

1 supplemental security income and temporary cash
2 assistance; amending s. 409.2567, F.S.;
3 eliminating requirement for a monthly report by
4 the department on funds identified for
5 collection from noncustodial parents of
6 children receiving temporary assistance;
7 amending s. 409.821, F.S.; requiring the
8 provision of information identifying KidCare
9 program applicants to the department for Title
10 IV-D purposes; providing effective dates.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Effective October 1, 2005, paragraph (b) of
15 subsection (1) of section 61.13, Florida Statutes, is amended
16 to read:

17 61.13 Custody and support of children; visitation
18 rights; power of court in making orders.--

19 (1)

20 (b) Each order for support shall contain a provision
21 for health care coverage for the minor child when the coverage
22 is reasonably available. Coverage is reasonably available if
23 either the obligor or obligee has access at a reasonable rate
24 to a group health plan. The court may require the obligor
25 either to provide health care coverage or to reimburse the
26 obligee for the cost of health care coverage for the minor
27 child when coverage is provided by the obligee. In either
28 event, the court shall apportion the cost of coverage, and any
29 noncovered medical, dental, and prescription medication
30 expenses of the child, to both parties by adding the cost to
31 the basic obligation determined pursuant to s. 61.30(6). The

1 court may order that payment of uncovered medical, dental, and
2 prescription medication expenses of the minor child be made
3 directly to the obligee on a percentage basis.

4 1. In a non-Title IV-D case, a copy of the court order
5 for health care coverage shall be served on the obligor's
6 union or employer by the obligee when the following conditions
7 are met:

8 a. The obligor fails to provide written proof to the
9 obligee within 30 days after receiving effective notice of the
10 court order, ~~that~~ that the health care coverage has been obtained
11 or that application for coverage has been made;

12 b. The obligee serves written notice of intent to
13 enforce an order for health care coverage on the obligor by
14 mail at the obligor's last known address; and

15 c. The obligor fails within 15 days after the mailing
16 of the notice to provide written proof to the obligee that the
17 health care coverage existed as of the date of mailing.

18 2.a. A support order enforced under Title IV-D of the
19 Social Security Act which requires that the obligor provide
20 health care coverage is enforceable by the department through
21 the use of the national medical support notice, and an
22 amendment to the support order is not required. The department
23 shall transfer the national medical support notice to the
24 obligor's union or employer. The department shall notify the
25 obligor in writing that the notice has been sent to the
26 obligor's union or employer, and the written notification must
27 include the obligor's rights and duties under the national
28 medical support notice. The obligor may contest the
29 withholding required by the national medical support notice
30 based on a mistake of fact. To contest the withholding, the
31 obligor must file a written notice of contest with the

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

24 b. In a Title IV-D case, the department shall notify
25 an obligor's union or employer if the obligation to provide
26 health care coverage through that union or employer is
27 terminated.

28 3. In a non-Title IV-D case, upon receipt of the order
29 pursuant to subparagraph 1., or upon application of the
30 obligor pursuant to the order, the union or employer shall
31 enroll the minor child as a beneficiary in the group health

1 plan regardless of any restrictions on the enrollment period
2 and withhold any required premium from the obligor's income.
3 If more than one plan is offered by the union or employer, the
4 child shall be enrolled in the group health plan in which the
5 obligor is enrolled.

6 4.a. Upon receipt of the national medical support
7 notice under subparagraph 2. in a Title IV-D case, the union
8 or employer shall transfer the notice to the appropriate group
9 health plan administrator within 20 business days after the
10 date on the notice. The plan administrator must enroll the
11 child as a beneficiary in the group health plan regardless of
12 any restrictions on the enrollment period, and the union or
13 employer must withhold any required premium from the obligor's
14 income upon notification by the plan administrator that the
15 child is enrolled. The child shall be enrolled in the group
16 health plan in which the obligor is enrolled. If the group
17 health plan in which the obligor is enrolled is not available
18 where the child resides or if the obligor is not enrolled in
19 group coverage, the child shall be enrolled in the lowest cost
20 group health plan that is available where the child resides.

21 b. If health care coverage or the obligor's employment
22 is terminated in a Title IV-D case, the union or employer that
23 is withholding premiums for health care coverage under a
24 national medical support notice must notify the department
25 within 20 days after the termination and provide the obligor's
26 last known address and the name and address of the obligor's
27 new employer, if known.

28 5.a. The amount withheld by a union or employer in
29 compliance with a support order may not exceed the amount
30 allowed under s. 303(b) of the Consumer Credit Protection Act,
31 15 U.S.C. s. 1673(b), as amended. The union or employer shall

1 withhold the maximum allowed by the Consumer Credit Protection
2 Act in the following order:

3 (I) Current support, as ordered.

4 (II) Premium payments for health care coverage, as
5 ordered.

6 (III) Past due support, as ordered.

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

8 b. If the combined amount to be withheld for current
9 support plus the premium payment for health care coverage
10 exceed the amount allowed under the Consumer Credit Protection
11 Act, and the health care coverage cannot be obtained unless
12 the full amount of the premium is paid, the union or employer
13 may not withhold the premium payment. However, the union or
14 employer shall withhold the maximum allowed in the following
15 order:

16 (I) Current support, as ordered.

17 (II) Past due support, as ordered.

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

19 6. An employer, union, or plan administrator who does
20 not comply with the requirements of sub-subparagraph 4.a. is
21 subject to a civil penalty not to exceed \$250 for the first
22 violation and \$500 for subsequent violations, plus attorney's
23 fees and costs. The department may file a petition in circuit
24 court to enforce the requirements of this subparagraph.

25 ~~7.6.~~ The Department of Revenue may adopt rules to
26 administer the child support enforcement provisions of this
27 section which affect Title IV-D cases.

28 Section 2. Effective July 1, 2006, subsections (1) and
29 (2) of section 61.1354, Florida Statutes, are amended to read:

30 61.1354 Sharing of information between consumer
31 reporting agencies and the IV-D agency.--

1 (1) Upon receipt of a request from a consumer
2 reporting agency as defined in s. 603(f) of the Fair Credit
3 Reporting Act, the IV-D agency or the depository in
4 non-Title-IV-D cases shall make available information relating
5 to the amount of current and overdue support owed by an
6 obligor. The IV-D agency or the depository in non-Title-IV-D
7 cases shall give the obligor written notice, at least 15 days
8 prior to the release of information, of the IV-D agency's or
9 depository's authority to release information to consumer
10 reporting agencies relating to the amount of current and
11 overdue support owed by the obligor. The obligor shall be
12 informed of his or her right to request a hearing with the
13 IV-D agency or the court in non-Title-IV-D cases to contest
14 the accuracy of the information.

15 (2) The IV-D agency shall report periodically to
16 appropriate consumer reporting agencies, as identified by the
17 IV-D agency, the name and social security number of any
18 delinquent obligor, ~~and~~ the amount of overdue support owed by
19 the obligor, and the amount of current support owed by the
20 obligor when the overdue support is paid. The IV-D agency, or
21 its designee, shall provide the obligor with written notice,
22 at least 15 days prior to the initial release of information,
23 of the IV-D agency's authority to release the information
24 periodically to the consumer reporting agencies. The notice
25 shall state the amount of overdue support owed and the amount
26 of current support owed when the overdue support is paid and
27 shall inform the obligor of the right to request a hearing
28 with the IV-D agency within 15 days after receipt of the
29 notice to contest the accuracy of the information. After the
30 initial notice is given, no further notice or opportunity for
31 a hearing need be given when updated information concerning

1 | the same obligor is periodically released to the consumer
2 | reporting agencies.

3 | Section 3. Effective December 1, 2005, paragraph (a)
4 | of subsection (8) of section 61.14, Florida Statutes, is
5 | amended to read:

6 | 61.14 Enforcement and modification of support,
7 | maintenance, or alimony agreements or orders.--

8 | (8)(a) When an employee and employer reach an
9 | agreement for a lump-sum settlement under s. 440.20(11), no
10 | proceeds of the settlement shall be disbursed to the employee,
11 | nor shall any attorney's fees be disbursed, until after a
12 | judge of compensation claims reviews the proposed disbursement
13 | and enters an order finding the settlement provides for
14 | appropriate recovery of any support arrearage. The employee,
15 | or the employee's attorney if the employee is represented,
16 | shall submit a written statement from the department as to
17 | whether the employee owes unpaid support and, if so, the
18 | amount owed. In addition, the judge of compensation claims may
19 | require the employee to submit a similar statement from a
20 | local depository established under s. 61.181. The sworn
21 | statement of the employee that all existing support
22 | obligations have been disclosed is also required. If the judge
23 | finds the proposed allocation of support recovery
24 | insufficient, the parties may amend the settlement agreement
25 | to make the allocation of proceeds sufficient. The Office of
26 | the Judges of Compensation Claims shall adopt procedural rules
27 | to implement this paragraph. ~~When reviewing and approving any~~
28 | ~~lump sum settlement under s. 440.20(11)(a) and (b), a judge of~~
29 | ~~compensation claims must consider whether the settlement~~
30 | ~~serves the interests of the worker and the worker's family,~~
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1 ~~including, but not limited to, whether the settlement provides~~
2 ~~for appropriate recovery of any child support arrearage.~~

3 Section 4. Subsection (1) of section 61.1812, Florida
4 Statutes, is amended to read:

5 61.1812 Child Support Incentive Trust Fund.--

6 (1) The Child Support Incentive Trust Fund is hereby
7 created, to be administered by the Department of Revenue. All
8 child support enforcement incentive earnings and that portion
9 of the state share of Title IV-A public assistance collections
10 recovered in fiscal year 1996-1997 by the Title IV-D program
11 of the department which is in excess of the amount estimated
12 by the February 1997 Social Services Estimating Conference to
13 be recovered in fiscal year 1996-1997 shall be credited to the
14 trust fund, and no other receipts, except interest earnings,
15 shall be credited thereto. For fiscal years beginning with
16 1997-1998, in addition to incentive earnings and interest
17 earnings, that portion of the state share of Title IV-A public
18 assistance collections recovered in each fiscal year by the
19 Title IV-D program of the department which is in excess of the
20 amount estimated by the February 1997 Social Services
21 Estimating Conference to be recovered in fiscal year 1997-1998
22 shall be credited to the trust fund. The purpose of the trust
23 fund is to account for federal incentive payments to the state
24 for child support enforcement and to support the activities of
25 the child support enforcement program under Title IV-D of the
26 Social Security Act. The department shall invest the money in
27 the trust fund pursuant to s. 17.61 ~~ss. 215.44-215.52~~, and
28 retain all interest earnings in the trust fund. The department
29 shall separately account for receipts credited to the trust
30 fund. When all general revenue appropriations for the child
31 support enforcement program have been shifted to the trust

1 fund, then annually thereafter, on June 30, if revenues
2 deposited into the trust fund, including federal child support
3 incentive earnings, have exceeded state expenditures for the
4 child support enforcement program administered by the
5 department for the prior 12-month period, the revenues in
6 excess of cash flow needs are transferred to the General
7 Revenue Fund.

8 Section 5. Subsection (2) of section 222.21, Florida
9 Statutes, is amended to read:

10 222.21 Exemption of pension money and retirement or
11 profit-sharing benefits from legal processes.--

12 (2)(a) Except as provided in paragraph (b), any money
13 or other assets payable to a participant or beneficiary from,
14 or any interest of any participant or beneficiary in, a
15 retirement or profit-sharing plan that is qualified under s.
16 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, or s. 409 of
17 the Internal Revenue Code of 1986, as amended, is exempt from
18 all claims of creditors of the beneficiary or participant.

19 (b) Any plan or arrangement described in paragraph (a)
20 is not exempt from the claims of an alternate payee under a
21 qualified domestic relations order. However, the interest of
22 any alternate payee under a qualified domestic relations order
23 is exempt from all claims of any creditor, other than the
24 Department of Revenue ~~Children and Family Services~~, of the
25 alternate payee. As used in this paragraph, the terms
26 "alternate payee" and "qualified domestic relations order"
27 have the meanings ascribed to them in s. 414(p) of the
28 Internal Revenue Code of 1986.

29 (c) The provisions of paragraphs (a) and (b) apply to
30 any proceeding that is filed on or after October 1, 1987.

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1 Section 6. Effective July 1, 2005, paragraph (b) of
2 subsection (1) of section 382.016, Florida Statutes, is
3 amended to read:

4 382.016 Amendment of records.--The department, upon
5 receipt of the fee prescribed in s. 382.0255; documentary
6 evidence, as specified by rule, of any misstatement, error, or
7 omission occurring in any birth, death, or fetal death record;
8 and an affidavit setting forth the changes to be made, shall
9 amend or replace the original certificate as necessary.

10 (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.--

11 (b) Upon written request and receipt of an affidavit,
12 a notarized voluntary acknowledgment of paternity signed by
13 the mother and father acknowledging the paternity of a
14 registrant born out of wedlock, or a voluntary acknowledgment
15 of paternity that is witnessed by two individuals and signed
16 under penalty of perjury as specified by s. 92.525(2),
17 together with sufficient information to identify the original
18 certificate of live birth, the department shall prepare a new
19 birth certificate, which shall bear the same file number as
20 the original birth certificate. The names and identifying
21 information of the parents shall be entered as of the date of
22 the registrant's birth. The surname of the registrant may be
23 changed from that shown on the original birth certificate at
24 the request of the mother and father of the registrant, or the
25 registrant if of legal age. If the mother and father marry
26 each other at any time after the registrant's birth, the
27 department shall, upon the request of the mother and father or
28 registrant if of legal age and proof of the marriage, amend
29 the certificate with regard to the parents' marital status as
30 though the parents were married at the time of birth. The
31 department shall substitute the new certificate of birth for

1 | the original certificate on file. All copies of the original
2 | certificate of live birth in the custody of a local registrar
3 | or other state custodian of vital records shall be forwarded
4 | to the State Registrar. Thereafter, when a certified copy of
5 | the certificate of birth or portion thereof is issued, it
6 | shall be a copy of the new certificate of birth or portion
7 | thereof, except when a court order requires issuance of a
8 | certified copy of the original certificate of birth. Except
9 | for a birth certificate on which a father is listed pursuant
10 | to an affidavit, a notarized voluntary acknowledgment of
11 | paternity signed by the mother and father acknowledging the
12 | paternity of a registrant born out of wedlock, or a voluntary
13 | acknowledgment of paternity that is witnessed by two
14 | individuals and signed under penalty of perjury as specified
15 | by s. 92.525(2), the department shall place the original
16 | certificate of birth and all papers pertaining thereto under
17 | seal, not to be broken except by order of a court of competent
18 | jurisdiction or as otherwise provided by law.

19 | Section 7. Effective October 1, 2005, paragraph (d) is
20 | added to subsection (1) of section 382.016, Florida Statutes,
21 | to read:

22 | 382.016 Amendment of records.--The department, upon
23 | receipt of the fee prescribed in s. 382.0255; documentary
24 | evidence, as specified by rule, of any misstatement, error, or
25 | omission occurring in any birth, death, or fetal death record;
26 | and an affidavit setting forth the changes to be made, shall
27 | amend or replace the original certificate as necessary.

28 | (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.--

29 | (d) For a child born in this state whose paternity is
30 | established in another state, the department shall amend the
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1 child's birth certificate to include the name of the father
2 upon receipt of:

3 1. A certified copy of an acknowledgment of paternity,
4 final judgment, or judicial or administrative order from
5 another state which determines the child's paternity; or

6 2. A noncertified copy of an acknowledgment of
7 paternity, final judgment, or judicial or administrative order
8 from another state which determines the child's paternity when
9 provided with an affidavit or written declaration from the
10 Department of Revenue which states that the document was
11 provided by or obtained from another state's Title IV-D
12 program.

13
14 The department may not amend a child's birth certificate to
15 include the name of the child's father if paternity was
16 established by adoption and the father is not eligible to
17 adopt under state law.

18 Section 8. Effective July 1, 2005, subsection (4) of
19 section 409.2561, Florida Statutes, is amended to read:

20 409.2561 Support obligations when public assistance is
21 paid; assignment of rights; subrogation; medical and health
22 insurance information.--

23 (4) No obligation of support under this section shall
24 be incurred by any person who is the recipient of supplemental
25 security income or temporary cash assistance ~~public assistance~~
26 ~~moneys~~ for the benefit of a dependent child or who is
27 incapacitated and financially unable to pay as determined by
28 the department.

29 Section 9. Section 409.2567, Florida Statutes, is
30 amended to read:

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1 409.2567 Services to individuals not otherwise
2 eligible.--All support services provided by the department
3 shall be made available on behalf of all dependent children.
4 Services shall be provided upon acceptance of public
5 assistance or upon proper application filed with the
6 department. The department shall adopt rules to provide for
7 the payment of a \$25 application fee from each applicant who
8 is not a public assistance recipient. The application fee
9 shall be deposited in the Child Support Enforcement
10 Application and Program Revenue Trust Fund within the
11 Department of Revenue to be used for the Child Support
12 Enforcement Program. The obligor is responsible for all
13 administrative costs, as defined in s. 409.2554. The court
14 shall order payment of administrative costs without requiring
15 the department to have a member of the bar testify or submit
16 an affidavit as to the reasonableness of the costs. An
17 attorney-client relationship exists only between the
18 department and the legal services providers in Title IV-D
19 cases. The attorney shall advise the obligee in Title IV-D
20 cases that the attorney represents the agency and not the
21 obligee. In Title IV-D cases, any costs, including filing
22 fees, recording fees, mediation costs, service of process
23 fees, and other expenses incurred by the clerk of the circuit
24 court, shall be assessed only against the nonprevailing
25 obligor after the court makes a determination of the
26 nonprevailing obligor's ability to pay such costs and fees. In
27 any case where the court does not award all costs, the court
28 shall state in the record its reasons for not awarding the
29 costs. The Department of Revenue shall not be considered a
30 party for purposes of this section; however, fees may be
31 assessed against the department pursuant to s. 57.105(1). ~~The~~

1 ~~department shall submit a monthly report to the Governor and~~
2 ~~the chairs of the Health and Human Services Fiscal Committee~~
3 ~~of the House of Representatives and the Ways and Means~~
4 ~~Committee of the Senate specifying the funds identified for~~
5 ~~collection from the noncustodial parents of children receiving~~
6 ~~temporary assistance and the amounts actually collected.~~

7 Section 10. Effective October 1, 2005, section
8 409.821, Florida Statutes, is amended to read:

9 409.821 Florida Kidcare program public records
10 exemption.--Notwithstanding any other law to the contrary, any
11 information identifying a Florida Kidcare program applicant or
12 enrollee, as defined in s. 409.811, held by the Agency for
13 Health Care Administration, the Department of Children and
14 Family Services, the Department of Health, or the Florida
15 Healthy Kids Corporation is confidential and exempt from s.
16 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
17 information may be disclosed to another governmental entity
18 only if disclosure is necessary for the entity to perform its
19 duties and responsibilities under the Florida Kidcare program
20 and shall be disclosed to the Department of Revenue for
21 purposes of administering the state's Title IV-D program. The
22 receiving governmental entity must maintain the confidential
23 and exempt status of such information. Furthermore, such
24 information may not be released to any person without the
25 written consent of the program applicant. This exemption
26 applies to any information identifying a Florida Kidcare
27 program applicant or enrollee held by the Agency for Health
28 Care Administration, the Department of Children and Family
29 Services, the Department of Health, or the Florida Healthy
30 Kids Corporation before, on, or after the effective date of
31 this exemption. A violation of this section is a misdemeanor

1 of the second degree, punishable as provided in s. 775.082 or
2 s. 775.083.

3 Section 11. Except as otherwise provided herein, this
4 act shall take effect upon becoming a law.

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