

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 775 CS Child Support Enforcement
SPONSOR(S): Future of Florida's Families Committee, Galvano
TIED BILLS: **IDEN./SIM. BILLS:** SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Civil Justice Committee</u>	<u>4 Y, 0 N</u>	<u>Lammers</u>	<u>Billmeier</u>
2) <u>Insurance Committee</u>	<u>17 Y, 0 N</u>	<u>Sayler</u>	<u>Cooper</u>
3) <u>State Administration Appropriations Committee</u>	<u>10 Y, 0 N</u>	<u>Belcher</u>	<u>Belcher</u>
4) <u>Justice Council</u>	<u>9 Y, 0 N, w/CS</u>	<u>Lammers</u>	<u>De La Paz</u>
5) _____	_____	_____	_____

SUMMARY ANALYSIS

In 1996, Congress enacted federal welfare reform legislation known as the Personal Responsibility and Work Opportunity Reconciliation Act. Title III of this federal act not only expanded existing requirements for state child support programs, but imposed additional requirements as well. Since issues related to child support have traditionally been a function of state family law, the federal government began to require states to make changes in their laws as a condition precedent for receiving federal funding for state child support enforcement and child welfare programs.

During the 1997 legislative session, the Florida Legislature amended the Florida Statutes to comply with most of the federal welfare reform package requirements, and the Legislature has since enacted further changes.

As a continuation of that process, HB 775:

- Provides for civil penalties for employers or unions who violate provisions in a National Medical Support Notice;
- Requires the Florida Department of Revenue (the Department) to continue to report a current child support obligation as an open account after a delinquency reported to a consumer reporting agency has been paid;
- Provides that once a settlement agreement is reached related to a workers' compensation claim, no proceeds of the settlement or attorney's fees can be disbursed until after a judge of compensation claims reviews the disbursement proposal and enters an order finding that the settlement provides for appropriate recovery of any existing child support arrearage;
- Allows the Department to access to any acknowledgment or affidavit of paternity that results in an original birth certificate being amended and allows the Office of Vital Statistics to amend birth records of children born in Florida upon paternity establishment by another state based upon certification by the Title IV-D agency accompanied by supporting documentation;
- Establishes a procedure for redirecting child support payments when the child is living with a person other than the obligee or obligor
- Limits the exemption for support order establishment to recipients of temporary cash assistance or Supplemental Security Income only;
- Eliminates the requirement for a monthly report on public assistance collections; and
- Requires the Agency for Health Care Administration to share KidCare information with the Department for Title IV-D purposes.

The bill does not appear to have a financial impact on state or local governments.

This bill shall take effect upon becoming a law, except where a section specifies another effective date.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0775f.JC.doc
DATE: 4/6/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Agency for Health Care Administration (AHCA) to share information related to KidCare with the Department of Revenue for child support enforcement purposes. The bill also requires an employee or employee's attorney involved in lump-sum settlements for workers' compensation to obtain a written statement from the Department as to whether the employee owes unpaid child support and provides for rulemaking by the Office of the Judges of Compensation Claims. The bill eliminates the Department's monthly report requirement related to funds identified for collection from the noncustodial parents of children receiving temporary assistance.

Promote personal responsibility – The bill contains provisions that may serve to increase collections of unpaid or unassessed child support owed to children. This may result in decreased dependency on public financial assistance. The bill provides for civil fines for employers who violate the provisions of a National Medical Support Notice.

Empower families – The bill contains provisions that may serve to increase collections of unpaid or unassessed child support owed to children. This may result in decreased dependency on public financial assistance. Increased collection of child support income may increase family stability and empower some families to leave public assistance programs.

B. EFFECT OF PROPOSED CHANGES:

Background for the National Medical Support Notice –

In 2003, an estimated 8.4 million children 18 years of age and younger did not have health insurance, with nearly 600,000 of those being Florida children.¹ There is no single reason why these children do not have health care insurance coverage. However, children are at increased risk for not having health care coverage if they grow up in families with parents who are divorced, separated, or never-married.² Having private health care coverage is strongly related to income-levels and most single-parent households have lower incomes than two-parent households.³ Even if income is not an issue, it can be more difficult for parents who are living separately to provide health care insurance coverage for their children.⁴

Both the federal and state governments have responded to the need for children's health care coverage. 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.⁵ States were required to include provisions for health care coverage in their child support guidelines. State child support enforcement programs were required to pursue private health care coverage from a noncustodial parent when such coverage was available at a reasonable cost.⁶

¹ 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.

² 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).

³ *Id.*

⁴ *Id.*

⁵ *Id.*; as Florida's Title IV-D agency since 1994, the Department of Revenue has responsibility for the state's Child Support Enforcement Program.

⁶ Child Support Enforcement Amendments of 1984, 42 U.S.C. ss. 657-662 (1984).

As quoted below, Florida Statutes complies with both requirements:

Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), and any non-covered 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...⁷

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...⁸

Subsequent federal legislation strengthened the enforcement for 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.⁹ 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 child, if the parent was eligible.¹⁰ 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.¹¹ In spite of numerous changes to the law at both state and federal levels, there was still no clearly defined tool to enforce medical child support obligations that was equivalent to the income withholding notice used to enforce financial child support obligations.

Recognizing that problems continued to remain affecting the medical child 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 the National Medical Support Notice (NMSN), to be issued by states as a means of enforcing the medical child support provisions in a child support order.¹² The NMSN provided a standardized format of instructions concerning an employee's obligation to provide health insurance coverage for one or more children. It was intended to simplify the issuance and processing of medical child support orders, to provide standardized communication between state child support agencies, employers, and plan administrators, and to create a uniform process for enforcement of medical child support.¹³

Pursuant to federal and state law, after having received a NMSN, employers or unions are required to enroll the child and inform the Department of the following: the child has medical insurance coverage; coverage is unavailable because medical insurance is not offered to the employee; the employee has been terminated; or medical insurance coverage costs exceed the employee's income in accordance with the Consumer Credit Protection Act.¹⁴

⁷ Section 61.30(8), Florida Statutes, related to child support guidelines.

⁸ Section 61.13(1)(b), Florida Statutes, related to custody and support of children.

⁹ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub L. No. 104-193, 110 Stat. 2105.

¹⁰ Section 61.13(1)(b)2.a., F.S.

¹¹ *Medical Child Support Working Group's Report*.

¹² Child Support Performance and Incentive Act of 1998—Penalty Provisions, Pub. L. No. 105-200, Section 401.

¹³ 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.

¹⁴ Section 61.13(1)(b)5.a., F.S.

Civil penalties for failure to comply –

Section 1

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.¹⁵

This 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. The bill authorizes the Department to file a petition in the circuit court to enforce the civil penalties.

This section shall take effect October 1, 2005.

Consumer Reporting Agencies –

Section 2

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 \$500.¹⁶ In 1986, Florida law began requiring such sharing of information between the Department and consumer reporting agencies.¹⁷ Provisions of the federal welfare reform legislation enacted in 1996 continued to require states to periodically report to consumer reporting agencies the names of noncustodial parents who are delinquent in the payment of support and removed any minimum delinquency requirement for reporting.¹⁸ 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.¹⁹

Currently, when a Title IV-D case becomes delinquent, it is listed on an obligor's credit report as an open delinquent account. 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 requires the Department to continue to report a current child support obligation as an open account to the consumer reporting agencies after a delinquency is paid. If the case subsequently becomes delinquent it can be re-reported and the active account would be delinquent in the same manner as a delinquent credit card account. It will reflect only negatively when a person is delinquent, but positively when they are current with payments.

This section shall take effect July 1, 2006.

¹⁵ See *Department of Revenue Bill Analysis*, on file with Civil Justice Committee.

¹⁶ Child Support Enforcement Amendments of 1984, 42 U.S.C. ss. 657-662 (1984).

¹⁷ See ch. 86-220, Laws of Florida.

¹⁸ Section 61.1354, F.S.

¹⁹ Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

Workers' Compensation Settlements –

Section 3

Current law provides that when reviewing and approving any lump-sum settlement for workers' 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.²⁰ 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.²¹ The child support guidelines also provide that all workers' compensation benefits and settlements be counted as income for purposes of child support.²²

Neither Chapter 61, on Dissolution of Marriage, Support, and Custody, nor Chapter 440, on Workers' Compensation, requires anyone to contact the Department of Revenue to determine whether the worker owes child support before the settlement is approved. However, when a worker's compensation claim is settled, Rule 60Q-6.123, F.A.C., requires submission of a status letter from the Department of Revenue, Circuit Court, or Central Depository regarding child support arrearages.

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 requires the employee or employee's attorney obtain a written statement from the Department as to whether the worker owes unpaid support and, if so, the amount owed. It requires a sworn statement from the employee that all existing support obligations have been disclosed. It allows a judge of compensation claims to require the employee to submit a similar statement from a local depository. A judge reviewing the proposed settlement agreement that finds the proposed percentage allocation of the settlement agreement insufficient to pay off any support arrearage, may prevent the disbursement of the settlement until the parties voluntarily amend the settlement agreement to make the allocation of the settlement more sufficient to pay off some or all of the outstanding support arrearage.

The bill requires the Office of Judges of Compensation Claims to adopt procedural rules to implement this section. This section shall take effect December 1, 2005.

Technical changes made by this bill –

Sections 4 and 5 of the bill make technical corrections to existing statute.

Section 4

Current law requires the Department to invest money in the Child Support Incentive Trust Fund pursuant to ss. 215.44-215.52, Florida Statutes, when, in fact, the monies are being invested pursuant to s. 17.61, F.S., by notifying the Chief Financial Officer of the amounts available. The bill amends the statute to correctly reference s. 17.61, F.S.²³

Section 5

Current law references the Department of Children and Family Services as the agency responsible for the administration of the Child Support Enforcement Program as it relates to the

²⁰ Sections 61.14 and 440.20, Florida Statutes.

²¹ Section 440.22, Florida Statutes.

²² Section 61.30, Florida Statutes.

²³ See s. 61.1812, F.S.

processing of Qualified Domestic Relations Orders for the purposes of support collection. The bill amends the statute to correctly reference the Department of Revenue as the Title IV-D agency.²⁴

Paternity Establishment –

Section 6

Currently, Florida law requires a certificate for each live birth that occurs within this state to be filed within 5 days after such birth.²⁵ 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.²⁶

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.²⁷ 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.²⁸ The facility must also provide the parents with information provided by the Department of Revenue related to the benefits of voluntary establishment of paternity.²⁹ 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 s. 92.525, Florida Statutes.³⁰

In cases where parents acknowledge paternity for a child after leaving the hospital by executing a notarized or witnessed acknowledgment or affidavit, the Office of Vital Statistics (OVS) amends the original birth record to include the name of the father.³¹ However, the 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.³² In instances where the same acknowledgment process is completed at the time of birth in the hospital, the 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 without having to obtain a court order.

This section shall take effect July 1, 2005.

Section 7

Florida law does not currently provide a process for the 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. In addition, for children born in Florida whose paternity is established by another state through a judicial process, the OVS requires a certified copy of the final order adjudicating paternity before amending the birth certificate.³³ This lack of a statutory process results in

²⁴ See section 222.21, F.S.

²⁵ Section 382.013, Florida Statutes.

²⁶ *Id.* at (2)(a).

²⁷ *Id.* at (2)(c).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Section 832.016(1)(b), F.S.

³² *Id.*; s. 382.015(4), F.S.

³³ Section 742.105, F.S.

Florida's vital statistics records not accurately reflecting that paternity has been established for these children.

The bill allows the 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 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.

This bill provides 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. For instance, according to s. 63.042, F.S., a homosexual is not eligible to adopt a child in Florida. If a homosexual were to adopt a Florida-born child in some other state that permits a homosexual to adopt, then the OVS would not be permitted to add that man's name to the child's birth certificate for the establishment of paternity. According to OVS, unless it is obvious that the Florida-born child was adopted by someone not eligible to adopt under Florida law, then OVS would not likely know.

This section shall take effect October 1, 2005.

Redirecting Child Support Payments –

Section 8

Under current law, if the department learns that a child is no longer living with the person who is collecting the child support payments, the department must petition for a modification of child support pursuant to s. 61.13, F.S. The court that entered the original child support order has continuing jurisdiction to modify the amount, terms, and conditions of child support payments when the court finds such a change to be in the best interests of the child or when there has been a substantial change in the parties' circumstances.³⁴ The court also has continuing jurisdiction to require the obligee to give reports regarding the disposition of child support payments.³⁵ Furthermore, after a child support order is entered, each party is required to provide and update with the tribunal, as necessary, location and identification information, including residential and mailing addresses, telephone and driver's license numbers.³⁶

Under current law, there is no authority for the department to withhold disbursement of child support payments when it has determined that the child no longer lives with the person receiving the money, although according to the department, the clerk of the court in some counties will sometimes hold the money until a modification order is entered pursuant to s. 61.13.

This bill creates a new subsection to s. 409.2558, F.S., requiring the department to withhold disbursements of child support to an obligee when it determines, in a Title IV-D case, that the child resides with someone other than the obligee or obligor. Upon such a determination, the department may not make further disbursements until a further order is entered by the tribunal that issued the support order. An order redirecting the support payment may be entered by the department, when child support has been established administratively, and by the circuit court when established by court order.

In determining whether a child resides with someone other than the obligee, the department must base its decision on one or more of the following factors:

- Public assistance records show that someone other than the obligee or obligor is receiving public assistance on behalf of the child

³⁴ Section 61.13(1)(a), F.S.

³⁵ *Id.*

³⁶ *Id.* at (9)(a).

- The obligee states that the child resides with someone other than the obligee or obligor
- A written statement, signed under penalty of perjury, by a person with personal knowledge stating that the child resides with a person other than the obligee or obligor
- Government records showing the obligee is incarcerated
- Evidence that the obligee has left the community where the child resides; or
- Other credible information indicating that the child resides with someone other than the obligee or obligor

Upon making such a determination, the department must provide notice by regular mail to the obligee and obligor, and the person with whom the child resides, if possible, that it will no longer disburse support payments without a further order of the appropriate tribunal. The notice must also state the facts upon which its determination is based and state the name and address of the person with whom the child resides, unless there is a reason why such disclosure must not be made.

If the support order was entered by the circuit court, the department must file a motion and proposed order asking that the obligor's current support payments be disbursed to the person with whom the child resides, including any arrearages. The obligee, obligor, and person with whom the child resides may file an objection to the proposed order or may move to compel disbursement of support. The obligor, obligee, and person with whom the child resides must be mailed a copy of the department's motion and receive notice of any hearing.

If the department entered the support order, its notice must state that the department intends to disburse the current support payments to the person with whom the child resides, including arrearages. The notice must state the effective date of the department's intended action and inform the parties that they can contest the intended action by filing a request for an administrative hearing. If a timely request for a hearing is made, the parties must receive advance notice of the time and date of the hearing. The person with whom the child resides is considered a party.

The tribunal that entered the support order must determine whether the current support must be paid to the obligee, paid to a person with whom the child resides, or be refunded to the obligor. An administrative law judge shall enter the final order if the original support order was entered by the department. A hearing is only required when timely requested by a party. If a hearing is not required, the tribunal shall enter an order within 30 days of the department filing a motion or mailing a notice of intended action.

The tribunal must determine by a preponderance of the evidence whether the child resides with the obligee, and if not, the tribunal shall enter an order redirecting the obligor's child support payments to the person with whom the child resides. The tribunal need not redetermine the amount of the obligor's child support. If the person with whom the child resides is unknown, the tribunal shall order all payments not disbursed by the department to be refunded to the obligor. If the child resides with the obligor, the person with whom the child resides is unknown, or the child's place of residence is unknown, the tribunal must consider whether to abate, terminate, or modify child support. A tribunal ordering redirection or refunding of support payments shall file a copy of the order with the depository responsible for keeping record of all payments due under the support order. The depository must maintain separate accounts and account numbers for each individual payee.

Child Support and Public Assistance –

Section 9

Social Security benefits and Supplemental Security Income benefits are different in a number of ways. "Supplemental Security Income (SSI) is a Federal income supplement program funded by general tax revenues (not Social Security taxes): It is designed to help aged, blind, and disabled people, who have

little or no income; and [i]t provides cash to meet basic needs for food, clothing, and shelter.”³⁷ 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.

Unlike Social Security benefits, SSI benefits are not a substitute for lost income due to disability. Rather, they are a supplement to the recipient’s income based on need. The purpose of SSI benefits is to assure that the income of a recipient is maintained at a level viewed by Congress as the minimum necessary for subsistence. *Schweiker v. Wilson*, 450 U.S. 221, 223, 101 S. Ct. 1074 (1981). Unlike Social Security benefits, SSI eligibility requires disability, *and* that the applicant have no more than \$2,000 in financial resources. 20 C.F.R. § 416.1205(c). Unlike Social Security, the SSI program does not provide a benefit for the dependents of the SSI recipient, unless the dependents themselves independently meet the SSI eligibility criteria. *E.g.*, *Ford v. Ford*, 816 So.2d 1193 (Fla. 4th DCA 2002) (child’s Supplemental Security Income benefits due to child’s own medical condition could not be credited against father’s child support obligation, either alone or combined with dependent benefits child received from father’s Social Security Disability Insurance). Finally, unlike Social Security benefits, SSI benefits are not subject attachment for the purpose of spousal support or child support. 42 U.S.C.A. § 407(a) (providing that none of the moneys paid or payable under subchapter II shall be subject to execution, levy, attachment, garnishment, or other legal process).

Based on these critical differences, the vast majority of states that have considered the issue have concluded that SSI benefits may not be considered income for purposes of child support. They have based their decision on two distinct reasons: first, because by federal law SSI cannot be attached, it cannot be considered income; second, because SSI is a means-tested benefit, it should not be considered income. A minority of states has concluded that SSI benefits can be considered income for purposes of child support.³⁸

Currently, Florida law relating to child support guidelines does not consider SSI benefits. It also does not consider public assistance, as defined in s. 409.2554(7), F.S., as income for purposes of establishing child support. Public assistance includes Medicaid, food stamps, and temporary cash assistance.³⁹ Section 409.2561(4), F.S., provides a noncustodial parent an exemption from the establishment of a child support order because they receive public assistance for a minor child residing with them. By exempting all forms of public assistance, this has resulted in child support obligations not being established for children who are not in the household of the noncustodial parent, even though that noncustodial parent is working and has income that could be considered for child support.⁴⁰ According to the Department, limiting the exemption to recipients of SSI benefits and temporary cash assistance would remedy this situation.⁴¹

The bill limits the exemption provided in law to recipients of SSI benefits and temporary cash assistance. SSI benefits and temporary cash assistance would not be counted as income for purposes of establishing a child support order. 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 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

³⁷ Supplemental Security Homepage, at <http://www.ssa.gov/notices/supplemental-security-income/>

³⁸ Lori W. Morgan, *Supplemental Security Income and Child Support*, (2004) at <http://www.supportguidelines.com/articles/art200404.html> (last visited March 12, 2005).

³⁹ Section 409.2554(7), F.S.

⁴⁰ Conversation with Department of Revenue, March 1, 2005.

⁴¹ *Id.*

still have to determine whether the recipients of these non-exempted forms of public assistance can afford to make child support payments.

This section shall take effect July 1, 2005.

Public Assistance Collections Report –

Section 10

In 1996, legislation was enacted as part of the WAGES Act that required the Department of Revenue to provide a monthly report on public assistance collections.⁴² The Department submitted a letter on September 20, 1996 to Governor Lawton Chiles regarding the inability of the FLORIDA system to produce the required data.⁴³ The Department has never submitted this monthly report.

After this reporting requirement was created, the Legislature changed the procedure for handling public assistance collections retained by the state, and funds are no longer transferred directly to the Department of Children and Family Services.⁴⁴ The Department of Revenue deposits the state's share of the retained collections into the General Revenue Fund.⁴⁵ Since the public assistance collections are deposited into the General Revenue Fund, the state receives a report of these collections. Therefore, the report required by the 1996 legislation was unnecessary and duplicative.⁴⁶

The bill eliminates the statutory requirement for the monthly report on public assistance collections.

Information sharing between the Department and AHCA –

Section 11

Florida KidCare is the state's child health insurance program for children from birth through age 18 who do not have insurance.⁴⁷ The program is made up of four parts: MediKids; Healthy Kids; the Children's Medical Services Network for children with special health care needs; and Medicaid for children.⁴⁸ 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.⁴⁹

Currently, the Department of Revenue 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 there is no clear statutory authority for AHCA to share this data with the Department. The information to be exchanged is not protected health information as defined in the Privacy Rule of the federal Health Insurance Portability and Accountability Act and would not conflict with the

⁴² See Chapter 96-175, Laws of Florida; section 409.2567, Florida Statutes.

⁴³ *Department of Revenue Bill Analysis*.

⁴⁴ *Id.*

⁴⁵ Section 16.1812(1), F.S.

⁴⁶ *Department of Revenue Bill Analysis*.

⁴⁷ Sections 409.810-.820, F.S.

⁴⁸ Section 409.811(7), (20); 409.813; 624.91, F.S.

⁴⁹ Section 409.8134(2), F.S.

requirements of that Act.⁵⁰ Sharing this information could also reduce the enrollment of children in KidCare for whom private healthcare is already obtained or otherwise available.⁵¹

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

This section shall take effect October 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends 61.13(1)(b), F.S., effective October 1, 2005, to provide a civil fine for employers, unions, and plan administrators that fail to enroll eligible dependents.

Section 2. Amends s. 61.1354, F.S., effective July 1, 2006, to provide that when a child support becomes overdue, the account shall still be listed as an open account on the credit report even after it has been brought current.

Section 3. Amends s. 61.14, F.S., effective December 1, 2005, to specify that workers' compensation settlements must be reviewed by a judge of compensation claims to ensure that there is an appropriate recovery for any support arrearage.

Section 4. Amends a reference in s. 61.1812(1), F.S. to refer to s. 17.61, F.S., instead of ss. 215.44-215.52, F.S.

Section 5. Amends a reference in s. 222.21(2)(b), F.S., to refer to the Department of Revenue instead of the Department of Children and Family Services.

Section 6. Amends s. 382.016(b), F.S., effective July 1, 2005, relating to certificate of live birth amendments.

Section 7. Adds subsection (d) to s. 382.016, F.S., effective October 1, 2005, relating to certificate of live birth amendments.

Section 8. Adds subsection (7) to s. 409.2558, F.S., effective October 1, 2005, relating to redirection of child support payments.

Section 9. Amends s. 409.2561(4), F.S., effective July 1, 2005, to provide that no person who is the recipient of supplemental security income or temporary cash assistance shall incur an obligation of support under this section.

Section 10. Amends s. 409.2567, F.S., to remove the requirement that the Department of Revenue submit a monthly report to the governor and certain legislative committees specifying the funds identified for collection from the noncustodial parents of children receiving temporary assistance and the funds actually collected.

Section 11. Amends s. 409.821, F.S., effective October 1, 2005, to provide that information identifying a Florida Kidcare program applicant or enrollee shall be disclosed to the Department of Revenue for purposes of administering the state's Title IV-D program.

Section 12. States that except as otherwise provided herein, the bill shall take effect upon becoming a law.

⁵⁰ See Pub. L. 104-191, 110 Stat 1936 (1996).

⁵¹ *Department of Revenue Bill Analysis.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill contains several provisions that might result in an increase in child support collections, which would increase the amount of money distributed to families. This may then reduce the public assistance expenditures provided to families.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other: None.

B. RULE-MAKING AUTHORITY:

The bill requires the Office of the Judges of Compensation Claims to adopt procedural rules to implement provisions of the bill related to workers' compensation settlements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 6, 2005, the Justice Council considered the bill and adopted two amendments. The first amendment made a minor technical change, and the second amendment added a new section establishing a procedure for holding child support payments and then either redirecting, modifying, or terminating child support when it is determined that the child is not living with the obligee.