

By Senator Crist

12-1214-04

1 A bill to be entitled
2 An act relating to the costs of juvenile
3 supervision and detention; amending ss.
4 985.215, 985.231, and 985.233, F.S.;
5 authorizing the court to order the parent or
6 guardian of a child taken into custody by, or
7 placed under the supervision of, the Department
8 of Juvenile Justice to pay for the cost of
9 supervision or detention; creating s. 985.2311,
10 F.S.; specifying the daily fees for supervising
11 and caring for a child; requiring the court to
12 determine whether payment of the fees will
13 create a financial hardship for the parent or
14 guardian of a child; requiring the court to
15 reduce or waive the fees upon a finding of
16 indigency and significant financial hardship;
17 providing for a presumption requiring the
18 payment of fees if the court fails to enter an
19 order; requiring that the order be directed to
20 the child or guardianship estate under certain
21 circumstances; requiring that the department
22 seek a federal waiver and garnish payment of a
23 portion of public assistance if the parent or
24 guardian of the child receives public
25 assistance; requiring that payment be made to
26 the clerk of the circuit court; providing for
27 the clerk to retain a portion of the payment to
28 cover administrative costs; providing for
29 deposit of the fees into the Grants and
30 Donations Trust Fund; requiring the parent or
31 guardian to provide identifying information and

1 financial information to the department;
2 authorizing the department to employ a
3 collection agency to collect and manage the
4 payment of delinquent fees; requiring the
5 department to document payments made on behalf
6 of a child; prohibiting the court or the
7 department from extending a child's detention
8 solely for the purpose of collecting fees;
9 providing that the parent, guardian, or child
10 is not liable for fees if the child is
11 acquitted or discharged; requiring a refund if
12 fees were paid; providing procedures for the
13 court in issuing an order for income deduction
14 against the parent or legal guardian of a
15 child; requiring notification of the parent or
16 legal guardian and specifying requirements
17 therefor; providing requirements for service of
18 the order and notice on the payor by the clerk
19 of the court; providing for a hearing on the
20 ground of mistake of fact regarding the amount
21 owed; providing requirements for the notice to
22 the payor; providing for enforcement against a
23 successor payor; prohibiting a payor from
24 taking certain actions against an employee
25 because of an income deduction order; providing
26 civil penalties; requiring the payor to notify
27 the clerk of the court of a successor payor, if
28 known; providing civil penalties; authorizing
29 the Department of Juvenile Justice to petition
30 the court for the suspension or denial of a
31 license or certificate of a parent or guardian

1 who is delinquent in paying the costs of care;
2 requiring notice of suspension or denial
3 pursuant to court order; providing
4 circumstances under which the court may find
5 that is is inappropriate to deny or suspend a
6 license or certificate; providing procedures
7 for an order by the court that a parent or
8 legal guardian surrender a license or
9 certificate; providing for reinstatement upon
10 proof of payment; providing requirements for
11 serving notice on a parent or guardian;
12 providing for suspension of a driver's license
13 and motor vehicle registration by the
14 Department of Highway Safety and Motor
15 Vehicles; providing procedures by which a
16 parent or guardian may contest the delinquency
17 and intent to suspend; requiring an expedited
18 hearing and court order on the matter; amending
19 s. 322.058, F.S., relating to the suspension of
20 driving privileges due to support delinquency,
21 to conform; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (6) of section 985.215, Florida
26 Statutes, as amended by section 140 of chapter 2003-402, Laws
27 of Florida, is amended to read:

28 985.215 Detention.--

29 (6)(a) When any child is placed into secure⁷
30 ~~nonsecure~~, or home detention care, or into other placement
31 supervised by the Department of Juvenile Justice pursuant to a

1 court order following a detention hearing, the court shall
2 order the parents or guardians of such child to pay to the
3 Department of Juvenile Justice fees under s. 985.2311 in the
4 amount of \$5 per day that the child is under the care or
5 supervision of the department in order to partially offset the
6 cost of the care, support, maintenance, and other usual and
7 ordinary obligations of parents to provide for the needs of
8 their children, unless the court makes a finding on the record
9 that the parent or guardian of the child is indigent.

10 (b) ~~At the time of the detention hearing, the~~
11 ~~department shall report to the court, verbally or in writing,~~
12 ~~any available information concerning the ability of the parent~~
13 ~~or guardian of the child to pay such fee. If the court makes a~~
14 ~~finding of indigence, the parent or guardian shall pay to the~~
15 ~~department a nominal subsistence fee of \$2 per day that the~~
16 ~~child is securely detained outside the home or \$1 per day if~~
17 ~~the child is otherwise detained in lieu of other fees related~~
18 ~~to the parent's obligation for the child's cost of care. The~~
19 ~~nominal subsistence fee may only be waived or reduced if the~~
20 ~~court makes a finding that such payment would constitute a~~
21 ~~significant financial hardship. Such finding shall be in~~
22 ~~writing and shall contain a detailed description of the facts~~
23 ~~that led the court to make both the finding of indigence and~~
24 ~~the finding of significant financial hardship.~~

25 (c) ~~In addition, the court may reduce the fees or~~
26 ~~wave the fees as to each parent or guardian if the court~~
27 ~~makes a finding on the record that the parent or guardian was~~
28 ~~the victim of the delinquent act or violation of law for which~~
29 ~~the child is detained and that the parent or guardian is~~
30 ~~cooperating in the investigation of the offense.~~

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1 ~~(d) The court must include specific findings in the~~
2 ~~detention order as to what fees are ordered, reduced, or~~
3 ~~waived. If the court fails to enter an order as required by~~
4 ~~this subsection, it shall be presumed that the court intended~~
5 ~~the parent or guardian to pay to the department the fee of \$5~~
6 ~~per day that the child remains in detention care.~~

7 ~~(e) With respect to a child who has been found to have~~
8 ~~committed a delinquent act or violation of law, whether or not~~
9 ~~adjudication is withheld, and whose parent or guardian~~
10 ~~receives public assistance for any portion of that child's~~
11 ~~care, the department must seek a federal waiver to garnish or~~
12 ~~otherwise order the payments of the portion of the public~~
13 ~~assistance relating to that child to offset the costs of~~
14 ~~providing care, custody, maintenance, rehabilitation,~~
15 ~~intervention, or corrective services to the child. When the~~
16 ~~order affects the guardianship estate, a certified copy of the~~
17 ~~order shall be delivered to the judge having jurisdiction of~~
18 ~~the guardianship estate.~~

19 ~~(f) The clerk of the circuit court shall act as a~~
20 ~~depository for these fees. Upon each payment received, the~~
21 ~~clerk of the circuit court shall receive a fee from the total~~
22 ~~payment of 3 percent of any payment made except that no fee~~
23 ~~shall be less than \$1 nor more than \$5 per payment made. This~~
24 ~~fee shall serve as a service charge for the administration,~~
25 ~~management, and maintenance of each payment. At the end of~~
26 ~~each month, the clerk of the circuit court shall send all~~
27 ~~money collected under this section to the state Grants and~~
28 ~~Donations Trust Fund.~~

29 ~~(g) The parent or guardian shall provide to the~~
30 ~~department the parent's or guardian's name, address, social~~
31 ~~security number, date of birth, and driver's license number or~~

1 ~~identification card number and sufficient financial~~
2 ~~information for the department to be able to determine the~~
3 ~~parent's or guardian's ability to pay. If the parent or~~
4 ~~guardian refuses to provide the department with any~~
5 ~~identifying information or financial information, the court~~
6 ~~shall order the parent to comply and may pursue contempt of~~
7 ~~court sanctions for failure to comply.~~

8 ~~(h) The department may employ a collection agency for~~
9 ~~the purpose of receiving, collecting, and managing the payment~~
10 ~~of unpaid and delinquent fees. The collection agency must be~~
11 ~~registered and in good standing under chapter 559. The~~
12 ~~department may pay to the collection agency a fee from the~~
13 ~~amount collected under the claim or may authorize the agency~~
14 ~~to deduct the fee from the amount collected. The department~~
15 ~~may also pay for collection services from available authorized~~
16 ~~funds.~~

17 ~~(i) The department may enter into agreements with~~
18 ~~parents or guardians to establish a schedule of periodic~~
19 ~~payments if payment of the obligation in full presents an~~
20 ~~undue hardship. Any such agreement may provide for payment of~~
21 ~~interest consistent with prevailing loan rates.~~

22 ~~(j) The Department of Juvenile Justice shall provide~~
23 ~~to the payor documentation of any amounts paid by the payor to~~
24 ~~the Department of Juvenile Justice on behalf of the child. All~~
25 ~~payments received by the department pursuant to this~~
26 ~~subsection shall be deposited in the state Grants and~~
27 ~~Donations Trust Fund. Neither the court nor the department~~
28 ~~may extend the child's length of stay in detention care solely~~
29 ~~for the purpose of collecting fees.~~

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1 Section 2. Paragraph (b) of subsection (1) of section
2 985.231, Florida Statutes, as amended by section 141 of
3 chapter 2003-402, Laws of Florida, is amended to read:

4 985.231 Powers of disposition in delinquency cases.--

5 (1)

6 (b)1. When any child is found ~~adjudicated~~ by the court
7 to have committed a delinquent act and placed on probation,
8 regardless of adjudication, under the Department of Juvenile
9 Justice or in temporary legal custody of the child has been
10 ~~placed with a licensed child-caring agency or the Department~~
11 ~~of Juvenile Justice, the court shall order the parents or~~
12 guardians of such child to pay fees under s. 985.2311 ~~to the~~
13 ~~department in the amount of \$5 per day that the child is under~~
14 ~~the care or supervision of the department in order to~~
15 ~~partially offset the cost of the care, support, maintenance,~~
16 ~~and other usual and ordinary obligations of parents to provide~~
17 ~~for the needs of their children while in the recommended~~
18 ~~residential commitment level, unless the court makes a finding~~
19 ~~on the record that the parent or guardian of the child is~~
20 ~~indigent.~~

21 ~~2. No later than the disposition hearing, the~~
22 ~~department shall provide the court with information concerning~~
23 ~~the actual cost of care, support, and maintenance of the child~~
24 ~~in the recommended residential commitment level and concerning~~
25 ~~the ability of the parent or guardian of the child to pay any~~
26 ~~fees. If the court makes a finding of indigence, the parent or~~
27 ~~guardianship shall pay to the department a nominal subsistence~~
28 ~~fee of \$2 per day that the child is committed outside the home~~
29 ~~or \$1 per day if the child is otherwise supervised in lieu of~~
30 ~~other fees related to the parents' obligation for the child's~~
31 ~~cost of care. The nominal subsistence fee may only be waived~~

1 ~~or reduced if the court makes a finding that such payment~~
2 ~~would constitute a significant financial hardship. Such~~
3 ~~finding shall be in writing and shall contain a detailed~~
4 ~~description of the facts that led the court to make both the~~
5 ~~finding of indigence and the finding of significant financial~~
6 ~~hardship.~~

7 ~~3. In addition, the court may reduce the fees or waive~~
8 ~~the fees as to each parent or guardian if the court makes a~~
9 ~~finding on the record that the parent or guardian was the~~
10 ~~victim of the delinquent act or violation of law for which the~~
11 ~~child is subject to placement under this section and that the~~
12 ~~parent or guardian has cooperated in the investigation and~~
13 ~~prosecution of the offense.~~

14 ~~4. All orders committing a child to a residential~~
15 ~~commitment program shall include specific findings as to what~~
16 ~~fees are ordered, reduced, or waived. If the court fails to~~
17 ~~enter an order as required by this paragraph, it shall be~~
18 ~~presumed that the court intended the parent or guardian to pay~~
19 ~~fees to the department in an amount of \$5 per day related to~~
20 ~~the care, support, and maintenance of the child. With regard~~
21 ~~to a child who reaches the age of 18 prior to the disposition~~
22 ~~hearing, the court may elect to direct an order required by~~
23 ~~this paragraph to such child, rather than the parent or~~
24 ~~guardian. With regard to a child who reaches the age of 18~~
25 ~~while in the custody of the department, the court may, upon~~
26 ~~proper motion of any party, hold a hearing as to whether any~~
27 ~~party should be further obligated respecting the payment of~~
28 ~~fees. When the order affects the guardianship estate, a~~
29 ~~certified copy of the order shall be delivered to the judge~~
30 ~~having jurisdiction of the guardianship estate.~~

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1 ~~5. The clerk of the circuit court shall act as a~~
2 ~~depository for these fees. Upon each payment received, the~~
3 ~~clerk of the circuit court shall receive a fee from the total~~
4 ~~payment of 3 percent of any payment made except that no fee~~
5 ~~shall be less than \$1 nor more than \$5 per payment made. This~~
6 ~~fee shall serve as a service charge for the administration,~~
7 ~~management, and maintenance of each payment. At the end of~~
8 ~~each month, the clerk of the circuit court shall send all~~
9 ~~money collected under this section to the state Grants and~~
10 ~~Donations Trust Fund.~~

11 ~~6. The parent or guardian shall provide to the~~
12 ~~department the parent or guardian's name, address, social~~
13 ~~security number, state of birth, and driver's license number~~
14 ~~or identification card number and sufficient financial~~
15 ~~information for the department to be able to determine the~~
16 ~~parent or guardian's ability to pay. If the parent or guardian~~
17 ~~refuses to provide the department with any identifying~~
18 ~~information or financial information, the court shall order~~
19 ~~the parent to comply and may pursue contempt of court~~
20 ~~sanctions for failure to comply.~~

21 ~~7. The department may employ a collection agency for~~
22 ~~the purpose of receiving, collecting, and managing the payment~~
23 ~~of unpaid and delinquent fees. The collection agency must be~~
24 ~~registered and in good standing under chapter 559. The~~
25 ~~department may pay to the collection agency a fee from the~~
26 ~~amount collected under the claim or may authorize the agency~~
27 ~~to deduct the fee from the amount collected. The department~~
28 ~~may also pay for collection services from available authorized~~
29 ~~funds.~~

30 ~~8. The department may enter into agreements with~~
31 ~~parents or guardians to establish a schedule of periodic~~

1 ~~payments if payment of the obligation in full presents an~~
2 ~~undue hardship. Any such agreement may provide for payment of~~
3 ~~interests consistent with prevailing loan rates.~~

4 ~~9. The Department of Juvenile Justice shall provide to~~
5 ~~the payor documentation of any amounts paid by the payor to~~
6 ~~the Department of Juvenile Justice on behalf of the child. All~~
7 ~~payments received by the department pursuant to this~~
8 ~~subsection shall be deposited in the state Grants and~~
9 ~~Donations Trust Fund.~~

10 ~~10. Neither the court nor the department may extend~~
11 ~~the child's length of stay in placement care solely for the~~
12 ~~purpose of collecting fees.~~

13 Section 3. Paragraph (d) of subsection (4) of section
14 985.233, Florida Statutes, as amended by section 142 of
15 chapter 2003-402, Laws of Florida, is amended to read:

16 985.233 Sentencing powers; procedures; alternatives
17 for juveniles prosecuted as adults.--

18 (4) SENTENCING ALTERNATIVES.--

19 (d) Recoupment of cost of supervision or care in
20 juvenile justice programs or facilities.--

21 1. When the court orders supervision by or commitment
22 ~~of a child~~ to the Department of Juvenile Justice for treatment
23 in any of the department's programs for children, the court
24 shall order the parents or guardians of such child to pay fees
25 under s. 985.2311 in the amount of \$5 per day that the child
26 ~~is under the care or supervision of the department in order to~~
27 ~~partially offset the cost of the care, support, maintenance,~~
28 ~~and other usual and ordinary obligations of parents to provide~~
29 ~~for the needs of their children, unless the court makes a~~
30 ~~finding on the record that the parent or legal guardian of the~~
31 ~~child is indigent.~~

1 ~~2. Prior to commitment, the department shall provide~~
2 ~~the court with information concerning the actual cost of care~~
3 ~~in the recommended residential commitment level and concerning~~
4 ~~the ability of the parent or guardian of the child to pay~~
5 ~~specified fees. If the court makes a finding of indigence, the~~
6 ~~parent or guardian shall pay to the department a nominal~~
7 ~~subsistence fee of \$2 per day that the child is committed~~
8 ~~outside the home or \$1 per day if the child is otherwise~~
9 ~~supervised in lieu of other fees related to the parent's~~
10 ~~obligation for the child's cost of care. The nominal~~
11 ~~subsistence fee may only be waived or reduced if the court~~
12 ~~makes a finding that such payment would constitute a~~
13 ~~significant financial hardship. Such finding shall be in~~
14 ~~writing and shall contain a detailed description of the facts~~
15 ~~that led the court to make both the finding of indigence and~~
16 ~~the finding of significant financial hardship.~~

17 ~~3. In addition, the court may reduce the fees or waive~~
18 ~~the fees as to each parent or guardian if the court makes a~~
19 ~~finding on the record that the parent or guardian was the~~
20 ~~victim of the delinquent act or violation of law for which the~~
21 ~~child is subject to commitment under this section and that the~~
22 ~~parent or guardian has cooperated in the investigation and~~
23 ~~prosecution of the offense. When the order affects the~~
24 ~~guardianship estate, a certified copy of the order shall be~~
25 ~~delivered to the judge having jurisdiction of the guardianship~~
26 ~~estate.~~

27 ~~4. All orders committing a child to a residential~~
28 ~~commitment program shall include specific findings as to what~~
29 ~~fees are ordered, reduced, or waived. If the court fails to~~
30 ~~enter an order as required by this paragraph, it shall be~~
31 ~~presumed that the court intended the parent or guardian to pay~~

1 ~~fees to the department in an amount of \$5 per day related to~~
2 ~~the care, support, and maintenance of the child. With regard~~
3 ~~to a child who reaches the age of 18 prior to the disposition~~
4 ~~hearing, the court may elect to direct an order required by~~
5 ~~this paragraph to such child, rather than the parent or~~
6 ~~guardian. With regard to a child who reaches the age of 18~~
7 ~~while in the custody of the department, the court may, upon~~
8 ~~proper motion of any party, hold a hearing as to whether any~~
9 ~~party should be further obligated respecting the payment of~~
10 ~~fees.~~

11 ~~5. The clerk of the circuit court shall act as a~~
12 ~~depository for these fees. Upon each payment received, the~~
13 ~~clerk of the circuit court shall receive a fee from the total~~
14 ~~payment of 3 percent of any payment made except that no fee~~
15 ~~shall be less than \$1 nor more than \$5 per payment made. This~~
16 ~~fee shall serve as a service charge for the administration,~~
17 ~~management, and maintenance of each payment. At the end of~~
18 ~~each month, the clerk of the circuit court shall send all~~
19 ~~money collected under this section to the state Grants and~~
20 ~~Donations Trust Fund.~~

21 ~~6. The parent or guardian shall provide to the~~
22 ~~department the parent or guardian's name, address, social~~
23 ~~security number, date of birth, and driver's license number or~~
24 ~~identification card number and sufficient financial~~
25 ~~information for the department to be able to determine the~~
26 ~~parent or guardian's ability to pay. If the parent or guardian~~
27 ~~refuses to provide the department with any identifying~~
28 ~~information or financial information, the court shall order~~
29 ~~the parent to comply and may pursue contempt of court~~
30 ~~sanctions for failure to comply.~~

31

1 ~~7. The department may employ a collection agency for~~
2 ~~the purpose of receiving, collecting, and managing the payment~~
3 ~~of unpaid and delinquent fees. The collection agency must be~~
4 ~~registered and in good standing under chapter 559. The~~
5 ~~department may pay to the collection agency a fee from the~~
6 ~~amount collected under the claim or may authorize the agency~~
7 ~~to deduct the fee from the amount collected. The department~~
8 ~~may also pay for collection services from available authorized~~
9 ~~funds. The Department of Juvenile Justice shall provide to the~~
10 ~~payor documentation of any amounts paid by the payor to the~~
11 ~~Department of Juvenile Justice on behalf of the child. All~~
12 ~~payments received by the department pursuant to this~~
13 ~~subsection shall be deposited in the state Grants and~~
14 ~~Donations Trust Fund.~~

15 ~~8. Neither the court nor the department may extend the~~
16 ~~child's length of stay in commitment care solely for the~~
17 ~~purpose of collecting fees.~~

18
19 It is the intent of the Legislature that the criteria and
20 guidelines in this subsection are mandatory and that a
21 determination of disposition under this subsection is subject
22 to the right of the child to appellate review under s.
23 985.234.

24 Section 4. Section 985.2311, Florida Statutes, is
25 created to read:

26 985.2311 Cost of supervision; cost of care.--

27 (1) When a child is placed into home detention,
28 probation, or other supervision status with the Department of
29 Juvenile Justice, regardless of adjudication, the court shall
30 order the parent or guardian to pay to the Department of
31 Juvenile Justice fees in the amount of \$1 per day.

1 (2) When a child is placed into secure detention or
2 committed status and temporary legal custody is with the
3 Department of Juvenile Justice, the court shall order the
4 parent or guardian to pay to the Department of Juvenile
5 Justice fees in the amount of \$5 per day. At the time of the
6 detention or disposition hearing the court shall receive from
7 the parent or guardian, verbally or in writing, information
8 concerning the ability of the parent or guardian to pay the
9 fees and whether payment of the fees for the cost of care or
10 cost of supervision will create a significant financial
11 hardship. Such finding must be in writing and contain a
12 detailed description of the facts that led the court to make
13 both the finding of indigency and the finding of significant
14 financial hardship. If the court makes a finding of indigency
15 and significant financial hardship, the court shall reduce or
16 waive the fee.

17 (3) In addition, the court may reduce the fees or
18 waive the fees as to each parent or guardian if the court
19 makes a finding on the record that the parent or guardian was
20 the victim of the delinquent act or violation of law for which
21 the child is detained, supervised, or committed and that the
22 parent or guardian is cooperating with the investigation of
23 the offense.

24 (4) The court shall include specific findings in the
25 detention or disposition order as to what fees are ordered,
26 reduced, or waived. If the court fails to enter an order as
27 required by this section, it shall be presumed that the court
28 intended the parent or guardian to pay to the department a fee
29 in the amount of \$5 for each day that the child remains in
30 detention status or in commitment and \$1 each day that the
31 child is under home detention or probation supervision. With

1 regard to a child who reaches the age of 18 prior to the
2 detention or disposition hearing, the court may elect to
3 direct an order required by this subsection to the child
4 rather than to the parent or guardian. With regard to a child
5 who reaches 18 while under supervision or in the custody of
6 the department, the court may, upon proper motion of any
7 party, hold a hearing to determine whether any party should be
8 further obligated with respect to the payment of fees. If the
9 court does not address the issue of the child's age, it shall
10 be presumed that the court intended that the parent or
11 guardian continue to pay the fees. If the order affects the
12 guardianship estate, a certified copy of the order shall be
13 delivered to the judge having jurisdiction of the guardianship
14 estate.

15 (5) With respect to a child who has been found to have
16 committed a delinquent act or violation of law, whether or not
17 adjudication is withheld, and whose parent or guardian
18 receives public assistance for any portion of that child's
19 care, the department must seek a federal waiver to garnish or
20 otherwise order payment of the portion of the public
21 assistance relating to that child to offset the cost of
22 providing supervision, care, custody, maintenance,
23 rehabilitation, intervention, or corrective services to the
24 child. If the order affects the guardianship estate, a
25 certified copy of the order shall be delivered to the judge
26 having jurisdiction of the guardian estate.

27 (6) The clerk of the circuit court may act as a
28 depository for these fees. Upon each payment received, the
29 clerk of the circuit court shall receive a fee from the total
30 payment of 3 percent of any payment made, except that the fee
31 may not be less than \$1 per each payment made. This fee shall

1 serve as a service charge for the administration, management,
2 and maintenance of the payments. At the end of each month, the
3 clerk of the circuit court shall send all moneys collected
4 under this section to the state Grants and Donations Trust
5 Fund.

6 (7) The parent or guardian shall provide to the
7 department his or her name, address, social security number,
8 date of birth, and driver's license number or identification
9 card number and sufficient financial information so that the
10 court may determine the ability of the parent or guardian to
11 pay fees for the cost of supervision or cost of care. If the
12 parent or guardian refuses to provide the department with any
13 identifying information or financial information, the court
14 shall order the parent or guardian to comply and may pursue
15 contempt of court sanctions for failure to comply.

16 (8) The department may employ a collection agency for
17 the purpose of receiving, collecting, and managing the payment
18 of unpaid and delinquent fees. The collection agency must be
19 registered and in good standing under chapter 559. The
20 department may pay to the collection agency a fee from the
21 amount collected under the claim or may authorize the agency
22 to deduct the fee from the amount collected. The department
23 may also pay for collection services from available authorized
24 funds. The Department of Juvenile Justice shall provide to the
25 payor documentation of any amounts paid by the payor to the
26 Department of Juvenile Justice on behalf of the child. All
27 payments received by the department pursuant to this
28 subsection shall be deposited in the state Grants and
29 Donations Trust Fund.

1 (9) The court or the department may not extend a
2 child's length of stay in detention or commitment care solely
3 for the purpose of collecting fees.

4 (10) A parent, guardian, or child is not liable for
5 fees for the cost of supervision or the cost of care if the
6 child is acquitted or discharged. If any costs or fees have
7 been paid, such fees shall be refunded.

8 Section 5. Authority to issue income deduction
9 orders.--

10 (1) ISSUANCE OF INCOME DEDUCTION ORDER WITH AN ORDER
11 FOR FEES TO OFFSET THE COST OF CARE.--

12 (a) Upon notice to the parent or legal guardian and
13 entry of an order pursuant to section 985.2311, Florida
14 Statutes, the court shall enter a separate order for income
15 deduction against the parent or legal guardian of the child if
16 one has not been entered. The court may enter an order for
17 income deduction against either parent or both parents.

18 (b) The order for income deduction shall direct a
19 payor to deduct from all income due and payable to the parent
20 or legal guardian the amount required by the court to meet the
21 parent's or guardian's obligation.

22 (c) The income deduction order shall be effective so
23 long as the order upon which it is based is effective.

24 (d) When the court orders the income deduction, the
25 court shall furnish to the parent or legal guardian a
26 statement of his or her rights, remedies, and duties in regard
27 to the income deduction order. The statement must indicate:

28 1. All fees or interest to be imposed.

29 2. The total amount of income to be deducted for each
30 pay period.

31

1 3. That the income deduction order applies to current
2 and subsequent payors and periods of employment.

3 4. That a copy of the income deduction order will be
4 served by the clerk of court on the payor or payors of the
5 parent or legal guardian.

6 5. That enforcement of the income deduction order may
7 be contested only on the ground of mistake of fact regarding
8 the amount of fees owed.

9 6. That the parent or legal guardian is required to
10 notify the clerk of the court within 7 days after a change in
11 the parent's or legal guardian's address, payor, or the
12 address of his or her payor.

13 (2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.--

14 (a) The clerk of the court shall serve an income
15 deduction order and the notice on the payor of the parent or
16 legal guardian unless the parent or legal guardian has applied
17 for a hearing to contest enforcement of the income deduction
18 order.

19 (b)1. Service by or upon any person who is a party to
20 a proceeding under this section shall be made in the manner
21 prescribed in the Florida Rules of Civil Procedure for service
22 upon parties.

23 2. Service upon the parent's or legal guardian's payor
24 or successor payor under this subsection shall be made by
25 prepaid certified mail, return receipt requested, or in the
26 manner prescribed in chapter 48, Florida Statutes.

27 (c) The parent or legal guardian, within 15 days after
28 having an income deduction order entered against him or her,
29 may apply for a hearing to contest the enforcement of the
30 income deduction order on the ground of mistake of fact
31 regarding the amount owed. The timely request for a hearing

1 shall stay the service of an income deduction order on all
2 payors of the parent or legal guardian until a hearing is held
3 and a determination is made as to whether the enforcement of
4 the income deduction order is proper.

5 (d) The notice to the payor shall contain only
6 information necessary for the payor to comply with the income
7 deduction order. The notice must:

8 1. Require the payor to deduct from the income of the
9 parent or legal guardian the amount specified in the income
10 deduction order and to pay that amount to the clerk of the
11 court.

12 2. Instruct the payor to implement the income
13 deduction order no later than the first payment date that
14 occurs more than 14 days after the date the income deduction
15 order is served on the payor.

16 3. Instruct the payor to forward within 2 days after
17 each payment date to the clerk of the court the amount
18 deducted from the parent's or legal guardian's income and a
19 statement as to whether the amount totally or partially
20 satisfies the periodic amount specified in the income
21 deduction order.

22 4. Specify that, if a payor fails to deduct the proper
23 amount from the income of the parent or legal guardian, the
24 payor is liable for the amount the payor should have deducted,
25 plus costs, interest, and reasonable attorney's fees.

26 5. Provide that the payor may collect up to \$5 against
27 the income of the parent or legal guardian to reimburse the
28 payor for administrative costs for the first income deduction
29 and up to \$2 for each deduction thereafter.

30 6. State that the income deduction order and the
31 notice to the payor are binding on the payor until further

1 notice by the court or until the payor no longer provides
2 income to the parent or legal guardian.

3 7. Instruct the payor that, when he or she no longer
4 provides income to the parent or legal guardian, the payor
5 shall notify the clerk of the court and shall also provide the
6 parent's or legal guardian's last known address and the name
7 and address of the parent's or legal guardian's new payor, if
8 known, and that, if the payor violates this subparagraph, the
9 payor is subject to a civil penalty not to exceed \$250 for the
10 first violation and \$500 for any subsequent violation.

11 8. State that the payor may not discharge, refuse to
12 employ, or take disciplinary action against the parent or
13 legal guardian because of the income deduction order, and
14 state that a violation of this subparagraph subjects the payor
15 to a civil penalty not to exceed \$250 for the first violation
16 and \$500 for any subsequent violation.

17 9. Inform the payor that, if he or she receives income
18 deduction orders requiring that the income of two or more
19 parents or legal guardians be deducted and sent to the same
20 clerk of the court, the payor may combine the amounts that are
21 to be paid to the depository in a single payment as long as he
22 or she identifies that portion of the payment attributable to
23 each parent or legal guardian.

24 10. Inform the payor that if the payor receives more
25 than one income deduction order against the same parent or
26 legal guardian, he or she must contact the court for further
27 instructions.

28 (e) The clerk of the court shall enforce an income
29 deduction order against the parent's or legal guardian's
30 successor payor who is located in this state in the same
31

1 manner prescribed in this subsection for the enforcement of an
2 income deduction order against an original payor.

3 (f) An employer may not discharge, refuse to employ,
4 or take disciplinary action against an employee because of the
5 enforcement of an income deduction order. An employer who
6 violates this paragraph is subject to a civil penalty not to
7 exceed \$250 for the first violation and \$500 for any
8 subsequent violation.

9 (g) When a payor no longer provides income to a parent
10 or legal guardian, the payor shall notify the clerk of the
11 court and shall provide the parent's or legal guardian's last
12 known address and the name and address of the successor payor
13 of the parent or legal guardian, if known. A payor who
14 violates this paragraph is subject to a civil penalty not to
15 exceed \$250 for the first violation and \$500 for a subsequent
16 violation.

17 Section 6. Suspension of licenses for failure to pay
18 fees for the cost of care.--

19 (1) The Department of Juvenile Justice may petition
20 the court that entered an order to pay the cost of care
21 pursuant to section 985.2311, Florida Statutes, for an order
22 to suspend or deny the license or certificate issued pursuant
23 to chapter 409, chapter 455, chapter 456, chapter 559, or
24 chapter 1012, Florida Statutes, of any parent or legal
25 guardian who is delinquent in his or her payment for the cost
26 of care.

27 (2) The Department of Juvenile Justice shall give
28 notice to any parent or legal guardian when a delinquency
29 exists in the obligation. The notice must specify that the
30 parent or legal guardian has 30 days following the date on
31 which service of the notice is complete to pay the delinquency

1 or to reach an agreement with the department to pay the
2 delinquency. The notice must specify that, if payment is not
3 made or an agreement cannot be reached, a license or
4 certificate may be denied or suspended pursuant to court
5 order.

6 (3)(a) If a delinquency exists and the parent or legal
7 guardian fails to pay the delinquency or reach an agreement to
8 pay the delinquency within 30 days following completion of
9 service of the notice of the delinquency, the department may
10 petition the court to deny the application for the license or
11 certificate or to suspend the license or certificate of the
12 parent or legal guardian. The court may find that it is
13 inappropriate to deny or suspend a license or certificate if
14 denial or suspension would:

- 15 1. Result in irreparable harm to the parent or legal
16 guardian, or to employees of the parent or legal guardian; or
17 2. Not accomplish the objective of collecting the
18 delinquency.

19 (b) If the parent or legal guardian fails in the
20 defense of a petition for denial or suspension, the court that
21 entered the order shall enter an order to deny the application
22 for the license or certificate or to suspend the license or
23 certificate of the parent or legal guardian. In the case of
24 suspension, the court shall order the parent or legal guardian
25 to surrender the certificate or license to the Department of
26 Juvenile Justice or to the licensing board that issued the
27 license or certificate. In the case of denial, the court shall
28 order the appropriate department or licensing board to deny
29 the application.

30 (4) If the court denies or suspends a license or
31 certificate and the parent or legal guardian subsequently pays

1 the delinquency or reaches an agreement with the department to
2 settle the delinquency and makes the first payment required by
3 the agreement, the license or certificate shall be issued or
4 reinstated upon written proof to the court that the parent or
5 legal guardian has complied with the court order. Proof of
6 payment shall consist of a certified copy of the payment
7 record issued by the clerk of the court. The court shall order
8 the appropriate department or licensing board to issue or
9 reinstate the license or certificate without additional charge
10 to the parent or legal guardian.

11 (5) Notice shall be served under this section by
12 mailing it by certified mail, return receipt requested, to the
13 parent or legal guardian at his or her last address of record.
14 When service of the notice is made by mail, service is
15 complete upon the receipt of the notice by the parent or legal
16 guardian.

17 (6) The driver's license and motor vehicle
18 registration of a parent or legal guardian who is delinquent
19 in payment may be suspended. When a parent or legal guardian
20 is 30 days delinquent making a payment, the Department of
21 Juvenile Justice may provide notice to the parent or legal
22 guardian of the delinquency by regular United States mail that
23 is posted to the parent's or guardian's last address of record
24 with the Department of Highway Safety and Motor Vehicles. The
25 notice must state:

26 (a) The terms of the order creating the obligation;

27 (b) The period of the delinquency and the total amount
28 of the delinquency as of the date of the notice;

29 (c) That notification will be given to the Department
30 of Highway Safety and Motor Vehicles to suspend the obligor's
31 driver's license and motor vehicle registration unless, within

1 20 days after the date the notice is mailed, the parent or
2 legal guardian:

3 1.a. Pays the delinquency in full and any other costs
4 and fees accrued between the date of the notice and the date
5 the delinquency is paid;

6 b. Enters into a written agreement for payment with
7 the department; or

8 c. Files a petition with the circuit court to contest
9 the delinquency action; and

10 2. Pays any applicable delinquency fees.

11 (7) If the parent or legal guardian does not, within
12 20 days after the mailing date on the notice, pay the
13 delinquency, enter into a payment agreement, or file a motion
14 to contest the delinquency, the Department of Juvenile Justice
15 shall file the notice with the Department of Highway Safety
16 and Motor Vehicles and request the suspension of the parent's
17 or legal guardian's driver's license and motor vehicle
18 registration in accordance with section 322.058, Florida
19 Statutes.

20 (8) The parent or legal guardian may, within 20 days
21 after the mailing date on the notice of delinquency, file in
22 the circuit court a petition to contest the notice of
23 delinquency and intent to suspend on the ground of mistake of
24 fact regarding the existence of a delinquency or the identity
25 of the parent or legal guardian. The parent or legal guardian
26 must serve a copy of the petition on the Department of
27 Juvenile Justice. When a parent or legal guardian timely files
28 a petition to contest, the court must hear the matter within
29 15 days after the petition is filed. The court must enter an
30 order resolving the matter within 10 days after the hearing,
31 and a copy of the order must be served on the parties. The

1 timely filing of a petition to contest stays the notice of
2 delinquency and intent to suspend until the entry of a court
3 order resolving the matter.

4 Section 7. Section 322.058, Florida Statutes, is
5 amended to read:

6 322.058 Suspension of driving privileges due to
7 support delinquency; reinstatement.--

8 (1) When the department receives notice from the
9 Department of Juvenile Justice,the Title IV-D agency or
10 depository,or the clerk of the court that any person licensed
11 to operate a motor vehicle in the State of Florida under the
12 provisions of this chapter has a delinquent support obligation
13 or has failed to comply with a subpoena, order to appear,
14 order to show cause, or similar order, the department shall
15 suspend the driver's license of the person named in the notice
16 and the registration of all motor vehicles owned by that
17 person.

18 (2) The department must reinstate the driving
19 privilege and allow registration of a motor vehicle when the
20 Department of Juvenile Justice,the Title IV-D agency in IV-D
21 cases or the depository,or the clerk of the court in non-IV-D
22 cases provides to the department an affidavit stating that:

23 (a) The person has paid the delinquency;

24 (b) The person has reached a written agreement for
25 payment with the Department of Juvenile Justice,the Title
26 IV-D agency,or the obligee in non-IV-D cases;

27 (c) A court has entered an order granting relief to
28 the obligor ordering the reinstatement of the license and
29 motor vehicle registration; or

30 (d) The person has complied with the subpoena, order
31 to appear, order to show cause, or similar order.

