

1 A bill to be entitled
2 An act relating to child support enforcement; amending s.
3 61.13, F.S.; providing civil penalties for employers,
4 unions, and plan administrators not in compliance with
5 requirements of the national medical support notice;
6 amending s. 61.1354, F.S.; providing for sharing of
7 information between consumer reporting agencies and the
8 Department of Revenue relating to amount of current
9 support owed; requiring the department to continue
10 reporting to consumer reporting agencies once overdue
11 amount is paid if current support is still owed; amending
12 s. 61.14, F.S.; providing conditions for collection of
13 support from workers' compensation settlements; providing
14 for amendment of settlement agreement; providing for
15 rulemaking by the Office of the Judges of Compensation
16 Claims; amending s. 61.1812, F.S.; correcting a reference;
17 amending s. 222.21, F.S.; correcting a reference; amending
18 s. 382.016, F.S.; providing exceptions to the requirement
19 that the department limit access to an acknowledgment of
20 paternity that amends an original birth certificate;
21 providing conditions under which an original birth
22 certificate for a child born in this state whose paternity
23 is established in another state may be amended; amending
24 s. 409.2561, F.S.; providing limitation to exemption for
25 support order establishment to recipients of supplemental
26 security income and temporary cash assistance; amending s.
27 409.2567, F.S.; eliminating requirement for a monthly
28 report by the department on funds identified for

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29 collection from noncustodial parents of children receiving
30 temporary assistance; amending s. 409.821, F.S.; requiring
31 the provision of information identifying KidCare program
32 applicants to the department for Title IV-D purposes;
33 providing effective dates.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Effective October 1, 2005, paragraph (b) of
38 subsection (1) of section 61.13, Florida Statutes, is amended to
39 read:

40 61.13 Custody and support of children; visitation rights;
41 power of court in making orders.--

42 (1)

43 (b) Each order for support shall contain a provision for
44 health care coverage for the minor child when the coverage is
45 reasonably available. Coverage is reasonably available if either
46 the obligor or obligee has access at a reasonable rate to a
47 group health plan. The court may require the obligor either to
48 provide health care coverage or to reimburse the obligee for the
49 cost of health care coverage for the minor child when coverage
50 is provided by the obligee. In either event, the court shall
51 apportion the cost of coverage, and any noncovered medical,
52 dental, and prescription medication expenses of the child, to
53 both parties by adding the cost to the basic obligation
54 determined pursuant to s. 61.30(6). The court may order that
55 payment of uncovered medical, dental, and prescription

56 medication expenses of the minor child be made directly to the
57 obligee on a percentage basis.

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

61 a. The obligor fails to provide written proof to the
62 obligee within 30 days after receiving effective notice of the
63 court order, that the health care coverage has been obtained or
64 that application for coverage has been made;

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

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

71 2.a. A support order enforced under Title IV-D of the
72 Social Security Act which requires that the obligor provide
73 health care coverage is enforceable by the department through
74 the use of the national medical support notice, and an amendment
75 to the support order is not required. The department shall
76 transfer the national medical support notice to the obligor's
77 union or employer. The department shall notify the obligor in
78 writing that the notice has been sent to the obligor's union or
79 employer, and the written notification must include the
80 obligor's rights and duties under the national medical support
81 notice. The obligor may contest the withholding required by the
82 national medical support notice based on a mistake of fact. To
83 contest the withholding, the obligor must file a written notice

84 of contest with the department within 15 business days after the
85 date the obligor receives written notification of the national
86 medical support notice from the department. Filing with the
87 department is complete when the notice is received by the person
88 designated by the department in the written notification. The
89 notice of contest must be in the form prescribed by the
90 department. Upon the timely filing of a notice of contest, the
91 department shall, within 5 business days, schedule an informal
92 conference with the obligor to discuss the obligor's factual
93 dispute. If the informal conference resolves the dispute to the
94 obligor's satisfaction or if the obligor fails to attend the
95 informal conference, the notice of contest is deemed withdrawn.
96 If the informal conference does not resolve the dispute, the
97 obligor may request an administrative hearing under chapter 120
98 within 5 business days after the termination of the informal
99 conference, in a form and manner prescribed by the department.
100 However, the filing of a notice of contest by the obligor does
101 not delay the withholding of premium payments by the union,
102 employer, or health plan administrator. The union, employer, or
103 health plan administrator must implement the withholding as
104 directed by the national medical support notice unless notified
105 by the department that the national medical support notice is
106 terminated.

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

110 3. In a non-Title IV-D case, upon receipt of the order
111 pursuant to subparagraph 1., or upon application of the obligor

112 pursuant to the order, the union or employer shall enroll the
113 minor child as a beneficiary in the group health plan regardless
114 of any restrictions on the enrollment period and withhold any
115 required premium from the obligor's income. If more than one
116 plan is offered by the union or employer, the child shall be
117 enrolled in the group health plan in which the obligor is
118 enrolled.

119 4.a. Upon receipt of the national medical support notice
120 under subparagraph 2. in a Title IV-D case, the union or
121 employer shall transfer the notice to the appropriate group
122 health plan administrator within 20 business days after the date
123 on the notice. The plan administrator must enroll the child as a
124 beneficiary in the group health plan regardless of any
125 restrictions on the enrollment period, and the union or employer
126 must withhold any required premium from the obligor's income
127 upon notification by the plan administrator that the child is
128 enrolled. The child shall be enrolled in the group health plan
129 in which the obligor is enrolled. If the group health plan in
130 which the obligor is enrolled is not available where the child
131 resides or if the obligor is not enrolled in group coverage, the
132 child shall be enrolled in the lowest cost group health plan
133 that is available where the child resides.

134 b. If health care coverage or the obligor's employment is
135 terminated in a Title IV-D case, the union or employer that is
136 withholding premiums for health care coverage under a national
137 medical support notice must notify the department within 20 days
138 after the termination and provide the obligor's last known

139 address and the name and address of the obligor's new employer,
140 if known.

141 5.a. The amount withheld by a union or employer in
142 compliance with a support order may not exceed the amount
143 allowed under s. 303(b) of the Consumer Credit Protection Act,
144 15 U.S.C. s. 1673(b), as amended. The union or employer shall
145 withhold the maximum allowed by the Consumer Credit Protection
146 Act in the following order:

147 (I) Current support, as ordered.

148 (II) Premium payments for health care coverage, as
149 ordered.

150 (III) Past due support, as ordered.

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

152 b. If the combined amount to be withheld for current
153 support plus the premium payment for health care coverage exceed
154 the amount allowed under the Consumer Credit Protection Act, and
155 the health care coverage cannot be obtained unless the full
156 amount of the premium is paid, the union or employer may not
157 withhold the premium payment. However, the union or employer
158 shall withhold the maximum allowed in the following order:

159 (I) Current support, as ordered.

160 (II) Past due support, as ordered.

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

162 6. An employer, union, or plan administrator who does not
163 comply with the requirements of sub-subparagraph 4.a. is subject
164 to a civil penalty not to exceed \$250 for the first violation
165 and \$500 for subsequent violations, plus attorney's fees and

166 costs. The department may file a petition in circuit court to
 167 enforce the requirements of this subparagraph.

168 ~~7.6-~~ The Department of Revenue may adopt rules to
 169 administer the child support enforcement provisions of this
 170 section which affect Title IV-D cases.

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

173 61.1354 Sharing of information between consumer reporting
 174 agencies and the IV-D agency.--

175 (1) Upon receipt of a request from a consumer reporting
 176 agency as defined in s. 603(f) of the Fair Credit Reporting Act,
 177 the IV-D agency or the depository in non-Title-IV-D cases shall
 178 make available information relating to the amount of current and
 179 overdue support owed by an obligor. The IV-D agency or the
 180 depository in non-Title-IV-D cases shall give the obligor
 181 written notice, at least 15 days prior to the release of
 182 information, of the IV-D agency's or depository's authority to
 183 release information to consumer reporting agencies relating to
 184 the amount of current and overdue support owed by the obligor.
 185 The obligor shall be informed of his or her right to request a
 186 hearing with the IV-D agency or the court in non-Title-IV-D
 187 cases to contest the accuracy of the information.

188 (2) The IV-D agency shall report periodically to
 189 appropriate consumer reporting agencies, as identified by the
 190 IV-D agency, the name and social security number of any
 191 delinquent obligor, ~~and~~ the amount of overdue support owed by
 192 the obligor, and the amount of current support owed by the
 193 obligor when the overdue support is paid. The IV-D agency, or

194 its designee, shall provide the obligor with written notice, at
195 least 15 days prior to the initial release of information, of
196 the IV-D agency's authority to release the information
197 periodically to the consumer reporting agencies. The notice
198 shall state the amount of overdue support owed and the amount of
199 current support owed when the overdue support is paid and shall
200 inform the obligor of the right to request a hearing with the
201 IV-D agency within 15 days after receipt of the notice to
202 contest the accuracy of the information. After the initial
203 notice is given, no further notice or opportunity for a hearing
204 need be given when updated information concerning the same
205 obligor is periodically released to the consumer reporting
206 agencies.

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

210 61.14 Enforcement and modification of support,
211 maintenance, or alimony agreements or orders.--

212 (8)(a) When an employee and employer reach an agreement
213 for a lump-sum settlement under s. 440.20(11), no proceeds of
214 the settlement shall be disbursed to the employee, nor shall any
215 attorney's fees be disbursed, until after a judge of
216 compensation claims reviews the proposed disbursement and enters
217 an order finding the settlement provides for appropriate
218 recovery of any support arrearage. The employee, or the
219 employee's attorney if the employee is represented, shall submit
220 a written statement from the department as to whether the
221 employee owes unpaid support and, if so, the amount owed. In

222 addition, the judge of compensation claims may require the
 223 employee to submit a similar statement from a local depository
 224 established under s. 61.181. The sworn statement of the employee
 225 that all existing support obligations have been disclosed is
 226 also required. If the judge finds the proposed allocation of
 227 support recovery insufficient, the parties may amend the
 228 settlement agreement to make the allocation of proceeds
 229 sufficient. The Office of the Judges of Compensation Claims
 230 shall adopt procedural rules to implement this paragraph. When
 231 ~~reviewing and approving any lump-sum settlement under s.~~
 232 ~~440.20(11)(a) and (b), a judge of compensation claims must~~
 233 ~~consider whether the settlement serves the interests of the~~
 234 ~~worker and the worker's family, including, but not limited to,~~
 235 ~~whether the settlement provides for appropriate recovery of any~~
 236 ~~child support arrearage.~~

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

239 61.1812 Child Support Incentive Trust Fund.--

240 (1) The Child Support Incentive Trust Fund is hereby
 241 created, to be administered by the Department of Revenue. All
 242 child support enforcement incentive earnings and that portion of
 243 the state share of Title IV-A public assistance collections
 244 recovered in fiscal year 1996-1997 by the Title IV-D program of
 245 the department which is in excess of the amount estimated by the
 246 February 1997 Social Services Estimating Conference to be
 247 recovered in fiscal year 1996-1997 shall be credited to the
 248 trust fund, and no other receipts, except interest earnings,
 249 shall be credited thereto. For fiscal years beginning with 1997-

250 1998, in addition to incentive earnings and interest earnings,
 251 that portion of the state share of Title IV-A public assistance
 252 collections recovered in each fiscal year by the Title IV-D
 253 program of the department which is in excess of the amount
 254 estimated by the February 1997 Social Services Estimating
 255 Conference to be recovered in fiscal year 1997-1998 shall be
 256 credited to the trust fund. The purpose of the trust fund is to
 257 account for federal incentive payments to the state for child
 258 support enforcement and to support the activities of the child
 259 support enforcement program under Title IV-D of the Social
 260 Security Act. The department shall invest the money in the trust
 261 fund pursuant to s. 17.61 ~~ss. 215.44-215.52~~, and retain all
 262 interest earnings in the trust fund. The department shall
 263 separately account for receipts credited to the trust fund. When
 264 all general revenue appropriations for the child support
 265 enforcement program have been shifted to the trust fund, then
 266 annually thereafter, on June 30, if revenues deposited into the
 267 trust fund, including federal child support incentive earnings,
 268 have exceeded state expenditures for the child support
 269 enforcement program administered by the department for the prior
 270 12-month period, the revenues in excess of cash flow needs are
 271 transferred to the General Revenue Fund.

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

274 222.21 Exemption of pension money and retirement or
 275 profit-sharing benefits from legal processes.--

276 (2)(a) Except as provided in paragraph (b), any money or
 277 other assets payable to a participant or beneficiary from, or

278 any interest of any participant or beneficiary in, a retirement
 279 or profit-sharing plan that is qualified under s. 401(a), s.
 280 403(a), s. 403(b), s. 408, s. 408A, or s. 409 of the Internal
 281 Revenue Code of 1986, as amended, is exempt from all claims of
 282 creditors of the beneficiary or participant.

283 (b) Any plan or arrangement described in paragraph (a) is
 284 not exempt from the claims of an alternate payee under a
 285 qualified domestic relations order. However, the interest of any
 286 alternate payee under a qualified domestic relations order is
 287 exempt from all claims of any creditor, other than the
 288 Department of Revenue ~~Children and Family Services~~, of the
 289 alternate payee. As used in this paragraph, the terms "alternate
 290 payee" and "qualified domestic relations order" have the
 291 meanings ascribed to them in s. 414(p) of the Internal Revenue
 292 Code of 1986.

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

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

298 382.016 Amendment of records.--The department, upon
 299 receipt of the fee prescribed in s. 382.0255; documentary
 300 evidence, as specified by rule, of any misstatement, error, or
 301 omission occurring in any birth, death, or fetal death record;
 302 and an affidavit setting forth the changes to be made, shall
 303 amend or replace the original certificate as necessary.

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

305 (b) Upon written request and receipt of an affidavit, a
306 notarized voluntary acknowledgment of paternity signed by the
307 mother and father acknowledging the paternity of a registrant
308 born out of wedlock, or a voluntary acknowledgment of paternity
309 that is witnessed by two individuals and signed under penalty of
310 perjury as specified by s. 92.525(2), together with sufficient
311 information to identify the original certificate of live birth,
312 the department shall prepare a new birth certificate, which
313 shall bear the same file number as the original birth
314 certificate. The names and identifying information of the
315 parents shall be entered as of the date of the registrant's
316 birth. The surname of the registrant may be changed from that
317 shown on the original birth certificate at the request of the
318 mother and father of the registrant, or the registrant if of
319 legal age. If the mother and father marry each other at any time
320 after the registrant's birth, the department shall, upon the
321 request of the mother and father or registrant if of legal age
322 and proof of the marriage, amend the certificate with regard to
323 the parents' marital status as though the parents were married
324 at the time of birth. The department shall substitute the new
325 certificate of birth for the original certificate on file. All
326 copies of the original certificate of live birth in the custody
327 of a local registrar or other state custodian of vital records
328 shall be forwarded to the State Registrar. Thereafter, when a
329 certified copy of the certificate of birth or portion thereof is
330 issued, it shall be a copy of the new certificate of birth or
331 portion thereof, except when a court order requires issuance of
332 a certified copy of the original certificate of birth. Except

333 for a birth certificate on which a father is listed pursuant to
 334 an affidavit, a notarized voluntary acknowledgment of paternity
 335 signed by the mother and father acknowledging the paternity of a
 336 registrant born out of wedlock, or a voluntary acknowledgment of
 337 paternity that is witnessed by two individuals and signed under
 338 penalty of perjury as specified by s. 92.525(2), the department
 339 shall place the original certificate of birth and all papers
 340 pertaining thereto under seal, not to be broken except by order
 341 of a court of competent jurisdiction or as otherwise provided by
 342 law.

343 Section 7. Effective October 1, 2005, paragraph (d) is
 344 added to subsection (1) of section 382.016, Florida Statutes, to
 345 read:

346 382.016 Amendment of records.--The department, upon
 347 receipt of the fee prescribed in s. 382.0255; documentary
 348 evidence, as specified by rule, of any misstatement, error, or
 349 omission occurring in any birth, death, or fetal death record;
 350 and an affidavit setting forth the changes to be made, shall
 351 amend or replace the original certificate as necessary.

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

353 (d) For a child born in this state whose paternity is
 354 established in another state, the department shall amend the
 355 child's birth certificate to include the name of the father upon
 356 receipt of:

357 1. A certified copy of an acknowledgment of paternity,
 358 final judgment, or judicial or administrative order from another
 359 state that determines the child's paternity; or

360 2. A noncertified copy of an acknowledgment of paternity,

361 final judgment, or judicial or administrative order from another
 362 state that determines the child's paternity when provided with
 363 an affidavit or written declaration from the Department of
 364 Revenue that states the document was provided by or obtained
 365 from another state's Title IV-D program.

366
 367 The department may not amend a child's birth certificate to
 368 include the name of the child's father if paternity was
 369 established by adoption and the father is not eligible to adopt
 370 under state law.

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

373 409.2561 Support obligations when public assistance is
 374 paid; assignment of rights; subrogation; medical and health
 375 insurance information.--

376 (4) No obligation of support under this section shall be
 377 incurred by any person who is the recipient of supplemental
 378 security income or temporary cash assistance ~~public assistance~~
 379 ~~moneys~~ for the benefit of a dependent child or who is
 380 incapacitated and financially unable to pay as determined by the
 381 department.

382 Section 9. Section 409.2567, Florida Statutes, is amended
 383 to read:

384 409.2567 Services to individuals not otherwise
 385 eligible.--All support services provided by the department shall
 386 be made available on behalf of all dependent children. Services
 387 shall be provided upon acceptance of public assistance or upon
 388 proper application filed with the department. The department

389 shall adopt rules to provide for the payment of a \$25
 390 application fee from each applicant who is not a public
 391 assistance recipient. The application fee shall be deposited in
 392 the Child Support Enforcement Application and Program Revenue
 393 Trust Fund within the Department of Revenue to be used for the
 394 Child Support Enforcement Program. The obligor is responsible
 395 for all administrative costs, as defined in s. 409.2554. The
 396 court shall order payment of administrative costs without
 397 requiring the department to have a member of the bar testify or
 398 submit an affidavit as to the reasonableness of the costs. An
 399 attorney-client relationship exists only between the department
 400 and the legal services providers in Title IV-D cases. The
 401 attorney shall advise the obligee in Title IV-D cases that the
 402 attorney represents the agency and not the obligee. In Title IV-
 403 D cases, any costs, including filing fees, recording fees,
 404 mediation costs, service of process fees, and other expenses
 405 incurred by the clerk of the circuit court, shall be assessed
 406 only against the nonprevailing obligor after the court makes a
 407 determination of the nonprevailing obligor's ability to pay such
 408 costs and fees. In any case where the court does not award all
 409 costs, the court shall state in the record its reasons for not
 410 awarding the costs. The Department of Revenue shall not be
 411 considered a party for purposes of this section; however, fees
 412 may be assessed against the department pursuant to s. 57.105(1).
 413 ~~The department shall submit a monthly report to the Governor and~~
 414 ~~the chairs of the Health and Human Services Fiscal Committee of~~
 415 ~~the House of Representatives and the Ways and Means Committee of~~
 416 ~~the Senate specifying the funds identified for collection from~~

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417 ~~the noncustodial parents of children receiving temporary~~
418 ~~assistance and the amounts actually collected.~~

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

421 409.821 Florida Kidcare program public records
422 exemption.--Notwithstanding any other law to the contrary, any
423 information identifying a Florida Kidcare program applicant or
424 enrollee, as defined in s. 409.811, held by the Agency for
425 Health Care Administration, the Department of Children and
426 Family Services, the Department of Health, or the Florida
427 Healthy Kids Corporation is confidential and exempt from s.
428 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
429 information may be disclosed to another governmental entity only
430 if disclosure is necessary for the entity to perform its duties
431 and responsibilities under the Florida Kidcare program and shall
432 be disclosed to the Department of Revenue for purposes of
433 administering the state's Title IV-D program. The receiving
434 governmental entity must maintain the confidential and exempt
435 status of such information. Furthermore, such information may
436 not be released to any person without the written consent of the
437 program applicant. This exemption applies to any information
438 identifying a Florida Kidcare program applicant or enrollee held
439 by the Agency for Health Care Administration, the Department of
440 Children and Family Services, the Department of Health, or the
441 Florida Healthy Kids Corporation before, on, or after the
442 effective date of this exemption. A violation of this section is
443 a misdemeanor of the second degree, punishable as provided in s.
444 775.082 or s. 775.083.

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