

**STORAGE NAME:** h0271s2z.cfe  
**DATE:** June 2, 1998

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CHILDREN AND FAMILY EMPOWERMENT  
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/CS/HB 271, 1ST ENG

**RELATING TO:** Public Assistance

**SPONSOR(S):** Health & Human Services Appropriations; Children & Family Empowerment; Representatives Arnall and others

**COMPANION BILL(S):** SB 2171 and HB 1957, 1ST ENG

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) CHILDREN AND FAMILY EMPOWERMENT YEAS 3, NAYS 2
- (2) HEALTH AND HUMAN SERVICES FISCAL [WITHDRAWN]
- (3)
- (4)
- (5)

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**I. FINAL ACTION STATUS:**

05/31/98 Became Law without Governor's Signature; Chapter No. 98-397

**II. SUMMARY:**

This bill provides for random drug testing of applicants for temporary assistance or services under the Work and Gain Economic Self-Sufficiency (WAGES) act for illegal use of controlled substances. The bill requires that individuals who have tested positive be notified of the availability of local substance abuse services and provides for a 90-day rehabilitation period for recipients who have failed the drug tests. A precedent has been established for this type of legislation in St. Johns County where the board of county commissioners passed a resolution implementing a drug testing program for welfare applicants and recipients.

The cost of this bill is limited by the provisions of the bill to the funds appropriated specifically for this purpose. Random tests are only conducted as long as funds are available for treatment. For purposes of comparison, the annual cost to test and to treat all applicants is estimated at \$11.5 million. Research by the U.S. Department of Health and Human Services indicates that the expense of this program may be more than offset by a reduction in costs related to drug-related crime. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

See section by section research.

B. EFFECT OF PROPOSED CHANGES:

See section by section research.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The Department of Children and Families would need to promulgate rules in order to implement the program.

(2) Any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill would increase drug testing and drug treatment and would require the department to offer appeals and retesting.

(3) Any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?

Not applicable.

(2) What is the cost of such responsibility at the new level/agency?

Not applicable.

(3) How is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not applicable.

b. Does the bill require or authorize an increase in any fees?

Not applicable.

c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Individuals who test positive for illegal substances and fail to undergo rehabilitation or who continue to test positive will lose temporary assistance benefits.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not Applicable.

- (2) Who makes the decisions?

Not Applicable.

- (3) Are private alternatives permitted?

Not Applicable.

- (4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

The bill places the benefits of a family into jeopardy as a result of substance abuse by one member.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) Parents and guardians?

Parents and guardians would be expected to maintain themselves and their dependent children free of illegal substances.

(2) Services providers?

Not Applicable.

(3) Government employees/agencies?

Department of Children and Families would be responsible for ensuring that testing is conducted and for establishing procedures for appeals. The appeals procedures would specify responsibility for decisions on appeals.

**D. STATUTE(S) AFFECTED:**

Sections 61.046, 61.13, 61.14, 61.1301, 61.181, 61.30, 69.041, 319.24, 319.32, 372.561, 372.57, 372.574, 382.008, 382.013, 409.2557, 409.2558, 409.2559, 409.2561, 409.2564, 409.25641, 409.25658, 409.2567, 409.2572, 409.2575, 409.2576, 409.2578, 409.2579, 414.095, 414.32, 443.051, 443.1715, 455.213, 741.04, 742.032, Newly created 61.1824, 61.1825, 61.1826

E. SECTION-BY-SECTION RESEARCH:

**Current situation related to sections 1 - 7**

Children exposed to adult substance abuse are more likely than other children to display problem behaviors such as short attention span, extreme distractibility, speech and language disorders, aggressive and disruptive behavior, and social incompetence. While it is difficult to quantify the costs to society of the reduced prospects for productive lives of children exposed to adult substance abuse, research suggests that these inter-generational effects are likely to be large (U.S. Department of Health and Human Services and U.S. Department of Education, 1994).

*“Time limits, increasing employment and training participation requirements, and strict economic sanctions for noncompliance with program expectations, all increase the importance of engaging a broader share of the AFDC caseload in employment or employment-related activities. Over time, these policy changes will require states and local welfare offices to develop strategies to engage welfare recipients who have traditionally been exempted from participation in education or training activities, as well as other long-term recipients, in welfare-to-work programs.”(Olson and Pavetti, 1996)*

Analysis of data from the National Longitudinal Study of Youth reveals that almost 90 percent of welfare recipients between the age of 27 and 35 experience one of five potential barriers to employment (Olson and Pavetti, 1996). Substance abuse has been identified as one of these major barriers to economic self-sufficiency. Two 1994 HHS reports (U.S. Department of Health and Human Services, 1994 a & b) used data from the National Household Survey on Drug Abuse (NHSDA) to show the following:

- 10.5% of persons aged 15 and older in Aid to Families with Dependent Children (AFDC) households reported past month illicit drug use.
- 5.2% of adults in AFDC households had significant alcohol or other drug abuse problems that may be sufficiently debilitating to preclude immediate participation in employment or training activities.
- 11.2% of adults in AFDC households were somewhat impaired by alcohol or drug use and might need substance abuse treatment concurrent with participation in employment and training activities. In addition, the National Longitudinal Alcohol Epidemiologic Survey indicated that 9.6% of adult men and 7.3% of adult women who received welfare assistance were dependent on alcohol and 5.6% of men and 3.3% of women who received welfare abused or were dependent on illicit drugs (Grant, B.F. and Dawson, D.A., 1996).

The Department of Children and Families reports that during 1995-96, there were 46,984 applicants for WAGES programs and services. The department estimates that 10.8% or 5,074 1995-96 applicants for WAGES would test positive for illegal substances.

There are currently about 1,400 people in Florida waiting for admission for treatment in a substance abuse program. This indicates that the current treatment system would

need to be expanded in order to accommodate the number of referrals that would result from drug testing. Each person testing positive for illicit drugs would initially be referred to a provider for assessment of the needed level of treatment. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

### **References**

Olson, Krista, and Pavetti, LaDonna, 1996 *"Personal and Family Challenges to the Successful; Transition from Welfare to Work,"* The Urban Institute.

Grant, B.F. and Dawson, D.A., 1996 *"Alcohol and Drug Use, Abuse, and Dependence among Welfare Recipients,"* American Journal of Public Health 86:1450-1454.

U.S. Department of Health and Human Services and U.S. Department of Education, *Risk and Reality: Teaching Preschool Children Affected by Substance Abuse*, 1994.

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Program Participation*, 1994(a).

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, the Substance Abuse and Mental Health Services Administration, and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Substance-Related Impairment Among Participants in the Aid to Families with Dependent Children Program (AFDC)*, 1994(b).

### **Effect of proposed changes**

**SECTION 1.** establishes legislative intent and findings to enhance the employability of WAGES recipients through drug screening, testing, and treatment and demonstration projects to screen and test applicants of temporary cash assistance for the illegal use of controlled substances do not currently exist in statute.

**Section 2** establishes two demonstration projects in DCF service areas 3 and 8, to be operational as soon as possible after January 1, 1999 and to expire June 30, 2001. The project will screen each applicant and test temporary cash assistance applicants, who DCF has reasonable cause to believe engage in illegal use of controlled substances. The legislation sets out provisions for these demonstration sites. This demonstration program will commence as soon as possible after January 1, 1999 and, unless reauthorized by the Legislature, will expire on June 30, 2001.

Subsection (2) outlines procedures for the drug testing and screening program. The Department of Children and Family Services, must develop and implement a demonstration project to screen all applicants applying for temporary assistance or services for the illegal use of controlled substances. Persons who the department has reasonable cause to believe, based on the screening, engage in the illegal use of controlled substances will be tested.

At the time of application for benefits, the department will provide notice of the local WAGES coalition's participation in the drug screening and testing program. This notice

must advise that drug screening is eminent and that drug testing will be conducted as a condition for receiving temporary assistance or services under ch. 414, F.S., and shall specify the assistance and services subject to this requirement. The notice must advise the applicant that prospective employers may require the applicant to submit to a pre-employment drug test. The notice must also advise the applicant that the drug screening and possible testing may be avoided if the applicant does not apply for or receive such assistance or services. The drug screening and testing program is not applicable in child-only cases.

Additionally, the department must do the following:

- Develop a procedure for conducting a drug test on applicants for WAGES.
- Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may advise the agent administering the test of any prescription or over-the-counter medication he or she is taking.
- Require that each person tested sign a written acknowledgment that he or she has received and understands the notice and advice as outlined above.
- Provide a procedure to assure a person's dignity while producing and submitting a drug test sample; this procedure will be consistent with the state's need to ensure reliability of the sample.
- Specify circumstances under which a person who fails a drug test has the right to take one or more additional tests.
- Provide a procedure for the appeal of the test results by a person who fails a test as well as for advising the appellant that he or she may, but is not required to, advise appropriate staff of any prescription or over-the-counter medication he or she has been taking.
- Notify each person who fails a drug test of the local substance abuse programs which are available to that person.

**Section 3** provides that, if a parent is deemed ineligible for cash assistance due to the failure of a drug test, his or her dependent child's eligibility for cash assistance will not be affected. In this case, a protective payee will be established for the child. If the parent does not cooperate in establishing an appropriate payee for the child, the department will appoint one.

**Section 4** outlines criteria for treatment, subject to funding availability. The department will provide a substance abuse treatment program for persons failing a drug test if the person is otherwise eligible to receive WAGES assistance and services. Treatment is not required for participants in the WAGES Program who have failed a drug test at time of application. The department must provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under ch. 414, F.S., and of any rights to appeal relative to the termination. The department shall develop rules regarding disclosure of information on applicants who enter treatment and may develop rules for assessing the status of persons formerly treated under this act who reapply for assistance or services under WAGES.

The department may develop rules for assessing the status and/or drug testing of persons formerly treated under the act who reapply for assistance or services.



**Section 5** provides criteria for the department, in conjunction with the local WAGES coalitions involved in this demonstration project, to conduct a comprehensive evaluation of the demonstration projects. In the initial phase of such evaluation, due January 1, 2000, the department, in conjunction with the relevant local WAGES coalitions, shall report to the State WAGES Board and the Legislature on the status of implementation of the program, specifically describing problems encountered and costs expended during that first year. Following the initial implementation of the demonstration projects, a subsequent and comprehensive evaluation to the same parties is due January 1, 2001. The final report will include:

- The impact of the drug testing program on employability, job placement, job retention, and salary levels of the participants.
- Recommendations, based in part on a cost benefit analysis, regarding the feasibility of expanding this program to other local WAGES regions, including specific recommendations on how to best expand the drug testing program to the other local WAGES regions.

**Section 6** provides that, in the event of a conflict between federal and state procedures, federal requirements and regulations shall control.

**Section 7** provides funding for the pilot programs from Specific Appropriations 361 and 1892 in the General Appropriations Act, subject to the availability of funding. The section also provides that failure to pass a retest at the end of the treatment period will result in the termination of temporary assistance provided through Chapter 414.

**NOTE: Sections 8 through deal with child support enforcement. The current situation and effect of proposed changes are presented for each section.**

#### **Section 8:**

#### **PRESENT SITUATION AFFECTED BY THE BILL**

Section 61.13(1)(b), F.S., requires that all child support orders contain a provision for health insurance, when the insurance is reasonably available. The cost of insurance coverage is required to be apportioned by adding the cost to the basic obligation determined pursuant to the child support guidelines in s. 61.30(6), F.S. Currently, there is no provision directing the court to also apportion, to both parties, the cost of any non-covered medical, dental, and prescription medication expenses of the child by adding these costs to the basic obligation determined pursuant to the child support guidelines in s. 61.30(6), F.S. No provision currently exists for the payment of uncovered medical expenses to be made directly to the payee on a percentage basis.

Section 61.13(9)(c), F.S., states that a tribunal may deem state due process requirements for notice and service of process to have been met upon delivery of written notice to a party at the party's most recent residential or employer address filed with the tribunal and State Case Registry.

#### **CHANGES PROPOSED BY THE BILL**

The change directs the court to apportion to both parties the cost of any noncovered medical, dental, and prescription medication expenses of the child. It also allows for payment of uncovered medical expenses to be made directly to the payee on a percentage basis.

The section also requires that the court shall deem state due process requirements for notice and service of process to have been met upon delivery of written notice to a party at the party's most recent residential or employer address filed with the tribunal and State Case Registry. This change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L 104-193).

**Section 9:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The law requires that orders establishing, enforcing or modifying an obligation for child support or alimony must include payment through income deduction, with some exceptions. There is no requirement to enter a separate income deduction order. When the income deduction language is present in the underlying order, only a notice of income deduction is required to be forwarded to the employer, instead of a separate income deduction order. Currently, the notice of income deduction can be used in Title IV-D and non-Title IV-D cases. Currently, there is no exception from the requirement for payment through income deduction for temporary orders.

Currently, if a support order is entered before October 1, 1996, in a non-Title IV-D case that does not specify income deduction, income deduction may be initiated upon a delinquency without further action by the court.

Currently, enforcement of the income deduction order can only be contested on the ground of mistake of fact regarding the amount owed pursuant to the court order, or the identity of the obligor. The obligor cannot contest the enforcement of the income deduction based on the identity of the payor, or the obligee.

When an employer receives multiple income deduction notices for the same employee, on different cases and the amount of available income for withholding is insufficient to meet all obligations, the employer must contact the court for further instructions.

In situations involving interstate income deduction actions, the law directs the clerk to establish an account for the receipt and disbursement of child support or child support and alimony payments. There is no provision requiring the clerk to take the same action for cases involving direct income withholding to an employer in another state under the Uniform Interstate Family Support Act.

When there are multiple income deductions for one employee, the court shall allocate amounts available for income deduction among all obligee families. In cases where the total obligations to all obligee families are greater than the amount available for deduction, the court is directed to distribute the available monies among the families on a pro rata basis using the total obligation amount to determine this percentage (current support and arrears obligation.) There is no requirement in statute to satisfy the current

obligations of all the obligee families, if possible, before satisfying arrearage obligations of the families.

### **CHANGES PROPOSED BY THE BILL**

**Section 9:** requires the entry of a separate income deduction order in conjunction with orders establishing, enforcing or modifying an obligation for child support or alimony, other than temporary orders. In Title IV-D cases, the IV-D agency may implement income deduction by issuing a notice to the payor after receiving a copy of the order. States that employers and other payers of income must deduct support payments from income, as specified in the income deduction notice, in the same manner as support payments deducted pursuant to a notice to payor. The section requires additional provisions be added to the notice, above and beyond the required provisions in the existing notice to payor specified in 61.1301(2)(e). In Title IV-D cases, there is no requirement for the income deduction order to accompany this notice, however, the IV-D agency shall provide the employer with a copy of the income deduction order upon request. For income deduction notices generated on support orders entered during the period of July 1, 1997, through June 30, 1998, the IV-D agency may, in lieu of providing a copy of an income deduction notice, furnish a copy of the order containing provisions for income deduction if the provisions for income deduction are contained in the underlying support order. Requires that in non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the support order upon which the notice is based.

The section provides that if a support order is entered before January 1, 1994, in a non-Title IV-D case that does not specify income deduction, income deduction may be initiated upon a delinquency without further action by the court. This change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L. 104-193).

The section expands the grounds on which an obligor can contest the enforcement of the income deduction to include the identity of the payor, and the identity of the obligee.

When an employer receives multiple income deduction orders for the same employee on different cases, if the case is a Title IV-D case, the employer can contact the IV-D agency for further instruction instead of the court. When all the cases are Title IV-D cases, the Title IV-D agency can allocate in accordance with subsection (4).

In cases initiated under the Uniform Interstate Family Support Act the depository is directed to provide a depository number for receipt and disbursement of child support or child support and alimony payments.

When the total obligations to all obligee families are greater than the amount available for deduction, the amount available is to be distributed among the obligee families on a pro rata basis, giving priority to current support, so that each family is allocated a percentage of the amount deducted. This percentage is determined by dividing each current support obligation by the total of all current support obligations. If the total amount of all support obligations is less than the total amount available for deduction, and past due support is owed to more than one family, the remainder of the income is to be distributed among the families owed past due support on a pro rata basis determined

by dividing each family's past due support obligation by the total of all past due support obligations.

**Section 10:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The Florida Association of Court Clerks' name is incorrectly reflected in statute.

The department currently has discretion to exempt a depository from compliance with full participation in the automated system established in s. 61.181(2), F.S.

Effective on or after July 1, 1998, the depositories cannot deduct the transaction fee from support payments if the payment does not include the required transaction fee. This requirement pertains to Title IV-D payments and non-Title IV-D payments.

There is currently no requirement for the Office of Program Policy and Governmental Accountability to evaluate the Dade County and Manatee County child support enforcement demonstration projects.

**CHANGES PROPOSED BY THE BILL**

**Section 10:** The Florida Association of Court Clerks' name is corrected in statute.

The section removes the department's discretion to exempt a depository from compliance with full participation in the automated system established in s. 61.181(2), F.S.

Effective on or after July 1, 1998, the depositories cannot deduct the transaction fee from support payments in Title IV-D cases, if the payment does not include the required transaction fee. This provision does not pertain to non-Title IV-D cases.

Directs the Office of Program Policy and Governmental Accountability to evaluate the Dade County Child Support Enforcement demonstration project and the Manatee County Child Support Enforcement demonstration project. The findings are to be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 1, 1999.

**Section 11:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently, the court may deviate from the guideline amount by more than 5% only upon written finding, or a specific finding on the record.

Currently there is no provision directing the court to add the cost of any noncovered medical, dental, and prescription medication expenses of the child to the basic obligation when determining the child support guidelines.

There is currently no limitation on the period back to which retroactive child support can be pursued.

**CHANGES PROPOSED BY THE BILL**

**Section 11:** The court may deviate from the guideline amount by more than 5% only upon written finding. The bill removes "or a specific finding on the record."

The section requires cost of any noncovered medical, dental, and prescription medication expenses of the child be added to the basic obligation when determining the child support guidelines.

The section restricts establishment of retroactive support to a period of 24 months preceding the filing of the petition.

**Section 12:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Under ss. 69.041(4)(a) and (b), CSE is made a defendant to any foreclosure action involving a delinquent obligor where a judgment by operation of law was recorded, thus creating a lien on the property. CSE has to file an Answer to the Complaint in each foreclosure case although these cases seldom if ever result in money being disbursed to CSE.

**CHANGES PROPOSED BY THE BILL**

Section 12 would eliminate the need for CSE to file an Answer or other response to the Complaint for Foreclosure, or other response, but allows CSE to participate in the disbursement of available funds upon issuance of a notice to the court, which is the same procedure used to collect tax liabilities.

**Section 13:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently only the director of the Child Support Enforcement Program has the authority to place a lien on a motor vehicle or vessel when the program is enforcing a delinquent child support obligation.

**CHANGES PROPOSED BY THE BILL**

Section 13 provides authority to the director of the Child Support Enforcement Program or the director's designee to place a lien on a motor vehicle or vessel when the program is enforcing a delinquent child support obligation.

**Section 14:**

**PRESENT SITUATION AFFECTED BY THE BILL**

**STORAGE NAME:** h0271s2z.cfe

**DATE:** June 2, 1998

**PAGE 14**

Currently CSE pays the statutory cost of \$28.25 for first liens and \$29.25 for subsequent liens placed on motor vehicles, pursuant to s. 319.32, F.S.

**CHANGES PROPOSED BY THE BILL**

Section 14 would reduce the statutory cost to \$7.00 for the CSE program to place first and subsequent liens when enforcing delinquent child support obligations.

**Section 15:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Social security numbers are not presently required to be recorded on applications for recreational licenses.

**CHANGES PROPOSED BY THE BILL**

HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996, adds recreational licenses to the list of licenses for which social security numbers must be collected and used for child support enforcement purposes. This section applies to licenses to take wild animal life or freshwater aquatic life under s. 372.561(2), F.S.

**Section 16:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Social security numbers are not presently required to be recorded on applications for recreational licenses.

**CHANGES PROPOSED BY THE BILL**

HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996, adds recreational licenses to the list of licenses for which social security numbers must be collected and used for child support enforcement purposes. This section applies to licenses to take game, freshwater fish or fur-bearing animals under s. 382.57, F.S.

**Section 17:**

**PRESENT SITUATION AFFECTED BY THE BILL**

There is no provision for social security numbers collected under ss. 372.561 and 372.57 to be confidential.

**CHANGES PROPOSED BY THE BILL**

Provisions for confidentiality of the social security numbers collected pursuant to ss. 372.561 and 372.57, F.S. (ss. 15 & 16 of this bill and analysis) are now codified.

**Section 18:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 42 of chapter 97-170, Laws of Florida, amended s. 382.008(1), F.S., requiring death and fetal death certificates to include the decedent's social security number, if available. This change was pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). Section 382.008, F.S., does not contain that language.

**CHANGES PROPOSED BY THE BILL**

The requirement for death and fetal death certificates to include the decedent's social security number, if available, as passed in section 42 of chapter 97-170, Laws of Florida, is removed from the footnote and placed into statute.

**Section 19:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 43 of chapter 97-170, Laws of Florida, amended s. 382.013, F.S., requiring that information regarding registered births be used for comparison with information in the State Case Registry. This change was pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193). Section 382.013, F.S., does not contain that language.

There currently is no requirement for the information on a birth certificate, required by s. 382.013(1), F.S., be as to the child's birth parents.

Section 43 of chapter 97-170, Laws of Florida, amended s. 382.013, F.S., requiring states to have procedures for providing a mother and putative father with written or oral notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing a voluntary paternity acknowledgment. This change was pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193). Section 382.013, F.S., does not contain that language.

No provision currently exists for giving notice through the use of video or audio equipment of the alternatives to, legal consequences of, and the rights, that arise from signing an acknowledgment of paternity.

Current law requires that the "person" having custody of a child will select the child's name and surname.

**CHANGES PROPOSED BY THE BILL**

The requirement for information regarding registered births will be used for comparison with information in the State Case Registry, as passed in section 43 of chapter 97.170, Laws of Florida, is removed from the footnote and placed into statute.

The section requires that information on a birth certificate, required by s. 382.013(1), F.S. be as to the child's birth parents, unless and until an application for a new birth record is made under s. 63.152, F.S.

The requirement for states to have procedures for providing a mother and putative father with written or oral notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing a voluntary paternity acknowledgment, as passed in section 43 of chapter 97-170, Laws of Florida is removed from the footnote and placed into statute.

The section allows for giving notice through the use of video or audio equipment of the alternatives to, legal consequences of, and the rights, that arise from signing an acknowledgment of paternity. The change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L. 104-193).

The section changes the term "person" to "parent." The parent who has custody of a child shall select the child's name and surname.

**Section 20:**

**PRESENT SITUATION AFFECTED BY THE BILL**

CSE's rule making authority exists in section 1 of chapter law 94-124, Laws of Florida, which transferred all powers and duties with respect to the program from the Department of Health and Rehabilitative Services to the Department of Revenue. Explicit statutory authority for general rule making duties currently does not exist.

**CHANGES PROPOSED BY THE BILL**

Section 20 provides that the department has the authority to adopt rules pursuant to sections 120.54 and 120.536(1) to implement laws it administers as the state's Title IV-D agency. Provides specific authority for rule making with respect to certain aspects of program administration and the substantive areas of establishment, enforcement and modification and any other responsibilities required by state and federal law.

**Section 21:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently there is no provision in statute regarding how the IV-D agency shall distribute child support collections.

**CHANGES PROPOSED BY THE BILL**

Section 21 creates the provision that the department shall distribute payments received in IV-D cases in accordance with 42 U.S.C. s. 657 and regulations adopted thereunder by the Secretary of the U.S. Department of Health and Human Services.

**Section 22:**



**PRESENT SITUATION AFFECTED BY THE BILL**

Currently there is no provision in statute for the department to establish and operate a State Disbursement Unit. There is a reference to this responsibility in section 77 of chapter 97-170, Laws of Florida.

**CHANGES PROPOSED BY THE BILL**

Section 22 requires the department to establish and operate a State Disbursement Unit by October 1, 1999, as required by 42 U.S.C. s. 654(27).

**Section 23:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 409.2561, F.S., does not currently reflect that the state will retain amounts collected only to the extent necessary to reimburse amounts paid to the family as assistance by the state.

The law currently directs the court to apply the child support guidelines when establishing retroactive child support in public assistance cases.

**CHANGES PROPOSED BY THE BILL**

Section 23 requires that the state will retain collections only to the extent to reimburse the state for amounts paid to the family as assistance by the state. The section removes references to retroactive support being calculated pursuant to the child support guidelines set forth in s. 61.30, F.S.

**Section 24:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Federal law requires states to have laws which allow the Title IV-D agency to issue and enforce administrative subpoenas. Current law authorizes CSE to subpoena information and to impose a fine for noncompliance with an administrative subpoena.

Section 409.2564(9), F.S., currently allows for redirection of support payments in Temporary Assistance for Needy Families and Medicaid cases where there has been an assignment of rights and notice provided to the obligor and obligee.

**CHANGES PROPOSED BY THE BILL**

Section 24 provides that the Title IV-D director or the director's designee may subpoena information. Removes a method for a person to contest the subpoena. Provides for enforcement of the subpoena by the Title IV-D agency petitioning the circuit court. In an enforcement action, requires the department to show that the person who failed to comply with the subpoena did not have good cause for failing to comply. Removes the department's ability to collect an administrative fine, but retains the department's ability to recover costs and fees associated with the enforcement action.

The section allows for redirection of payments in foster care cases under Title IV-E of the Social Security Act. This change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L. 104-193).

**Section 25:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The department is required by federal law to develop procedures for processing interstate enforcement requests through an automated administrative process.

**CHANGES PROPOSED BY THE BILL**

Section 25 amends the definition of "high-volume" and removes five day processing requirement for processing interstate enforcement requests. This change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104-0193).

**Section 26:**

**PRESENT SITUATION AFFECTED BY THE BILL**

No provision currently exists to provide for abandoned property in the possession of the Department of Banking and Finance to be applied to past due child support in Title IV-D cases in which child support is collected through a court.

**CHANGES PROPOSED BY THE BILL**

Section 26 provides that the Department of Banking and Finance (DBF) and CSE will identify child support obligors owing past-due child support who have abandoned property in the possession of DBF for purposes of collecting child support paid through a court. Provides for transfer of the property to CSE following the applicable notification and claim approval procedures set forth in chapter 717.

**Section 27:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 10 of chapter 97-170, Laws of Florida, amended language in s. 61.1814, F.S., and changed a trust fund name from "Child Support Enforcement Application User Fee Trust Fund" to "Child Support Enforcement Application and Program Income Trust Fund." This trust fund is also mentioned in s. 409.2567, F.S. However, the name of the trust fund was not changed under this latter section.

The Health and Human Services Fiscal Committee of the House of Representatives is erroneously referred to as the Appropriations Committee.

**CHANGES PROPOSED BY THE BILL**

Section 27 will make the trust fund name consistent throughout the Florida Statutes and provides the correct committee name.

**Section 28:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Except for in food stamp cases, there is no language in WAGES that specifically designates CSE as the program responsible for determining whether an applicant for or recipient of public assistance has good cause not to cooperate with CSE. CSE, in coordination with the Department of Children and Families, currently determines good cause.

**CHANGES PROPOSED BY THE BILL**

By adding language to s. 409.2572, F.S., it is clear that CSE has statutory authority to determine whether an applicant for or recipient of public assistance has good cause not to cooperate with CSE.

**Section 29:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently only the director of the Child Support Enforcement Program has the authority to place a lien on a motor vehicle or vessel when the program is enforcing a delinquent child support obligation.

**CHANGES PROPOSED BY THE BILL**

Section 29 provides authority to the director of the Child Support Enforcement Program or the director's designee to place a lien on a motor vehicle or vessel when the program is enforcing a delinquent child support obligation.

**Section 30:**

**PRESENT SITUATION AFFECTED BY THE BILL**

As written, s. 409.2576, F. S., restrains the Department of Children and Families and Department of Labor and Employment Security that have access to the State Directory of New Hire program data, pursuant to federal law, from utilizing social security numbers in order to comply with federal requirements governing those agencies.

**CHANGES PROPOSED BY THE BILL**

**STORAGE NAME:** h0271s2z.cfe

**DATE:** June 2, 1998

**PAGE 20**

Section 30 allows disclosure of social security number information collected by the State Directory of New Hires to the programs listed in 409.2576(9), F.S. This change is consistent with federal law and laws under which those other programs must operate.

**Section 31:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 409.2578, F.S., contains a drafting error in which the word "court" appears instead of "order."

Section 10 of chapter 97-170, Laws of Florida, amended language in s. 61.1814, F.S., and changed a trust fund name from "Child Support Enforcement Application User Fee Trust Fund" to "Child Support Enforcement Application and Program Revenue Trust Fund." This trust fund is also mentioned in s. 409.2578(3), F.S. However, the name of the trust fund was not changed under this latter section.

**CHANGES PROPOSED BY THE BILL**

**Section 31** corrects the drafting error and will make the trust fund name consistent throughout the Florida Statutes.

**Section 32:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 409.2579, F.S., does not clearly permit disclosure by CSE of Title IV-D information regarding the location and identity of parties involved in a paternity or child support proceeding, as required by s. 61.13(9), F.S.

Sections 409.2579(3)& (4), F.S., prohibit CSE from disclosing information on the whereabouts of a party to another party where CSE is aware of an order of protection regarding these parties or where CSE has reason to believe that such disclosure may result in harm to one of the parties.

Section 409.2479(5), F.S., provides that the Department of Children and Families, rather than the Department of Revenue, is authorized to establish, by rule, procedures to implement this section.

**CHANGES PROPOSED BY THE BILL**

Section 32 clarifies CSE's responsibility to disclose certain information required by federal law. The section provides safeguards to protect information relating to children who are the subject of Title IV-D cases, not just the parties. This change is pursuant to HR 2015(Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L. 104-193).

The bill provides that the Department of Revenue, rather than Department of Children and Families, is authorized to establish, by rule, procedures to implement this section.

**Section 33:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 414.095(7), F.S., contains a technical error that refers only to temporary cash assistance, rather than public assistance, as defined elsewhere in chapter 414.

WAGES does not contain language specifying which agency has the responsibility to determine whether a parent or caretaker relative seeking public assistance has good cause for failing to cooperate with CSE.

**CHANGES PROPOSED BY THE BILL**

Section 33 corrects the reference to refer to public assistance.

The bill clarifies and codifies that CSE is the program responsible for determining whether a parent or caretaker relative has good cause for failing to cooperate with CSE.

**Section 34:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 414.32(1)(a), F.S., currently limits the cooperation requirements for a parent or caretaker relative to assisting CSE in establishing paternity of the subject child.

**CHANGES PROPOSED BY THE BILL**

Section 34 clarifies that a parent or caretaker relative must cooperate with CSE for all relevant purposes, not just to establish paternity of the subject child.

**Section 35:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The section of the Social Security Act cited in section 443.051(3)(b), F.S., was repealed by section 362 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

**CHANGES PROPOSED BY THE BILL**

Section 35 correctly refers to 42 U.S.C. 459.

**Section 36:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Federal welfare reform specified specific data the State Employment Security Agency (Department of Labor and Employment Security) had to provide to the National Directory of New Hires. Language from federal welfare reform was incorporated into s. 443.1715, F.S.

**CHANGES PROPOSED BY THE BILL**

Section 36 amends the data that the Department of Labor and Employment Security must provide to the National Directory of New Hires. This change is pursuant to HR 2015(Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L. 104-193).

**Section 37:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Current law allows only the Title IV-D agency access to social security numbers recorded on license applications under s. 455.213(9), F.S. This impedes the Department of Business and Professional Regulation access that is allowable under other applicable law.

**CHANGES PROPOSED BY THE BILL**

Section 37 changes s. 455.213(9), F.S., to allow the Department of Business and Professional Regulation to have access to social security numbers recorded on professional and occupational licenses.

**Section 38:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Under s. 741.04, F.S., it appears that a marriage license can be issued only to a person who has a social security number. The statute fails to take into consideration persons with legal alien status or who, for some other reason, have no social security number.

**CHANGES PROPOSED BY THE BILL**

Section 38 will allow a county court judge or clerk of the circuit court to issue a marriage license under s. 741.04, F.S., to a non-citizen, provided the individual has legal immigration status and an alternative identification number available.

**Section 39:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Section 742.032, F.S., states that a tribunal may deem state due process requirements for notice and service of process to have been met upon delivery of written notice to a party at the party's most recent residential or employer address filed with the tribunal or State Case Registry.

**CHANGES PROPOSED BY THE BILL**

Section 39 requires that the court shall deem state due process requirements for notice and service of process to have been met upon delivery of written notice to a party at the party's most recent residential or employer address filed with the tribunal and State

Case Registry. This change is pursuant to HR 2015 (Pub. L. 105-34), which amended the Personal Responsibility and Work Requirement Act of 1996 (Pub. L 104-193).

**Section 40:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Current law does not specify that the local depositories cannot deduct for costs and fees accrued in a judgement by operation of law process, until the total amount of support due to the obligee under the judgement has been paid.

**CHANGES PROPOSED BY THE BILL**

Section 40 requires that the local depositories cannot deduct for costs and fees accrued in a judgment by operation of law process, until the total amount of support due to the obligee under the judgment has been paid.

**Section 41:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The term "business day" is not currently defined in chapter 61, F.S.

The automated system established pursuant to s. 61.181(2)(b)1., integrating all clerks of court and depositories is not currently named in statute.

The current definition of "depository" in s. 61.046, F.S., does not include any other entity created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions.

The term "Federal Case Registry" is not currently defined in statute.

The definition of "IV-D" references 42 U.S.C. s. 1302 as the authority for the program. This is an incorrect U.S.C. site.

The current definition of the "State Case Registry" is not consistent with the definition under federal law.

The term "State Disbursement Unit" is not currently defined in statute.

The term "support order" is not currently defined in chapter 61.

**CHANGES PROPOSED BY THE BILL**

Section 41 provides a number of definitions:

- The term "business day" is defined in chapter 61, F.S., as "any day other than a Saturday, Sunday, or legal holiday."

- The “Clerk of Court Child Support Collection System” (or CLERC) is defined as the automated system established pursuant to s. 61.181(2)(b)1., integrating all clerks of court and depositories.
- The current definition of “depository” in s. 61.046, F.S., is amended to include any other entity created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions.
- Defines the “Federal Case Registry” in statute.
- Corrects a U.S.C. site in the definition of “IV-D.”
- Amends the definition of the “State Case Registry,” to be consistent with the newly created State Case Registry section (s. 61.1825, F.S.) and federal law.
- Defines the “State Disbursement Unit” in statute.
- Defines the term “support order” in chapter 61.

All definitions in s. 61.046, F.S are renumbered.

**Section 42:**

**PRESENT SITUATION AFFECTED BY THE BILL**

The depositories are not currently required to participate in the State Disbursement Unit and implement all statutory and contractual duties of the State Disbursement Unit.

The depositories impose and collect a fee on payments made, pursuant to s. 61.181(2)(a). There is no exclusion for payments processed by the State Disbursement Unit.

An increased depository transaction fee was established for the period of July 1, 1992, through June 30, 1999. A percentage of this fee is deposited into the Clerk of the Court Child Support Enforcement Collection System Trust Fund.

This trust fund is required to be used exclusively for the development, implementation, and operation of the automated Child Support Enforcement Collections System. This system is operated by the depositories.

The department’s obligation to fund the automation of the depositories is not statutorily limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund.

The department currently has discretion to exempt a depository from compliance with full participation in the automated system established in s. 61.181(2), F.S.

Effective on or after July 1, 1998, the depositories cannot deduct the transaction fee from support payments if the payment does not include the required transaction fee. This requirement pertains to Title IV-D payments and non-Title IV-D payments.



**CHANGES PROPOSED BY THE BILL**

Section 42 requires the depositories to participate in the State Disbursement Unit and implement all statutory and contractual duties of the State Disbursement Unit. Excludes payments on non-Title IV-D cases without income deduction orders from being processed by the State Disbursement Unit.

The section excludes payments processed by the State Disbursement from the statutory transaction fee charged by the depositories, pursuant to s. 61.181, F.S.

The section amends the termination date of the increased depository transaction fee from June 30, 1999 to June 30, 2002.

The section amends the statutory use of the funds deposited into the Clerk of the Court Child Support Enforcement Collection System Trust Fund, to include the automation of civil case information necessary for the State Case Registry.

The section limits the department's obligation to fund the automation of the depositories to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund.

The section removes the department's discretion to exempt a depository from compliance with full participation in the automated system established in s. 61.181(2), F.S.

Effective on or after July 1, 1998, the depositories cannot deduct the transaction fee from support payments on Title IV-D cases, if the payment does not include the required transaction fee. This provision does not pertain to non-Title IV-D cases.

**Section 43:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently there is no provision in statute for the department to establish and operate a state disbursement unit. There is a reference to this responsibility in section 77 of chapter 97-170, Laws of Florida.

**CHANGES PROPOSED BY THE BILL**

Section 43 requires the department to establish and operate a State Disbursement Unit. This section outlines the responsibilities and functions of the State Disbursement Unit. Provides procedures for the depositories if an obligor fails to remit payments to the State Disbursement Unit and if an obligor or payor has previously remitted a check that has been returned due to insufficient funds. Requires obligees receiving payments from the State Disbursement Unit to inform the State Disbursement Unit of changes in names and addresses.

**Section 44:**

**PRESENT SITUATION AFFECTED BY THE BILL**

Currently there is no provision in statute for the department to operate and maintain a State Case Registry.

### **CHANGES PROPOSED BY THE BILL**

Section 44 requires the department to operate and maintain a State Case Registry. The department is required to maintain the Title IV-D component of the State Case Registry on the department's child support enforcement automated enforcement system. The section requires that by October 1, 1998, the depositories provide court order extract data on all non-Title IV-D cases to the entity responsible for maintaining the non-Title IV-D component of the State Case Registry. The section provides a list of the required data elements (extract information) required to be reported by the depositories. The section requires the department to transmit required data to the Federal Case Registry of Child Support Orders.

### **Section 45:**

### **PRESENT SITUATION AFFECTED BY THE BILL**

Currently, there are no procurement statutes relating specifically to the State Case Registry and State Disbursement Unit. There is reference in chapter 97-170, Laws of Florida, to procurement issues.

### **CHANGES PROPOSED BY THE BILL**

Section 45 provides a legislative declaration of emergency concerning the procurement of services for the State Disbursement Unit (SDU) and State Case Registry (SCR).

The section directs the department to contract with the Florida Association of Court Clerks (Association) and each depository to perform duties relating to the operation and maintenance of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry.

The section requires the depositories to enter in standard cooperative agreements with the department for participation in the State Disbursement Unit and non-Title-IV-D component of the State Case Registry. Requires that cooperative agreements be uniform and mutually developed by the department and the Association.

The section requires the depositories to enter into a written agreement with the Association within 60 days after the effective date of this section. This agreement will require the depositories to participate fully in the SDU and non-Title -IV-D component of the SCR.

The section requires the Association to enter into a contract with the department within 60 after the effective date of this section. The contract will be mutually developed by the department and the Association. The Association is required to procure all subcontracts, except for contracts with their service corporation, through competitive bidding.

The section provides terms for the contract and cooperative agreements.

The section requires OPPAGA to conduct comprehensive performance reviews of the State Disbursement Unit and State Case Registry. The reviews must be written and submitted to the Governor, President of the Senate, and the Speaker of the House. Reviews are required as follows: (1) October 1, 1999, pertaining to the State Case Registry; (2) October 1, 2000, pertaining to the State Disbursement Unit; and (3) every two years thereafter beginning on October 1, 2002, pertaining to both the SDU and SCR.

The section provides conditions under which the contract and cooperative agreement with the Association and depositories may be terminated, and if termination occurs, requires the department to procure services from a private vendor through competitive bidding. The conditions under which the contract or cooperative agreements can be terminated are as follows:

- (1) receipt of final notice by the Secretary of HHS or the Secretary's designee that the contractual relationship set out in this section, does not satisfy federal requirements and the state's Title IV-D State Plan will not be approved, or that federal funding will not be made available to fund the SDU or the non-Title IV-D component of the SCR;
- (2) The Association, a depository or any subcontractor fails to comply with any material contractual term or state or federal requirement;
- (3) The non-Title-IV-D component of the SCR is not established and operational, consistent with the terms of the contract, by October 1, 1998; or
- (4) The SDU is not established and operational, consistent with the terms of the contract, by October 1, 1999.

The section relieves the depositories of all responsibilities and duties under chapter 61 relating to Title IV-D payment processing and data collection to the department if any event in (1) above occurs.

The section requires the depositories to participate in the non-Title IV-D component of the SCR and the SDU.

The section requires all transaction fees and interest realized by the SDU be considered and reported as program income pursuant to federal law. Program income must be transmitted to the Title IV-D agency for deposit in the Child Support Enforcement Application and Program Revenue Trust Fund.

The section provides penalties for noncompliance by the depositories.

The section provides provisions for withholding payment under the contracts.

#### **Section 46:**

#### **PRESENT SITUATION AFFECTED BY THE BILL**

Amendments to ss. 382.013(1) and (2) pursuant to section 43 of chapter 97-170, Laws of Florida, were placed in a footnote due to subsequent passing of chapter 97-237, Laws of Florida.

#### **CHANGES PROPOSED BY THE BILL**

Section 46 repeals ss. 382.013(1) and (2)(b), F.S., as amended by chapter 97-170, Laws of Florida, in order to correct the footnote.

**Section 47:**

**PRESENT SITUATION AFFECTED BY THE BILL**

N/A. Effective dates

**CHANGES PROPOSED BY THE BILL**

Section 47 provides the effective date of this act shall be July 1, 1998, except section 1 of the act shall take effect October 1, 1998.

**IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

The Department of Revenue estimates a one-time cost of about \$70,000 for computer conversions and printing costs. There is also a \$7.5 million one-time appropriation for setting up the case registry.

2. Recurring Effects:

The bill provides for the drug testing pilot programs to be implemented from funds in Specific Appropriations 361 and 1892. There is a \$10 million recurring cost anticipated for the case registry.

3. Long Run Effects Other Than Normal Growth:

The bill could result in long-term benefits to society in the form of net savings due to the increased employability of WAGES participants and a reduction in drug-related crime. The amount of such benefits is indeterminable.

4. Total Revenues and Expenditures:

The total expenditures are determined by the appropriations process. The maximum expenditures are estimated to be approximately \$11.5 million per year.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The department contracts substance abuse treatment programs to private agencies on the local level. This would provide employment opportunities in the private sector.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of Children and Families estimates the maximum annual cost to implement the provisions of this bill at \$11.5 million, although the program is designed to make use of a lessor appropriation. In determining the fiscal impact, the following assumptions were made:

- It is estimated that 10.8% of the WAGES population will test positive for substance abuse.
- During 1995-96, there were 46,984 applicants for WAGES. Although this figure is used as a basis of the calculations, it probably represents a significant overestimate of the number of applicants in 1997-98.
- Cost of substance abuse testing is estimated at \$18 per individual.
- The estimated cost of providing substance abuse treatment to adults and children is \$1,950 per person. This cost includes salaries and benefits and all costs associated with treatment. Substance abuse treatment services are contracted to private providers on the local level. The current treatment system cannot accommodate the additional referrals so new contracts would have to be negotiated.
- Costs to child welfare are indeterminable. There would be an indeterminable percentage of the caseloads that would result in referrals for foster care.
- Should individuals challenge the law, there would be legal fees involved. The amount of these fees is indeterminable.

In a report funded by the U.S. Department of Health & Human Services (Gerstein, Johnson & Larison, 1997) it was found that an average alcohol and drug treatment episode lasted about three months, cost about \$1,400, and yielded benefits to taxpayers during and after treatment worth about \$10,000, with the greatest share of benefit deriving from reductions in

the economic burden of crime. The measured benefit to taxpayers exceeded the cost of treatment by 6 to 1 for women with children who did not receive welfare and 2 to 1 for women with children who did receive welfare. Benefits were lower among women than men, and especially among women who were parents or received welfare, principally because women, especially those with children or receiving welfare initially committed less crime than men. Additional benefits could be expected from the reduction in dependency on government cash assistance. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

### **References**

Gerstein, Dean R., Robert A. Johnson, and Cindy L. Larson, *Alcohol and Other Drug Treatment for Parents and Welfare Recipients: Outcomes, Costs and Benefits*, U.S. Department of Health and Human Services. 1997.

## **V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

### **A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

### **B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

### **C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

## **VI. COMMENTS:**

This bill was introduced in the 1997 session and did not pass the Legislature. Pursuant to House Rule 96, the bill was carried over to the 1998 session.

The Fourth Amendment to the United States Constitution prohibits the government from illegal searches and seizures. The ultimate determination of a search's reasonableness requires the balancing of the intrusiveness of the search against its promotion of a legitimate government interest. The Department of Children and Families notes that the advantages to requiring recipients testing positive to enter treatment include the contribution of the intended outcome to return welfare recipients to work and identification of children who are at risk of abuse and neglect.

The Department of Children and Families also notes that the provisions of this bill will have a significant impact on families and the agency. The impact on families results from ensuring that parents or caretaker relatives are drug free while receiving public assistance. The impact on the agency results in referrals to local substance abuse programs. A specialized case management system would have to be implemented to assure coordination among substance abuse providers, Family Safety and Preservation staff, Economic Self-Sufficiency Services staff, district office staff and Department of Labor and Employment Security staff.

The following sections of the bill related to child support enforcement are considered somewhat problematic by the Department of Revenue.

Section 8 & 11: Allows the court to order payment of uncovered medical expenses to be made directly to the payee on a percentage basis. This creates an administrative problem in monitoring and enforcing orders in Title IV-D cases. If payments for these expenses are not processed through CSE, the program is limited in its ability to timely determine that payments are delinquent. Consequently, enforcement actions will also not be as timely. CSE may be facing problems with complying with federal time standards as a result of this provision.

The following statutory provisions may assist in limiting the number of cases in which payments are ordered payable directly to the payee and assist in the CSE program's ability to enforce the payments, although it would add a judicial action to establish the unpaid medical support prior to the enforcement.

- Section 61.13(1)(d)5., F.S., gives the IV-D agency, in IV-D cases, the same rights as an obligee in requesting payments be made through the depository.
- Section 409.2561(9), F.S., allows the IV-D agency, in cases in which support is subject to assignment, after providing notice to the parties, to direct the obligor or payor to change the payee to the appropriate depository.

Section 9:

- Exempts temporary orders from the requirement that an income deduction order be entered. Exclusion of temporary orders from the requirement for an income deduction to be ordered is in conflict with federal law. Federal law (42 U.S.C. 666(b)(3)(A)) requires that the income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, in Title IV-D cases, except if one party demonstrates, and the court finds, that there is good cause not to require immediate income withholding, or a written agreement is reached between both parties which provides for an alternative arrangement.
- Expands the grounds on which an obligor can contest the enforcement of the income deduction to include the identity of the payor, and the identity of the obligee. The CSE program is unsure how an obligor would contest that an income deduction notice has been issued to the wrong employer. The effect of this provision upon the use of this enforcement tool is unknown.

Section 11: Restricts the establishment of retroactive support to the period of 24 months preceding the filing of the petition. The CSE program is currently the program that establishes, enforces and collects child support for parents receiving public assistance

payments prior to a support order being established. This provision will limit the amount of money the CSE program can recover in some cases.

This provision also could be considered a reward for non-custodial parents who ignore their responsibility to support their children. By limiting retroactive support to 24 months preceding the filing of the petition, non-custodial parents who have fled or evaded service of process would not be responsible for the periods longer than 24 months.

Section 23: Removes references to retroactive support being calculated pursuant to the child support guidelines set forth in s. 61.30, F.S. Section 409.2561(1), F.S., as amended, requires the court in initial determinations on public or former public assistance cases to establish the liability of the obligor, if any, for reimbursement of public assistance moneys paid. The change could be construed to be in conflict with s. 61.30(17), F.S., which requires that in initial determinations of child support, the court may award child support retroactively, and requires the court to apply the guidelines in effect at the time of the hearing.

The establishment and enforcement of retroactive support which is not in accordance with the guidelines is not a federally reimbursable function for a Title IV-D agency. CSE is therefore anticipating the loss of federal reimbursement for these types of cases.

Section 24: Removes the department's ability to collect an administrative fine. Federal law (42 U.S.C. 666(c)) requires that states have a law giving the Title IV-D agency the authority to subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena, without the necessity of obtaining an order from any other judicial or administrative tribunal. The requirement that the IV-D agency has to obtain an order from a court to enforce the subpoenas is in direct conflict with federal law.

Section 41: The definition of "business day." Federal law (42 U.S.C. 654B) sets out the requirements for the State Disbursement Unit. The State Disbursement Unit is required to process child support collections within two business days of receipt. Section 42 U.S.C. 654B(c) defines a business day for this requirement as, "a day on which State offices are open for regular business." The definition contained s. 61.046, F.S., as amended, uses the term "legal holiday." Section 683.03, F.S., provides a list of twenty-one different legal holidays. State offices do not currently observe all legal holidays, as listed in the Florida Statutes. This could cause administrative problems, as well as possible noncompliance with federal law in the operation of the State Disbursement Unit.

01/23/97 H Prefiled

01/31/97 H Referred to Children & Family Empowerment (GSC); Health & Human Services Appropriations

03/04/97 H Introduced, referred to Children & Family Empowerment (GSC); Health & Human Services Appropriations -HJ 00063

03/11/97 H On Committee agenda-- Children & Family Empowerment (GSC), 03/17/97, 2:15 pm, 317C --Temporarily deferred

03/18/97 H On Committee agenda-- Children & Family Empowerment (GSC), 03/24/97, 1:00 pm, 317C

03/24/97 H Comm. Action: CS by Children & Family Empowerment (GSC) -HJ 00376

04/01/97 H CS read first time on 04/01/97 -HJ 00372

04/01/97 H Now in Health & Human Services Appropriations -HJ 00376



**STORAGE NAME:** h0271s2z.cfe

**DATE:** June 2, 1998

**PAGE 33**

04/07/97 H On Committee agenda-- Health & Human Services Appropriations, 04/11/97, 1:00 pm, 317C  
04/11/97 H Comm. Action:-CS/CS by Health & Human Services Appropriations -HJ 00596  
04/16/97 H CS read first time on 04/16/97 -HJ 00589  
04/17/97 H In Government Services Council, pending ranking -HJ 00596  
04/17/97 H Placed on Government Services Council Calendar -HJ 00657  
04/23/97 H Read second time -HJ 00679  
04/28/97 H Read third time -HJ 01085  
04/28/97 H Amendment(s) failed -HJ 01085  
04/28/97 H CS passed; YEAS 94 NAYS 21 -HJ 01086  
04/28/97 S In Messages  
04/29/97 S Received, referred to Commerce and Economic Opportunities; Children, Families and Seniors; Ways and Means -SJ 00938  
05/02/97 S Upon adjournment in Senate Commerce and Economic Opportunities, Carried over to 1998 Session pursuant to House Rule 96, Placed on House Consent Calendar  
03/03/98 H CARRIED OVER  
03/03/98 H Pending Consent Calendar  
03/04/98 H Objection filed  
03/05/98 H In Government Services Council, pending ranking  
03/10/98 H Placed on Government Services Council Calendar -HJ 00161  
03/17/98 H Read second time -HJ 00190  
03/17/98 H Amendment(s) adopted -HJ 00190  
03/31/98 H Read third time -HJ 00368  
03/31/98 H Amendment pending -HJ 00368  
03/31/98 H Pending amendment ruled not in order -HJ 00371  
03/31/98 H CS passed as amended; YEAS 82 NAYS 35 -HJ 00372  
04/01/98 S In Messages  
04/02/98 S Received, referred to Children, Families and Seniors; Commerce and Economic Opportunities; Ways and Means -SJ 00384  
04/29/98 S Withdrawn from Children, Families and Seniors; Commerce and Economic Opportunities; Ways and Means -SJ 01194  
04/29/98 S Substituted for CS/SB 2172 -SJ 01194  
04/29/98 S Read second time -SJ 01194  
04/29/98 S Amendment(s) adopted -SJ 01194  
04/30/98 S Read third time -SJ 01235  
04/30/98 S CS passed as amended; YEAS 39 NAYS 0 -SJ 01235  
04/30/98 H In returning messages  
04/30/98 H Amendment(s) to Senate amendment(s) adopted -HJ 02006  
04/30/98 H Concurred in Senate amendment(s) as amended -HJ 01987  
04/30/98 H CS passed as amended; YEAS 100 NAYS 17 -HJ 02006  
04/30/98 S In returning messages  
05/01/98 S Concurred -SJ 01650  
05/01/98 S CS passed as amended; YEAS 39 NAYS 0 -SJ 01650  
05/01/98 H Ordered engrossed, then enrolled -HJ 02400  
05/15/98 Signed by Officers and presented to Governor  
05/31/98 Became Law without Governor's Signature; Chapter No. 98-397

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

In 1997 the bill was amended in committee to change the process. The original bill provided for an initial screening of all applicants followed by additional random testing of participants. The terms screening and testing were not defined. The committee substitute limits testing to a random test of applicants. In addition, the committee substitute only allows the department to test when funds are available for treatment.

The bill was amended in the Senate to incorporate the Senate child support enforcement language cited above.

VIII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

Prepared by:

Legislative Research Director:

Bob Cox

Bob Barrios

**FINAL RESEARCH PREPARED BY COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:**

Prepared by:

Legislative Research Director:

ROBERT S. COX

ROBERT BARRIOS