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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILD & FAMILY SECURITY
ANALYSIS**

BILL #: HB 1869
RELATING TO: Child Support Enforcement
SPONSOR(S): Committee on Judicial Oversight and Representative(s) Crow

TIED BILL(S):

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

- (1) CHILD & FAMILY SECURITY WITHDRAWN
 - (2) COUNCIL FOR HEALTHY COMMUNITIES
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill amends the existing definition of "support order", creates a new definition of "support", and amends existing statutory references to child support to provide clarification of the Department of Revenue's ability to enforce spousal support under certain specified circumstances as required by federal law.

The bill allows genetic testing on the basis of a written declaration by the custodial parent as an alternative to the currently required notarized affidavit, provides two additional conditions requiring a family violence indicator to be placed on a child support case record, and clarifies provisions related to the cooperation requirement for food stamp recipients.

The bill defines the terms "unidentifiable collections" and "undistributable collections", provides a method for determining collections as unidentifiable or undistributable, and provides a method for processing both categories of collections. The bill also creates a method for retrieving payments that are later identified or if custodial or noncustodial parents are later located.

The bill provides for the adjustment of a child support obligation amount based on a particular shared parenting arrangement and specifies the procedure for determining the adjustment amount.

The bill requires judges reviewing workers' compensation claims to consider the interests of the worker and the worker's family when approving a settlement as well as requiring those settlements to consider and provide for appropriate recovery of past due support.

The bill provides for the creation of a pilot program for the establishment of support obligations in Title IV-D cases and delineates procedures to be followed in the implementation and operation of the pilot.

The bill provides for a case data analysis by OPPAGA to meet the requirements for the federally mandated 4 year child support guidelines review.

Except for specifically designated sections, the bill is effective upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain: The bill clarifies and strengthens certain provisions of the laws related to child support enforcement.

B. PRESENT SITUATION:

Collection of Spousal Support

Federal law [42 U.S.C.654] requires that the Title IV-D agency in each state provide services relating to the establishment of paternity, or the establishment, modification, or enforcement of child support obligations. Federal regulations [45 CFR 302.31] provide that this includes securing support for a spouse or former spouse who is living with the child or children, if a support obligation has been established for that spouse and the child support obligation is being enforced by the state's Title IV-D agency.

Federal regulations define the term "spousal support" as meaning a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support [54 CFR 301.1].

Federal law defines the term "support order" as meaning a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement ... [42 U.S.C. 653(p)].

Currently, a number of sections of Florida statutes provide the Department of Revenue, the state's Title IV-D agency, the authority to take enforcement action specifically for child support delinquencies. This language could be interpreted to limit the Department's ability to enforce appropriate past-due spousal support obligations as required by federal law.

Family Violence Indicator

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), or federal welfare reform, required states to establish and maintain a State Case Registry. The State Case Registry is required to contain federally mandated information on all cases handled by the Department of Revenue (Title IV-D cases) and on cases not handled by the Department (non-Title IV-D cases) in which the support order is established or modified in Florida on or after October 1, 1998. Information contained in the State Case Registry must be transmitted to the Federal Case

Registry, a national database accessed by other states for location information, for the limited purposes of establishing paternity, establishing, modifying, or enforcing child support obligations, or making or enforcing child custody or visitation orders. In order to protect location information in the State and Federal Case Registries when the safety of parties or children could be jeopardized by disclosure, states are required to have procedures for placement of family violence indicators on a case. The presence of such an indicator on a record would serve to protect location information in that record from disclosure to other states and authorized users of the information.

Currently, s. 61.1825(3), Florida Statutes, requires that a family violence indicator must be placed on a case at the State Case Registry when a party executes a sworn statement that they have reason to believe that the release of the information to the Federal Case Registry may result in physical or emotional harm to the party or the child. Federal law requires states to notify the Secretary of the U.S. Department of Health and Human Services if the state has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of location information could be harmful to the party or the child. A federal policy directive, dated September 17, 1998, provides that "at a minimum, a State has reasonable evidence of domestic violence or child abuse when a protective order has been entered or the State has reason to believe that the release of information about an adult or child may result in physical or emotional harm to such adult or child" [OCSE-AT-98-27].

Unidentifiable and Undistributable Collections

Currently, s. 409.2591, Florida Statutes, requires all collections received by the Department of Revenue which are **unidentifiable** as to the specific child support account against which they should be credited, to be held in a special fund. If these funds are still unidentifiable 90 days after receipt, they shall revert to General Revenue. Federal regulations provide that such collections deposited into General Revenue must be considered as program income and, as a result, an amount equal to the federal financial participation (66%) must be transferred to the federal government. Florida law does not provide for deposit of only the state portion of unidentifiable collections, it does not provide a method for determining when collections are to be considered unidentifiable, and it does not provide for retrieval of these monies if the collection is later identified.

When the Department receives a payment that it cannot distribute to the intended recipient, the payment is referred to as "**undistributable**". This happens most often when a party moves and does not notify the Department of the address change. Florida law does not specify how these monies are to be handled. The federal Office of Child Support Enforcement has stated that processing undistributable payments should be a matter of state law, but that if such collections are treated as unclaimed property or become property of the state, they are to be considered as program income and an amount equal to the federal financial participation (66%) must be transferred to the federal government. Florida law does not provide a method for determining when collections are to be considered undistributable, it does not provide for deposit of only the state portion of undistributable collections, it does not provide for returning an undistributable collection to the noncustodial parent, and it does not provide for retrieval of these monies if a parent is later located.

Worker's Compensation

Chapter 440, Florida Statutes, provides that it is the intent of the Legislature that the Worker's Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. The chapter also provides that workers' compensation benefits may be paid in either installments or, upon joint petition of all interested parties, a lump-sum settlement. Most states, including Florida, provide that workers' compensation benefits be

considered income for purposes of computing child support obligations [s. 61.30(2)(a)5., Florida Statutes]. Section 61.14(8), Florida Statutes, provides that, notwithstanding the provisions of s. 440.22, any compensation due or that may become due an employee under chapter 440 is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child or spousal support obligations.

There is currently no provision in Florida law for judges hearing compensation claims to consider or provide for the recovery of past due support amounts when approving settlements and they do not routinely do so.

Child Support Guidelines – Shared Parenting Adjustment

One of many variables considered in the child support guidelines of many states when determining the appropriate amount of child support is the type of shared parental responsibility arrangement ordered by the court. In situations where the parents are granted some form of shared parental responsibility, each parent is directly paying for a portion of the child's expenses. Each parent must pay what are usually referred to as "redundant costs". Redundant costs are those fixed expenses that both parents must pay including a bedroom for the child, furniture, toys, housing expenses and utilities. This does not mean, however, that for every dollar paid by the secondary residential parent, the expenses of the primary residential parent decrease by the same amount.

While most states agree that it is reasonable that there should be some adjustment to the amount of the child support obligation in cases of shared parental responsibility, it is difficult to determine just how much that adjustment should be and on what basis it should be determined. States are varied in their approach to awards that involve the issue of shared parental responsibility. In Florida it has long been argued that the child support guidelines do not adequately provide for cases in which the secondary residential parent spends a considerable amount of time with the child(ren). Neither does the Florida guidelines schedule inherently include a baseline for the amount of time the child(ren) spend with the secondary residential parent, that would be used to trigger consideration of an adjustment.

Prior to 1999, s. 61.30(11)(g), Florida Statutes, allowed the court to adjust the minimum award based on:

The particular shared parental arrangement, such as where the children spend a substantial amount of their time with the secondary residential parent thereby reducing the financial expenditures incurred by the primary residential parent, or the refusal of the secondary residential parent to become involved in the activities of the child, or giving due consideration to the primary residential parent's homemaking services. If a child has visitation with a noncustodial parent for more than 28 consecutive days the court may reduce the amount of support paid to the custodial parent during the time of visitation not to exceed 50 percent of the amount awarded.

In 1999, as a result of the passage of HB 145, s. 61.30, Florida Statutes, was amended to require the court to order a child support obligation that varies from the guideline amount in any case in which children are required by court order or mediation agreement to spend a substantial amount of time with each parent. The term "substantial amount of time" was not defined. The requirement for variation applies to any living arrangement, whether temporary or permanent. In those particular cases the court shall adjust any award of child support based on:

- M The amount of time each child will spend with each parent under a shared parental arrangement;
- M The needs of each child;
- M The direct and indirect financial expenses for each child;

- M The comparative income of each parent;
- M The station in life of each parent and each child;
- M The standard of living experienced by the entire family during the marriage; and
- M The financial status and ability of each parent.

Administrative Process

The federal Child Support Amendments of 1984 required that each state use expedited processes and procedures for the establishment and enforcement of child support orders, including those in interstate cases. Congress added paternity establishment in 1993. In order to comply with the expedited processes requirement, states must meet specific time frames for establishing paternity and establishing and enforcing support orders. Under the law, states could meet this requirement for expedited process in one of three ways and federal time frames and caseload backlogs pushed states into simplifying their processes in order to improve the timeliness of their child support system:

- M Some states implemented a full administrative process, authorizing the IV-D agency or separate administrative hearings agency to establish and enforce IV-D orders without judicial involvement;
- M Some states developed hybrid, or "quasi-judicial" processes in which a court-appointed master, referee or other court employee hears and decides child support issues; and
- M Some states retained the use of judicial procedures in which judges hear and decide cases in the traditional manner .

In a 1993 report to Congress, the U.S. Commission on Interstate Child Supported recommended that:

While recognizing the important role of the court in the establishment and enforcement of child support obligations, states are encouraged to simplify the IV-D child support process and make it more accessible by utilizing administrative procedures where possible. An important consideration in the decision would be the reduction in the workload of the court and reserving use of the court for those functions where a judicial officer is required.

The shift towards administrative process is closely tied to the automation of the child support program. The Family Support Act of 1988 (FSA) requires state IV-D agencies to develop automated systems with the capability of managing information and processing IV-D cases statewide. The deadline for certification of statewide systems was October 1997. One objective of the FSA certification standards was to increase state capacity to process cases administratively and automatically with limited caseworker intervention. Another objective was to greatly expand the amount of automated information available to state IV-D programs.

The Personal Responsibility and Work Opportunity Act of 1996 (PRWORA), or federal welfare reform, requires states to implement specific expedited and administrative procedures intended to expand the authority of the state child support agency and improve the efficiency of state child support programs. While the 1996 law did not mandate either full administrative process or state centralization, it moved states further in both directions. The new law specifically required the state IV-D agencies to handle several aspects of case processing without judicial involvement. In addition, the law required states to use a variety of administrative enforcement mechanisms that depend on automated case processing and move states further away from case-specific discretion.

Federal welfare reform set in motion two other major changes which emphasize the need for streamlined processes. First, new welfare time limits and eligibility restrictions implemented under

the newly created Temporary Assistance for Needy Families (TANF) block grant greatly increased the pressure on states to develop child support income streams for low-income families. It has been recognized that full administrative process may be the only realistic way for state IV-D agencies to meet the increased pressure to produce results. Second, a state IV-D program's ability to control and account for its caseload performance will become critical aspects of future federal performance-based funding and audit policies. Under the 1996 law, states must continuously improve their paternity establishment rate until they reach 90 percent, or face fiscal penalty. In addition, Congress directed the Secretary of Health and Human Services (HHS) to develop a performance-based incentive funding proposal and submit it to Congress by March 1997.

At the same time, the fiscal implications of maintaining existing judicial and quasi-judicial systems should lead states to reconsider their processes for establishing paternity and support obligations. While states can receive 66 percent federal reimbursement for the costs of administrative processes handled by the IV-D agency, federal reimbursement for judicial processes is limited. For example, federal reimbursement is not available to compensate judges and other court personnel, or to pay for office-related expenses. Federal welfare reform presented an opportunity for each state to assess the current structure of its IV-D program and determine whether its program structure allows child support workers to process IV-D cases quickly, cost-effectively, and fairly.

In general, administrative processes are thought to be more efficient than judicial processes, and child support experts believe they result in better performance. In addition, administrative processes work extremely well with the new automated systems. The primary caution about the use of administrative process comes from the concern that due process will be compromised.

In the last five years, there has been a push at the federal level to increase the use of administrative processes in the area of child support enforcement. The Florida Legislature has enacted an administrative process to establish paternity through the use of voluntary acknowledgments and consenting affidavits. These processes have resulted in the administrative establishment of paternity for 50,304 children during calendar year 2000 as reported by the Office of Vital Statistics.

Other administrative remedies focus on the area of enforcement of unpaid support including the suspension of driver's licenses, levies against bank accounts, IRS and lottery intercepts, liens on real and personal property, judgments by operation of law and income deductions. These methods have proven effective in collecting support efficiently without the necessity of additional judicial action.

C. EFFECT OF PROPOSED CHANGES:

Collection of Spousal Support

The bill amends the current definition of the term "support order" and creates a new definition for the term "support" in chapter 61, Florida Statutes, amends the definition of the term "support" in chapter 409, Florida Statutes, and amends existing references to "child support" to clarify that the Department of Revenue has the authority to enforce spousal support as required by federal law.

Family Violence Indicator

The bill amends s. 61.1825, Florida Statutes, to provide that a domestic violence indicator must be placed on a case when a temporary or final injunction for protection against domestic violence or repeat violence has been granted by a Florida court or by a court from another state or when the Domestic and Repeat Violence Injunction Statewide Verification System indicates that a party has been granted a domestic violence or repeat violence injunction. The addition of these two

conditions for determining when a family violence indicator must be added offers more immediate protection for victims, since they would not have to take the extra step to issue a sworn statement if there was an injunction.

Unidentifiable and Undistributable Collections

The bill creates a definition for the term “**unidentifiable collection**”, requires the Department to establish by rule a method for determining a payment to be unidentifiable, allows the Department to pay the federal share of a collection to the federal government and transfer only the state share to General Revenue, and creates a process for retrieving payments if those payments are later identified.

The bill creates a definition for the term “**undistributable collection**”, requires the Department to establish by rule a method for determining a payment to be undistributable, creates a process for handling such payments, allows the Department to pay the federal share of a collection to the federal government and transfer only the state share to General Revenue, and creates a process for retrieving payments if one of the parents is located or comes forward. It also provides authority to return collections to noncustodial parents when appropriate.

Worker’s Compensation

The bill amends chapter 61, Florida Statutes, to clarify that all workers’ compensation benefits and settlements are to be considered income for purposes of child support obligation computation and to require judges reviewing lump-sum settlements pursuant to chapter 440, Florida Statutes, to consider the interests of the worker and the worker’s family when approving a settlement. The settlement must also consider and provide for appropriate recovery of any past due support.

The bill also amends chapter 440, Florida Statutes, to conform to the provisions of s. 61.14, Florida Statutes.

Child Support Guidelines – Shared Parenting Adjustment

The bill amends s. 61.30, Florida Statutes, to require that the court may adjust the child support obligation or either or both parents’ share of the obligation where there is a particular shared parenting arrangement, such as where the child spends a significant amount of time, but less than 40% of the overnights with the noncustodial parent or in cases where the noncustodial parent refuses to become involved in the activities of the child. A formula for calculating the amount of the adjustment is provided and the term “substantial amount of time” is defined.

Administrative Process

The bill provides for the establishment of a pilot program by the Department of Revenue and the Division of Administrative Hearings on July 1, 2001, or as soon thereafter as practicable. Procedures and assumptions for the establishment and operation of the pilot are provided and include the following:

Jurisdiction

M The pilot will not limit the jurisdiction of the courts in child support matters, but would provide an alternative process for establishing child support orders in Department of Revenue (DOR) Title IV-D cases where no order has been established. The Department of Revenue would have no authority to act in non-Title IV-D cases.

M The process created in the pilot would apply only to the establishment of child support obligations and would not apply to issues of dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, disputed paternity, or custody or visitation issues.

M Paternity must have been established, or be legally presumed due to marriage of noncustodial parent and custodial parent for the department to be able to establish a child support obligation.

M Noncustodial parent must be a Florida resident or subject to long-arm jurisdiction as provided under current law (chapters 48 and 88, Florida Statutes).

M Either parent or caretaker relative may file an action with the court at any time in order to establish an obligation for support. A support order issued by a court shall prospectively supersede an administrative support order rendered by the department.

Notice

M The department would provide notice of the proceeding to establish support to the noncustodial parent and provide a blank financial affidavit. The notice must contain specified information, including the information that the department will calculate the support obligation, that the department will send a copy of the proposed administrative support order to both parents, that the noncustodial parent may request a hearing with the department, and that either parent or relative caretaker may file with the court to determine the child support obligation.

M Notice would be served by certified mail, return receipt requested, by the department, or as permitted in civil actions.

Proposed Administrative Support Order

M The department shall provide to the parties copies of the proposed support obligation, the completed worksheets and any financial affidavits submitted by any party or prepared by the department.

M The department shall also provide to the parties notice of their right to request a hearing, that if a timely request is received a hearing will be schedule with DOAH, and if a timely request is not received an order will be entered.

M The department would enforce administrative support order in same manner as a court order of support.

M The department has the authority to prepare an amended order if it receives additional information between the time the proposed order is served but before the final order is rendered, if such information makes amendment necessary.

Administrative Support Order

M The department in consultation with DOAH shall develop a standard form or forms for administrative support orders which shall include certain specified information.

M Either the department (if no hearing is requested or the parties consent) or DOAH (if a hearing is requested) will enter an administrative support order.

M The order will be sent by regular mail to the parties and the noncustodial parent will be notified of his or her right to judicial review.

M An income deduction order with either be incorporated into the support order or rendered separately.

Judicial review

M The noncustodial parent could appeal administrative support order in court.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 24.115, Florida Statutes, related to the payment of lottery prizes, to clarify that while the Department of Revenue currently must identify to the Department of the Lottery any person owing court ordered child support that this identification requirement includes persons owing spousal support or alimony for the spouse or former spouse if the child support obligation is being enforced by the Department of Revenue.

Section 2. Amends s. 61.046, Florida Statutes, to create a new definition of the term “support”. “Support” means child support only in cases not being enforced by the Department of Revenue and includes both child support and spousal support when the case is being enforced by the department and the spousal support is for a spouse or former spouse with whom the child is living. The section also amends the definition of the term “support order”, to include judgments, decrees or orders for spousal support under certain circumstances.

Section 3. Amends s. 61.11, Florida Statutes, relating to writs, to clarify that requirements for writs of bodily attachment apply to the newly created definition of “support” and include spousal support orders under certain circumstances.

Section 4. Amends s. 61.13, Florida Statutes, related to the custody and support of children, to clarify that parties required to file and update identifying and location information with the court or State Case Registry include parties in all support proceedings, not just those in child support proceedings.

Section 5. Amends s. 61.1301, Florida Statutes, relating to income deduction orders, to provide whenever a court enters a temporary order establishing support or a temporary order enforcing or modifying a temporary order of support, it may also enter a separate order of income deduction. The section also provides that the court should request at the time of the order that the payment cycle reflects that of the payor.

Section 6. Amends s. 61.13015, Florida Statutes, relating to the suspension or denial of professional licenses, to clarify that the right of an obligee to petition for the suspension or denial of a professional license applies to delinquent support obligations, not just delinquent child support obligations.

Section 7. Amends s. 61.13016, Florida Statutes, to clarify that enforcement action related to the suspension of driver’s licenses and motor vehicle registrations applies to spousal support obligations under some circumstances and is not necessarily limited to child support obligations.

Section 8. Amends s. 61.13017, Florida Statutes, to clarify that requirements related to withholding motor vehicle impact fee refunds apply to spousal support obligations under some circumstances and are not necessarily limited to child support obligations.

Section 9. Amends s. 61.1354, Florida Statutes, to require the Department of Revenue to provide written notice to a noncustodial parent at least 15 days prior to the initial release of information to consumer reporting agencies, and to specify that no further notice is required for periodic updates.

Section 10. Amends s. 61.14, Florida Statutes, to require that provisions related to a judgment by operation of law include delinquent support payments that are ordered to be paid to the State Disbursement Unit. The section also clarifies that this includes judgments for spousal support under certain circumstances.

Section 11. Amends s. 61.14, Florida Statutes, to require all judges hearing worker's compensation claims to consider the interests of the worker and the worker's family when approving the settlement. The settlement must consider and provide for appropriate recovery of any past due support. The section also provides that under certain circumstances the court may modify an order of support, maintenance, or alimony retroactive to the date of filing the action as equity requires. The section has an effective date of July 1, 2001.

Section 12. Amends s. 61.181, Florida Statutes, to broaden the catchline to conform to the newly created definition of "support".

Section 13. Amends s. 61.1824, Florida Statutes, to clarify that collections and disbursements handled by the State Disbursement Unit include support payments other than just child support payments.

Section 14. Amends s. 61.1825, Florida Statutes, to provide two additional circumstances when a domestic violence indicator must be placed on a child support record at the State Case Registry. An indicator must be placed when an injunction for protection against domestic violence or repeat violence has been issued or when the Department of Revenue has received information from the Domestic Violence and Repeat Violence Injunction Statewide Verification System that an injunction has been granted. The section has an effective date of October 1, 2001.

Section 15. Amends s. 61.30, Florida Statutes, to clarify that all worker's compensation benefits and settlements are to be considered income for the purposes of computing child support obligations. The section also provides that the court may adjust the child support obligation from the guideline amount based on the particular shared parenting arrangement agreed to. The section provides a formula for calculating any adjustment and provides that if an adjustment was made and the parenting arrangement agreed to is not honored by a noncustodial parent, then a modification is appropriate. The section has an effective date of July 1, 2001.

Section 16. Amends s. 69.041, Florida Statutes, to clarify that mortgage foreclosure actions in which the Department of Revenue participates in the disbursement of funds, are not limited to child support orders, but include judgments for spousal support for a spouse or former spouse of an obligor with whom the child is living when the case is being enforced by the Department of Revenue.

Section 17. Amends s. 120.80, Florida Statutes, to provide for proceedings for administrative child support orders.

Section 18. Amends s. 213.053, Florida Statutes, to clarify that cases in which the Department of Revenue may disclose confidential taxpayer information to the child support enforcement program for the purpose of locating parents who owe or potentially owe support or to the Department of Children and Family Services for diligent search activities are not limited to child support obligations, but include spousal support under the definition of support.

Section 19. Amends s. 231.097, Florida Statutes, to clarify that the Department of Education shall allow the Department of Revenue to screen applications for new or renewing teaching certificates for the existence of support obligations which could include spousal support under certain circumstances.

Section 20. Amends s. 320.05, Florida Statutes, to clarify that motor vehicle and mobile home registration applications shall be made available to the Department of Revenue to assist in the location of individuals who owe or potentially owe support, which could include spousal support under certain circumstances.

Section 21. Amends s. 322.058, Florida Statutes, to conform to s. 61.13016, Florida Statutes, which allows for the suspension of a driver's license or motor vehicle registration not only for a delinquent child support obligation, but also for failure to comply (or subsequent compliance with) with a subpoena, order to appear, order to show cause, or similar order. The section also provides for subsequent reinstatement of a license or registration if the person complies with a subpoena, order to appear, order to show cause or similar order. The section has an effective date of July 1, 2001.

Section 22. Amends s. 322.142, Florida Statutes, relating to color photographic or digital imaged driver's licenses, to permit the release of files or digital records of driver's licenses to the Department of Revenue for use in service of process in Title IV-D cases. The section has an effective date of October 1, 2001.

Section 23. Amends s. 328.42, Florida Statutes, to clarify that applicants for new or renewal vessel registrations are to be screened by the Department of Revenue in child support cases and spousal support cases if certain criteria are met.

Section 24. Amends s. 409.2554, Florida Statutes, to amend the definition of the term "support" to conform it to the newly amended definition in s. 61.046, Florida Statutes. The section also clarifies that for purposes of child support enforcement only food stamps received on behalf of a child under 18 years of age who has an absent parent would be included in the definition of public assistance as used in ss. 409.2551-409.2598, Florida Statutes.

Section 25. Amends s. 409.2554, Florida Statutes, to create definitions for the terms "undistributable collection" and "unidentifiable collection". The section has an effective date of October 1, 2001.

Section 26. Amends s. 409.2557, Florida Statutes, to clarify the Department of Revenue's rulemaking authority related to implementing laws administered by the department related to the enforcement of spousal support under certain circumstances.

Section 27. Amends s. 409.25575, Florida Statutes, to clarify that privatization efforts by the Department of Revenue shall apply to enforcement services and activities for child support and spousal support under certain circumstances.

Section 28. Amends s. 409.2558, Florida Statutes, to create a method for classifying collections as undistributable and a method for processing those collections. The section also provides a method for retrieving those collections from General Revenue and the federal government if the parties are later identified. The section also creates a method for classifying collections as unidentifiable, provides for crediting these monies to the federal government and state general revenue, and creates a method for retrieving these collections from General Revenue and the federal government. The section has an effective date of October 1, 2001.

Section 29. Amends s. 409.2561, Florida Statutes, to clarify that only the receipt of Temporary Assistance for Needy Families (TANF) or Title IV-E (foster care) benefits result in an assignment of child support for the purposes of identifying support monies that can be retained by the state for reimbursement of unreimbursed public assistance.

Section 30. Creates s. 409.2563, Florida Statutes, to create a pilot program for the administrative establishment of support obligations in Title IV-D cases, and creates the process and procedures to be followed in the implementation and operation of such pilot.

Section 31. Amends s. 409.2564, Florida Statutes, relating to actions for support, to clarify when those actions apply only to child support and when they apply to spousal support.

Section 32. Amends s. 409.25645, Florida Statutes, to authorize the Department of Revenue to issue an administrative order for genetic testing in paternity establishment proceedings based upon a written declaration as provided in s. 92.525, Florida Statutes, in addition to the currently allowed affidavit. This would allow genetic testing to proceed without the need for a notarized statement. The section has an effective date of July 1, 2001.

Section 33. Amends s. 409.2565, Florida Statutes, relating to publication of delinquent obligors, to clarify that publication of cases involving overdue support obligations extends to overdue spousal support cases.

Section 34. Amends s. 409.25656, Florida Statutes, to include spousal support cases under the garnishment requirements.

Section 35. Amends s. 409.25656, Florida Statutes, to provide that an obligor may contest the Department's notice of intent to levy by filing an action in the existing circuit court case. The section has an effective date of July 1, 2001.

Section 36. Amends s. 409.25657, Florida Statutes, relating to financial institutions, to clarify that financial records obtained pursuant to this section may be disclosed for the purpose of establishing, modifying, or enforcing obligations in spousal support cases as well as child support cases.

Section 37. Amends s. 409.2567, Florida Statutes, to clarify that all services provided by the Department of Revenue are not restricted to just child support, but encompass spousal support as well.

Section 38. Amends. s. 409.2572, Florida Statutes, relating to cooperation, to clarify the responsibilities of the Department of Revenue for determining if a custodial parent receiving public assistance and who is required to cooperate with the department is in fact cooperating with the Child Support Enforcement Program.

Section 39. Amends s. 409.2578, Florida Statutes, to clarify that the Department of Revenue has access to employment information from employers when establishing a child support order or enforcing support obligation, including spousal support obligations under certain circumstances.

Section 40. Amends s. 409.2579, Florida Statutes, to clarify that the confidentiality of information contained in Title IV-D case files extends to cases related to spousal support.

Section 41. Repeals s. 409.2591, Florida Statutes, related to unidentifiable monies held in a special account.

Section 42. Amends s. 409.2594, Florida Statutes, to clarify that records required to be kept by the Department of Revenue necessary to evaluate the effective of the child support enforcement program extend to the collection of spousal support under certain circumstances as well as child support.

Section 43. Amends s. 409.2598, Florida Statutes, to clarify that the provisions related to the suspension or denial of licenses, certificates, or registrations issued under certain specified chapters of the Florida Statutes apply to spousal support cases as well as child support cases.

Section 44. Amends s. 414.065, Florida Statutes, to clarify that participation in work activities may be ordered by the court in instances involving spousal support under certain circumstances.

Section 45. Amends s. 414.095, Florida Statutes, to clarify that the assignment of rights to support applies to spousal support cases under certain circumstances.

Section 46. Amends s. 414.32, Florida Statutes, to require the agency responsible for administering the food stamp program rather than the child support enforcement program to determine good cause for a noncustodial parent receiving food stamps to not cooperate with the Child Support Enforcement Program.

Section 47. Amends s. 440.20, Florida Statutes, to require judges in worker's compensation hearings to consider both the worker's and the worker's family when approving a settlement. Additionally, any settlement must consider and provide for appropriate recovery of past due support. The section has an effective date of July 1, 2001.

Section 48. Amends s. 440.22, Florida Statutes, to provide that the exemption of worker's compensation claims from creditors does not extend to claims based on an award of child support or spousal support. The section has an effective date of July 1, 2001.

Section 49. Amends s. 443.051, Florida Statutes, to clarify that support obligations to be withheld from unemployment compensation benefits include spousal support obligations under certain circumstances.

Section 50. Amends s. 455.203, Florida Statutes, to clarify that requirements for applicants for new or renewal licenses and current licensees for business and professional licenses regulated under the Department of Business and Professional Regulation to be screened by the child support enforcement program to assure compliance with support obligations apply to orders for spousal support under certain circumstances.

Section 51. Amends s. 456.004, Florida Statutes, to clarify that procedures related to applicants for new or renewal of health professional or occupational licenses apply to orders for spousal support under certain circumstances.

Section 52. Amends s. 559.79, Florida Statutes, to clarify that procedures related to the application for new or renewal of licenses issued by the Department of Business and Professional Regulation apply to orders for spousal support under certain circumstances.

Section 53. Amends s. 742.12, Florida Statutes, to authorize the Department of Revenue to issue an administrative order for genetic testing in paternity establishment proceedings based upon a written declaration as provided in s. 92.525, Florida Statutes, in addition to the currently allowed affidavit. The section has an effective date of July 1, 2001.

Section 54. Amends s. 943.053, Florida Statutes, to clarify that the Department of Law Enforcement shall provide to the child support enforcement program access to criminal records for purposes of locating persons with spousal support obligations under certain circumstances.

Section 55. Provides for the Office of Program and Policy Analysis and Government Accountability, in consultation with the substantive legislative committee, to conduct a child support case data analysis to comply with the federally mandated 4 year child support guidelines review and issue a report.

Section 56. Provides for an effective date upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

There will be a cost to the Department of Revenue to access records from the Department of Highway Safety and Motor Vehicles which the Department of Revenue estimates they can cover within existing resources. The administrative pilot can be funded within existing resources.

IV. 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:

The bill will not reduce the authority of municipalities and counties to raise revenues.

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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The primary caution about the use of administrative process comes from the concern that due process will be compromised. The provisions of the pilot would more than meet minimum requirements for due process of law:

M Adequate prior notice; right to hearing; right to judicial review.

M Much more notice provided to noncustodial parent than in circuit court action.

M Proposed order showing guidelines calculations provided well in advance of any hearing.

M Opt-out provision - any party may file in circuit court at any time to seek a court order

Additionally, other states have used similar administrative processes successfully for decades. Federal law requires states give Full Faith and Credit to administrative support orders and Florida has been enforcing administrative orders issued by other states for years.

B. RULE-MAKING AUTHORITY:

The bill clarifies the Department's ability to adopt rules to include the enforcement of spousal support orders under certain circumstances.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Staff Director:

Bob Barrios

Bob Barrios