

CHILD SUPPORT ORDERS IN DOMESTIC VIOLENCE AND DISSOLUTION CASES

Background & Analysis

When properly managing cases in the family division, related cases will be identified either through inquiry of the parties or through a search of related cases by the case manager. When the court is aware of what cases a family has pending, the judge will be able to use the best method for establishing child support.

The primary focus of domestic violence matters is dealing with the violence between the parties. Though the court must address the questions of time-sharing and child support in these cases, the domestic violence forum is not designed for establishing permanent child support obligations. In O'Neill v. Stone, 721 So. 2d 393, 396 (Fla. 2d DCA 1998) the court noted, "This case is a perfect example of why domestic violence proceedings should not be allowed to become the primary forum in which custody, visitation and support issues are litigated." The court went on to say,

The better practice in such a case would be for the trial court to enter a temporary order ... and direct the parties to litigate their subsequent custody and visitation disputes in a proper paternity proceeding where the orders entered would remain in effect beyond the temporary lifespan of most injunctions. Id.

The court's holding exemplifies why §741.30(6)(a)4, Florida Statutes and Fla. Fam. L.R.P. 12.610(c)(1)(C)(v), provide for establishing temporary time-sharing and support for any minor child or children connected with the proceedings.

Dissolution of marriage, paternity, child support and time-sharing cases inherently deal with matters pertaining to the entire family, even when the parents are not legally married. This forum is better equipped to completely hear issues relating to the calculation and award of child support on a permanent basis. Section 61.30, Florida Statutes, is clearly the authority for calculating and awarding child support regardless of the forum in which the issue arises.

Lastly, §741.30(1)(c), Florida Statutes, says, "In the event a subsequent cause of action is filed under chapter 61, any orders entered therein shall take precedence over any inconsistent provisions of an injunction issued under this section which addresses matters governed by chapter 61." With respect to this section, the court in Spano v. BB ex rel. Bruce, 947 So.2d 635, 636 (Fla. 3d DCA 2007) stated:

domestic violence proceedings should not be allowed to become the primary forum in which custody, visitation and support issues are litigated."(Citation omitted.) Instead, where custody, visitation and support considerations are implicated in the context of alleged domestic violence, the better practice is for the trial court to enter a temporary order under Chapter 741 while directing the parties to litigate custody and visitation matters in family court.

This indicates that the court hearing a dissolution proceeding or other proceeding involving the family is the preferred forum for establishing permanent obligations of child support.