

PUBLICATION UPDATE

Route to: _____ _____ _____ _____
 _____ _____ _____ _____

Florida Family law Practice Manual

Publication 80643

Release 65

December 2010

HIGHLIGHTS

New Child Support Legislation

- Chapter 9, *Child Support*, has been updated to address new legislation affecting child support orders, effective January 1, 2011. Significant new cases are also discussed.

Alimony

- Chapter 10 has a new title, *Alimony*. The chapter discusses recent changes to the alimony statute, as well as important case law developments.

Attorneys' Fees

- Chapter 17, *Attorneys' Fees*, addresses several recent Florida court decisions addressing whether a party is entitled to attorneys' fees he or she incurs in the course of litigating attorney fee issues in family law cases.

New Standard Family Law Forms

- Additional, new family law forms have been added to Volume 4, including a Petition for Dissolution of Marriage With No Dependent Children, Notice of Action

for Dissolution of Marriage, and Motion for Referral to General Magistrate and related pleadings.

Volume 1

Chapter 1, *Marriage*

A discussion of *Hall v. Maal* [32 So. 3d 682 (Fla. 1st Dist. Ct. App. 2010)], in which the First District held that a ceremonial marriage that is entered into without obtaining a marriage license is not a valid marriage, has been added to Chapter 1.

Chapter 9, *Child Support*

The following new legislation affecting child support orders, effective January 1, 2011, is covered in Chapter 9.

■ Imputed Income

The rules for imputing income for the purpose of child support have been clarified. Among other things, the new legislation requires a court to automatically impute income to a parent if information concerning the parent's income is not available, if the parent fails to participate in a child support proceeding, or if the parent fails to supply adequate financial informa-

tion in a child support proceeding. In addition, the legislation creates a presumption that the parent's income is equivalent to the median income of a full-time worker, as reported by the Census Bureau [2010 Fla. Laws, ch. 2010-199, § 5, amending § 61.30(2)(b), Fla. Stat.].

- A court is now required to adjust the award of child support if the parenting plan provides that each child will spend at least 20% of the overnights of each year with each parent [2010 Fla. Laws, ch. 2010-199, § 5, amending § 61.30(11)(b)8, Fla. Stat.].
- Under prior law, child care costs incurred due to employment, job search, or education were added to the basic support obligation, but only after they were reduced by 25%. New legislation eliminates the reduction, and provides that the full amount of child care costs may be added to the basic obligation [2010 Fla. Laws, ch. 2010-199, § 5, amending § 61.30(7), Fla. Stat.].
- All child support orders must now (1) provide for child support to terminate on the child's 18th birthday, unless the parties agree otherwise or a provision of Florida Statutes Section 743.07(2) applies; (2) include a schedule stating the amount of the monthly child support obligation for all of the minor children at the time of the order, as well as 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 support, and (3) specify the date that each reduction or termination of child support becomes effective [2010

Fla. Laws, ch. 2010-199, § 3, amending § 61.13(1)(a), Fla. Stat.].

- The following recent cases pertaining to child support have been added to Chapter 9: *Wilcox v. Munoz*, 35 So. 3d 136 (Fla. 2d Dist. Ct. App. 2010); *McQuaig v. McQuaig*, 36 So. 3d 801 (Fla. 1st Dist. Ct. App. 2010); *Rodriguez v. Medero*, 17 So. 3d 867 (Fla. 4th Dist. Ct. App. 2009); *Neville v. Neville*, 34 So. 3d 779 (Fla. 5th Dist. Ct. App. 2010); and *Dep't of Revenue ex rel. Soto v. Soto*, 28 So. 3d 171 (Fla. 1st Dist. Ct. App. 2010).
- Chapter 9's readability and ease-of-use has been enhanced through reorganization and the addition of more sub-headings, making it easier to locate needed information.

Chapter 10, Alimony

- New Chapter Title

The title of Chapter 10 has been changed from "*Spousal Support*" to "*Alimony*."

- Chapter 10 discusses recent changes to the alimony statute, which has been revised to authorize courts to award "durational alimony" and "bridge-the-gap alimony," in addition to rehabilitative and permanent periodic alimony [§ 61.08, Fla. Stat.].
- The following new cases were added to Chapter 10: *Wilson v. Wilson*, 37 So. 3d 877 (Fla. 2d Dist. Ct. App. 2010); *McQuaig v. McQuaig*, 36 So. 3d 801 (Fla. 1st Dist. Ct. App. 2010); *Vigo v. Vigo*, 15 So. 3d 619 (Fla. 3d Dist. Ct. App. 2009); *Oluwek v. Oluwek*, 2 So. 3d 1038 (Fla. 2d Dist. Ct. App. 2009); *Kitchens v. Kitchens*, 4 So. 3d 1 (Fla. 4th Dist. Ct.

App. 2009); Lovell v. Lovell, 14 So. 3d 1111 (Fla. 5th Dist. Ct. App. 2009); Rabbath v. Farid, 4 So. 3d 778 (Fla. 1st Dist. Ct. App. 2009); Perkovich v. Humphrey-Perkovich, 2 So. 3d 348 (Fla. 2d Dist. Ct. App. 2008); Schmidt v. Schmidt, 997 So. 2d 451 (Fla. 2d Dist. Ct. App. 2008).

Volume 2

Chapter 10b, Equitable Distribution of Marital Assets

- The following recent cases were added to the discussion of equitable distribution in Chapter 10b: Garcia v. Garcia, 25 So. 3d 687 (Fla. 4th Dist. Ct. App. 2010); Leonardis v. Leonardis, 30 So. 3d 568 (Fla. 4th Dist. Ct. App. 2010); Mistretta v. Mistretta, 31 So. 3d 206 (Fla. 1st Dist. Ct. App. 2010); Rabbath v. Farid, 4 So. 3d 778 (Fla. 1st Dist. Ct. App. 2009); Stough v. Stough, 18 So. 3d 601 (Fla. 1st Dist. Ct. App. 2009); Hitchcock v. Hitchcock, 992 So. 2d 436 (Fla. 4th Dist. Ct. App. 2008); Mathers v. Brown, 21 So. 3d 834 (Fla. 4th Dist. Ct. App. 2009); Dye v. Dye, 17 So. 3d 1278 (Fla. 2d Dist. Ct. App. 2009); Abdnour v. Abdnour, 19 So. 3d 357 (Fla. 2d Dist. Ct. App. 2009); Gibbons v. Gibbons, 10 So. 3d 127 (Fla. 2d Dist. Ct. App. 2009); Franklin v. Franklin, 988 So. 2d 125 (Fla. 2d Dist. Ct. App. 2008); Perkovich v. Humphrey-Perkovich, 2 So. 3d 348 (Fla. 2d Dist. Ct. App. 2008).

Chapter 14, Enforcement

- As part of the comprehensive update of this publication to reflect the extensive legislative changes to terminology that were enacted in 2008, the terms “custody,” “visitation,” “custodial parent,” and “non-custodial parent” were

changed to “parenting plan,” “timesharing,” and “parent,” as appropriate.

Chapter 15, Modification

- As part of the comprehensive update of this publication to reflect the extensive legislative changes to terminology that were enacted in 2008, the terms “custody,” “visitation,” “custodial parent,” and “non-custodial parent” were changed to “parenting plan,” “timesharing,” and “parent,” as appropriate.
- New legislation that permits a parent who is deployed, called to active duty, or temporarily assigned to military duty for more than 90 days to designate a family member to exercise time-sharing with the child on his or her behalf [see § 61.13002(2), Fla. Stat.] is discussed in Chapter 15.
- A discussion of modification of “bridge-the-gap” and durational alimony, reflecting recent amendments to Florida Statutes Section 61.08, has been added to Chapter 15.

Chapter 17, Attorneys’ Fees

- Fees for fees. A discussion of several recent Florida decisions addressing a party’s entitlement to attorneys’ fees incurred in the course of litigating the amount of fees has been added to Chapter 17. The cases are *Greenwald v. Rivkind-Greenwald*, 31 So. 3d 250 (Fla. 3d Dist. Ct. App. 2010); *Schneider v. Schneider*, 32 So. 3d 151 (Fla. 4th Dist. Ct. App. 2010); and *Baker v. Baker*, 35 So. 3d 76 (Fla. 2d Dist. Ct. App. 2010).
- Charging liens. *Baker & Hostetler, LLP v. Swearingen*, 998 So. 2d 1158 (Fla. 5th Dist. Ct. App. 2008), which addresses the issue of timely notice of charging

liens in post-dissolution fee litigation, is discussed in Chapter 17.

Volume 3, Text of Florida Statutes and Rules

The most recent versions of the following statutes were added to Volume 3 in this release:

- Florida Statutes Section 61.08, which governs alimony awards. Section 61.08 was amended in 2010 to add two new forms of alimony: durational alimony and “bridge-the-gap” alimony. Amendments to the statute also define “short-term,” “moderate-term,” and “long-term” marriages.
- Florida Statutes Section 61.13, governing child support orders.
- Florida Statutes Section 61.13002, which provides for temporary time-sharing and child support modification due to military service.
- Florida Statutes Section 61.29, a new provision that states the principles underlying the child support guidelines.
- Florida Statutes Section 61.30, the child support guidelines statute.

- Florida Statutes Section 61.45, which codifies Florida’s Child Abduction Prevention Act, permitting the court to impose requirements and restrictions on a parent when there is evidence that there is a credible risk that the parent will remove the child from the state or country or conceal the child’s whereabouts.
- Florida Statutes Section 63.0422, a new statute that prohibits both public and private adoption agencies from considering a prospective parent’s lawful possession, storage, or use of firearms.

Matthew Bender provides continuing customer support for all its products:

- Editorial assistance—please consult the “Questions About This Publication” directory printed on the copyright page;
- Customer Service—missing pages, shipments, billing or other customer service matters (1-800-833-9844).
- Outside the United States and Canada, (518) 487-3000, or fax (518) 487-3584;
- Toll-free ordering (1-800-223-1940).



www.lexis.com

**Copyright © 2010 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
Publication 80643, Release 65, December 2010**

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

FILING INSTRUCTIONS

Florida Family Law Practice Manual

Publication 80643 Release 65

December 2010

**Check
As
Done**

- 1. Check the Title page in the front of your present Volume 1. It should indicate that your set is filed through Release Number 64. If the set is current, proceed with the filing of this release. If your set is not filed through Release Number 64, DO NOT file this release. Please call Customer Services at 1-800-833-9844 for assistance in bringing your set up to date.
- 2. This Release Number 65 contains only White Revision pages.
- 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

**Check
As
Done** Remove Old
Pages Numbered

Insert New
Pages Numbered

For faster and easier filing, all references are to right-hand pages only.

VOLUME 1

Revision

Title page thru xi Title page thru ix

Chapter 1

1 thru 47 1 thru 49

Chapter 9

1 thru 99 1 thru 189

Chapter 10

1 thru 83 1 thru 89

VOLUME 2

Revision

Title page. Title page

Chapter 10B

1 thru 25 1 thru 26.1

35 thru 81 35 thru 79

Chapter 14 Blue Special Alert

14SA-1. Material not replaced

Chapter 14

1 thru 13 1 thru 13

17 thru 71 17 thru 69

Chapter 15 Blue Special Alert

15SA-1. Material not replaced

Chapter 15

1 thru 63 1 thru 59

Chapter 17

11 11 thru 12.1

18.1 thru 21 19 thru 22.9

41 thru 47 41 thru 47

**Check
As
Done**

*Remove Old
Pages Numbered*

*Insert New
Pages Numbered*

VOLUME 3

Revision

Title page. Title page

Statutes

4.1 thru 4.3 4.1 thru 4.3
 49 thru 62.19 49 thru 62.23
 116.5 thru 116.24(1). 116.5 thru 116.24(2)(e)
 116.25 thru 116.33 116.25 thru 116.31

Table of Cases

TC-1 thru TC-73 TC-1 thru TC-73

Index

I-1 thru I-19 I-1 thru I-21

VOLUME 4

Revision

Title page. Title page

Forms

63 thru 71 63 thru 67
 235 thru 237 235 thru 237
 249 thru 267 249 thru 268.1
 498.15 thru 498.17 498.15 thru 498.18(1)
 498.33 498.33
 503 thru 535 503 thru 536.3

FILE IN THE FRONT OF THE FIRST VOLUME
OF YOUR SET

To order missing pages log on to our self service center, www.lexisnexis.com/printedsc or call Customer Services at 1 (800) 833-9844 and have the following information ready:

- (1) the publication title;
- (2) specific volume, chapter and page numbers; and
- (3) your name, phone number, and Matthew Bender account number.

Please recycle removed pages.

MISSING FILING INSTRUCTIONS?
FIND THEM AT www.lexisnexis.com/printedsc

Use the search tool provided to find and download missing filing instructions, or sign on to the Print & CD Service Center to order missing pages or replacement materials. Visit us soon to see what else the Print & CD Service Center can do for you!



www.lexis.com

Copyright © 2010 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
Publication 80643, Release 65, December 2010

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.