

Bill No. SB 1262

Barcode 591240

CHAMBER ACTION

Senate

House

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The Committee on Children and Families (Campbell) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 16, between lines 2 and 3,

insert:

Section 11. Effective October 1, 2005, present subsection (7) of section 409.2558, Florida Statutes, is redesignated as subsection (8) and a new subsection (7) is added to that section, to read:

409.2558 Support distribution and disbursement.--

(7) ORDER REDIRECTING PAYMENTS TO THE PERSON WITH WHOM THE CHILD RESIDES.--If the department determines in a Title IV-D case that a child for whom a support order has been entered by a tribunal resides with a person other than the obligee or obligor, the department may not disburse current support payments for the child to the oblique without a further order from the tribunal that entered the support order. As used in this subsection, the term "tribunal" means a circuit court or the department.

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1       (a) A determination by the department must be based on  
2 one or more of the following factors:

3           1. Public-assistance records that show a person other  
4 than the obligee or obligor is receiving public assistance for  
5 the child;

6           2. A statement by the obligee that the child resides  
7 with a person other than the obligee or obligor;

8           3. A sworn statement or written declaration signed  
9 under penalty of perjury by a person who has personal  
10 knowledge that the child resides with a person other than the  
11 obligee or obligor;

12           4. Government records that show the obligee is  
13 incarcerated;

14           5. Evidence that the obligee has left the community  
15 where the child resides; or

16           6. Other credible information that indicates that the  
17 child resides with a person other than the obligee or obligor.

18       (b) The department, when it determines that a child  
19 resides with a person other than the obligee or obligor, shall  
20 notify the obligee, the obligor, and if known, the person with  
21 whom the child resides by regular mail. The notice must state:

22           1. The facts upon which the determination is based;

23           2. The name and address of the person with whom the  
24 child resides, if known, unless disclosure is prohibited under  
25 s. 409.2579(3) or (4) or the child is in foster care;

26           3. That the department will not disburse current  
27 support payments for the child without a further order from  
28 the tribunal that entered the support order;

29           4. If the support order was entered by a circuit  
30 court:

31           a. That the department will file a motion and proposed

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1 order with the court requesting the court to order that the  
 2 obligor's current support payments be disbursed to the person  
 3 with whom the child resides, to determine arrearages, and to  
 4 order repayment of any arrearages;

5 b. That the obligee, the obligor, and the person with  
 6 whom the child resides may file an objection to the proposed  
 7 order or a motion to compel disbursement; and

8 c. That the obligee, the obligor, and the person with  
 9 whom the child resides will be mailed a copy of the  
 10 department's motion and notice of any hearing.

11 5. If the support order was entered by the department:

12 a. That the department will disburse the current  
 13 support payments to the person with whom the child resides, if  
 14 known, determine arrearages, and order repayment of  
 15 arrearages;

16 b. The effective date of the intended action, the  
 17 amount of arrearages, and the amount ordered for periodic  
 18 repayment of arrearages;

19 c. That the obligee, the obligor, and the person with  
 20 whom the child resides may contest the intended action by  
 21 filing with the department a petition for an administrative  
 22 hearing within 30 days after the date the notice was mailed.

23 d. That if a timely petition for an administrative  
 24 hearing is filed, the parties will be given advance notice of  
 25 the date, time, and place of the hearing; and

26 e. That if the notice of intended action is not timely  
 27 contested, the department will enter a final order based on  
 28 information in the notice.

29 (c) The tribunal that entered the support order shall  
 30 determine whether support payments not disbursed by the  
 31 department and current support must be paid to the obligee,

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1 paid to the person with whom the child resides, or refunded to  
2 the obligor. The person with whom the child resides is deemed  
3 a party to the proceedings. The tribunal is not required to  
4 hold a hearing unless a party files a timely objection to the  
5 proposed order or a timely petition for an administrative  
6 hearing. Any hearing held by the department shall be conducted  
7 by the Division of Administrative Hearings and the  
8 administrative law judge shall enter a final order. If a  
9 hearing is not required, the tribunal shall enter an order  
10 within 30 days after the department's motion is filed or  
11 notice of intended action is mailed. If a timely objection or  
12 petition for administrative hearing is filed, a hearing shall  
13 be conducted and an order entered within 30 days after the  
14 objection or petition is filed.

15       (d) If the tribunal finds by a preponderance of the  
16 evidence that the child does not reside with the obligee, the  
17 tribunal shall enter an order that redirects the obligor's  
18 current support payments to the person with whom the child  
19 resides, determine arrearages owed to the obligee and the  
20 person with whom the child resides, and order repayment of  
21 arrearages. The tribunal need not recompute the obligor's  
22 support obligation under the child-support guidelines. If the  
23 person with whom the child resides is unknown and the obligor  
24 owes no arrearages or costs, the tribunal shall enter an order  
25 refunding the payments not disbursed by the department to the  
26 obligor. If the child resides with the obligor, the person  
27 with whom the child resides is unknown, or the child's place  
28 of residence is unknown, the tribunal shall consider whether  
29 to abate, terminate, or modify the support order.

30       (e) A tribunal that enters an order redirecting or  
31 refunding support payments shall file a copy of the order with

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1 the depository that serves as official recordkeeper for  
 2 payments due under the support order. The depository shall  
 3 maintain separate accounts and separate account numbers for  
 4 individual payees.

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6 (Redesignate subsequent sections.)

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9 ===== T I T L E   A M E N D M E N T =====

10 And the title is amended as follows:

11           On page 2, line 10, after the semicolon,

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13 insert:

14           amending s. 409.2558, F.S.; providing a  
 15           procedure for redirecting payments to the  
 16           person with whom a child resides; providing for  
 17           notice and hearing;

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