

By Senator Peadar

1-1041A-02

1 A bill to be entitled
 2 An act relating to the determination and
 3 enforcement of obligations for child support;
 4 amending s. 61.046, F.S.; defining the term
 5 "national medical support notice"; amending s.
 6 61.13, F.S.; requiring that the court issue an
 7 order for health care coverage for a minor
 8 child in a proceeding for dissolution of
 9 marriage rather than an order for health
 10 insurance; providing for enforcement of such an
 11 order through use of the national medical
 12 support notice; requiring the Department of
 13 Revenue to notify the obligor of withholding
 14 premium payments under the notice; providing a
 15 procedure under which the obligor may contest
 16 the withholding; providing procedures for
 17 enrolling a child in a group health plan;
 18 providing certain limitations on the amount of
 19 withholding allowed under a support order;
 20 amending ss. 61.14, 61.30, F.S.; requiring that
 21 the Department of Revenue seek modification of
 22 certain awards of child support; requiring that
 23 such modification be made without proof or
 24 showing of a change in circumstances; amending
 25 s. 409.25656, F.S.; providing a procedure for
 26 liquidating securities that are levied to
 27 satisfy an obligation for past due or overdue
 28 support; amending s. 409.25658, F.S.; providing
 29 for the use of unclaimed property to satisfy an
 30 obligation for past due support; amending s.
 31 409.2576, F.S.; requiring that the Department

1 of Revenue transmit a national medical support
2 notice to an employee's employer under certain
3 circumstances; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Effective July 1, 2002, present subsections
8 (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19)
9 of section 61.046, Florida Statutes, are redesignated as
10 subsections (11), (12), (13), (14), (15), (16), (17), (18),
11 (19), and (20), respectively, and a new subsection (10) is
12 added to that section to read:

13 61.046 Definitions.--As used in this chapter:

14 (10) "National medical support notice" means the
15 notice required under 42 U.S.C. s. 666(a)(19).

16 Section 2. Effective July 1, 2002, paragraph (b) of
17 subsection (1) of section 61.13, Florida Statutes, is amended
18 to read:

19 61.13 Custody and support of children; visitation
20 rights; power of court in making orders.--

21 (1)

22 (b) Each order for ~~child~~ support shall contain a
23 provision for health care coverage ~~insurance~~ for the minor
24 child when the coverage ~~insurance~~ is reasonably available.
25 Coverage ~~insurance~~ is reasonably available if either the
26 obligor or obligee has access at a reasonable rate to a group
27 health plan ~~group insurance~~. The court may require the
28 obligor either to provide health care ~~insurance~~ coverage or to
29 reimburse the obligee for the cost of health care ~~insurance~~
30 coverage for the minor child when coverage is provided by the
31 obligee. In either event, the court shall apportion the cost

1 of coverage, and any noncovered medical, dental, and
2 prescription medication expenses of the child, to both parties
3 by adding the cost to the basic obligation determined pursuant
4 to s. 61.30(6). The court may order that payment of uncovered
5 medical, dental, and prescription medication expenses of the
6 minor child be made directly to the obligee ~~payee~~ on a
7 percentage basis.

8 1. In a non-Title IV-D case, a copy of the court order
9 for health care insurance coverage shall be served on the
10 obligor's ~~payor or union or employer~~ by the obligee ~~or the~~
11 ~~IV-D agency~~ when the following conditions are met:

12 a. The obligor fails to provide written proof to the
13 obligee ~~or the IV-D agency~~ within 30 days after ~~of~~ receiving
14 effective notice of the court order, that the health care
15 coverage insurance has been obtained or that application for
16 coverage insurability has been made;

17 b. The obligee ~~or IV-D agency~~ serves written notice of
18 ~~its~~ intent to enforce an order for health care coverage
19 ~~medical support~~ on the obligor by mail at the obligor's last
20 known address; and

21 c. The obligor fails within 15 days after the mailing
22 of the notice to provide written proof to the obligee ~~or the~~
23 ~~IV-D agency~~ that the health care insurance coverage existed as
24 of the date of mailing.

25 2.a. A support order enforced under Title IV-D of the
26 Social Security Act which requires that the obligor provide
27 health care coverage is enforceable by the department through
28 the use of the national medical support notice and an
29 amendment to the support order is not required. The department
30 shall transfer the national medical support notice to the
31 obligor's union or employer. The department shall notify the

1 obligor in writing that the notice has been sent to the
2 obligor's union or employer and the written notification must
3 include the obligor's rights and duties under the national
4 medical support notice. The obligor may contest the
5 withholding required by the national medical support notice
6 based on a mistake of fact. To contest the withholding, the
7 obligor must file a written notice of contest with the
8 department within 15 business days after the date the obligor
9 receives written notification of the national medical support
10 notice from the department. Filing with the department is
11 complete when the notice is received by the person designated
12 by the department in the written notification. The notice of
13 contest must be in the form prescribed by the department. Upon
14 the timely filing of a notice of contest, the department
15 shall, within 5 business days, schedule an informal conference
16 with the obligor to discuss the obligor's factual dispute. If
17 the informal conference resolves the dispute to the obligor's
18 satisfaction or if the obligor fails to attend the informal
19 conference, the notice of contest is deemed withdrawn. If the
20 informal conference does not resolve the dispute, the obligor
21 may request an administrative hearing under chapter 120 within
22 5 business days after the termination of the informal
23 conference, in a form and manner prescribed by the department.
24 However, the filing of a notice of contest by the obligor does
25 not delay the withholding of premium payments by the union,
26 employer, or health plan administrator. The union, employer,
27 or health plan administrator must implement the withholding as
28 directed by the national medical support notice unless
29 notified by the department that the national medical support
30 notice is terminated.
31

1 b. In a Title IV-D case, the department shall notify
2 an obligor's union or employer if the obligation to provide
3 health care coverage through that union or employer is
4 terminated.~~In cases in which the noncustodial parent provides~~
5 ~~health care coverage and the noncustodial parent changes~~
6 ~~employment and the new employer provides health care coverage,~~
7 ~~the IV-D agency shall transfer notice of the provision to the~~
8 ~~employer, which notice shall operate to enroll the child in~~
9 ~~the noncustodial parent's health plan, unless the noncustodial~~
10 ~~parent contests the notice. Notice to enforce medical~~
11 ~~coverage under this section shall be served by the IV-D agency~~
12 ~~upon the obligor by mail at the obligor's last known address.~~
13 ~~The obligor shall have 15 days from the date of mailing of the~~
14 ~~notice to contest the notice with the IV-D agency.~~

15 3. In a non-Title IV-D case, upon receipt of the order
16 pursuant to subparagraph 1. or the notice pursuant to
17 subparagraph 2., or upon application of the obligor pursuant
18 to the order, the payor, union, or employer shall enroll the
19 minor child as a beneficiary in the group health insurance
20 plan regardless of any restrictions on the enrollment period
21 and withhold any required premium from the obligor's income.
22 If more than one plan is offered by the payor, union, or
23 employer, the child shall be enrolled in the group health
24 insurance plan in which the obligor is enrolled.

25 4.a. Upon receipt of the national medical support
26 notice under subparagraph 2. in a Title IV-D case, the union
27 or employer shall transfer the notice to the appropriate group
28 health plan administrator within 20 business days after the
29 date on the notice. The plan administrator must enroll the
30 child as a beneficiary in the group health plan regardless of
31 any restrictions on the enrollment period, and the union or

1 employer must withhold any required premium from the obligor's
2 income upon notification by the plan administrator that the
3 child is enrolled. The child shall be enrolled in the group
4 health plan in which the obligor is enrolled. If the group
5 health plan in which the obligor is enrolled is not available
6 where the child resides or if the obligor is not enrolled in
7 group coverage, the child shall be enrolled in the lowest cost
8 group health plan that is available where the child resides.

9 b. If health care coverage or the obligor's employment
10 is terminated in a Title IV-D case, the union or employer that
11 is withholding premiums for health care coverage under a
12 national medical support notice must notify the department
13 within 20 days after the termination and provide the obligor's
14 last known address and the name and address of the obligor's
15 new employer, if known.

16 5.a. The amount withheld by a union or employer in
17 compliance with a support order may not exceed the amount
18 allowed under s. 303(b) of the Consumer Credit Protection Act,
19 15 U.S.C. s. 1673(b), as amended. The union or employer shall
20 withhold the maximum allowed by the Consumer Credit Protection
21 Act in the following order:

22 (I) Current support, as ordered.

23 (II) Premium payments for health care coverage, as
24 ordered.

25 (III) Past due support, as ordered.

26 (IV) Other medical support or coverage, as ordered.

27 b. If the combined amount to be withheld for current
28 support plus the premium payment for health care coverage
29 exceed the amount allowed under the Consumer Credit Protection
30 Act, and the health care coverage cannot be obtained unless
31 the full amount of the premium is paid, the union or employer

1 may not withhold the premium payment. However, the union or
2 employer shall withhold the maximum allowed in the following
3 order:

4 (I) Current support, as ordered.

5 (II) Past due support, as ordered.

6 (III) Other medical support or coverage, as ordered.

7 ~~6.4.~~ The Department of Revenue ~~may shall have the~~
8 ~~authority to~~ adopt rules to administer ~~implement~~ the child
9 support enforcement provisions of this section which affect
10 Title IV-D cases.

11 Section 3. Paragraph (b) of subsection (1) of section
12 61.14, Florida Statutes, is amended to read:

13 61.14 Enforcement and modification of support,
14 maintenance, or alimony agreements or orders.--

15 (1)

16 (b) For each support order reviewed by the department
17 as required by s. 409.2564(12), if the amount of the child
18 support award under the order differs by at least 10 percent
19 but not less than \$25 from the amount that would be awarded
20 under s. 61.30, the department shall seek to have the order
21 modified and any modification shall be made without a
22 requirement for proof or showing of a change in circumstances.
23 ~~In Title IV-D cases reviewed pursuant to the 3-year review and~~
24 ~~adjustment cycle, no substantial change of circumstance need~~
25 ~~be proven to warrant a modification.~~

26 Section 4. Paragraph (c) of subsection (1) of section
27 61.30, Florida Statutes, is amended to read:

28 61.30 Child support guidelines; retroactive child
29 support.--

30 (1)

31

1 (c) For each support order reviewed by the department
2 as required by s. 409.2564(12), if the amount of the child
3 support award under the order differs by at least 10 percent
4 but not less than \$25 from the amount that would be awarded
5 under s. 61.30, the department shall seek to have the order
6 modified and any modification shall be made without a
7 requirement for proof or showing of a change in circumstances.
8 ~~In Title IV-D cases reviewed pursuant to the 3-year review and~~
9 ~~adjustment cycle, no change of circumstance need be proven to~~
10 ~~warrant a modification.~~

11 Section 5. Effective July 1, 2002, subsection (3) of
12 section 409.25656, Florida Statutes, is amended to read:

13 409.25656 Garnishment.--

14 (3) During the last 30 days of the 60-day period set
15 forth in subsection (1), the executive director or his or her
16 designee may levy upon such credits, personal property, or
17 debts. The levy must be accomplished by delivery of a notice
18 of levy by registered mail, upon receipt of which the person
19 possessing the credits, other personal property, or debts
20 shall transfer them to the department or pay to the department
21 the amount owed by to the obligor. If the department levies
22 upon securities and the value of the securities is less than
23 the total amount of past due or overdue support, the person
24 who possesses or controls the securities shall liquidate the
25 securities in a commercially reasonable manner. After
26 liquidation, the person shall transfer to the department the
27 proceeds, less any applicable commissions or fees, or both,
28 which are charged in the normal course of business. If the
29 value of the securities exceeds the total amount of past due
30 or overdue support, the obligor may, within 7 days after
31 receipt of the department's notice of levy, instruct the

1 person who possesses or controls the securities which
2 securities are to be sold to satisfy the obligation for past
3 due or overdue support. If the obligor does not provide
4 instructions for liquidation, the person who possesses or
5 controls the securities shall liquidate the securities in a
6 commercially reasonable manner and in an amount sufficient to
7 cover the obligation for past due or overdue support, less any
8 applicable commissions or fees, or both, which are charged in
9 the normal course of business, beginning with the securities
10 purchased most recently. After liquidation, the person who
11 possesses or controls the securities shall transfer to the
12 department the total amount of past due or overdue support.

13 Section 6. Subsections (1) and (2) of section
14 409.25658, Florida Statutes, are amended to read:

15 409.25658 Use of unclaimed property for past due
16 support.--

17 (1) In a joint effort to facilitate the collection and
18 payment of past due support, the Department of Revenue, in
19 cooperation with the Department of Banking and Finance, shall
20 identify persons owing support collected through a court who
21 are presumed to have unclaimed ~~abandoned~~ property held by the
22 Department of Banking and Finance.

23 (2) The department shall periodically provide the
24 Department of Banking and Finance with an electronic file of
25 support obligors who owe past due support. The Department of
26 Banking and Finance shall conduct a data match of the file
27 against all apparent owners of unclaimed ~~abandoned~~ property
28 under chapter 717 and provide the resulting match list to the
29 department.

30 Section 7. Effective July 1, 2002, subsection (7) of
31 section 409.2576, Florida Statutes, is amended to read:

