

CHILD SUPPORT IN DEPENDENCY CASES

Background & Analysis

Florida law provides specific authority for the dependency court to calculate, order, and enforce child support. Section 39.521(1)(d)7, Florida Statutes, provides that, “The court may exercise jurisdiction over all support matters, shall adjudicate the financial obligation, including health insurance, of the child’s parents or guardian, and shall enforce the financial obligation as provided in chapter 61.” Since the dependency court has the authority to order child support, it follows then that it also has the inherent authority to suspend or modify a child support obligation if majority time-sharing of the child is changed, even on a temporary basis. This specific point, however, is not directly addressed by rule or statute.

Starting with a shelter hearing, §39.402(11)(a), Florida Statutes, provides that parents are responsible for the support of a child who is in an out-of-home placement. The section goes on to say that parents must provide the dependency court with a financial affidavit within twenty-eight days of a shelter order so that the court can calculate child support pursuant to §61.30, Florida Statutes. At the disposition of a dependency case, if the child is in an out-of-home placement, §39.521(1)(d)7, Florida Statutes, (as discussed above) applies along with Fla. R. Juv. P. 8.340(c)(7) which indicates that a disposition order in a dependency matter shall include a determination as to child support if the child is in an out-of-home placement.

Every parent is responsible for the support of his or her child. When a child is not living with one or both of his parents, the parental obligation of support does not lapse, but is due to the child through his or her custodian for the care, support, and maintenance of the child.