HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1283 CS Child Support
SPONSOR(S): Galvano
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1884

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	6 Y, 0 N	Preston	Collins
2) Civil Justice Committee	5 Y, 0 N, w/CS	Lammers	Billmeier
3) State Administration Appropriations Committee	7 Y, 0 N	Belcher	Belcher
4) Health & Families Council		Preston	Moore
5)			

SUMMARY ANALYSIS

The bill includes a number of proposals that increase coordination between state and local agencies to establish orders for paternity and support, enforce the parent's responsibility to pay support, and ensure that the monies collected get to children and their families. Provisions in the bill include:

PATERNITY ESTABLISHMENT

● The bill requires a feasibility study to be conducted on electronic processing of birth records, allows paternity to be established administratively based on genetic testing results of 99% or greater, allows amended birth record information to be available to the Department of Revenue (DOR or the department) without a court order, permits genetic testing in correctional facilities based on an administrative order, and establishes a licensing application requirement for hospital paternity programs.

SUPPORT ORDER ESTABLISHMENT

● The bill reduces retroactive support for noncustodial parents who agree to a support order, increases the number of cases that support orders can be established for by allowing parents who receive food stamps or Medicaid to be ordered to pay support if financially able to do so, and requires electronic processing of child support judicial actions.

CHILD SUPPORT REMITTANCE AND DISTRIBUTION

● The bill permits the posting of undistributed child support collection information on the Internet, provides for electronic disbursement of support to families, and requires electronic remittance of child support payments by certain employers.

CHILD SUPPORT ENFORCEMENT

● The bill amends the procedure for reporting child support obligations to consumer reporting agencies, requires a method to transmit income withholding and medical support notices electronically, provides notice to the department when a judgment by operation of law is recorded, and improves criminal nonsupport procedures to increase the use of this enforcement tool for the most serious non-payers by removing the limitation of a remedy of last resort, the required notice to a noncustodial parent prior to commencing criminal action, and the requirement for a prior adjudication of contempt.

MEDICAL SUPPORT

● The bill provides a penalty for those employers who refuse to enroll children in available health plans after receiving notice of federal and state requirements to do so and permits data exchange between DOR and the Agency for Health Care Administration (AHCA) to ensure that children have health care coverage and increase the number of children with private coverage, when it is available.

FISCAL IMPACT: It is estimated that the bill will have a $1.5 million trust fund cost to DOR for implementation of the Automated Child Support Enforcement System; however, this funding has been included in the proposed General Appropriations Act. There is also a recurring negative trust fund impact to DOR because of an application fee reduction. The Department of Health estimates there will be an annual fiscal impact of $1,000 to the agency.

Except as otherwise provided, this bill shall take effect on July 1, 2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill contains a number of provisions related to paternity establishment. These measures may result in additional responsibilities for agencies, but those could be offset by a reduction in family dependence upon services and assistance provided by those agencies. The bill also provides authority to the department to adopt rules to implement a number of provisions of the bill (see section of analysis on rulemaking authority).

Ensure lower taxes – The bill reduces the application fee currently required for an applicant for child support enforcement services with the department who is not receiving public assistance from $25 to $1 and provides that the department shall waive the fee for all applicants who are currently required to pay the fee. The fee will be paid by the department.

Promote personal responsibility – The bill contains a number of provisions related to the child support enforcement process. An increase in the number of children with paternity established and more efficient enforcement tools could increase the number of orders for support, increase the amount of money collected, and reduce the dependence of families on public assistance.

Empower families – The bill contains a number of provisions related to the child support enforcement process. An increase in the number of children with paternity established and more efficient enforcement tools could increase the number of orders for support, increase the amount of money collected, and reduce the dependence of families on public assistance.

B. EFFECT OF PROPOSED CHANGES:

PATERNITY ESTABLISHMENT

When a married couple has a child, the law automatically recognizes the husband as the child's legal father; therefore, paternity does not need to be determined.[1] If a child's parents were not married to each other when the child was born, the law does not recognize the father unless paternity is legally established.[2] Establishing paternity gives a child born outside of marriage the same legal rights as a child born to married parents and paternity must be established before the court can establish an obligation to pay child support.[3]

Research has shown that paternity establishment and the involvement of both parents in a child's life increases the opportunity for children to gain a sense of family history, helps develop a bond between fathers and their children, and enables children to attain higher levels of education.[4] Additionally, it has been found that parental involvement decreases the likelihood of children living in poverty or having substance abuse and behavioral problems. A recent analysis of Florida vital statistics records indicated

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[1] Section 382.013(2)(a), F.S.; *Dep't of Revenue v. Cummings*, 871 So. 2d 1055, 1059 (Fla. 2d DCA 2004) (citations omitted).
[2] *See, e.g.*, s. 742.10, F.S.
[3] Section 409.2564, F.S.; *Establishing Legal Paternity*, Florida Department of Revenue, at http://www.myflorida.com/dor/childsupport/paternity.html (last visited March 28, 2005).
[4] *See, e.g.,* National Conference of State Legislatures, *Statement of Representative Evelyn Lynn Florida House of Representatives*, July 25, 2000, available at http://www.ncsl.org/programs/press/lynntest.htm (last visited March 28, 2005); *Responsible Fatherhood*, Fathers for Virginia, at http://www.fathersforvirginia.org/responsiblefatherhood.htm (last visited March 28, 2005).

that approximately 650,000 Florida-born children currently under the age of 18 do not have paternity established.[5]

Based on the last published data from all states [federal fiscal year (FFY) 2002-03], Florida ranked 26th in the nation on the federal measure related to percentage of paternity establishments.[6] For Florida to be ranked within the top-performing states, the number of paternities established will need to increase from 76,000 in FFY 2003-04 to an estimated 91,000 in FFY 2006-07.[7] To increase the number of children that have paternity established, the department has been reviewing Florida's and other states' laws, policies and procedures to identify areas where improvements could be made.

Since the state receives federal incentive funding based upon the federal performance measures, ensuring that all paternities established are accurately recorded in vital records is critical, as vital records are the data source for federal reporting purposes. The federal government audits each state's data annually to ensure the data is reliable. If a state's data is found to be unreliable, the state will not be awarded federal incentives for the specific performance measure.[8] In addition, if the state fails to meet the minimum standard performance for the paternity establishment measure, the state could potentially receive a federal financial penalty of up to 5 percent of the state's Temporary Assistance for Needy Families (TANF) block grant.[9] When paternity is established, but left undocumented in the vital statistics' database, there is a negative impact on the state's performance, federal incentive earnings, and potentially the TANF block grant.[10]

The bill contains a number of provisions related to paternity establishment, including the following:

Sealed Birth Records

Currently, Florida law requires a certificate for each live birth that occurs in this state to be filed within 5 days after such birth.[11] If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has otherwise been determined by a court of competent jurisdiction.[12]

If the mother is not married at the time of the birth, the name of the father may not be entered on the birth certificate without the execution of an affidavit signed by both the mother and the person to be named as the father.[13] The birthing facility is required to give notice to the parents orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights and responsibilities associated with signing an acknowledgment of paternity.[14] The facility must also provide to the parents information provided by DOR related to the benefits of voluntary establishment of paternity.[15] Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit, a notarized voluntary acknowledgment of paternity, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury pursuant to section 92.525, F.S.[16]

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[5] Department of Revenue, phone interview March 24, 2005.
[6] Department of Revenue 2004 Annual Report, available at http://sun6.dms.state.fl.us/dor/report/2004/cse.html (last visited March 28, 2005).
[7] *Id.*
[8] U.S. Department of Health & Human Services, Administration for Children & Families, *Temporary Assistance for Needy Families (TANF) Fact Sheet,* at http://www.acf.hhs.gov/news/facts/tanf.html (last visited March 28, 2005).
[9] *Id.*
[10] *Id.*
[11] Section 382.013, F.S.
[12] *Id.*
[13] *Id.* at (2)(c), F.S.
[14] *Id.*
[15] *Id.*
[16] Section 382.013, F.S.

In cases where parents acknowledge paternity for a child after leaving the hospital by executing a notarized or witnessed acknowledgment or affidavit, the Department of Health, Office of Vital Statistics (OVS) amends the original birth record to include the name of the father.[17] However, OVS seals the acknowledgment or affidavit signed by the parents along with the original birth record, and will not provide that information to the department without a court order.[18] When this acknowledgment process is completed at the time of birth in the hospital, OVS provides this information without a court order.

The bill provides the department with access to the acknowledgment or affidavit signed by parents that amends the original birth record to enter the name of the father without having to obtain a court order.

Birth Record Documentation when Paternity is Established in Another State

Florida Statutes do not currently provide a process for OVS to amend birth records of children born in Florida for whom paternity is established by another state either through an administrative process or by voluntary acknowledgment. This lack of a statutory process results in Florida's vital statistics records not accurately reflecting that paternity is established for these children. In addition, for children born in Florida whose paternity is established by another state through a judicial process, OVS requires a certified copy of the final order adjudicating paternity before amending the birth certificate.[19]

The bill allows OVS to amend birth records of Florida-born children upon the judicial or administrative establishment of paternity by another state based upon certification by the Title IV-D agency with supporting documentation. Such documentation may include non-certified copies of the judicial or administrative order or acknowledgments of paternity that are provided or obtained from the other state. However, OVS may not amend a child's birth certificate to include the name of the child's father if the father's paternity was established by adoption and the father is not eligible to adopt under Florida law.

Administrative Final Orders Based on Genetic Testing Results

The department is responsible for establishing paternity and child support obligations in Title IV-D cases. Florida law provides for an alleged father to submit to genetic testing based on either a court order or an administrative order.[20] Once genetic testing is complete and the father does not contest the results, paternity is still not established until there is a voluntary acknowledgment signed by both parents or a court enters a final order adjudicating paternity.[21]

The department can issue administrative orders for genetic testing pursuant to s. 409.25645, F.S. In a case where the alleged father submits to genetic testing and he is not excluded as the biological father, DOR must file an action in circuit court to have paternity established, unless the father is willing to sign a voluntarily acknowledgment of paternity.[22] The current process results in the state having to serve the noncustodial parent twice. First, the noncustodial parent is served with the administrative order for genetic testing and if the alleged father is not excluded, the department must re-serve him with the circuit court action, which may also include the establishment of a support obligation.

Legislation enacted in 2002 required the department to study the feasibility of an administrative process for the establishment of paternity in Title IV-D cases.[23] The study found that an administrative establishment of paternity procedure was feasible and that other states have successfully implemented similar programs. The specific findings from the study are as follows:

- Genetic testing has been established as a reliable indicator of paternity. The medical

[17] Section 382.016(1)(b), F.S.
[18] *Id.*
[19] Section 742.105, F.S.
[20] Section 742.12(1), F.S.; s. 409.25645, F.S.
[21] *Id.*; s. 742.12(4), F.S.
[22] Section 742.12(3), F.S.
[23] Chapter 2002-239, Laws of Florida.

community recognizes these tests and the results are routinely relied upon by the judiciary in establishing paternity for children here in Florida and nationwide. A survey conducted recently by DOR sought information from 7 states on the number of cases where paternity was not established despite genetic test results of 95 percent or higher probability that the man tested was the father. No such cases were found.

- The department currently has genetic testing contracts in place. A contract requirement is that all test results must either show 100 percent exclusion or 99 percent or greater probability of paternity.
- The federal government pays 90 percent of the costs of genetic testing in Title IV-D cases.
- The establishment of paternity directly and indirectly impacts federal incentive measures and resultant funding for the state's Title IV-D program. The percentage of support orders obtained increases the potential federal dollars received. However, support orders cannot be established and payments enforced until paternity is established.
- Under current law, the department may establish support orders administratively. Authorizing the department to establish paternity administratively when there are positive genetic test results would be a logical addition to this procedure.
- With a proper delegation of legislative authority, it appears that an executive agency could be authorized to establish paternity. Art. 5, s.1 of the Constitution specifically provides that quasi-judicial powers can be granted to administrative agencies. Thus, the legislature has authority under the Florida Constitution to grant an executive agency the authority to administratively establish paternity. There are numerous examples in which the legislature has authorized state agencies, boards and commissions to decide legal rights and duties administratively as long as there is prior notice, opportunity for an impartial hearing and a right to judicial review (e.g. worker's compensation, compensation for government takings, licensing, eligibility for government benefits).
- Ensuring that the alleged father has the right to go to court instead of having paternity established administratively should address concerns regarding access to the courts.
- Based on the experience of other states, it appears that the requirements of due process can be met by providing for adequate prior notice, a meaningful opportunity to be heard by an impartial decision-maker and the right to judicial review.
- The administrative establishment of paternity by the use of genetic test results has been successfully implemented in several other states. Oregon has employed administrative establishment of paternity since 1986 and Colorado and Montana since 1989.
- By diverting the paternity cases with positive genetic test results from the court system, the judiciary can address more cases involving complex issues. Leveraging resources outside the judicial branch and finding innovative ways to resolve family law matters out of court is consistent with the Unified Model Family Court concept advocated by the judiciary. The feasibility of administrative establishment of paternity in Florida is demonstrated and evidence has shown that other states have successfully implemented programs that administratively establish paternity through genetic test results.

The bill creates s. 409.256, F.S., which authorizes the department to begin an administrative proceeding in Title IV-D cases to establish paternity upon receipt of genetic testing results that indicate non-exclusion and a 99% or greater probability of paternity. The proposed process is similar to the administrative procedure to establish support orders,[24] and includes notice, the opportunity for a hearing and judicial review.

Electronic Submission of Paternity Documentation for Birth Records

OVS is responsible for maintaining the state's vital records and ensuring that the records are timely updated and accurate. With respect to birth record amendments once paternity is established, all documentation must be submitted to OVS as hard copy paper documents and in most cases, the documents must be originals or certified copies. If documentation is incomplete or inaccurate, the documents are returned to the source and there is no tracking system in place to ensure that the corrected information is returned, potentially resulting in birth records not accurately reflecting the legal father of the child.

[24] *See* s. 409.2563, F.S.

The bill requires the Department of Health (DOH), DOR, Florida Hospital Association, Florida Association of Court Clerks (FACC), and one or more local registrars to study the feasibility of electronic filing of new and amended birth certificates, documentation of paternity determinations, and adoptions. It also requires DOH to submit a report to the Governor, Cabinet, President of the Senate, and Speaker of the House of Representatives by July 1, 2006, that includes the estimated cost to develop and implement electronic filing, the cost savings that would result from electronic filing, and potential funding sources.

Monitoring of Judicial Paternity Establishment

Florida clerks of court are currently required to submit to OVS a certified order, or a report of the proceeding for adoption, annulment of an adoption, affirmation of parental status, or determination of paternity.[25] The clerk of court must submit this order or report within 30 days after the final disposition to OVS for amendment of the birth record indicating paternity has been established and adding the father's name.[26] Florida clerks of court meet this requirement by certifying the final judgment of paternity entered by the Florida court or by completing an OVS form. Once OVS has received this documentation from the clerk of court, an amendment is made to the child's birth record indicating that paternity has been established.[27] While actions have been taken to improve the processing of birth record amendment documentation, Florida does not have a formal monitoring and quality control plan to ensure the accuracy and completeness of paternity information in its vital records.

The bill requires the clerks of the circuit court to implement a monitoring and quality control plan to ensure that all judicial paternity determinations are reported to OVS Statistics. It also requires OVS to monitor the clerk of courts' compliance with the 30-day statutory requirement and provide quarterly reports to the clerks of courts.

Licensing Application Requirement for Hospital Paternity Programs

Federal and state laws require hospital paternity establishment programs that provide parents of children born out-of-wedlock the opportunity to establish paternity at birth by completing the acknowledgment portion of the birth certificate.[28] In FFY 2002-03, 210,357 children were born in Florida and of those 82,876 (approximately 39%) were born out of wedlock. Paternity was established for 72,149 children, or 89.4 percent of the children born out of wedlock.[29]

Unwed parents took the opportunity to establish paternity for 47,446 children by signing paternity acknowledgments in the hospital at the time of birth. However, 35,429 children left the hospital without paternity established. The percentage of paternity establishments in Florida hospitals compared to the number of unwed births for each hospital ranges from 24% to more than 80%, with the statewide average being 57.4% (FFY 2002-03).[30]

The bill requires hospitals to affirm in writing as part of the application for a new, provisional, or renewal license, that the hospital will comply with current law which requires hospitals to provide information to unmarried parents about establishing paternity and, upon request, to assist parents in executing a voluntary acknowledgment of paternity.[31] A hospital may not be fined or sanctioned for failure to comply with this requirement.

State Agency Outreach on Benefits of Paternity Establishment

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[25] Section 382.015, F.S.
[26] *Id.*
[27] *Id.* at (2).
[28] *See* 45 CFR 303.5(g)(1)i. and s. 382.013(2)(c), F.S.
[29] *Child Support Enforcement, Paternity Establishment*, Department of Revenue, at http://sun6.dms.state.fl.us/dor/report/2004/numbers.html#note3 (last visited March 28, 2005).
[30] Data from the Department of Revenue and the Office of Vital Statistics.
[31] *See* s. 382.013(2)(c), F.S.

Many families with children for whom paternity has not been established may be interacting with one or more state agencies. If state agencies that provide services to families with minor children had educational materials available describing how paternity can be established and the benefits of establishing paternity, it may help reduce the number of children that do not have paternity established. There is currently no statewide effort by state agencies that provide services to families and children to educate parents on issues related to paternity establishment.

The bill creates a requirement for the department to develop written educational materials outlining how paternity is established and the benefits paternity establishment, requires the Department of Children and Family Services, Department of Corrections, Department of Education, Department of Health, and Department of Juvenile Justice to make these materials available to individuals they serve, and encourages these agencies to provide additional education on paternity establishment.

Genetic Paternity in Correctional Facilities

Current law authorizes the department to issue administrative orders for genetic testing.[32] Some correctional facilities allow for the collection of genetic material based upon these administrative orders; however, other facilities require a judicial order. The requirement for a judicial order results in the department being required to file an action in circuit court, serve the petition on the incarcerated noncustodial parent, and in many instances schedule a court hearing to obtain a court order for genetic testing.

The bill requires correctional facilities to assist inmates in complying with administrative orders for genetic testing issued by the department. The bill also provides that an administrative order for genetic testing has the same force and effect as a court order.

SUPPORT ORDER ESTABLISHMENT

Reducing Retroactive Support for Noncustodial Parents who Agree to a Support Order

When an initial child support order is established, the child support obligation can be ordered for prior time periods that the noncustodial parent did not pay child support. This is commonly referred to as retroactive support. Current law limits the time period of retroactive support obligations to a period not to exceed twenty-four months prior to the filing of the petition to establish support.[33] This provision of the law obligates noncustodial parents for the support of their children even though a support order did not exist and allows for custodial parents to receive the child support that would have been due if a support order had been established. It can also cause a noncustodial parent to face an overwhelmingly large past due child support debt once the initial support order is entered.

Some custodial parents who are not receiving child support receive temporary cash assistance. The receipt of temporary cash assistance creates an assignment of rights to monetary child support; meaning that child support that is due for the months the custodial parent received cash assistance is actually owed to the federal and state governments. Therefore, when a retroactive support amount is established and the custodial parent receives cash assistance during the retroactive support period, a portion of the retroactive support obligation is owed to the federal and state governments. If the custodial parent continues to receive temporary cash assistance, collections received are retained by the federal and state governments, instead of the payment being sent to the family. When the custodial parent stops receiving temporary cash assistance, the family will receive support collected, however,

[32] Section 409.25645, F.S.
[33] *See* s. 61.30, F.S.

some amounts may still be owed to the state and federal governments. Amounts collected that exceed the amount owed to family are retained by the state and federal governments.[34]

The bill requires that when a noncustodial parent and the department agree on entry of a support order and its terms, the guideline amount owed for retroactive support that is permanently assigned to the state must be reduced by 25 percent.

Public Assistance Exemption from Establishing Support Orders

Social Security benefits and Supplemental Security Income (SSI) benefits are different in a number of ways. The purpose of SSI benefits is to ensure that the income of a recipient is maintained at a level viewed by the federal government as the minimum necessary for subsistence and, therefore, unlike Social Security benefits, SSI benefits:

- are a supplement to the recipient's income based on need and do not serve as a substitute for income lost due to disability;
- require both the existence of a disability and that the applicant has no more than $2,000 in financial resources;[35]
- are not provided for the dependents of the SSI recipient, unless the dependents themselves independently meet the SSI eligibility criteria; and
- are not subject to attachment for the purpose of spousal support or child support.[36]

Based on these differences, the vast majority of states that have considered the issue have determined that SSI benefits may not be considered income for purposes of child support. Generally, those states have based those decisions on two reasons.[37] First, because by federal law SSI cannot be attached, it cannot be considered income and second, because SSI is a means-tested benefit, it should not be considered income.[38] Income from a means-tested federal program is intended to provide a minimum floor for support of the recipient.[39] In either case, it has generally been determined to be inappropriate to count such income for purposes of child support.[40]

Florida law related to child support guidelines does not consider SSI benefits or public assistance, as defined in s. 409.2554(7), F.S., as income for purposes of child support and provides an exemption for support order establishment when the noncustodial parent is receiving public assistance for a minor child. Public assistance includes Medicaid, Food Stamps and temporary cash assistance.[41] Exempting all forms of public assistance results in support obligations not being established for children who are not in the noncustodial parent's household, even though the noncustodial parent is working and has income.[42] According to the department, limiting the exemption to recipients of temporary cash assistance and SSI recipients only would remedy this situation.[43] Temporary cash assistance is not counted as income for purposes of establishing a support order, and recipients of SSI are both indigent and unable to work.

The bill limits the exemption to recipients of temporary cash assistance and SSI benefits. The department has no quantifiable data on this subject because it is not authorized to even open a child support case against a recipient of public assistance. However, the department believes that enacting

[34] Effective October 1, 2004, the state retains 41% of all retained support collections and pays 59% to the federal government.
[35] *See* 20 C.F.R. § 416.1205(c).
[36] *See* 42 U.S.C.A. s. 407(a).
[37] Lori W. Morgan, *Supplemental Security Income and Child Support*, (2004) *at* http://www.supportguidelines.com/articles/art200404.html (last visited February 28, 2005).
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] Section 409.2554(7), F.S.
[42] Conversation with Department of Revenue, March 1, 2005.
[43] *Id.*

this new restriction could result in the establishment of child support orders for a number of children. While recipients of Food Stamps and Medicaid will no longer be automatically excluded from consideration for child support payments, the department will still have to determine that recipients of these two forms of public assistance can afford to make child support payments.

This section shall take effect July 1, 2005.

Electronic Processing of Child Support Judicial Actions in Title IV-D Cases

In Title IV-D child support cases, many county and state entities must process information when paternity or a support order is established, modified, or enforced through a judicial procedure. Currently, all of this information is shared between these entities via paper documents. When hard copy documents are the main communication medium between entities, it increases the likelihood of documents not being received and the probability of data entry errors. Currently, any court or clerk of the court is allowed to accept the electronic transmission of documents for filing after the clerk, together with the input from the chief judge of the circuit, has obtained approval of the program, and procedures for doing so, from the Supreme Court.[44]

To fully leverage the new technology and ensure accurate, complete, and consistent information in all partners' information systems, the bill creates a requirement for the Supreme Court, clerks of the circuit court, chief judges, sheriffs, Office of the Attorney General, Office of the State Courts Administrator, and DOR to work cooperatively to implement electronic filing of pleadings, returns of service, and other papers with the clerk of the circuit court in Title IV-D cases by October 1, 2009.

REMITTANCE AND DISTRIBUTION OF SUPPORT

Posting Undistributed Support Collections on the Internet

An "undistributable collection" is defined as a support payment received by DOR which the department determines cannot be distributed to the final intended recipient.[45] This happens most often when a party moves and does not notify the department of the change of address.

Section 409.2558, F.S., was created in 1998 to require DOR to distribute and disburse child support payments collected in Title IV-D cases [46] in accordance with 42 U.S.C. s. 657 and regulations subsequently adopted by the Secretary of the United States Department of Health and Human Services.[47] The federal Office of Child Support Enforcement has stated that processing undistributable support payments should be a matter of state law, but that if such collections are treated as unclaimed property or become property of the state, they are to be considered as program income and an amount equal to the federal financial participation (66%) must be transferred to the federal government. The state share is credited to the General Revenue Fund.[48]

In 2001, the law related to disbursement and distribution was amended to require DOR to establish by rule a method for classifying collections as undistributable, a method for processing those collections,

[44] Rule of Judicial Administration 2.090, Electronic Filing of Matters in all Proceedings within the State Courts System.
[45] *See* s. 409.2554, F.S.
[46] Title IV-D case means a case or proceeding in which DOR is providing child support services under Title IV-D of the Social Security Act. These cases are typically, but not always, cases in which public assistance is currently being received or has been received at some point in time. See section 409.2563, Florida Statutes.
[47] *See* ch. 98-397, Laws of Florida.
[48] *See* s. 409.2558, F.S.

and a method for retrieving those collections from the General Revenue Fund and the federal government if the parties were later identified or located.[49]

The bill provides that the method used by DOR to determine a collection as undistributable must include reasonable efforts to locate and notify persons to whom collections or refunds are owed. Such reasonable efforts must include disclosure of names and depository[50] account numbers on the Internet.

Electronic Disbursement of Child Support

Today, almost all families in Florida still receive their child support payments by a check mailed to their home or mailing address. While direct deposit is available for some non-Title IV-D cases handled by the State Disbursement Unit (SDU), the majority of the approximately 7.8 million checks issued in FY 2003-04 were paper transactions. This process allows for checks to become lost or stolen, causing delays in families receiving their child support. Each month approximately 11,250 stop payment and void actions are initiated due to incorrect address information. Many states are beginning to implement direct deposit or stored-value card programs that require that all child support payments be issued to families electronically. These programs streamline the flow of payments to custodial parents and reduce postage and other costs of processing lost or stolen checks.

The bill requires the SDU to use automated procedures for the disbursement of support payments to the extent feasible, to provide for electronic disbursement to obligees, to notify obligees of electronic disbursement options, and to encourage their use through promotional material.

Electronic Remittance of Support Payments by Certain Employers

Currently, employers who are subject to income withholding can remit child support payments to the SDU by various methods. These methods include an individual check or money order for each individual case; a single check or money order for multiple cases with a hard-copy listing of the associated cases; a single check or money order accompanied by a diskette with case identification information; a check accompanied by an electronic spreadsheet with case identification information; payment via a website; and electronic funds transfer/electronic data interchange or EFT/EDI. Approximately 60% of the more than $1 billion in child support collections received annually are submitted by employers through income withholding. Less than 30% of these collections and associated case information received from employers are remitted electronically under the present voluntary program.

The bill requires employers who employed 10 or more employees in any quarter during the preceding state fiscal year or who were subject to and paid tax to the department in an amount of $30,000 or more to remit child support payments to the SDU by electronic means. The department is required to adopt rules that, to the extent feasible, are consistent with the department's rules for electronic filing and remittance of taxes. The bill also provides that a waiver granted by the department from the requirement to file and remit taxes electronically constitutes a waiver for purposes of child support transactions.

COLLECTION OF SUPPORT

Unemployment Compensation Interception

[49] *See* ch. 2001-158, Laws of Florida.

[50] "Depository" means the central governmental depository established pursuant to section 61.181, Florida Statutes, created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions and to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments not otherwise required to be processed by the SDU. In Florida, the office of the clerk of the court operates these depositories.

Current law provides that "legal process" may be used to withhold child support payments from unemployment compensation benefits as required by federal law.[51] The department meets the legal process requirement by obtaining specific language in each support order that provides for the withholding of a specific percentage of unemployment compensation benefits in the event the noncustodial parent receives benefits. Approximately one in four child support orders enforced by the department do not provide for the withholding of unemployment compensation and must be modified by the courts before withholding can occur. These are orders that were not established by DOR and which may have been established by another state. The current method of complying with federal law is inefficient, results in unequal application of the law and leaves some families with no collections from what should be a reliable source of payments.

The bill provides a definition of "support order" and requires the Agency for Workforce Innovation (AWI) to deduct and withhold 40% of unemployment compensation benefits for child support based on support order data provided by the department. The change applies to support obligations, which includes any legally required payment to reduce delinquencies, arrearages, or retroactive support, established on or after July 1, 2006, and to support obligations established before July 1, 2006, when the support order does not address withholding of unemployment compensation. For support orders in effect before July 1, 2006, that address the withholding of unemployment compensation, the amount of withholding will be as specified in the support order. As under current practice, if the amount deducted exceeds the support obligation, DOR is required to promptly refund the amount of the excess to the obligor. As under current law, noncustodial parents will be given notice by AWI that child support will be withheld from benefits and that withholding may be contested at an administrative hearing.

Child Support Obligations on Credit Reports

The Child Support Enforcement Amendments of 1984 required improvements in state and local child support enforcement programs, including providing information to consumer reporting agencies related to the amount of overdue support owed by a noncustodial parent when the amount owed exceeded $500.[52] In 1986, Florida law began requiring such sharing of information between the department and consumer reporting agencies.[53] Provisions of the federal welfare reform legislation enacted in 1996 continued to require states to periodically report to consumer reporting agencies names of noncustodial parents who are delinquent in the payment of support and removed any minimum delinquency requirement for reporting.[54] In addition, the Fair Credit Reporting Act was amended to authorize credit reporting agencies to release consumer reports to child support programs under certain circumstances.[55]

Currently, when a Title IV-D case becomes delinquent, it is listed on an obligor's credit report as an open delinquent account.[56] If the noncustodial parent pays off the entire past due amount, the account on the credit report appears to be a closed account even if the child support case is still open because of a current support obligation. If the case again becomes delinquent and is reported to the consumer reporting agencies, the credit history activity shows the case as a new account rather than a change in status for an existing account.

The bill allows the department to continue to report a current child support obligation as an open account after a delinquency that has been reported to the consumer reporting agencies is paid off. If the case subsequently becomes delinquent it can be re-reported and the active account would be reflected as delinquent in the same manner as a credit card account. It will reflect negatively only when a person is delinquent and positively when they are current in payments.

[51] *See* s. 443.015(3), F.S., and 42 U.S.C. s. 654(19).
[52] Child Support Enforcement Amendments of 1984, 42 U.S.C. ss. 657-662 (1984).
[53] *See* ch. 86-220, Laws of Florida.
[54] Section 61.1354, F.S.
[55] Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996).
[56] *See* s. 61.1354, F.S.

Electronic Transmission of Income Withholding and Medical Support Notices

The department issues approximately 369,000 income withholding notices and an additional 45,000 national medical support notices to employers annually. The income withholding notice is 5 pages in length and the medical support notice is a 12-page document; both are sent by regular mail. Texas has been successfully piloting a program that allows employers to log on to a secure website and obtain income withholding notices for their employees. The secure website provides employers with a user code and password that allows them to receive notification if an income deduction notice has been issued for one of their employees. It also allows the employer to download the information necessary to begin income withholding. If the participating employer does not access the system within 48 hours of the posting of the notice, the notice is automatically printed and mailed to the employer.

The bill requires DOR, by July 1, 2006, to implement an efficient method for the employers to electronically access and download income withholding notices and national medical support notices for cases being enforced by the department. Participation by employers is voluntary.

Suspension of Business, Professional, and Recreational Licenses

Current law provides the department with the authority to petition the court to deny or suspend business, professional, and recreational licenses to enforce child support orders.[57] This enforcement tool is rarely used because the statute prohibits a petition being filed until the department has exhausted all other available remedies.[58] Additionally, the current judicial process is time consuming and more costly than administrative enforcement processes.

The bill removes the requirement to use license suspension as a remedy of last resort and establishes an administrative process for such suspensions.

Repayment Obligations on Delinquency

Current law requires that all child support orders include an income withholding order.[59] These orders direct the amount that should be withheld by the employer and remitted to the custodial parent, local depository, or SDU.[60] If a noncustodial parent's support obligation becomes delinquent and there is not a specific repayment obligation in the support order and income withholding order, collection of the delinquency cannot occur using the income withholding process, unless the court modifies the support order or the noncustodial parent voluntarily signs a written agreement to include a repayment obligation. Delinquencies commonly accrue in Title IV-D cases and in many cases a delinquency quickly accrues soon after support is first ordered.

The bill allows an income deduction order to be used for the collection of unpaid child support (a delinquency) that accrues after the order establishing, modifying, or enforcing a support obligation has been entered without requiring the obligee or the department to go back to court. All income deduction orders would direct a payor of income (when there is no order for repayment of the delinquency or a preexisting arrearage) to deduct an additional 20 percent of the current support obligation or other amount agreed to by the parties until the delinquency and any attorney's fees and costs are paid in full. The delinquency must be paid in full before the attorney's fees are paid. For existing cases with a delinquency and no repayment order, the delinquency could be collected by income deduction by using the same procedure in current law for implementing income deduction when not provided for by the court. In these cases, the obligor is given notice of the delinquency and opportunity for hearing before the payor of income is notified to deduct an additional amount for the delinquency.

[57] Section 409.2598(2), F.S.
[58] *Id*.
[59] Section 61.1301(1)(a), F.S.
[60] *Id.*

Judgments by Operation of Law

Current law provides the procedures used to enter final judgments by operation of law when support payments are unpaid pursuant to a support order. These procedures require the local depository to provide notice to any obligor who is 15 days delinquent in making a payment and the amount of the delinquency is greater than the monthly ordered support obligation. The notice informs the obligor of the delinquency and the amount; the impending judgment by operation of law in the amount of the delinquency, all other amounts that become due and are unpaid under the support order, and costs; right to contest; and the authority to release the information regarding the delinquency to one or more credit reporting agencies. If the obligor does not contest the action within 15 days and does not pay the delinquency and all other amounts that became due, including costs, those amounts become a final judgment by operation of law. The local depositories are required to take this action in all Title IV-D and non-Title IV-D cases.[61] However, the department has no systematic method of knowing when a depository has recorded a judgment.

The bill requires the local depositories to notify the department monthly by electronic means when a judgment by operation of law is recorded and specifies the data that the local depository will be required to transmit to the department.

Collection of Support from Worker's Compensation Settlements

Current law provides that when reviewing and approving any lump-sum settlement for worker's compensation, a judge of compensation claims must consider whether the settlement serves the interests of the worker and the worker's family, including, but not limited to, whether the settlement provides for appropriate recovery of any child support arrearage.[62] The law also provides that such compensation and benefits are exempt from all claims of creditors, and from levy, execution and attachments or other remedy for recovery or collection of a debt, with the exception of claims based on an award of child support or alimony.[63] The child support guidelines also provide that all worker's compensation benefits and settlements be counted as income for purposes of child support.[64] Neither chapter 61 nor chapter 440 requires anyone to contact the department to determine whether the worker owes child support before the settlement is approved.

The bill requires that once a settlement agreement is reached, no proceeds of the settlement or attorney's fees can be disbursed until after the judge of compensation claims reviews the proposed disbursement and enters an order finding that the settlement provides for appropriate recovery of child support arrearages. The bill also requires an employee or the employee's attorney, if represented, to obtain a written statement from the DOR as to whether the worker owes unpaid support and, if so, the amount owed; it allows the judge of compensation claims to require the employee to submit a similar statement from a local depository. The employee must also submit a sworn statement that all existing support obligations have been disclosed. The Office of the Judge of Compensation Claims shall adopt procedural rules to implement this paragraph.

Work Search Activities for Noncustodial Parents

Florida Statutes contain several provisions that allow the court to order noncustodial parents to participate in work experience, job placement, job training or work activities programs or to search for employment.[65] These provisions no longer provide consistent guidance when a noncustodial parent is unemployed or underemployed and past due in their support payments. Requiring noncustodial parents to participate in existing job training and placement assistance programs provided by the Agency for

[61] Section 61.14, F.S.
[62] Sections 61.14 and 440.20, F.S.
[63] Section 440.22, F.S.
[64] Section 61.30, F.S.
[65] *See* ss. 414.065(5), 409.2564(7), 61.13(1)(e), and 61.14(5)(b), F.S.

Workforce Innovation and other community based programs could assist noncustodial parents to obtain employment and begin to consistently pay their child support.

The bill allows the court to order an obligor who owes past due support and is unemployed, underemployed or has no income, to enroll in a work experience, job placement, or job training program so that the parent may obtain employment and fulfill the obligation to provide support payments. It also provides that parents who willfully fail to comply with a court order to work or participate in work-related activities may be held in contempt of court.

Criminal Nonsupport

Current law requires that prior to commencing criminal prosecution the state attorney must notice the noncustodial parent by certified mail, return receipt requested or by any other means permitted for service of process in a civil action.[66] It also requires that criminal penalties to be pursued after all appropriate civil enforcement actions have been exhausted and resulted in no payment.[67] These statutory requirements have resulted in this enforcement tool not being used to assist in the collection of support.

In FFY 2003-04 only five cases were referred to State Attorneys by DOR. The department and State Attorneys have been working together to identify how this tool can be improved and more effectively used by the state to ensure that families receive the child support owed to them. Three areas identified where improvement could be made include removing the requirement that the noncustodial parent be served with a notice before the formal criminal action can commence; removing the statutory limitation that only allows those cases where civil enforcement actions have been exhausted and has not resulted in payment (Florida law does not define "exhaustion of appropriate civil enforcement" or "payment"); and the lack of available resources to prosecute these cases.

The bill removes the limitation of a remedy of last resort, the required notice to noncustodial parents prior to commencing the criminal actions, the requirement for a prior adjudication of contempt, and the mandatory minimum fines and sentences relating to criminal nonsupport. The bill also requires the state attorneys, the Florida Prosecuting Attorneys Association, and DOR to work collaboratively to identify strategies that will allow criminal penalties to be pursued in all appropriate cases, including, but not limited to, strategies that would assist the state attorneys in obtaining additional resources from available federal Title IV-D funds to initiate prosecution of nonpayment of support.

Child Support Services for All Delinquent Child Support Orders

Currently, in accordance with federal law, the department provides Title IV-D service to families who receive public assistance or file an application with DOR for child support services.[68] DOR has no authority to enforce support orders when the family does not receive public assistance or has not applied for services.[69] Parents have several options to enforce support orders without applying for services from DOR. These options include the services of private attorneys, private collection agencies, or local clerks of court enforcement divisions. As the Title IV-D agency, DOR can provide several highly automated and successful enforcement remedies that are not available to families not receiving Title IV-D services.

The bill requires DOR to apply to the federal Office of Child Support Enforcement for a waiver from the nonassistance application requirement. If approved, DOR would be required to monitor all support orders, Title IV-D and non-Title IV-D, payable through the SDU or local depository. Once a noncustodial parent becomes delinquent in their support payments, and if DOR is not already enforcing

[66] Section 827.06(6), F.S.
[67] *Id.* at (1).
[68] 42 U.S.C. s. 654(4).
[69] *Liebert v. State, Dep't of Rev., ex rel. Liebert*, 748 So. 2d 344, 345 (Fla. 2d DCA 1999).

the child support order, DOR would be required to provide the custodial parent with the option to refuse the services of the department. If the custodial parent does not refuse enforcement services, DOR begins enforcement actions, using all available Title IV-D remedies.

MEDICAL SUPPORT

In 2003, an estimated 8.4 million children 18 years of age and younger did not have health insurance, with almost 600,000 of those being Florida children.[70] While there is no single reason why children do not have insurance coverage for health care services, it is known that children who grow up in families with parents who are divorced, separated, or never-married are at increased risk for not having health care coverage.[71] Private health care coverage is strongly related to income and most single-parent households have lower incomes than two-parent households.[72] Even if income is not an issue, it can be more difficult for parents who are living apart to work together to provide coverage for the health care needs of their children.[73]

Both the federal and state governments have responded to the need for health care coverage for children. In 1984, federal law gave state child support enforcement (Title IV-D) programs the responsibility for including medical support establishment and enforcement as part of the child support process.[74] States were required to include provisions for health care coverage in their child support guidelines and child support enforcement programs were required to pursue private health care coverage when such coverage was available through a noncustodial parent at a reasonable cost.[75] Florida law complies with both requirements:

- Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), and any noncovered medical, dental, and prescription medication expenses of the child, shall be added to the basic obligation unless these expenses have been ordered to be separately paid on a percentage basis…[76]

- Each order for support shall contain a provision for health care coverage for the minor child when the coverage is reasonably available. Coverage is reasonably available if either the obligor or obligee has access at a reasonable rate to a group health plan. The court may require the obligor either to provide health care coverage or to reimburse the obligee for the cost of health care coverage for the minor child when coverage is provided by the obligee…[77]

Medical Support Enforcement

Subsequent federal legislation strengthened the enforcement of medical child support. Federal welfare reform enacted in 1996 required that all child support orders contain a provision for health care coverage and directed the state Title IV-D agency to notify an employer of the non-custodial parent's medical child support obligation.[78] Each state instituted a medical child support process which, in some manner, notified the employer of the non-custodial parent of the parent's obligation to provide health care coverage for his or her child and required the employer or health plan administrator to enroll the

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[70] U.S. CENSUS BUREAU, *Income, Poverty, and Health Insurance Coverage in the United States: 2003*, (Aug. 2004), *available at* http://www.census.gov/prod/2004pubs/p60-226.pdf (last visited Mar. 1, 2005); *Healthy Kids Overview: About Healthy Kids*, at http://www.healthykids.org/overview/welcome.html (last visited Mar. 3, 2005); *Florida KidCare Evaluation*, January 2003.
[71] DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Medical Child Support Working Group's Report*, June 2000, *available at* http://www.acf.hhs.gov/programs/cse/rpt/medrpt/Full_Report.pdf (last visited Feb. 25, 2005).
[72] *Id.*
[73] *Id.*
[74] *Id.*; as Florida's Title IV-D agency since 1994, the Department of Revenue has responsibility for the state's Child Support Enforcement Program.
[75] Child Support Enforcement Amendments of 1984, 42 U.S.C. ss. 657-62 (1984).
[76] Section 61.30(8), Florida Statutes, related to child support guidelines.
[77] Section 61.13(1)(b), Florida Statutes, related to custody and support of children.
[78] Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

child, if eligible.[79] The wide variation of notices and orders that states used created confusion for the employers which resulted in delays or denials when enrolling children in health plans, impeded the optimal use of automation of medical support obligation services, and resulted in health plan administrators often not agreeing on which notices and orders satisfied health plan requirements.[80] In spite of numerous changes to the law at both state and federal levels, there was still no clearly defined tool to enforce medical support obligations, that was equivalent to the income withholding notice used to enforce child support obligations.

Recognizing that problems continued to remain affecting the child medical support process, Congress enacted legislation requiring the Secretary of Health and Human Services and the Secretary of Labor to jointly develop and promulgate by regulation a National Medical Support Notice (NMSN), to be issued by states as a means of enforcing the health care coverage provisions in a child support order.[81] The NMSN provides a standardized format of instructions concerning an employee's obligation to provide health insurance coverage for one or more children and is intended to simplify the issuance and processing of medical child support orders, provide standardized communication between state child support agencies, employers, and plan administrators, and create a uniform process for enforcement of medical child support.[82]

Therefore, pursuant to federal and state law, employers or unions are required, after having received a National Medical Support Notice, to enroll the child and inform the department either of the coverage or that coverage is unavailable because medical insurance is not offered, the employee has been terminated, or coverage costs exceed the employee's income in accordance with the Consumer Credit Protection Act.[83] Florida law does not currently provide a penalty for employers or unions who fail to enroll the child or fail to notify the department when coverage is unavailable or the employee has been terminated, which creates cases in which children are not provided health care coverage in a timely manner.[84]

The bill provides that violation of the provisions in a NMSN subjects an employer, union, or plan administrator to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation, plus attorney's fees and costs. These penalties are the same as those for payors who fail to comply with child support income withholding orders/notices.[85]

This section shall take effect October 1, 2005.

Department of Revenue & Agency for Health Care Administration Data Exchange

Florida KidCare is the state's child health insurance program for children from birth though age 18 who do not have insurance.[86] The program is made up of four parts: MediKids; Healthy Kids; the Children's Medical Services (CMS) Network for children with special health care needs; and Medicaid for children.[87] When an application for insurance is submitted, Florida KidCare will determine which program, if any, a child may be eligible for, based on age and family income.[88]

Currently, the department and the Agency for Health Care Administration (AHCA) do not conduct a data match to identify children receiving both KidCare and child support enforcement services because

[79] Section 61.13(1)(b)2.a., F.S.
[80] *Medical Child Support Working Group's Report*.
[81] Child Support Performance and Incentive Act of 1998, Pub. L. No. 105-200, section 401.
[82] *See* 42 U.S.C. s. 666(a)(19); s. 61.046(10), F.S., defining "national medical support notice" as the notice required by 42 U.S.C. s. 666(a)(19); s. 409.2576(7), F.S.
[83] Section 61.13(1)(b)5.a., F.S.
[84] *See Department of Revenue Bill Analysis*, on file with Civil Justice Committee.
[85] Section 61.1301, F.S.
[86] Sections 409.810-.820, F.S.
[87] Section 409.811(7), (20); 409.813; 624.91, F.S.
[88] Section 409.8134(2), F.S.

there is no clear statutory authority for AHCA to share this data with the department. Such information sharing between the two agencies could assist in securing private health care coverage for children receiving KidCare services and assist in more accurate health care coverage information for the department. The information to be exchanged is not protected health information as defined in the Privacy Rule of the federal Health Care Portability Protection Act and would not conflict with the requirements of that Act.[89]

The bill provides AHCA with statutory authority to share KidCare information with the department for the purposes of administering the Title IV-D program.

Administrative Determination and Collection of Uninsured Medical Expenses

Child support orders may require the noncustodial parent to pay a percentage share of noncovered medical expenses.[90] The noncustodial parent is usually ordered to pay these amounts directly to the custodial parent. When a noncustodial parent fails to reimburse the custodial parent for their share of the noncovered medical expenses, DOR does not have an administrative method for determining the amount due by the noncustodial parent to begin enforcement actions on behalf of the custodial parent.

Current law requires that all child support orders provide for payment of the child's noncovered medical, dental, and prescription medication expenses.[91] Typically, the noncustodial parent is ordered to pay a percentage share of the child's future medical expenses. The department has no administrative method for determining the amount due under these orders. As medical expenses for the child are incurred and paid by the custodial parent, the custodial parent or the department must return to court to reduce to judgment any unpaid amount owed by the obligor.

The bill creates s. 409.25635, F.S., which provides administrative authority for the department to determine the amount of noncovered medical expenses that the noncustodial parent owes to the custodial parent and to collect the noncovered medical expenses in the same manner as unpaid child support.

GENERAL PROVISIONS

Nonassistance Application Fee

Current law requires the department to adopt rules for the payment of a $25 application fee from each applicant who is not a public assistance applicant or recipient.[92] DOR has no flexibility to reduce the application fee or to pay the application fee on behalf of an applicant.[93]

The bill changes the amount of the federally required application fee from $25 to $1, and further provides that the fee shall be waived for all applicants who are currently required to pay such fee and be paid by the department.[94]

Use of Driver License Photos for Child Support Enforcement

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[89] *See* Pub. L. 104-191, 110 Stat 1936 (1996).
[90] Section 61.30(8), F.S.
[91] *See* ss. 61.13(1)(b) and 61.30(8), F.S.
[92] Section 409.2567, F.S.
[93] *Id.*
[94] Federal law requires that an application fee be charged to each individual who requests Title IV-D services who does not receive public assistance. The application fee must be uniformly applied on a statewide basis and may not exceed $25. The fee may be assessed on a fee schedule and must be based on the applicant's income. Federal law also allows states to pay the application fee which must be counted as program income on behalf of applicants. Therefore, 66% of each application fee is paid to the federal government and the remaining 34% is deposited into the Child Support Enforcement Application and Program Revenue Trust Fund. *See* 45 C.F.R. s. 302.33(c) & s. 61.1814, F.S.

Current law allows the Department of Highway Safety and Motor Vehicles to provide to DOR reproductions from the file or digital record of licenses to facilitate service of process in Title IV-D cases.[95] Furthermore, a person's driver's license may be suspended upon notice from DOR that the person has a delinquent child support obligation.[96]

The bill allows the department access to driver's license photo reproductions for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases. The bill also provides that a driver's license may be suspended for failure to appear for genetic testing.

C. SECTION DIRECTORY:

Section 1. Effective October 1, 2005, amends section 61.13, F.S., relating to the custody and support of children.

Section 2. Effective July 1, 2006, amends section 61.1301, F.S., relating to income deduction orders.

Section 3. Effective January 1, 2006, amends section 61.13016, F.S., relating to the suspension of driver's license and motor vehicle registrations.

Section 4. Effective July 1, 2006 amends section 61.1354, F.S., relating to the sharing of information between consumer reporting agencies and the Department of Revenue.

Section 5. Effective October 1, 2005, amends section 61.14, F.S., relating to the enforcement and modification of support.

Section 6. Amends section 61.14, F.S., relating to the enforcement and modification of support.

Section 7. Effective December 1, 2005, amends section 61.14, F.S., relating to the enforcement and modification of support.

Section 8. Effective January 1, 2006, amends section 61.14, F.S., relating to the enforcement and modification of support.

Section 9. Effective January 1, 2006, amends section 61.1814, F.S., relating to Child Support Enforcement Application and Program Revenue Trust Fund.

Section 10. Amends section 61.1824, F.S., relating to the State Disbursement Unit.

Section 11. Amends section 61.30, F.S., relating to child support guidelines, and reenacts s. 61.13(8), F.S.

Section 12. Effective January 1, 2006, amends section 120.80, F.S., relating to the Administrative Procedure Act.

Section 13. Effective October 1, 2006, amends section 120.80, F.S., relating to the Administrative Procedure Act.

Section 14. Effective December 1, 2005, amends section 322.142, F.S., relating to color photographic or digital imaged driver's licenses.

Section 15. Effective January 1, 2006, amends section 382.013, F.S., relating to birth registrations.

[95] Section 322.142(4), F.S.
[96] Section 322.058, F.S.

Section 16. Effective December 1, 2005, amends section 382.015, F.S., relating to new certificates of birth.

Section 17. Amends section 382.016, F.S., relating to the amendment of birth records.

Section 18. Effective October 1, 2005, amends section 382.016, F.S., relating to the amendment of birth records.

Section 19. Effective December 1, 2005, amends section 382.016, F.S., relating to the amendment of birth records.

Section 20. Amends section 382.357, F.S., relating to the electronic filing of birth certificate information.

Section 21. Effective July 1, 2007, amends section 395.003, F.S., relating to licensure for hospitals.

Section 22. Effective January 1, 2006, amends section 409.2557, F.S., relating to rulemaking authority for the Department of Revenue.

Section 23. Effective October 1, 2005, amends section 409.2558, F.S., relating to undistributable collections.

Section 24. Effective January 1, 2006, creates section 409.256, F.S., relating to the administrative establishment of paternity.

Section 25. Effective July 1, 2005, amends section 409.2561, F.S., relating to support obligations when public assistance is paid.

Section 26. Effective January 1, 2006, amends 409.2563, F.S., relating to administrative establishment of child support obligations.

Section 27. Effective October 1, 2006, creates section 409.25635, F.S., relating to the determination and collection of noncovered medical expenses.

Section 28. Amends section 409.2564, F.S., relating to actions for support.

Section 29. Effective January 1, 2006, amends section 409.2564, F.S., relating to actions for support.

Section 30. Effective October 1, 2005, amends section 409.25645, F.S., relating to administrative orders for genetic testing.

Section 31. Amends section 409.2567, F.S., relating to support services to individuals not otherwise eligible.

Section 32. Effective October 1, 2005, amends 409.2567, F.S., relating to support services to individuals not otherwise eligible.

Section 33. Effective July 1, 2006, amends section 409.2598, F.S., relating to license suspension proceeding to enforce a support order.

Section 34. Amends section 409.259, F.S., relating to filing fees in Title IV-D cases.

Section 35. Effective October 1, 2005, amends section 409.821, F.S., relating to Florida. KidCare program public records exemption.

Section 36. Effective October 1, 2005, amends section 414.065, F.S., relating to noncompliance with work requirements.

Section 37. Effective July 1, 2006, amends section 443.051, F.S., relating to unemployment compensation.

Section 38. Effective July 1, 2006, amends section 455.203, F.S., relating to business and professional regulation.

Section 39. Effective January 1, 2006, amends section 742.10, F.S., relating to the establishment of paternity for children born out of wedlock.

Section 40. Effective January 1, 2006, amends section 760.40, F.S., relating to genetic testing, informed consent, and confidentiality.

Section 41. Effective October 1, 2005, amends section 827.06, F.S., relating to nonsupport.of dependents.

Section 42. Except as otherwise provided, the act shall take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

	FY 2005/06	FY 2006/07
1. Revenues:		
Department of Revenue		
Recurring:		
Application Fee / Non-Assistance Cases Child Support Enforcement Application & Program Fee Trust	($103,533)	($138,044)
2. Expenditures:		
Department of Revenue		
Non-Recurring:		
System Implementation Costs		
Child Support Enforcement Incentive Trust Fund	$ 510,000	
Grants and Donations Trust Fund	990,000	
Total Expenditures – Trust Fund	$1,500,000	

The Department of Health estimates there will be an annual fiscal impact of $1,000 to the agency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be additional expenditures incurred by the clerks of court. This has not been determined at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be an insignificant impact related to the application fee reduction for non-assistance cases.

D. FISCAL COMMENTS:

It is estimated that the bill will have a $1.5 million trust fund cost to DOR for implementation of the Automated Child Support Enforcement System; however, this funding has been included in the proposed General Appropriations Act.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Revenue to adopt rules to implement some provisions, including:

- The process of establishing paternity administratively;
- The process relating to the electronic remittance of support payments by certain specified employers;
- The procedure relating to the suspension of business, professional, and recreational licenses;
- The process relating to the nonassistance application requirement (if the federal waiver is approved); and
- The process relating to the administrative determination and collection of noncovered medical expenses.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2005, the Civil Justice Committee considered this bill and adopted seven amendments, one making technical changes, four providing effective dates for specific provisions, one providing that no fines or other sanctions may be imposed on a hospital for failure to comply with s. 382.013(2)(c), F.S., and one reenacting s.61.30(8), F.S. The bill was passed favorably as amended.