

By the Committee on Criminal Justice; and Senator Crist

307-2460-04

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; providing an
29 effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

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

4 985.215 Detention.--

5 (6)(a) When any child is placed into secure~~7~~
6 ~~nonsecure,or~~ home detention care,or into other placement
7 supervised by the Department of Juvenile Justice pursuant to a
8 court order following a detention hearing, the court shall
9 order the parents or guardians of such child to pay to the
10 Department of Juvenile Justice fees under s. 985.2311 ~~in the~~
11 ~~amount of \$5 per day that the child is under the care or~~
12 ~~supervision of the department in order to partially offset the~~
13 ~~cost of the care, support, maintenance, and other usual and~~
14 ~~ordinary obligations of parents to provide for the needs of~~
15 ~~their children, unless the court makes a finding on the record~~
16 ~~that the parent or guardian of the child is indigent.~~

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

1 ~~(c) In addition, the court may reduce the fees or~~
2 ~~waive the fees as to each parent or guardian if the court~~
3 ~~makes a finding on the record that the parent or guardian was~~
4 ~~the victim of the delinquent act or violation of law for which~~
5 ~~the child is detained and that the parent or guardian is~~
6 ~~cooperating in the investigation of the offense.~~

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

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

25 ~~(f) The clerk of the circuit court shall act as a~~
26 ~~depository for these fees. Upon each payment received, the~~
27 ~~clerk of the circuit court shall receive a fee from the total~~
28 ~~payment of 3 percent of any payment made except that no fee~~
29 ~~shall be less than \$1 nor more than \$5 per payment made. This~~
30 ~~fee shall serve as a service charge for the administration,~~
31 ~~management, and maintenance of each payment. At the end of~~

1 ~~each month, the clerk of the circuit court shall send all~~
2 ~~money collected under this section to the state Grants and~~
3 ~~Donations Trust Fund.~~

4 ~~(g) The parent or guardian shall provide to the~~
5 ~~department the parent's or guardian's name, address, social~~
6 ~~security number, date of birth, and driver's license number or~~
7 ~~identification card number and sufficient financial~~
8 ~~information for the department to be able to determine the~~
9 ~~parent's or guardian's ability to pay. If the parent or~~
10 ~~guardian refuses to provide the department with any~~
11 ~~identifying information or financial information, the court~~
12 ~~shall order the parent to comply and may pursue contempt of~~
13 ~~court sanctions for failure to comply.~~

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

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

28 ~~(j) The Department of Juvenile Justice shall provide~~
29 ~~to the payor documentation of any amounts paid by the payor to~~
30 ~~the Department of Juvenile Justice on behalf of the child. All~~
31 ~~payments received by the department pursuant to this~~

1 ~~subsection shall be deposited in the state Grants and~~
2 ~~Donations Trust Fund. Neither the court nor the department~~
3 ~~may extend the child's length of stay in detention care solely~~
4 ~~for the purpose of collecting fees.~~

5 Section 2. Paragraph (b) of subsection (1) of section
6 985.231, Florida Statutes, as amended by section 141 of
7 chapter 2003-402, Laws of Florida, is amended to read:

8 985.231 Powers of disposition in delinquency cases.--

9 (1)

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

25 2. ~~No later than the disposition hearing, the~~
26 ~~department shall provide the court with information concerning~~
27 ~~the actual cost of care, support, and maintenance of the child~~
28 ~~in the recommended residential commitment level and concerning~~
29 ~~the ability of the parent or guardian of the child to pay any~~
30 ~~fees. If the court makes a finding of indigence, the parent or~~
31 ~~guardianship shall pay to the department a nominal subsistence~~

1 ~~fee of \$2 per day that the child is committed outside the home~~
2 ~~or \$1 per day if the child is otherwise supervised in lieu of~~
3 ~~other fees related to the parents' obligation for the child's~~
4 ~~cost of care. The nominal subsistence fee may only be waived~~
5 ~~or reduced if the court makes a finding that such payment~~
6 ~~would constitute a significant financial hardship. Such~~
7 ~~finding shall be in writing and shall contain a detailed~~
8 ~~description of the facts that led the court to make both the~~
9 ~~finding of indigence and the finding of significant financial~~
10 ~~hardship.~~

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

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

1 ~~fees. When the order affects the guardianship estate, a~~
2 ~~certified copy of the order shall be delivered to the judge~~
3 ~~having jurisdiction of the guardianship estate.~~

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

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

24 ~~7. The department may employ a collection agency for~~
25 ~~the purpose of receiving, collecting, and managing the payment~~
26 ~~of unpaid and delinquent fees. The collection agency must be~~
27 ~~registered and in good standing under chapter 559. The~~
28 ~~department may pay to the collection agency a fee from the~~
29 ~~amount collected under the claim or may authorize the agency~~
30 ~~to deduct the fee from the amount collected. The department~~
31

1 ~~may also pay for collection services from available authorized~~
2 ~~funds.~~

3 ~~8. The department may enter into agreements with~~
4 ~~parents or guardians to establish a schedule of periodic~~
5 ~~payments if payment of the obligation in full presents an~~
6 ~~undue hardship. Any such agreement may provide for payment of~~
7 ~~interests consistent with prevailing loan rates.~~

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

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

17 Section 3. Paragraph (d) of subsection (4) of section
18 985.233, Florida Statutes, as amended by section 142 of
19 chapter 2003-402, Laws of Florida, is amended to read:

20 985.233 Sentencing powers; procedures; alternatives
21 for juveniles prosecuted as adults.--

22 (4) SENTENCING ALTERNATIVES.--

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

25 1. When the court orders supervision by or commitment
26 ~~of a child~~ to the Department of Juvenile Justice for treatment
27 in any of the department's programs for children, the court
28 shall order the parents or guardians of such child to pay fees
29 under s. 985.2311 in the amount of \$5 per day that the child
30 is under the care or supervision of the department in order to
31 ~~partially offset the cost of the care, support, maintenance,~~

1 ~~and other usual and ordinary obligations of parents to provide~~
2 ~~for the needs of their children, unless the court makes a~~
3 ~~finding on the record that the parent or legal guardian of the~~
4 ~~child is indigent.~~

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

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

31

1 ~~4. All orders committing a child to a residential~~
2 ~~commitment program shall include specific findings as to what~~
3 ~~fees are ordered, reduced, or waived. If the court fails to~~
4 ~~enter an order as required by this paragraph, it shall be~~
5 ~~presumed that the court intended the parent or guardian to pay~~
6 ~~fees to the department in an amount of \$5 per day related to~~
7 ~~the care, support, and maintenance of the child. With regard~~
8 ~~to a child who reaches the age of 18 prior to the disposition~~
9 ~~hearing, the court may elect to direct an order required by~~
10 ~~this paragraph to such child, rather than the parent or~~
11 ~~guardian. With regard to a child who reaches the age of 18~~
12 ~~while in the custody of the department, the court may, upon~~
13 ~~proper motion of any party, hold a hearing as to whether any~~
14 ~~party should be further obligated respecting the payment of~~
15 ~~fees.~~

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

26 ~~6. The parent or guardian shall provide to the~~
27 ~~department the parent or guardian's name, address, social~~
28 ~~security number, date of birth, and driver's license number or~~
29 ~~identification card number and sufficient financial~~
30 ~~information for the department to be able to determine the~~
31 ~~parent or guardian's ability to pay. If the parent or guardian~~

1 ~~refuses to provide the department with any identifying~~
2 ~~information or financial information, the court shall order~~
3 ~~the parent to comply and may pursue contempt of court~~
4 ~~sanctions for failure to comply.~~

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

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

22
23 It is the intent of the Legislature that the criteria and
24 guidelines in this subsection are mandatory and that a
25 determination of disposition under this subsection is subject
26 to the right of the child to appellate review under s.
27 985.234.

28 Section 4. Section 985.2311, Florida Statutes, is
29 created to read:

30 985.2311 Cost of supervision; cost of care.--

31

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

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

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

29 (4) The court shall include specific findings in the
30 detention or disposition order as to what fees are ordered,
31 reduced, or waived. If the court fails to enter an order as

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

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

1 (6) The clerk of the circuit court may 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 the fee
5 may not be less than \$1 per each payment made. This fee shall
6 serve as a service charge for the administration, management,
7 and maintenance of the payments. At the end of each month, the
8 clerk of the circuit court shall send all moneys collected
9 under this section to the state Grants and Donations Trust
10 Fund.

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

21 (8) 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. The Department of Juvenile Justice shall provide to the
30 payor documentation of any amounts paid by the payor to the
31 Department of Juvenile Justice on behalf of the child. All

1 payments received by the department pursuant to this
2 subsection shall be deposited in the state Grants and
3 Donations Trust Fund.

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

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

11 Section 5. Authority to issue income deduction
12 orders.--

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

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

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

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

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

31 1. All fees or interest to be imposed.

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

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

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

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

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

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

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

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

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

29 (c) The parent or legal guardian, within 15 days after
30 having an income deduction order entered against him or her,
31 may apply for a hearing to contest the enforcement of the

1 income deduction order on the ground of mistake of fact
2 regarding the amount owed. The timely request for a hearing
3 shall stay the service of an income deduction order on all
4 payors of the parent or legal guardian until a hearing is held
5 and a determination is made as to whether the enforcement of
6 the income deduction order is proper.

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

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

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

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

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

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

1 6. State that the income deduction order and the
2 notice to the payor are binding on the payor until further
3 notice by the court or until the payor no longer provides
4 income to the parent or legal guardian.

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

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

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

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

30 (e) The clerk of the court shall enforce an income
31 deduction order against the parent's or legal guardian's

1 successor payor who is located in this state in the same
2 manner prescribed in this subsection for the enforcement of an
3 income deduction order against an original payor.

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

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

18 Section 6. This act shall take effect July 1, 2004.

19
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 2632

23 Deletes sections 6 and 7 of the bill which relate to
24 suspending driver's licenses and professional licenses of
25 parents or guardians who fail to pay the required cost of care
26 fees.
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