waiver of its state plan requirement under the Social Security Act. The provisions in the law amending guidelines for the determination of alimony awards take effect July 1, 2011.

Creates s. 88.1041, 88.2101, 88.2111, 88.4021, 88.6151, 88.6161, 88.70111, 88.7021, 88.7031, 88.7041, 88.7051, 88.7061, 88.7071, 88.7081, 88.7091, 88.7101, 88.7111, 88.7121, 88.7131, 88.9021

Amends s. 61.08, 61.13, 827.06, 88.1011, 88.1021, 88.1031, 88.2011, 88.2021, 88.2031, 88.2041, 88.2051, 88.2061, 88.2071, 88.2081, 88.2091, 88.3011, 88.3021, 88.3031, 88.3041, 88.3051, 88.3061, 88.3071, 88.3081, 88.3101, 88.3111, 88.3121, 88.3131, 88.3141, 88.3161, 88.3171, 88.3181, 88.3191, 88.4011, 88.5011, 88.50211, 88.5031, 88.5041, 88.5051, 88.5061, 88.5071, 88.6011, 88.6021, 88.6031, 88.6041, 88.6051, 88.6061, 88.6071, 88.6081, 88.6091, 88.6111, 88.6121, 88.8011, 88.9011, 88.9031, F.S.

Repeals s. 88.7011, F.S.

Chapter 2011-92, Laws of Florida  
Effective date is contingent  
Approved by the Governor May 31, 2011

## **SB 2114 – Juvenile Justice**

By Budget Committee

### **Impact upon the State Courts System:**

The law revises s. 985.441, F.S., and provides that the court may not commit an adjudicated delinquent whose underlying offense was a misdemeanor to a restrictiveness level other than minimum-risk residential for any misdemeanor offense or any probation violation unless the probation violation is a new violation of law constituting a felony. Further, the court may commit such child to a low-risk or moderate-risk residential placement under certain conditions set forth in s. 985.441(2)1-4. The court should be aware that the Department of Juvenile Justice cannot transfer any child adjudicated solely for a misdemeanor to a residential program except as provided above.

**Legislative Summary:**

The law amends ss. 985.441, 985.0301, 985.033, and 985.46, F.S., to provide that a juvenile judge may not commit an adjudicated delinquent youth whose underlying offense is a misdemeanor to a restrictiveness level other than minimum-risk nonresidential if the youth is adjudicated with a misdemeanor or probation violation for a misdemeanor, other than a new law violation constituting a felony.

Amends s. 985.0301, 985.033, 985.441, 985.46, F.S.

Chapter 2011-54, Laws of Florida  
Effective July 1, 2011  
Approved by the Governor May 26, 2011

**[HB 7083 – OGSR / Interference with Custody](#)**

By Government Operations Subcommittee; Representative Dana Young

**Impact upon the State Courts System:**

The courts should be aware of this public records exemption being reenacted.

**Legislative Summary:**

The law is the result of the Legislature’s Open Government Sunset Review of a public-records exemption for information submitted to the sheriff or state attorney for the purpose of obtaining immunity from prosecution for the offense of interference with custody.

Under the offense of interference with custody, it is a third-degree felony for any person – without legal authority – to knowingly or recklessly take a minor or any incompetent person from the custody of his or her parent, a guardian, a public agency in charge of the child or incompetent person, or any other lawful custodian. It is also a third-degree felony – in the absence of a court order determining custody or visitation rights – for a parent, stepparent, legal guardian, or relative who has custody of a minor or incompetent person to take or conceal the minor or incompetent person with a malicious intent to deprive another person of his or her right to custody.

There is an exception, however, in cases in which a person is the victim of domestic violence, has reasonable cause to believe he or she is about to become the victim of domestic violence, or believes that the action was necessary to preserve the minor or the incompetent person from danger. For the exception to apply, a person who takes a minor or incompetent person must, within 10 days of the taking, make a report to the sheriff or state attorney for the county

in which the minor or incompetent person resided. The report must include the name of the person taking the minor or incompetent person, the current address and telephone number of the person and the minor or incompetent person, and the reasons the minor or incompetent person was taken.

Currently, the public-records exemption protects from disclosure the current address and telephone number of the person who takes a minor or incompetent person, as well as the address and telephone number of the minor or incompetent person, contained in the report to the sheriff or state attorney. The law retains the public-records exemption by deleting language providing for the scheduled repeal of the exemption. The exemption will expire on October 2, 2011, unless the reenactment by the Legislature becomes law

Amends s. 787.03, F.S.

Chapter 2011-99, Laws of Florida  
Effective October 1, 2011  
Approved by the Governor May 31, 2011