

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 21, 1998 Revised: _____

Subject: Orders Establishing Child Support

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Wiehle</u>	<u>Moody</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill contains further legislation to meet initial federal welfare reform requirements, legislation to meet new federal requirements, corrective legislation to address technical problems with WAGES and with 1997 HB 2031, and legislation to address current concerns with child support enforcement unrelated to the prior legislation. Included among the latter category are: a limit on retroactive child support awards to two calendar years; a re-enactment of the requirement for a separate income deduction order, which was deleted in 1997; a requirement that the Office of Program Policy Analysis and Government Accountability evaluate the Dade County Child Support Enforcement demonstration project administered by the state attorney for the eleventh judicial circuit and the Manatee County Child Support Enforcement demonstration project administered by the clerk of the circuit court and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than January 1, 1999; creation of a process by which DOR can place a claim against the unclaimed property in the possession of the Department of Banking and Finance for past due child support; a provision that the child support enforcement program is not required to file an Answer to the Complaint to Foreclose or other response in a foreclosure action in which the program has an interest under a lien arising from a judgment, order, or decree for child support in order to retain the right to participate in the disbursement of funds remaining in the registry; and the deletion of the authority of DOR to issue an administrative fine of not more than \$500 for failure to comply with an administrative subpoena for financial information necessary to establish, modify, or enforce a child support order.

This bill substantially amends the following sections of the Florida Statutes: 61.13, 61.1301, 61.181, 61.30, 69.041, 319.24, 319.32, 372.561, 372.57, 382.008, 382.013, 409.2557, 409.2561, 409.2564, 409.25641, 409.2567, 409.2572, 409.2575, 409.2576, 409.2578, 409.2579, 414.095, 414.32, 443.051, 443.1715, 455.213, 742.032, and 61.14. It creates the following sections of the

Florida Statutes: 409.2558, 409.2559, and 409.25658. It repeals subsection 382.013(1) and paragraph 382.013(2)(b) of the Florida Statutes.

II. Present Situation:

In 1996, welfare reform legislation was enacted at both the federal and state level. At the state level, the Florida Legislature enacted the Work and Gain Economic Self-sufficiency (WAGES) Act, ch. 96-175, Laws of Fla. (SB 1662). At the federal level, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996). Both of these acts contained provisions relating to child support.

In response to the federal act, the Florida Legislature significantly amended the statutes on child support, paternity, and the Florida Title IV-D agency, the Department of Revenue (DOR), ch. 97-170, Laws of Fla. (HB 2031). Since that enactment, there have been continued efforts to develop new legislation to satisfy the federal welfare reform requirements relating to child support. Additionally, new welfare reform legislation has been passed containing modifications to the requirements relating to child support.

This bill contains further legislation to meet the initial federal welfare reform requirements, legislation to meet the new federal requirements, corrective legislation to address technical problems with ch. 96-175, Laws of Fla. (SB 1662) and ch. 97-170, Laws of Fla. (HB 2031), and legislation to address current concerns with child support enforcement unrelated to the prior legislation.

III. Effect of Proposed Changes:

A. Federal Welfare Reform Requirements

Section 409.2559, F.S., is created to require DOR to establish and operate a state disbursement unit by October 1, 1999, as required by federal statutes.

Section 61.181, F.S., provides for the central depositories for receiving, recording, reporting, and disbursing child support and alimony. The current statute requires DOR to contract with the Florida Association of Court Clerks (FACC) to design, establish, operate, upgrade, and maintain the automation of the central depositories. The bill amends this to require that DOR contract with the FACC to design, establish, operate, upgrade, and maintain the state disbursement unit and central case registry required by federal law.

When the existing automated system statute was enacted, the statute included provisions authorizing the depositories to collect a transaction fee on child support payments made through the depositories. The statute was later amended to prohibit the deduction of this fee from any payment made on or after July 1, 1998, that did not include the fee amount. At the same time, the statute was also amended to require that DOR extend participation in the federal child support cost reimbursement program to the central depositories no later than July 1, 1998. In keeping

with the developments with the state disbursement unit and the central case registry, this date is extended to July 1, 1999, in both places in the statute. The prohibition on collecting a fee from a partial payment, a payment not accompanied by the fee amount, will only apply to payments in Title IV-D cases, not to cases in which the child support obligation was not established or is not enforced by DOR. In these private cases, the fee could be deducted from a partial payment.

Section 61.1301, F.S., is amended to comply with the revised federal requirement of initiating income deduction upon a delinquency in support without the need for any further action by the court or any modification of the order for all support orders entered in a non-Title IV-D case before *January 1, 1994*, which do not provide for income deduction. This change makes the date consistent with the date that mandatory income deduction became effective in non-IV-D cases.

Section 61.1301(4), F.S., is amended to provide that when there are multiple income deduction orders for the same obligor, the state must allocate amounts available for withholding by giving priority to current support over arrearage obligations.

Current s. 61.13, F.S., requires that each party to a paternity or child support proceeding file with the *tribunal* specified location and identification information. In any subsequent Title IV-D child support proceeding, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the *tribunal may* deem state due process requirements for notice and service of process to be met upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry. The bill amends the statute to provide that the *court of competent jurisdiction shall* deem due process requirements to be met in such circumstances.

Current s. 742.032, F.S., requires that each party to a paternity file with the *tribunal* specified location and identification information. In any subsequent Title IV-D child support proceeding, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the *tribunal may* deem state due process requirements for notice and service of process to be met upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry. The bill amends the statute to provide that the *court of competent jurisdiction shall* deem due process requirements to be met in such circumstances. to provide that the court *shall* deem due process requirements to be met, upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry.

Section 409.2579, F.S., is amended to provide that information pertaining to the child will not be disclosed to a party against whom a protective order has been issued or to another person if the program has reason to believe that the release of information may result in physical or emotional harm.

Sections 372.561 and 372.57, F.S., are amended to require that an applicant's social security number be recorded on applications for hunting or fishing licenses.

Section 382.008, F.S., is amended to require that a decedent's social security number, if available, must be included on a certificate of death. Disclosure of social security numbers obtained through this requirement shall be limited to the administration of the Title IV-D program for child support and as otherwise provided by law.

Section 409.25641, F.S., is amended to make technical changes required by new federal law. The bill requires the child support enforcement program to use automated administrative enforcement in response to a request from another state to enforce a support order. Automated administrative enforcement means the use of automated data processing to search state data bases and determine whether information is available regarding the parent who owes a child support obligation.

Section 443.1715, F.S., is amended to enact a federal technical change in the type of information the state is required to provide the National Directory of New Hires.

B. Corrections to WAGES and HB 2031

Section 409.2567, F.S., is amended to correct a cross reference to the recently renamed Child Support Enforcement Application and Program Revenue Trust Fund and to reflect the correct title of the House Health and Human Services Fiscal Committee.

Section 409.2578, F.S., is amended to correct a technical error and to correct an incorrect reference to the Child Support Enforcement Application and Program Revenue Trust Fund.

Section 409.2579, F.S., is amended to authorize DOR to disclose identification and location information as required by s. 61.13(9) or s. 742.032, F.S., for the purposes of administering the Title IV-D program for child support enforcement.

Section 409.2576, F.S., requires that specified information be reported concerning persons who are newly hired within this state, including the person's social security number. Current statute limits the use of the social security number to the purpose of administration of the Title IV-D program. The bill amends the section to clarify that the Department of Children and Family Services and the Department of Labor and Employment Security, who have access to the New Hire Reporting data, may utilize the social security numbers collected in order to comply with federal requirements specific to those agencies.

Current s. 455.213, F.S., requires that applicants for a business or professional license from the Department of Business and Professional Regulation include their social security number on the application. The section provides that the social security numbers are to be used only for the purpose of administration of the Title IV-D child support enforcement program. The bill provides that the Department of Business and Professional Regulation may utilize these social security numbers in order to comply with federal requirements specific to that agency.

Section 409.2579, F.S., is amended to provide rulemaking authority to the Department of Revenue rather than the Department of Children and Family Services to implement this statute, which safeguards the privacy of IV-D information.

Current s. 414.32, F.S., requires that a parent or caregiver who receives temporary cash assistance or foodstamps on behalf of a child to cooperate in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child. There is an exemption to this requirement if DOR determines that the person had good cause for failing to cooperate in establishing paternity. It does not mention failure to cooperate in establishing support. The bill amends this section to delete the reference to paternity, thus leaving the good cause exception as a general good cause for failing to cooperate.

Section 414.095, F.S., is amended to provide that the existing condition on eligibility for the WAGES program of cooperation with DOR in establishing the paternity of the child does not apply if DOR determines that the person had good cause for failing to cooperate and to clarify the child support enforcement program's authority to determine good cause in conjunction with determining eligibility for the WAGES Program.

Section 409.2572, F.S., is amended to establish the responsibility and authority of the child support enforcement program to determine whether an applicant or recipient of public assistance for a dependent child has good cause for failing to cooperate with the Title IV-D agency.

Section 382.013, F.S., is amended to provide that information regarding registered births shall be used for comparison with information in the state case registry, as defined in ch. 61, F.S., and to provide that notice to an unwed mother or putative father concerning the paternity acknowledgment process may be provided through the use of video or audio equipment.

The bill repeals subsection (1) and paragraph (b) of subsection (2) of section 382.013, F.S., as amended by chapter 97-170, Laws of Florida (HB 2031). The repealed portions of the statute provide that information regarding registered births shall be used for comparison with information in the state case registry, as defined in ch. 61, F.S., and require institutions in which children are born to give the mother and father of a child born out of wedlock a paternity consent affidavit and specified notice.

Section 61.14, F.S., is amended to provide that a local depository cannot deduct from any child support payment any costs or fees accrued in connection with an automatic judgment by operation of law on unpaid support until the total amount of support payments due the obligee under the judgment has been paid.

Section s. 443.051, F.S., is amended to correct a reference to the Social Security Act.

C. Miscellaneous

Section 61.30, F.S., which provides the child support guidelines, is amended to limit retroactive child support awards to two calendar years and to require that any noncovered medical, dental, and prescription medication expenses of the child be added to the basic child support obligation.

Section 61.13, F.S., is amended to provide that each order for child support shall apportion the cost of any noncovered medical, dental, and prescription medication expenses of the child, to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6), F.S.

Section 61.1301, F.S., is amended to reinsert the requirement for a separate income deduction order, which was deleted in 1997.

Section 61.181, F.S., is amended to require the Office of Program Policy Analysis and Government Accountability to evaluate the Dade County Child Support Enforcement demonstration project administered by the state attorney for the eleventh judicial circuit and the Manatee County Child Support Enforcement demonstration project administered by the clerk of the circuit court. Findings shall be reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than January 1, 1999.

Section 409.25658, F.S., is created to provide a process by which DOR can place a claim against the unclaimed property in the possession of the Department of Banking and Finance for past due child support. The section delineates the procedures for the process.

Section 69.041, F.S., is amended to provide that the child support enforcement program is not required to file an Answer to the Complaint to Foreclose or other response in a foreclosure action in which the program has an interest under a lien arising from a judgment, order, or decree for child support in order to retain the right to participate in the disbursement of funds remaining in the registry.

Section 61.1301(2)(e)13., F.S., is amended to provide that in Title IV-D cases, the IV-D agency, as well as the court, may provide employers with allocation instructions for prorating child support obligations when receiving multiple income deduction orders against the same obligor.

Section 319.24, F.S., provides a method by which the director of the state child support enforcement program may place a second or subsequent lien on a motor vehicle or mobile home. The bill amends this section to allow a designee of the director of the child support enforcement program to do so.

Section s. 319.32, F.S., provides the fees charged by the Department of Highway Safety and Motor Vehicles concerning issuance of certificates of title to motor vehicles or mobile homes. The section provides a fee of \$28.25 for placing a first lien on these titles and \$29.25 for a subsequent lien. The bill amends the section to provide that the Department of Highway Safety and Motor

Vehicles is to charge the Department of Revenue Child Support Enforcement Program a flat \$7 fee for placing first and subsequent liens on motor vehicles.

Section 409.2575, F.S., is amended to allow a designee of the of the child support enforcement program director, instead of only the director himself, the authority to place a lien on a motor vehicle or vessel.

Section 409.2557, F.S., is amended to provide the Department of Revenue rulemaking authority for specific purposes within the Child Support Enforcement Program.

Section 382.013, F.S., is amended to require that, unless and until an application for a new birth record is made under s. 63.152, F.S., pertaining to new birth records pursuant to an adoption, the information on a birth certificate must relate to the child's birth parents.

Section 409 2561, F.S., is amended to clarify that the state is to retain amounts of child support collected only to the extent necessary to reimburse amounts paid to the family as assistance by the state.

Section 409. 2558, F.S., is created to provide a statutory reference to the federal regulations governing the distribution of child support monies in Title IV-D cases by the child support enforcement program.

Section 741.04, F.S., is amended to provide that for the purposes of applying for a marriage license, when an individual is not a citizen of the United States and does not have a social security number, an alien registration documentation, or other proof of immigration registration from the United States Immigration and Naturalization Service that contains the individual's alien admission number or alien file number, or such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status, shall be provided in lieu of the social security number.

Section 409.2564, F.S., is amended to delete the authority of DOR to issue an administrative fine of not more than \$500 for failure to comply with an administrative subpoena for financial information necessary to establish, modify, or enforce a child support order.

D. Effective Date

The bill takes effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the number of child support orders that will be enforceable by income deduction by allowing this to occur without the need for modification of the order or other court action. This will increase the amount of child support collected. However, the lack of any oversight by the court could result in the erroneous taking of money from an alleged payor.

C. Government Sector Impact:

It cannot be determined whether the bill would result in decreased judicial workload by allowing income deduction enforcement of child support without the need for modification of the order or other court action.

The bill provides DOR with several enforcement enhancements, including the creation of a process by which DOR can make a claim against unclaimed property in the possession of the Department of Banking and Finance, relieving DOR of the requirement of filing an answer or other responsive pleading in foreclosure actions in order to preserve the right to participate in any proceeds of sale, and allowing district office personnel to place liens on motor vehicles or mobile homes instead of requiring the central office to do so. The economic effect of these enforcement mechanisms is indeterminable.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
