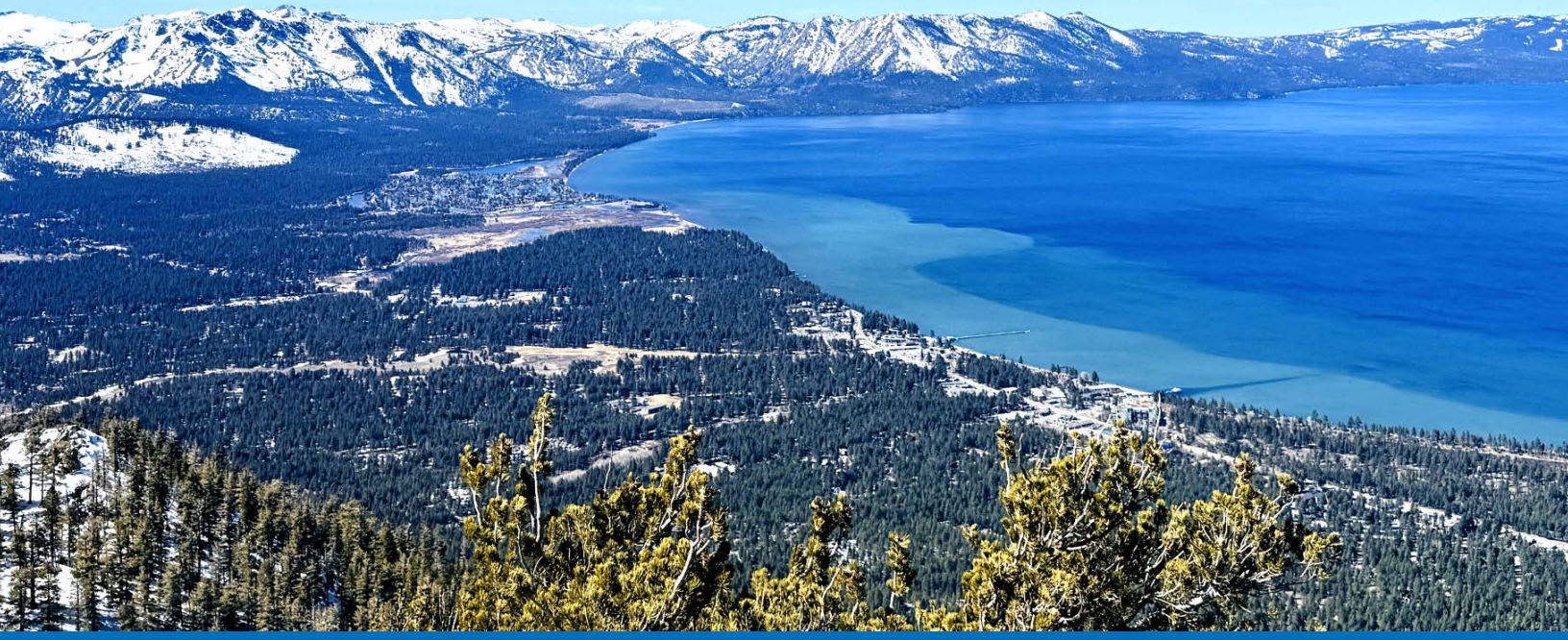
THE FLORIDA BAR FAMILY LAW SECTION

COMMENTATOR

VOL. XLVIII, ISSUE 4 | 2026



GINA SZAPUCKI - GUEST EDITOR, JENNIFER KIPKE & MICHAEL MENDOZA - CO-EDITORS

The Commentator is prepared and published by the

Family Law Section of The Florida Bar

Statements of opinion or comments appearing herein are those of the authors and contributors and not of The Florida Bar or the Family Law Section.
Articles and cover photos considered for publication may be submitted to publications@familylawfla.org
MS Word format is preferred for documents, and jpeg images for photos

ON THE COVER: Courtesy of Chelsea A. Miller

INSIDE THIS ISSUE

Welcome from the Chair

As this Bar year closes, I reflect on an incredible journey grounded in service, collaboration, mentorship, education, support and shared purpose. My theme as Chair: *Supporting Today, Reshaping Tomorrow,* set the tone for a mission focused on supporting our colleagues, mentoring the next generation, championing inclusion, and strengthening the families and communities we serve. What began as a vision became something far more meaningful—because of each of you, and especially the hard-working officers and committee members who brought that mission to life.

AIMEE C. GROSS, 2025-2026 CHAIR

My goal was for those of us fortunate enough to have built successful family law practices to reach out and help others in new ways. It was also a personal goal of mine to have at least one live Section event in each area of the state in hopes of reaching those with interest to serve, participate, or learn and grow. I believe we achieved both.

Over the past year, I witnessed the very best of our profession. Members stepped up without hesitation—answering late-night (and early morning) calls, volunteering to teach and mentor, and showing up not just as colleagues, but as educators and as a community. In a practice area that is emotionally demanding, so many of you continue to lead with empathy, integrity, and heart.

One of the year's defining accomplishments has been the extraordinary growth of our Emerging Family Lawyers initiative. What began as an idea has quickly become one of the most impactful pillars of our Section. This success would not have been possible without the leadership and vision of our Chair-Elect, **Tenesia C. Hall**, and the tireless work of the officers of that Committee, with an extra shoutout to Co-Chair **Trisha Armstrong**, Vice Chair **Zoe Chaitoff**, and **Tina El-Fadel** as Co-Chair of the Membership Committee. Together, they created meaningful pathways for newer, or less experienced, family lawyers to find their place, build relationships, and begin their leadership journeys. Watching these emerging family lawyers become engaged and inspired gives me great confidence in the future of our Section.

The Section has continued its legacy of excellence — deepening our commitment to mentorship, not only through the Emerging Family Lawyers Committee, but also through expanded law student stipends and internship opportunities, and growing the ways we connect with lawyers across the state. This year we delivered impactful education through our CLE programs, the Marital and Family Law Review Course, our Section service, Trial Advocacy Workshop, and created spaces for meaningful fellowship and professional growth. Each of these accomplishments was made possible by your time, talent, and unwavering dedication.

Equally inspiring has been our seasoned members' generosity in sharing their time, knowledge, and experience. Whether guiding a young lawyer through their first hearing, welcoming a law student at an event, or volunteering to teach, you are shaping the future of family law in immeasurable ways. I also want to thank less seasoned Section members who have worked to bring along newer family lawyers and engage law students, including through mentoring at Section events.

This year's programming reflects the depth of our engagement. We expanded our biennial Trial Advocacy Workshop with scholarships and extended programming for deeper hands-on learning and mentorship opportunities, and our flagship Marital & Family Law Review Course brought nearly 2,000 attendees together to learn from some of the most respected voices in our field. An extra thank you to **Jack Moring**, Committee Chair of the Marital and Family Law Review Course, who led this great program every step of the way. While legislative results were limited this session, the Legislation Committee, led by **William "Trace" Norvell** and **Kimberly Rommel-Enright**, and officers **Kristin Kirkner, Anya Cintron Stern, Chelsea**

continued, next page

Welcome from the Chair

continued, from page 3

Miller and **Jamie Epstein**, did an exceptional job navigating a hectic session with daily contributions over months of calls, emails, and meetings. I am confident many positive changes will soon become law. A special thank you to our Chairs of Publications, **Chelsea Miller** and **Carolyn Ware**, whose behind-the-scenes leadership -- keeping me accountable, on task, and on schedule—was essential to the success of this year and the continued excellence of our publications.

We also strengthened our commitment to law students by expanding stipends for the Marital & Family Law Review Course, pairing students with Section mentors, and continuing our support of summer internships through the Florida Bar Foundation's FFLA program. These initiatives are not just programs—they are investments in the longevity, diversity, and strength of family law in Florida. What I am most proud of is our commencement of engaging with law schools and students as they finish their education, setting the groundwork for the future.

Beyond education and mentorship, we fostered connection and community, sprinkled with my favorite interest: sports. From football at our In-State Retreat in Amelia Island to skiing, snowmobiling, and tubing at our Out-of-State Retreat in Lake Tahoe, from monthly Family Law Casts to live CLE programming like *Solving the Money Maze* in the Panhandle, we created opportunities to learn, engage, and build lasting relationships. We also expanded our partnerships, including our collaboration with the AAML Florida Chapter, and our support of organizations like the FLAFCC, YLD, and the Leadership Academy of the Florida Bar.

Looking ahead, it is with great excitement and deep respect that I pass the gavel to **Tenesia C. Hall**, who will serve as the next Chair of the Family Law Section. Tenesia is the Family Law Litigation Director of the Legal Aid Society of the OCBA; and is an exceptional leader whose vision, strength, and dedication have already left an indelible mark on this Section. Her installation is also a historic and meaningful milestone, as she becomes the first Black woman to serve as Chair of the Family Law Section. This moment reflects not only her individual excellence, but the continued growth and evolution of our Section into one that is increasingly reflective of the diverse communities we serve. It is a powerful reminder that when we invest in people and create opportunities, we truly begin to reshape tomorrow.

From our CLE programs (with Co-Chairs **Amanda Tackenberg and Cash Eaton**) and advocacy efforts, to our retreats that blend education with camaraderie, every success this year has been a team effort. The dedication, generosity, and kindness of our members inspire me every single day. Whether it's answering a call for help, guiding a young lawyer, or volunteering your time to make a program happen — you've made an impact, often more than you realize.

To our sponsors and partners, Annual Sponsors - **Dean Dorton**, **Eisner Amper**, **Florida Appeals**, **Rothschild Capital Partners**, **Smolin**, **Soman Stewart**, **Schipani Law Group, P.A.**, **Our Family Wizard**, **Ari S. Harper, CPA**, and **Matthew Lundy Law**, and Event Sponsors and Exhibitors – **Soman Stewart**, **FileVine**, **Our Family Wizard**, **Soberlink**, **Dean Dorton**, **Eisner Amper**, **Berkowitz Pollack Brant**, **Coral Gables Trust**, **Kras Advisory Capital**, and **The Virga Law Firm, P.A.**, your support makes all of this possible. And to every member, whether you have been involved for decades or just joined us: thank you for being part of this community and serving Florida's families with compassion, integrity, and excellence.

I would be remiss if I did not also recognize the steady leadership and support of our Executive Committee, **Christopher Rumbold**, **Tenesia C. Hall**, **Andrea Reid**, and **Michelle Klinger-Smith**, whose commitment, collaboration, and friendship have meant more to me than I can fully express. And to our incredible administrator, **Willie Mae Shepherd** —your dedication, professionalism, and constant support are the backbone of this Section. We are all better because of you.

As I conclude my term, I do so with immense gratitude and a full heart. Serving in this role as Chair has been one of the greatest honors of my career. This Section has given me so much over the past 15 years—mentorship, friendship, opportunity, and purpose—and it has been a privilege to give back in this capacity.

While my time as Chair is ending, the work continues—and it is in very good hands. The foundation we have strengthened together will carry forward, fueled by new ideas, new leaders, and the same shared commitment to supporting one another and the families we serve. That is how we will continue reshaping tomorrow.

"Alone we can do so little; together we can do so much." — Helen Keller

Message from the Co-Chairs of the Publications Committee

CHELSEA MILLER

CAROLYN WARE

Throughout this cycle, the *Commentator* has returned again and again to a single, unifying theme: supporting today, reshaping tomorrow. That phrase is more than a tagline. It is a call to action that captures the very essence of what family law practitioners do every day. We meet clients in their most vulnerable moments, guide them through the legal landscape as it exists right now, and simultaneously advocate for a system that will serve future families more justly and more compassionately.

Our contributors brought remarkable depth and diversity to these pages. We examined statistics on collaborative divorce in Florida as an alternative to the adversarial nature of traditional proceedings. We tackled the complexities of domestic violence reforms across two issues, analyzed whether litigants truly have access to justice, explored the ethical dimensions of attorney-client relationships in an era of artificial intelligence, celebrated Florida's African American legal pioneers, and addressed the financial realities practitioners face daily – from income imputation in the gig economy, to understanding DROP and BackDROP in equitable distribution.

None of this work would have been possible without the generosity of our authors, our editors, and the leadership of the Family Law Section. Heartfelt thanks to every attorney, judge and academic who contributed, and to you, our readers, for your engagement and dedication to professional growth.

We leave you with this thought: the work of family law is never finished, because families are never static. They grow, they change, they find new sources of strength. Our role as practitioners is to grow alongside them – to meet each moment with the full measure of our skill and our compassion.

It has been an honor and pleasure to work with the incredible Publications team this year. We are so grateful for your contributions, ideas and support throughout this bar cycle. Thank you for the opportunity to serve as your Co-Chairs of the Publications Committee.

(212) 931-5303 connect@rothcap.com www.rothcap.com 5 East 82nd St, 3rd Floor, New York, NY

ROTHSCHILD
CAPITAL PARTNERS

Divorce Wealth Planning

Margo Cook,
CFP®, CDFA®, CAP®

John S. Dame, Esq.
General Counsel

Strengthening Your Case

As the attorney, you lead the way, and with the Divorce Wealth Planning Team alongside you, you're better equipped to secure a stronger financial outcome for your client.

We have experience across a wide range of asset classes, including public securities, and alternative investments such as hedge funds, private equity, real estate, and private direct investments.

We work with you on an as-needed basis throughout the entire divorce process, assisting you in making your arguments more persuasive and supporting your efforts in negotation, mediation, and litigation.

Our relationship with you might be as simple as helping your client understand their financial situation to answer your questions, or as complex as creating monetary projections for you to utilize to support your case.

Our services are comprehensive, and we allow you to tell us which of those services fits your circumstance and your desired strategy.

- **Alignment of Messaging**
- **Cash Flow Planning & Needs Analysis**
- **Asset Review, Analysis, & Selection**
- **Review of Agreements**
- **Data Visualization & Projections**
- **Financial Affidavits**
- **Complex Employer Compensation**
- **Next Chapter Architecture**

Learn more about how we support you

This is not a recommendation for any security or investment. Please consult your legal, accounting, and tax advisors as to the legal, business, tax and related matters concerning an investment with RCP to make an independent determination and consequences of a potential investment, including US federal, state, local and non-US tax consequences, as applicable.

CO-EDITORS' CORNER

By Jennifer Kipke and Michael A. Mendoza

JENNIFER KIPKE

MICHAEL MENDOZA

We are happy to welcome our readers to the fourth and final issue of the *Commentator* for the 2025-2026 Bar Cycle.

A salient theme in this issue is how Florida's family law landscape is challenged to adapt to modern realities. Several of the articles within this issue confront the sufficiency of the legal framework within which we as practitioners must work, and question whether the existing structure meets the needs of contemporary families navigating instability, transition, and power imbalance.

Together, these articles highlight areas where the practice of family law can evolve, and illustrate how awareness and careful advocacy can drive meaningful improvements. We hope this issue prompts reflection in our readers and challenges us all to appreciate the real-world impact of, and to thoughtfully improve, our work on behalf of Florida's families.

We hope to see each of you in Orlando at the Annual Bar Convention and Section Committee Meetings from June 17-20, where we will celebrate the 2025-2026 year, and welcome a new Bar Cycle with friends and colleagues. It is not too late to join one of the many Section committees to get more involved and enhance your practice.

It has been a pleasure to serve the Section and the Publications Committee in the capacity as Co-Editors of the *Commentator* during this Bar Cycle. We are grateful for the contributions and support of our guest editors, authors, Co-Chairs of the Publications Committee, Chelsea Miller and Carolyn Ware, and our Section Chair, Aimee Gross, whose efforts have made this publication a reality.

GUEST EDITOR'S CORNER

By Gina Szapucki

GINA SZAPUCKI, ESQ.

I am pleased to welcome you to the fourth and final Issue of *The Commentator* for the 2025-2026 Bar cycle! It has been an absolute privilege to serve as guest editor, especially for this final issue, which covers a diverse range of topics related to family law from our authors, Patricia Elizee, Laura Grossman, Eddie Stephens & Noelle Stone, and Amanda Tackenberg.

Patricia Elizee provides insights into immigration changes at both the federal and state levels in Florida and explains how these ever-changing policies can inadvertently play a key role in family law cases. The article offers practical tips and guidance for navigating immigration policy changes for our clients and in our cases.

Laura Grossman opens her article with a fictional scenario about a wife and her minor child, who is contemplating divorce from her husband after a fifteen-year marriage. The scenario ultimately raises concerns about the overlooked welfare of women and children affected by divorce, who face food insecurity. This article focuses on the various groups of individuals who may be at risk of food insecurity during divorce proceedings, explains the programs and other resources available to them in our area of practice, and provides possible solutions for how we can better assist these individuals.

Eddie Stephens and Noelle Stone capture the central tension in modern family law regarding household pets. The article offers insights into both the international perspective and modern reforms in other U.S. jurisdictions, focusing on how family courts are increasingly classifying pets and proposing five principles for statutory reform in Florida.

Amanda Tackenberg explains the legal pitfalls involving credits and setoffs related to real property in equitable distribution and provides detailed insight into the practical application of what should be addressed in a marital settlement agreement or proposed final judgments, offering practitioners guidance on navigating real property matters after divorce.

Thank you to the authors for their outstanding contributions, time, and effort. I would also like to thank the entire Publications Committee for the opportunity to edit this issue, and a special thank you to the Publications Co-Chairs, Chelsea Miller and Carolyn Ware, for their continued hard work.

The Commentator and The Family Law Section thrive from the contributions of our peers, and I encourage each one of you to contribute to the Commentator by submitting an article to publications@familylawfla.org or for further information if you are interested.

EISNERAMPER

eisneramper.com

The EisnerAmper's family law team is proud to support the Florida Bar Family Law Section

Forensic accounting, litigation and valuation services support tailored to family law attorneys and their clients in high-stakes matrimonial disputes.

Scan to learn more

Tami Clemenza
Partner
954.740.5025
tami.clemenza@eisneramper.com

Shari Seewald
Managing Director
954.740.5028
shari.seewald@eisneramper.com

Assurance
Tax
Advisory
Outsourcing

Avoiding a Money Pit: Legal Pitfalls on Credits & Setoffs of Real Property of Former Spouses

By: Amanda P. Tackenberg, Miami

INTRODUCTION

Real estate is often one of a divorcing couple's largest assets and a major source of their monthly expenses. Equitably distributing real property can involve pitfalls involving credits and setoffs that practitioners should know how to navigate. This article explains what happens to real property previously held as tenants by the entireties once the parties divorce, whether a former spouse is entitled to a credit for payments made to real estate, whether the other spouse is entitled to a setoff from those payments for rental value, and summarizes Florida law on these issues.

ENTITLEMENT TO CREDITS AND SETOFFS

The Florida legislature has determined that a final judgment or marital settlement agreement must include a determination on entitlement to credits or setoffs.[1] Nevertheless, practically speaking, this is not always achieved in practice. Notably, in the absence of a settlement agreement involving the marital home, the court shall consider eight specific statutory factors, as set forth in Florida Statute § 61.077, including but not limited to, the basis for the award of exclusive use and possession and whether alimony is being awarded to cover the mortgage and other property-related expenses, in part or otherwise.[2]

Once parties divorce, they no longer hold real estate as tenants by the entirety and become tenants in common[3] and, as such, "have an equal responsibility in making all payments necessary to maintain their ownership of the property."[4] That means that, absent an agreement or a final judgment stating otherwise, both parties are required to contribute to the expenses necessary to maintain the property.

Ultimately, it makes no difference whether the award of exclusive use and occupancy is contained in a final judgment or in a marital settlement agreement ("MSA")[5] because "[a]s co-tenants each party is ultimately responsible for his or her proportionate share of the financial obligations relating to the property, such as taxes and mortgages...but where the final judgment or MSA awards one party exclusive use and possession and directs that party to pay all or some of the expenses on the property, the right to reimbursement is postponed until the property is sold. Upon the sale, the party who paid those obligations is entitled to a credit from the proceeds of the sale for the other party's proportionate share of the expenses."[6]

Accordingly, the Florida Supreme Court has held that a former spouse in possession of a former marital property who makes mortgage payments is entitled to half of the payments upon the sale.[7] In *Kelly v. Kelly*, the former wife had exclusive use and possession of the former marital home.[8] The trial court ordered that the property be sold and that the proceeds be divided equally.[9] The former wife sought credit from the former husband for one-half of the mortgage payments and the repair and maintenance costs she incurred.[10] The former husband sought credit for the fair rental value of the property.[11] The Florida Supreme Court held that the former wife was entitled to reimbursement for one-half of the full mortgage payments because "the rule applicable to tenancies in common is that all owners contribute equally to the maintenance of the ownership interest in the property.[12] After divorce, the parties become tenants in common and, as such, have equal responsibility in making all payments necessary to maintain their ownership of the property."[13]

The rules for the partition of real property are the same for former spouses as they are for other co-tenants under the common law, with one exception: former spouses are entitled to set off a claim for reasonable rental value against a claim for maintenance or improvement expenses.[14] Under common law, if one tenant in common exclusively uses and possesses the land for personal benefit, without receiving rent or profits, that tenant is not liable to the other co-tenant unless there is adverse possession or ouster.[15] Ouster must be manifested or expressly communicated,[16] such as through a court order granting exclusive use and possession or a written message and changing the locks; mere discomfort or awkwardness stemming from being former spouses to subsequently co-tenants is not enough. However, for former spouses who become tenants in common after

divorce, when the party in possession of the property seeks contribution for expenses made to preserve or improve the property, the other party is entitled to offset that claim by half of the rental value even if not rent or profit was received (that is, even if the party in possession resided in the property instead of renting it out).[17] However, this is an exception to the rule: "the non-residential party is not entitled to rental value of the property during the other party's use and occupancy when the occupancy is for the benefit of minor children and pursuant to court order."[18] When an owner's possession of the property is an aspect of court-ordered support, the nonresident may not request rent as an offset even if the resident owner has been granted the exclusive right to occupy the property, and even if the nonresident co-tenant has been directed to pay his or her share of the property expenses.[19]

Notably, the Florida Supreme Court held in *Kelly* that "[i]f such person is ousted by a court order following a marriage dissolution, and no reimbursement for rental value is provided in that judgment, it is assumed that the trial judge intended that there be none."[20] In other words, if the final judgment provides a party with exclusive use and possession and does not provide the other party with reimbursement for rental value, then the other party does not get to set off the rental value from the contributions they need to make for the expenses made to maintain the property.

Florida circuit courts have expanded the common law rule regarding contributions to the property to clarify that "expenses made to preserve the property" also include amounts expended for "necessary and reasonable repairs, maintenance, and replacement.[21] Expenditures which preserve the property are a legitimate item for credit at the time of partition sale."[22]

Importantly, the imposition of the obligation to initially make those mortgage payments does not determine who is ultimately responsible for those expenses. The right to reimbursement is established as a matter of law.[23] It is not enough for a final judgment or agreement to require a party to timely make the mortgage payments; the order or agreement must specify who is ultimately responsible for those payments. If the obligation to make the payments is awarded as a form of support, then the Court may not order reimbursement for one-half of the expenses.

SILENCE OF ENTITLEMENT TO CREDITS AND SETOFFS

Somewhat contrary to the Florida Supreme Court's opinion in *Kelly v. Kelly* regarding setoffs for rental value, "silence is not a waiver of the right to reimbursement. Instead, in the face of silence, the right 'is established by operation of law'."[24] In other words, if an order or agreement is silent as to the ultimate responsibility for the mortgage and other expenditures to preserve the property, then the parties will still be required to share those expenses. In *Brandt v. Brandt*, the parties signed a marital settlement agreement ("MSA") which provided that the former wife was responsible for the carrying costs of the former marital home, but the MSA was completely silent as to credits for payment of the mortgage and other carrying costs upon the sale of the former marital home.[25] The Fourth DCA held that the former wife was entitled to reimbursement of one-half of her payments at the time of the sale as a matter of law and that "[t]he agreement between the parties simply places the responsibility for initially paying common expenses on the party in possession. It is silent as to ultimate liability."[26] The Court reasoned that in these circumstances, the "principle of the law of contracts... becomes relevant. The laws which exist at the time and place of the making of a contract enter into and become part of the contract made.... [a]s we have previously seen, in the absence of special circumstances, the law imposes a duty on the nonpaying tenant to reimburse the paying tenant for common expenses at the time of and from the proceeds of a subsequent sale.[27] Therefore, where there is an agreement but it is silent as to the ultimate liability for such expenses, and no evidence is presented that the non-paying tenant gave consideration to be relieved of his legal obligation to pay one-half of such expenses, we hold that the right of reimbursement in the paying tenant is established by operation of law."[28]

It is not uncommon to have an agreement where the parties agree that a divorcing spouse may retain marital property as their separate property pending refinancing or otherwise removing the other party's name from the mortgage, and, if refinancing does not occur, the property is to be sold, and the proceeds divided. In those cases, unless and until the refinancing occurs and the property is deeded to one party, it never becomes the sole and separate property of the party. Furthermore, it is particularly important to specify whether the party entitled to exclusive use and possession during the refinancing period is entitled to reimbursement for one-half of the expenses paid to maintain the property.

In *Levinas v. Levinas*, the former husband was awarded as his sole and separate property a jointly-titled property; however, he had six months to refinance and remove the wife's name from the mortgage, and absent his ability to do so, the property would be sold and the proceeds equally divided.[29] The MSA required the former husband to timely and fully pay the mortgage and other expenses so long as the former wife's name remained on the mortgage.[30] The court found that this language

governed only the interim period before refinancing or sale.[31] The MSA was silent regarding the ultimate liability for carrying costs following the sale and again affirmed prior holdings that silence is not a waiver of the right to reimbursement, and this right exists as a matter of law.[32] The Third DCA held that "the first set of contingencies did not occur.[33] Consequently, the property never became the former husband's 'sole and separate property, free and clear of any and all claims by the former wife,' and it therefore remained jointly owned until sold."[34] The former husband was entitled to reimbursement for the expenses he incurred to maintain the property, and the former wife was entitled to setoffs from those expenses with any rental income the former husband received.[35]

CONCLUSION

If your marital settlement agreement or final judgment does not provide for immediate transfer of real property, and instead provides for a party to pay for expenses until the mortgage has been refinanced and the title is subsequently transferred, or if a party continues to reside in former marital property for a period of time as a form of support, be aware that payments may be owed by the party not in possession of the property unless the agreement or final judgment provides otherwise. These rules are "firmly entrenched in venerable property law."[36]

In practical application, attorneys should ensure that any agreements or proposed final judgments:

Clearly specify who is responsible for timely paying the mortgage payments, taxes, insurance, necessary repairs and maintenance, and whether this party is advancing the costs or is ultimately responsible for these expenses;

If the party is ultimately responsible for these expenses, the agreement or proposed final judgment should clearly state that the party responsible for these expenses is not entitled to reimbursement for 50% of the stated expenses from the other party. If the party is merely advancing the cost, the agreement or proposed final judgment should clearly state that the party is entitled to reimbursement for 50% of the stated expenses; and,

Whether the party who is not in possession of the property is entitled to setoff 50% of the reasonable rental value of the property from those expenses.

In the absence of clearly delineated responsibilities, the law requires both parties to share in the expenses of the former marital property until it becomes the sole and separate property of one of the parties. While both parties' names are on the title, it is important to remember that both former spouses will share in the joys and responsibilities of homemaking.

Amanda Perez Tackenberg *is the founder of Tackenberg Family Law PLLC in Miami, Florida where she practices exclusively marital and family law and is a Florida Supreme Court certified Family Law Mediator. She is a current member of the Executive Council of the Family Law Section of the Florida Bar.*

Endnotes

1 Fla. Stat. § 61.077. *See also Salazar v. Giraldo*, 190 So.3d 248 (5th DCA 2016).
2 Fla. Stat. § 61.077.
3 Fla. Stat. § 689.15.
4 *Kelly v. Kelly*, 583 So.2d 667 (Fla. 1991).
5 *Brandt v. Brandt*, 525 So.2d 1017, 1020 (Fla. 4th DCA 1988) (quoting *Lyons v. Lyons*, 208 So.2d 137 (Fla. 3d DCA 1968)).
6 *Brandt*, 525 at 1019-20.
7 *Kelly*, 583 at 668.
8 *Id*.
9 *Id*. at 667.
10 *Id*. at 667-668.
11 *Id*. at 667-668.
12 Id. at 668.
13 *Id*. at 668 (quoting *Potter v. Garrett*, 52 So.2d 115 (Fla. 1951)).
14 *Barrow v. Barrow*, 527 So.2d 1373, 1374 (Fla. 1988).
15 *Coggan v. Coggan*, 239 So.2d 17, 18-19 (Fla. 1970).
16 *Id*.
17 *Barrow*, 527 at 1376.
18 *McCarthy v. McCarthy*, 922 So. 2d 223, 225 (Fla. 3d DCA 2005) (quoting *Iodice v. Scoville*, 460 So.2d 576, 577 (Fla. 4th DCA 1984)). See also Kelly v. Kelly, 583 So.2d 667 (Fla.1991).
19 *Berger v. Berger*, 559 So.2d 737 (Fla. 5th DCA 1990).
20 *Kelly v. Kelly*, 583 So.2d 667, 668 (Fla. 1991).
21 *Hernandez v. Hernandez*, 645 So.2d 171, 174 (Fla. 3d DCA 1994).
22 *Id*.
23 *Brandt v. Brandt*, 525 So.2d 1017 (Fla. 4th DCA 1988); *See also Goolsby v. Wiley*, 547 So.2d 227, 228 (4th DCA 1989), holding "the right to reimbursement exists apart from any judgment or agreement. It is an implied term of any such judgment or agreement that is silent on the subject."
24 *Levinas v. Levinas*, 410 So.3d 124, 127 (Fla 3d DCA 2015).
25 *Brandt*, 525 at 1018.
26 Id. 1018, 1020.
27 *Id*. at 1020.
28 Id.
29 *Levinas*, 410 at 125.
30 *Id*. at 126.
31 *Id*. at 127.
32 *Id*.
33 *Id*.
34 *Id*.
35 *Id*.
36 *Brandt v. Brandt*, 525 So.2d 1017, 1018 (Fla. 4th DCA 1988).

Are Family Courts Overlooking Rising Food Insecurity Among Women and Children of Divorce: Possible Solutions

By: Laura J. Grossman

FICTIONAL SCENARIO

A Wife and Husband have been married for fifteen years, and they have one child who is ten years old. They reside in South Florida. The Wife is a stay-at-home mother. The Husband makes a decent living, earning $90,000.00 a year. The Husband has a 401(k), the family has healthcare insurance, and they own a nice, but small condominium, that they purchased ten years ago, solely in his name. The Husband has a bank account, to which only he has access, and the Wife has a credit card to his account with a $500.00 limit "for emergencies." Each day, the Husband puts $15.00 on the kitchen counter for the Wife and tells her to make do with that for the household. For the Wife, it is a constant struggle to meet various necessities. There are no "wants," only "needs." The Husband has had multiple affairs over the years, and the Wife is desperately unhappy, but she is financially strapped. Although the Wife's friends have helped her gather funds to file for divorce, she knows that she will have no access to any funds for her and their child's daily needs if the Husband cuts off her access if she proceeds with a divorce filing.

THE PREVALENCE OF FOOD INSECURITY IN DIVORCING FAMILIES

Food insecurity is defined as limited or uncertain access to foods that are sufficiently nutritious and safe to consume, resulting from little to no access to the financial resources necessary to obtain.[1] In the United States, approximately 11% of households (*believed to be a total of 132.6 million households, with an average of 2.55 people per household*) undergo a period of food insecurity each year.[2] That is a little over 37 million people living in food insecure households, including adults and children. Additionally, statistics show a positive correlation between food insecurity and obesity in women, a serious health condition that also affects over 50% of the U.S. adult population.[3] Statistics also tend to show a correlation between separation/divorce in women and food insecurity. While 2% of widows experience food insecurity, approximately 23% of divorced women find themselves food insecure.[4] Conversely, no similar correlation is seen for divorcing men.[5] Given the statistical correlation between women and food insecurity, a similar correlation may be presumed for the children who live with them. According to the nonprofit organization Feeding America, another particularly vulnerable and hidden group are members of the U.S. Military; up to 25% of whom are food insecure but do not qualify for SNAP benefits because their housing is treated as "income" under IRS regulations.[6]

According to one study, recently divorced mothers are at a statistically significant higher risk of being food insecure, suggesting that divorce, in and of itself, may be the cause of food insecurity, independent of income and socioeconomic status.[7] According to the study by Dr. Fei Men, women are nearly 3% more likely to be food insecure after a divorce than men, and there appears to be a direct correlation between women who are more economically vulnerable within their marriage and food insecurity after divorce.[8]

Additionally, Dr. Fei Men posits that the disproportionate child rearing responsibility carried by women can be blamed for this disparity.[9] One study indicated that 75% of American women who file for food assistance programs do so as a direct result of their divorce, and that the financial resources to care for the needs of children of divorce typically decline by 41% during the year following a divorce.[10] Dr. Fei Men also finds that, in addition to the link between marital instability and food insecurity, women are often separately affected by lower levels of "human capital," (education, work experience, training, and health), which presumably defines their market productivity, earning potential, and liquidity/asset profiles.[11] Dr. Fei Men notes that there is insufficient research at this time to determine whether divorce itself is impacting human capital and liquidity/asset profiles, or whether an income-producing spouse is masking already existing problems.[12]

HOW DOES FLORIDA COMPARE TO OTHER STATES' HOUSEHOLDS FOR FOOD INSECURITY?

Florida ranks among the states with high levels of food insecurity in the nation.[13] Between 11.4% and 13.5% of Florida households are food insecure in a given year, with an even higher rate for children (approximately 15.7%).[14] In 2026, various Florida schools ended their "universal free lunch" program due to public school budget cuts, which will only increase food insecurity among Florida's children.[15] Indeed, for many affected families, this will be the first time in years that they have had to pay for these meals, which have been shown to have a direct, positive impact on Florida students.[16]

In 2024, approximately 35.8% of single-female-parent households in Florida utilized Supplemental Nutrition Assistance Program ("SNAP") benefits (formerly known as "food stamps").[17] In July 2025, Congress passed legislation cutting SNAP funding by $186 billion dollars over the next ten years, adding work requirements that are seemingly designed to ensure noncitizens have no access to the benefit, and shifting the cost to states; a move that is expected to cause millions of families to lose the benefit entirely.[18] Accordingly, where some divorcing women used to turn to SNAP to fight food insecurity during their divorce, this may soon not be an option.

Food insecurity in divorce also significantly affects another distinct group—women who divorce over the age of 50, sometimes referred to as "gray divorce."[19] The incidence of "gray divorce" increased by 100% between 1990 and 2010.[20] Food insecurity in the wake of a gray divorce can continue for up to six years after the divorce and is much higher among older women than among men.[21] Much of this is related to the fact that older women are often not financially prepared or sufficiently financially stable to withstand a divorce.[22] It has been suggested that both nutrition assistance and efforts to help support older divorced women, through the re-employment process, are needed.[23] This is especially true in the wake of the July 2023 alimony reform bill in Florida, which eliminated permanent alimony, even in cases of a permanently disabled spouse, which inadvertently places greater limitations on the receipt of alimony based upon the length of the marriage.[24] Shockingly, as of 2022, 49% of U.S. adults ages 55 to 65 had no retirement savings[25]. This same population of U.S. adults also has significantly higher rates of new disability, with the rate increasing again between the ages of 60 and 69.[26] Therefore, given that by 2020, 55.8 million people, or 16.8% of the U.S. population, were over the age of 65, food insecurity among this part of our population is likely to continue to be a growing problem.[27]

HOW ARE FLORIDA COURTS ADDRESSING THIS IMPORTANT ISSUE AND WHAT MORE CAN THEY DO?

All Florida courts define an emergency for purposes of filing requests for relief in a similar manner, typically using terms such as "imminent risk" and "harm" or "death." This focus on immediacy means that, unfortunately, "food insecurity" may not constitute an emergency for most courts. Accordingly, attorneys typically do not file "emergency" requests for relief on behalf of their clients, like the wife in our fictitious scenario, who faces food insecurity. While the Florida courts could identify individuals who may be suffering from food insecurity through an application for determination of civil indigent status under Florida Statute § 57.082, they do not maintain statistics on how many of these applications are granted each year, let alone which party is filing them.[28]

Although some Florida counties have similar, but separate, "status quo" orders that, to some extent, aim to decrease financial abuse by instructing a parent who has left the home to make "voluntary" payments of child support in accordance with Florida Statute § 61.30, these status quo orders generally do not use mandatory "shall" language.[29] Typically, these status quo orders focus more on expediting relief to avoid financial abuse. For example, Broward County's Administrative Order seeks to avoid the cancellation of marital home utilities rather than requiring the more affluent spouse to provide sufficient funds to the less affluent spouse, which helps avoid creating a food-insecure household.[30] Significantly, though, many counties in Florida do not have these status quo orders, as the debate continues over the constitutionality of ordering temporary relief without notice and the opportunity to be heard.

What can Florida family courts do to identify and more quickly aid litigants at risk of food insecurity? First, courts can screen for food insecurity during the intake of new family matters. Significantly, as mentioned above, applications for the determination of civil indigent status for costs can be a tool for identifying families in need.[31] Applications for indigent status often do not apply to litigants who may have a right to an interest in real property or accounts, but no access to cash for basic necessities. This is similar to the problem identified above for military families whose base housing is treated as income, which denies them access to SNAP. Thus, identifying these families and pointing them to readily available free

food sources in their community could create a big impact with little effort.

Second, courts can help connect litigants who identify as food insecure with food assistance programs in their county. This could be done automatically, via e-mail, once a filer is identified by filing an application for the determination of civil indigent status, so that no embarrassment is experienced, and the dissemination of the information is streamlined. Alternatively, all filers of family court actions could be given such materials via email at minimal cost.

Third, courts can also direct litigants to resources for applying for SNAP benefits when they may qualify. This could be done through an automatic e-mail system that links the filer to a SNAP application, which they can complete or decline.

Fourth, courts can work with organizations within their local counties to form a network that helps direct litigants not only to sources of food assistance, but also to organizations that offer referrals for employment, temporary housing, and other basic needs. Lastly, courts can work to strengthen status quo orders and prioritize hearings on food insecurity under certain defined circumstances. All of these efforts would align with the goals of maintaining the best interests of Florida's children.

WHAT CAN THE FLORIDA BAR OR THE FAMILY LAW SECTION DO TO HELP?

Organizations like Feeding America and United Way, among many others, run local chapters that use cash donations to help stock food pantries for families in need. Food pantries can stretch donation dollars by buying in bulk. Therefore, even small donations to local chapters go a long way.

Food pantries also rely mostly on volunteer work. Volunteering can be anything from helping to stock and staff the pantry, to contacting and traveling to local farmers, retailers, and restaurants to pick up excess nonperishable supplies. Most of these businesses are happy to donate these items that would otherwise be thrown out and go to waste. However, it is best to call the local food pantry to ask what the specific needs are in that area before taking any action, as many have well-oiled food rescue operations in place. Volunteer work is another way to give back to the local community and positively impact the clients we aim to serve.

Another way to help is to participate with organizations like Feeding America, which are working to provide breakfasts and lunches to children impacted by the loss of funding for school breakfast and subsidized lunches.[32] Local area chapters sometimes hold what they call "backpack" food drives.[33] These efforts require not only donations, but people power to move and distribute the food where it is needed.

Other organizations work to focus on the food insecurity for our American veterans. Groups focused on this include, but are not limited to Soldiers' Angels, Disabled Veterans National Foundation, VFW, Village for Vets, and Cook for Vets. These organizations not only receive donated food and funds but also run programs to deliver the food directly to veterans when their condition requires extra assistance. Last, as mentioned above regarding the growing number of "gray divorces," securing food access for seniors is another avenue where the family bar can assist. There are many other organizations involved in these efforts, including, but not limited to, Meals on Wheels, United Way, and Feeding America, which all rely on the vast network of volunteers.

CONCLUSION

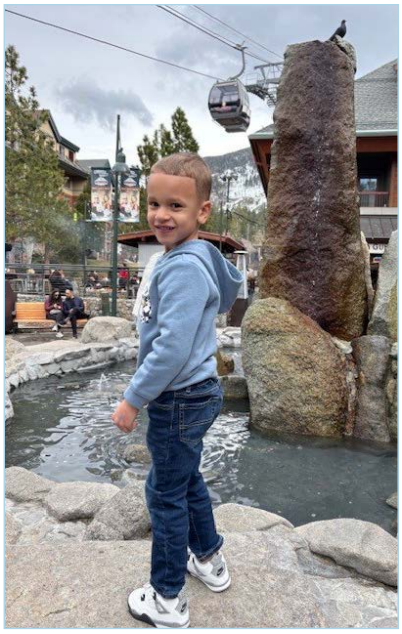
Significantly, the Florida Bar or the Family Law Section has unique knowledge of the population of members who are in need of these resources, even if temporarily, while they get back on their feet after a divorce or family separation. Simply directing our clients to resources that they may not realize are available to them is helpful. One grassroots program, "Food from the Bar," raises funds for food banks in the spring with an eye towards assisting children who cannot benefit from school food programs in the summer. This program is operated through local bar associations.[34] This creates an opportunity for family law attorneys to make a demonstrable difference in stomping out food insecurity. There are numerous ways for those committed to making a difference to create positive change.

Laura J. Grossman *is a Senior Associate at Cabanas Law Firm, P.A., She has been practicing since 1997 and is a Florida Supreme Court Certified Family Mediator and Collaboratively trained. Laura also holds a Master of Science in Mental Health Counseling.*

Endnotes

1 Gary Bickel, Mark Nord, Catherine Price & William Hamilton Cook, Jr., *Guide to Measuring Household Food Insecurity: Revised* (2000), U.S. Dep't of Agric., Food & Nutrition Serv., Office of Analysis, Nutrition & Evaluation, https://www.fns.usda.gov/ (last visited Nov. 16, 2025).
2 Karla L. Hanson, Jeffery Sobal & Edward A. Frongillo, *Gender and Marital Status Clarify Associations Between Food Insecurity and Body Weight*, 137 J. Nutrition 1460 (2007), https://pubmed.ncbi.nlm.nih.gov/17513407/ (last visited Apr. 10, 2026).
3 *Id*.
4 *Id*.
5 *Id*.
6 Military Hunger, Feeding Am. Action (2024), https://feedingamericaaction.org/learn/issue-areas/military-hunger/ (last visited Apr. 10, 2026).
7 Fei Men, Food *Insecurity Among Recently Divorced* (Ph.D. dissertation, Univ. of Wis.–Madison June 12, 2017).
8 *Id*. at 22.
9 *Id*. at 11.
10 David Schramm, *Individual and Social Costs of Divorce in Utah*, 27 J. Fam. & Econ. Issues 133 (2006).
11 Men, *supra* note 7, at 78, 114.
12 *Id*. at 42.
13 Feeding America, *Map the Meal Gap*, https://map.feedingamerica.org/ (last visited Apr. 13, 2026).
14 *Id*.; Fla. Dep't of Health, *FLHealthCHARTS Data Viewer* (2025), https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=NonVitalIndRateOnly.Dataviewer&cid=9910 (last visited Apr. 10, 2026).
15 Sommer Brugal, *Florida's School Districts Cite Funding Cuts for Meal Option Changes*, AXIOS MIAMI (May 27, 2025, 10:20 AM) https://www.axios.com/local/miami/2025/05/27/floridas-school-districts-meals-lunches.
16 *Id*.
17 USAFacts, *How Many People Receive SNAP Benefits in Florida every Month*?, https://usafacts.org/answers/how-many-people-receive-snap-benefits-in-the-us-every-month/state/florida/ (last visited Apr. 10, 2026).
18 Talia Wexler, Trump's "Big Beautiful" Bill Will Cut $186 Billion from SNAP Through 2035—How States Might Handle the Changes, CNBC (Aug. 8, 2025, 2:55 PM), https://www.cnbc.com/2025/08/08/trumps-spending-bill-cuts-billions-in-snap-benefits.html.
19 H. Zhao, Tatiana Andreyeva & X. Sun, *Food Security and Health Outcomes Following Gray Divorce*, 16 Nutrients 633, 1 (2024).
20 *Id*.
21 *Id*.
22 *Id*.
23 *Id*.
24 Fla. Stat. § 61.08.
25 Zhao et al., *supra* note 19, 2.
26 *Id*. at 3.
27 U.S. Census Bureau, *2020 Census:U.S. Older Population Grew* (May 2023), https://www.census.gov/library/stories/2023/05/2020-census-united-states-older-population-grew.html.
28 Fla. Stat. § 57.082.
29 Fla. Stat. § 61.30.
30 Admin Order No. 2017-77-UFC (Fla. 17th Jud. Cir. Ct. 2017).
31 Fla. Stat. § 57.082.
32 Feeding America, *Feeding America*, https://www.feedingamerica.org/ (last visited Apr. 10, 2026).
33 Feeding America, *BackPack Program*, https://www.feedingamerica.org/our-work/hunger-relief-programs/backpack-program (last visited Apr. 10, 2026).
34 National Conference of Women's Bar Associations, *Food From the Bar*, https://ncwba.org/programs/food-from-the-bar/ (last visited Apr. 13, 2026).

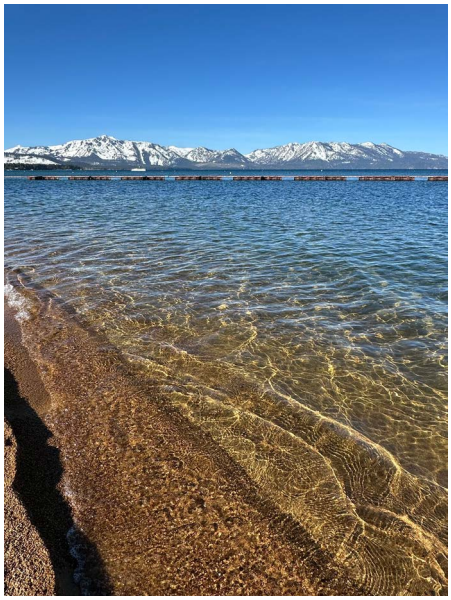
2026 Out of State Retreat – Lake Tahoe



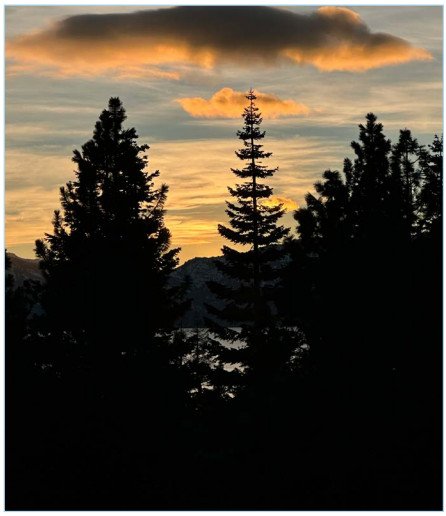
2026 Out of State Retreat – Lake Tahoe

2026 Out of State Retreat – Lake Tahoe

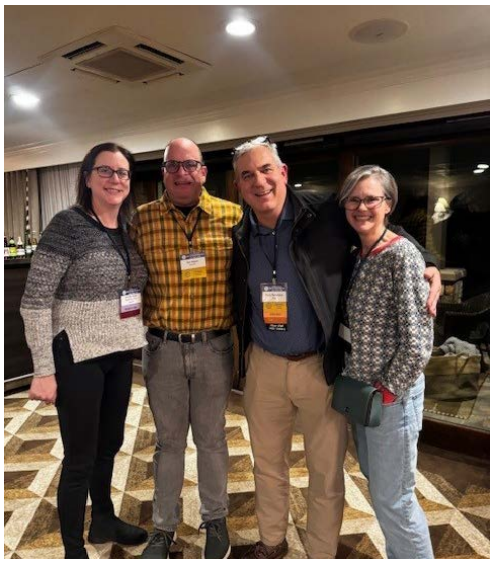
2026 Out of State Retreat – Lake Tahoe



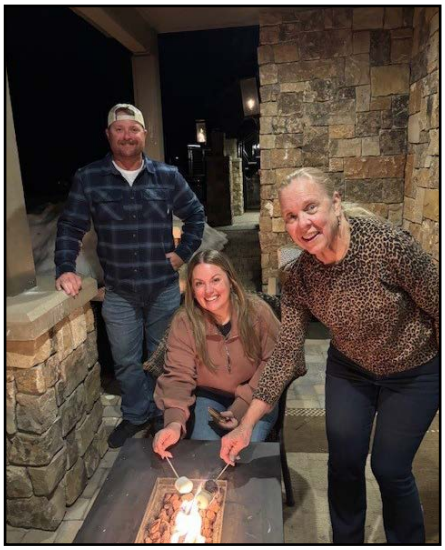
2026 Out of State Retreat – Lake Tahoe



2026 Out of State Retreat – Lake Tahoe



2026 Out of State Retreat – Lake Tahoe



2026 Out of State Retreat – Lake Tahoe

2026 Out of State Retreat – Lake Tahoe

From Chattel to Sentient Companion: Rethinking Pet Custody in Divorce

By Eddie Stephens and Noelle E. Stone

Tucker was not a couch, a lamp, or a line item on a balance sheet. He was a golden doodle, bought during a marriage, loved by both spouses, cared for in daily life, taken to doggy day care, trained, and woven into the emotional fabric of a home. When that marriage ended, both parties wanted him, so they agreed to remain equal owners of Tucker. The trial court entered its final judgment, which contained this stipulated agreement—effectively preserving a form of shared custody. But Florida's Fourth District rejected that approach. In *Crossen v. Feeley*, the court held that Tucker had to be equitably distributed to one party or the other, because, under Florida law, a dog remains personal property, akin to a couch, even if the parties' reality looks more like a custody dispute than a property fight.[1]

Tucker's story captures a core tension in modern family law. Roughly seventy-one (71%) of American households own a pet, meaning seventy-one percent of Americans recognize that companion animals are sentient, bonded beings whose welfare matters.[2] Yet, in many jurisdictions, the law still treats them as property. Legal fiction has become increasingly difficult to defend as courts and legislatures around the world experiment with frameworks that acknowledge the unique status of pets without collapsing the distinction between animals and children. This article explores those evolving approaches, contrasts them to Florida's still-limited doctrinal framework, and argues that Florida should adopt a carefully cabined statutory reform that reflects both reality and restraint.

I. The Traditional American Approach: Pets as Personal Property

Historically, U.S. courts have treated pets as chattel, an approach rooted in centuries-old common law. Under this framework, pets are distributed through equitable distribution principles rather than any custody-style analysis. Courts do not traditionally award joint ownership or timesharing for pets. They further do not retain ongoing jurisdiction over pet disputes, and do not treat the emotional bond between a person and an animal as equivalent to the parent-child or sibling bond. Remedies are generally economic, and the conceptual model is one of ownership, rather than relational care.

This approach reflects institutional concerns: preserving limited court resources, avoiding endless post-judgment litigation, and reluctance to analogize pets to humans. Yet, these justifications increasingly overlook the lived reality of those for whom a companion animal is plainly more than a household asset; they are a central part of the family.

II. The Spectrum of Modern Reform in U.S. Jurisdictions

A. "Personal Property Plus": A Measured Evolution

Several U.S. states have adopted modest reforms that soften—but do not abandon—the property model.

The first is a **"personal property plus"** model. This model keeps pets classified within the property framework but allows courts to consider limited humane factors when deciding which party should receive the animal. Pennsylvania's proposed legislation is a good example.[3] It preserves the property classification while authorizing courts to consider matters such as premarital ownership, caregiving history, the ability to promote the animal's well-being, and a child's attachment to the pet. Alaska and New York have also moved toward allowing a court to consider the animal's well-being without transforming the inquiry into full custody litigation.[4]

The second is a more flexible "**quasi-custodial" model**. Some courts, through case law rather than statute, have considered stability, historical care, and practical welfare concerns when awarding possession. In a handful of jurisdictions, courts have even approved shared arrangements or visitation-type outcomes. These cases reflect an instinctive judicial recognition that pets occupy a space between property and personhood. However, without statutory guardrails, that flexibility risks inconsistency, unpredictability, and exactly the sort of litigation sprawl that makes judges wary.

III. International Perspectives: When Pets Are No Longer "Property"

International developments underscore how quickly the legal ground is shifting.

A landmark Turkish divorce case attracted international attention when a court ordered an ex-husband to pay ongoing financial support for his former spouse's cat—approximately 10,000 Turkish Lira (roughly 238 USD) every three months for a decade.[5]

Turkey's animal protection laws classify pets as living beings, not property, and allow courts to approve agreements related to custody, care, and financial support of pets in a divorce. Although the payments were technically part of a contractual settlement rather than "pet alimony," the outcome underscores a crucial point: when animals are legally recognized as sentient, courts can impose long-term care obligations; unthinkable under the current Florida doctrine.

Australia takes animal welfare even more seriously, having a prominent political party dedicated to promoting animal welfare and justice.[6] The Family Law Amendment Act of 2024 represents the country's most comprehensive reform to date.[7] Effective June 2024, pets are recognized as sentient beings and are treated with the same legal status as other family members, requiring courts to consider practical caregiving, veterinary support, emotional and physical needs, domestic violence, and family context. Importantly, the Australian model is not simply about splitting time equally. It is welfare-focused, and in some cases, that means rejecting shared arrangements if they would be stressful or unsuitable for the animal.

British Columbia's statutory reform, The Family Law Act, similarly classifies pets as family members rather than property, while simultaneously forbidding court-ordered shared custody absent party agreement.[8] These courts consider care history and family violence, but aim to avoid prolonged entanglement-protecting both pets and judicial resources.

In *Glassen v. Glassen*, the first major application of the law, the Supreme Court of British Columbia awarded sole possession of a dog, Toba, based on stability and routine, despite prior informal sharing—demonstrating a thoughtful balance between compassion and finality.[9]

IV. Florida After *Crossen*: Still Property, But No Longer Entirely Static

Florida remains one of the most restrictive jurisdictions in the United States regarding pets in divorce.

First, a Florida court may not evade the issue by leaving former spouses as perpetual joint owners of a pet after divorce. The Fourth District held in *Crossen* that the trial court erred by doing exactly that with Tucker.[10] One party or the other had to receive the dog through equitable distribution, despite their agreement otherwise. In other words, Florida law still rejects "pet custody," but it also rejects a pseudo-custody arrangement masquerading as continued co-ownership even when agreed by the parties.

Second, *Crossen* confirms that pet disputes continue to fall inside the ordinary equitable distribution framework of section 61.075.[11] The court cited *Harby v. Harby,* for the proposition that a trial court may consider a party's sentimental interest in property, including the ordinary attachment to pets, alongside the statutory equitable distribution factors.[12] This is a significant nuance. Florida still treats pets as property, but emotional attachment is not entirely invisible at the distribution stage. It is simply not elevated to the level of a welfare analysis, yet.

V. Why *Crossen* Strengthens the Case for Reform

Paradoxically, *Crossen* strengthens the argument for statutory reform precisely by showing the limitations of relying on ad hoc property doctrine.

Tucker's story illustrates the practical problem. The evidence in the case looked strikingly like custody evidence: who selected the dog, who was home with him, how he was cared for, and why each party believed they should keep him. The Fourth District itself acknowledged that much of the testimony in dog disputes resembles child custody litigation.[13] But because Florida lacks a statutory pet framework, courts are left to squeeze these human realities into an equitable distribution scheme that was never designed for sentient companions.

That mismatch produces avoidable instability. Some judges may focus narrowly on ownership and purchase price. Others may quietly weigh caregiving history or emotional bonds through the catchall equitable factors. Still others may, as the trial court did in *Crossen*, drift toward an unworkable shared-

ownership solution that the appellate court later must reverse. The result is uncertainty for litigants, inconsistency for judges, trauma for children affected by the divorce, and stress for animals used as leverage in high-conflict breakups.

VI. The Unspoken Trauma of Children Separated From Pets in Divorce

For a child navigating the reality of their parents' divorce, a pet is often a primary source of comfort and consistency. The disruption of dividing time between two households is already significant; the additional loss of a constant companion can compound that instability in a way the law does not fully recognize.

The cornerstone of any parenting plan is the best interest of the child. Under Fla. Stat. 61.13, courts are required to evaluate a child's life holistically, including the need for stability, continuity, and consistent emotional support.[14] Yet, the current framework creates a disconnect; a child's bond with a pet cannot be incorporated into the parenting plan itself. The pet must be awarded as property to one parent and cannot follow the child between homes, even when doing so would support continuity and be in the child's best interest.

As a result, this rigid framework leaves no room for enforceable, child-centered outcomes that would allow a pet to remain a consistent presence as the child adjusts to life across two households.

VII. A Modest Florida Reform Model

Florida does not need to equate pets with children. It should not create a full-blown best-interests custody code for animals. But it can modernize the law in a measured, restrained way—and *Crossen v. Feeley* demonstrates precisely why it must.

A targeted statutory reform could accomplish this through five straightforward principles.

First, it should authorize a limited, factor-based process to determine possession for companion animals in dissolution proceedings. Those factors might include historical caregiving roles, daily caretaking responsibility, the stability of each party's home environment, documented family violence or animal abuse, bonds with a child, and each party's practical ability to meet the animal's physical and emotional needs. These are not exotic considerations. They are the same practical questions any thoughtful person would ask. Florida courts simply lack the authority to ask them.

Second, the statute should make clear that courts are deciding final possession—not shared custody. This preserves *Bennett*'s legitimate concern with finality and judicial economy while foreclosing the kind of improvised co-ownership arrangement that the Fourth District was compelled to reject in *Crossen*.[15] The trial court in that case was not wrong to want a humane outcome; it was simply acting without a legal foundation to support it.

Third, courts should be expressly permitted to consider documented financial contributions to the animal's care during the pendency of the case—veterinary costs, training, boarding, and other necessary expenses. *Crossen* reversed the trial court's failure to honor the parties' stipulation that the husband would be responsible for Tucker's post-petition medical bills.[16] A statute codifying that obligation would prevent the same error from recurring across trial courts statewide.

Fourth, modification jurisdiction should be prohibited except by written agreement or extraordinary circumstances. Pet disputes should end. Parties should be able to move forward. Keeping litigation open indefinitely serves no one—least of all the animal.

Fifth, and perhaps most importantly, the statute should give the courts something *Bennett* never did: a clear statement of principle. A companion animal is neither a child nor a couch. Florida law can say exactly that, without apology. The goal is humane clarity—a framework that reflects what Floridians already know to be true, and is expressed in terms courts can reliably apply.

None of this requires the Legislature to reimagine family law. It requires only the recognition that a thirty-year-old precedent built for a different era is no longer sufficient—and that Tucker, and every animal like him, deserves at least that much.

Tucker's story makes the issue impossible to dismiss as just theoretical. A dog loved by both spouses became the subject of a legal framework that could neither comfortably treat him as mere property nor lawfully treat him as a child. The Fourth District's decision in *Crossen* was faithful to current Florida law: no joint custody, no perpetual co-ownership, and no escape from equitable distribution.[17] But the case also exposed the inadequacy of a purely property-based system for resolving disputes over sentient companions.

Elsewhere, legislatures and courts are beginning to recognize that pets occupy a distinct legal and emotional category. Florida need not leap to the far

edge of reform, but it should recognize what Tucker's case already shows: the old fiction is under strain, trial courts need guidance, and modest statutory reform can honor both compassion and constraint. The question is no longer whether pet disputes in divorce deserve serious legal treatment. The question is whether Florida will continue improvising through property doctrine, or finally adopt rules that reflect the ways as families actually live in it.

Photo Credit for Headshot: *Coastal Click Photography.*

Eddie Stephens is a sixth-generation Floridian, partner at Stephens & Stevens, PLLC, and Board Certified Marital & Family Law attorney handling high-conflict, high-asset divorces. AV® Preeminent™, 30 years' courtroom experience, trauma-informed advocate.

Noelle Stone is a Florida native and a licensed attorney in New York and New Jersey. She joined Stephens & Stevens, PLLC in 2025 as a law clerk while awaiting admission to the Florida Bar. She is an alumna of Florida Gulf Coast University and Brooklyn Law School. Following law school, Noelle served as a law clerk to the Honorable Patrick J. Bartels in the Mercer County Family Court.

Endnotes

1 *Crossen v. Feeley*, 51 Fla. L. Weekly D273 (Fla. 4th DCA 2026).
2 Ins. Info. Inst., *Facts + Statistics: Pet Ownership and Insurance, https://www.iii.org/fact-statistic/facts-statistics-pet-ownership-and-insurance* (last visited Apr. 11, 2026).
3 H.B. 97, Gen. Assemb., Reg. Sess. (Pa. 2025–2026)
4 Alaska Stat. § 25.24.160; N.Y. Dom. Rel. Law § 236 (McKinney 2024)
5 *Turkish man agrees to provide financial support for cats in divorce settlement,* Türkiye Today (Oct. 21, 2025) https://www.turkiyetoday.com/lifestyle/man-agrees-to-provide-financial-support-for-cats-in-divorce-settlement-3208733
6 *Animal Justice Party*, Animal Justice Party, https://www.animaljusticeparty.org (last visited Apr. 8, 2026).
7 *Family Law Amendment Act 2024* (Cth) (Austl.).
8 *Family Law Act*, S.B.C. 2024 (Can.).
9 *Glassen v. Glassen*, 2025 BCSC 640 (Can. B.C. Sup. Ct.).
10 *Crossen v. Feeley*, 51 Fla. L. Weekly D273 (Fla. 4th DCA 2026).
11 Fla. Stat. § 61.075(1)(a) (2025).
12 *Harby v. Harby*, 331 So. 3d 814 (Fla. 2d DCA 2021).
13 *See Crossen v. Feeley*, 51 Fla. L. Weekly D273 at 5.
14 Fla. Stat. § 61.13.
15 *Bennett v. Bennett*, 655 So. 2d 109 (Fla. 1st DCA 1995).
16 *See Crossen v. Feeley*, 51 Fla. L. Weekly D273 at 6.
17 *Id.*

Immigration Enforcement: Policy Update for Florida Family Law Practitioners

By: Patricia Elizee, Esq.

Florida family law practitioners are increasingly encountering immigration consequences embedded in routine cases—domestic violence injunctions, paternity proceedings, child support enforcement, divorce proceedings, and relocation disputes. Recent shifts in federal enforcement posture, combined with Florida's strong state-local cooperation framework, have materially changed the risk calculus for many noncitizen clients and their children. For many families, especially in Florida, immigration directly influences whether a parent appears in court, seeks affirmative relief, complies with support orders, or accesses public benefits for U.S.-citizen children. This article provides an update on federal, state, and local policy changes and highlights practical implications for Florida family law attorneys.

I. FEDERAL POLICY DEVELOPMENTS AFFECTING FAMILY LAW CLIENTS

A. Rescission of "Protected Areas" (Sensitive Locations) Guidance

The Department of Homeland Security ("DHS") recently rescinded guidelines that were put in place by the previous administration that limited immigration enforcement actions in or near designated "protected areas," such as schools, houses of worship, and healthcare facilities.[1] Although discretion remains, a formal policy no longer limits immigration enforcement activity in these sensitive places.

Due to this change in policy, immigrant parents are now more likely to avoid court-related and much needed family services such as counseling, school meetings, or domestic violence shelters out of fear of immigration enforcement. This fear can impact compliance with court-ordered services and participation in proceedings. Most family judges will likely consider the parties' immigration status when reviewing requests for video or telephone appearances and requests to keep a party's contact information confidential. Family law practitioners should consider how their clients' or the opposing parties' immigration status may hinder compliance with court orders or parenting plan obligations.

B. Increased ICE presence and enforcement

U.S. Immigration and Customs Enforcement ("ICE") is a federal agency under DHS that enforces immigration laws inside the United States and combats certain types of cross-border crime.[2] Under the current administration, ICE has more aggressive strategies.[3] The Agency has shifted from a "targeted" to "wide-net" enforcement, which is more visible and public. Under the direction of DHS, ICE is increasing its efforts to carry out expedited removals, using profiling techniques to arrest immigrants, and arresting immigrants at the immigration appointments.

An expedited removal occurs when an immigration officer issues an order of deportation and deports an immigrant without the review or participation by an immigration judge.[4] Under the current administration, DHS updated its policy to expand its use of expedited removal to the fullest extent permitted under federal law, particularly targeting individuals, regardless of their physical location in the United States, who cannot prove sufficient continuous physical presence in the United States.[5] DHS directed its officers to review their cases, and consider terminating immigrants' temporary humanitarian status to fast track their deportation with expedited removals.[6] The policy was challenged in federal court.[7] As of August 1, 2025, a U.S District Judge has temporarily blocked this policy, finding that it violated the due process rights of migrants.[8] In early September 2025, the Supreme Court in *Noem v. Vasquez Perdomo*, granted the government's request to stay a lower court's order that had barred certain ICE "roving patrols" in the Los Angeles area — patrols that had been enjoined because they relied on factors such as a person's race or ethnicity, the language they speak, where they work, and where they were located to justify brief questioning about immigration status.[9] It can be argued that with this order, the Supreme Court seemingly allowed ICE to use racial profiling in their enforcement actions. This should be explained to both U.S. citizens and undocumented clients, as we can all now face possible ICE questioning and possible detention. Another new technique used by DHS is arresting immigrants at their scheduled immigration

appointments. ICE officers have appeared at routinely scheduled immigration court hearings, and have arrested unsuspecting immigrants.[10] ICE officers also have appeared at appointments at the United States Citizenship and Immigration (USCIS).[11] This new technique creates more fear for our clients and their families.

Clients with limited documentation, recent entries, or prior immigration encounters may seek to avoid court appearances or child support enforcement proceedings out of fear that any government interaction could lead to detention or removal from the United States. Fearing being profiled by ICE or other law enforcement, immigrants rightfully hesitate to go to work, the hospital, or to their children's school.

C. Public Charge Confusion and Visa Processing Pauses

Under immigration law, a foreigner will not qualify for permanent residency if they are likely to be a public charge, or a financial burden, to Americans.[12] An immigration officer evaluates whether an immigrant will be a public charge by looking at the "totality of the circumstances," including: age, health, family status, assets, resources; and financial status, education and skills, and the required Affidavit of Support (Form I-864), which carries a lot of weight.[13]

Public charge also applies to an application for a non-immigrant visa like a tourist, student, or temporary business visa. Although the 2022 Public Charge Final Rule remains in effect domestically,[14] proposed regulatory changes and new actions by the State Department have renewed confusion. In January 2026, the Department of State paused issuing immigrant visas (green card cases) for certain nationals from 76 countries while reassessing public charge determinations.[15] Nationals from the Bahamas, Brazil, Jamaica, Colombia, and other countries that would not typically face immigration restrictions, are now unable to have an immigrant visa issued at the U.S. embassies abroad, even if their sponsoring relative's Petition for Alien Relative, I-130 form, has been approved.

As a likely result of the current administration's aggressive anti-immigration policies, immigrant parents may decline lawful public benefits for U.S.-citizen children—such as Medicaid or nutrition assistance—out of fear that doing so could jeopardize future immigration benefits. This can directly undermine children's stability and access to healthcare, especially during family litigation. Florida family law practitioners are encouraged to refer their immigrant clients to immigration attorneys who can properly guide the family how to apply for and obtain public benefits that may impact their immigration status, if at all.

D. Termination of Temporary Protective Status and Other Humanitarian Programs.

The current administration has seemingly and aggressively moved to terminate Temporary Protective Status (TPS) designations for numerous countries, reversing expansions that had occurred under the prior administration.[16] These terminations affect hundreds of thousands to over a million people who have lived and worked in the U.S. legally under TPS. TPS status is granted to nationals of countries that the U.S. government finds are unable to repatriate to their home countries due to a national disaster, internal conflict, or other extreme condition.[17] The current administration announced plans (or acted) to terminate TPS for numerous other countries, including Haiti, Venezuela, Afghanistan, Ethiopia, Myanmar (Burma), Honduras, Nepal, Nicaragua, South Sudan, Cameroon, and others.[18]DHS has also terminated a prior parole program for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV).[19]

Florida has the largest population of TPS holders in the United States. It is estimated that a little over 400,000 TPS holders reside in Florida.[20] Nationally, there are over 1.3 million parole grants per year across all parole categories.[21] It is estimated that 532,000 individuals were paroled into the U.S. under the CHNV program.[22] For family law clients in Florida, losing TPS or Humanitarian Parole means losing immigration status, protection against deportation, and work permits. The client and/or attorney may need to petition for modifications of the parenting plan or support obligations to address necessary changes, including a motion for abatement of child support. Having a general understanding of this concept will help attorneys not only empathize with their clients, but also guide them effectively in responding to these changes.

II. FLORIDA STATE-LEVEL ENFORCEMENT LANDSCAPE

Florida is currently the only state where all county sheriffs have entered into a written cooperation agreement with U.S. Immigration and Customs Enforcement under Section 287(g) of the Immigration and Nationality Act.[23] ICE reports that these agreements allow trained local officers to perform certain immigration enforcement functions within custodial settings.[24] This means that everyday

interactions with law enforcement can expose clients to the risk of immigration detention. Under Section 287(g) of the Immigration and Nationality Act, immigrants in Florida are now at risk of potentially being detained and further deported by ICE after being stopped for a traffic ticket, when law enforcement is called to investigate a domestic dispute, or even when a potential crime is committed.[25]

In addition to county sheriffs, various Florida agencies — including the Florida Highway Patrol and other state law enforcement units — have entered a Memo of Agreement with ICE, expanding immigration enforcement beyond jails.[26] According to the Agreement, once trained and certified, Florida troopers may: question and investigate an individual's immigration status; arrest and detain for immigration violations; execute immigration warrants; process individuals for removal; issue immigration detainers; and transfer custody to ICE.[27]

Arrests arising from family law matters—such as civil contempt, probation violations, or domestic violence allegations—may now predictably lead to immigration screening once a client enters county jail custody. This significantly increases the stakes of enforcement-based litigation strategies. Also, be mindful there is a possibility of the opposing party reporting clients to ICE, which should be discussed during the initial consultation and should be considered when developing a case strategy.

IV. PRACTICE GUIDANCE FOR FLORIDA FAMILY LAW ATTORNEYS

In Florida's current legal environment, immigration enforcement policy functions more as a family law issue, rather than a separate specialty. Federal enforcement changes expanded state-local cooperation, and widespread misinformation can have indirect, real consequences for parental participation, child stability, and access to justice. Family law attorneys who recognize and proactively address these dynamics are better positioned to protect both their clients and the best interests of the children involved.

- Some points to consider moving forward in your cases: Integrate immigration issue identification into intake procedures and case planning;
- Minimize, or avoid, unnecessary law enforcement contact in parenting plans and enforcement strategies;
- Include immigration-based threats as part of domestic violence and coercive control analysis; and
- Maintain relationships with experienced immigration counsel to ensure client safety and case stability.

The updates in this article are current as of the date of publication, but immigration law is constantly changing because of policy updates, agency guidance, and court decisions. Readers should conduct their own research and/or consult with a qualified immigration attorney to verify the current state of the law and assess how current immigration policies may impact their client and specific case.

Patricia Elizee is the managing partner at the Elizee Law Firm, P.A, a law firm in Miami, Florida. Ms. Elizee practices in the areas of immigration and family law. She earned her Juris Doctorate at the University of Miami School of Law in 2010, and her Master of Laws, LLM, at the University of Washington in 2011. She can be reached at patricia@elizeelawfirm.com

Endnotes

1 U.S. Dep't of Homeland Sec., *Guidelines for the Enforcement of Civil Immigration Law* (Oct. 27, 2021), https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw10272021.pdf.

2 U.S. Immigr. & Customs Enf't, *Mission* (Mar. 7, 2025), https://www.ice.gov/mission.

3 Raya Misra, *Why Is ICE So Aggressive Now? A Former ICE Chief Explains.*, POLITICO Mag, (Oct. 14, 2025), https://www.politico.com/news/magazine/2025/10/14/former-ice-director-q-a-00603916.

4 8 U.S.C. § 1225(b)(1) (2018).

5 Designating Aliens for Expedited Removal, 90 Fed. Reg. 8,139 (Jan. 21, 2025). https://www.federalregister.gov/documents/2025/01/24/2025-01720/designating-aliens-for-expedited-removal.

6 Memorandum from Benjamine C. Huffman, Acting Sec'y, U.S. Dep't of Homeland Sec., to ICE, CBP, & USCIS Officials, *Guidance Regarding How to Exercise Enforcement Discretion* (Jan. 23, 2025), https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf.

7 *Coal. for Humane Immigrant Rts. v. Noem*, 2025 WL 2192986 (D.D.C. Aug. 1, 2025).
8 Daniel Wiessner, Judge Blocks Trump from Fast-Tracking Deportations of Immigrants Paroled into U.S., Reuters (Aug. 1, 2025), https://www.reuters.com/legal/government/judge-blocks-trump-fast-tracking-deportations-immigrants-paroled-into-us-2025-08-01/.
9 *Noem v. Vasquez Perdomo*,146 S. Ct.1 (2025).
10 Joshua Goodman & Tim Sullivan, *They Thought They Were in Court for a Routine Immigration Hearing, but Walked Into a Deportation Trap*, PBS NewsHour (Nov. 19, 2025). https://www.pbs.org/newshour/nation/they-thought-they-were-in-court-for-a-routine-immigration-hearing-but-walked-into-a-deportation-trap.
11 Shelby Bremer, *ICE Making Arrests During Legal Status Interviews in San Diego, Attorneys Say*, NBC 7 San Diego (Nov. 14, 2025), https://www.nbcsandiego.com/news/local/ice-legal-status-interview-at-san-diego-immigration/3931610/.
12 Immigration and Nationality Act § 212(a)(4); 8 U.S.C. § 1182(a)(4).
13 U.S. Citizenship & Immig. Servs., Form I-864, *Affidavit of Support Under Section* 213A of the INA, https://www.uscis.gov/i-864.
14 Inadmissibility on Public Charge Grounds, 87 Fed. Reg. 55,472 (Sept. 9, 2022), https://www.federalregister.gov/documents/2022/09/09/2022-18867/public-charge-ground-of-inadmissibility.
15 U.S. Dep't of State, *Immigrant Visa Processing Updates for Nationalities at High Risk of U.S. Public Benefits Reliance*, Travel.State.Gov (Feb. 2, 2026), http://travel.state.gov/.
16 Ariana Figueroa, *Trump Canceled Temporary Legal Status for More Than 1.5 Million Immigrants in 2025*, WLRN (Dec. 29, 2025), https://www.wlrn.org/immigration/2025-12-29/trump-canceled-temporary-legal-status-for-more-than-1-5-million-immigrants-in-2025.
17 8 U.S.C. § 1254a (2018).
18 Zoe Sobel & Nina Totenberg, *Supreme Court to Hear Expedited Arguments on Protected Status for Migrants*, NPR (Mar. 16, 2026), https://www.npr.org/2026/03/16/nx-s1-5745069/supreme-court-tps-syria-haiti.
19 U.S. Dep't of Homeland Sec., *DHS Issues Notices of Termination for the CHNV Parole Program, Encourages Parolees to Self-Deport Immediately* (June 12, 2025), https://www.dhs.gov/news/2025/06/12/dhs-issues-notices-termination-chnv-parole-program-encourages-parolees-self-deport.
20 *Temporary Protected Status* (TPS): Fact Sheet, Forum Together (Feb. 4, 2026), https://forumtogether.org/article/temporary-protected-status-fact-sheet/.
21 Andorra Bruno, Immigration Parole, CONG. RSCH. SERV. R46570 (2025), https://www.congress.gov/crs_external_products/R/PDF/R46570/R46570.3.pdf.
22 The Associated Press,, DHS *Revokes Humanitarian Parole for Cubans, Haitians, Nicaraguans and Venezuelans*, NPR (Mar. 22, 2025), https://www.npr.org/2025/03/22/nx-s1-5337214/dhs-revokes-humanitarian-parole-cubans-haitians-nicaraguans-venezuelans.
23 Fla. Sheriffs Ass'n, Florida Sheriffs Association Announces 287(g) Compliance in All County Jails, Fla. Sheriffs Ass'n (Feb. 24, 2025), https://flsheriffs.org/blog/entry/florida-sheriffs-association-announces-287g-compliance-in-all-county-jails/; Angie DiMichele, *All 67 Fla. Sheriffs Sign ICE Agreements Allowing for 'Street-Level Immigration Enforcement'*, Police1 (Feb. 27, 2025), https://www.police1.com/border-patrol/all-67-fla-sheriffs-sign-ice-agreements-allowing-for-street-level-immigration-enforcement/.
24 Elliot Spagat, *ICE Immigration Arrests Tied to 287(g) Program*, CNN (Apr. 28, 2025), https://www.cnn.com/2025/04/28/us/ice-immigrant-arrests-287g-program.
25 Immigration and Nationality Act § 287(g); 8 U.S.C. § 1357(g).
26 U.S. Immigr. & Customs Enf't & Fla. Dep't of Highway Safety & Motor Vehicles, Memorandum of Agreement (Feb. 7, 2025), https://www.ice.gov/doclib/287gMOA/floridaHighwayPatrol_02.07.2025.pdf.
27 *Id*. at 2-3.

The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

PRSRT-STD
U.S. POSTAGE
PAID
TALLAHASSEE, FL
Permit No. 43