

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families—This bill provides families with another method of accessing child support refunds or distributions due to them, thereby increasing the potential for child support payments to reach the intended recipients and thus improving the family's financial situation.

B. EFFECT OF PROPOSED CHANGES:

Undistributable Collections

Section 409.2558, Florida Statutes, was created in 1998 to require the DOR to distribute and disburse child support payments collected in Title IV-D cases in accordance with 42 U.S.C. s. 657 and regulations adopted hereunder by the Secretary of the United States Department of Health and Human Services.¹ The federal Office of Child Support Enforcement has stated that processing undistributable 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.²

In 2001, the law related to disbursement and distribution was amended to create a method for classifying collections as undistributable, a method for processing those collections, and a method for retrieving those collections from General Revenue and the federal government if the parties were later identified or located.³ An "undistributable collection" is defined as a support payment received by DOR which the department determines cannot be distributed to the final intended recipient.⁴ This happens most often when a party moves and does not notify the DOR of the address change.

The bill provides that the method used by DOR to determine a collection as undistributable must develop reasonable efforts to locate and notify persons to whom collections or refunds are owed, including the publication of names and other identifying information in a searchable database on the Internet. The bill requires the method of publishing information on the Internet to include appropriate security safeguards to protect the privacy of the persons named in the database.

C. SECTION DIRECTORY:

Section 1. Amends section 409.2558(2)(a), Florida Statutes, related to the distribution and disbursement of support, to provide 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, including the publication of names and other identifying information on the Internet.

Section 2. Establishes an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹ Chapter 98-397, Laws of Florida.

² 42 U.S.C.A. § 1301(a)(8)(A) (providing that the federal percentage contribution shall be no less than fifty percent and no more than sixty-five percent).

³ Chapter 2001-158, Laws of Florida.

⁴ Section 409.2554, Florida Statutes.

None.

2. Expenditures:

According to the DOR, it will cost approximately \$5,000 to buy a server for the database. DOR is already in the process of revising the current rule, so there will be no additional rule-making expenses required to incorporate the changes this bill proposes. DOR states that the costs associated with this bill can be absorbed within its current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The new system will assist persons who previously may have been unreachable to receive their collections or refunds from child support payments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This 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:

None; the rule-making referenced in the language of the bill is already included in the current law. Thus, this bill involves no new rule-making authority, but only an addition to the previously established disbursement and distribution system. DOR has stated that it is in the process of revising the relevant rule, and that the requirements of this statute can easily be incorporated into the current revision process.⁵

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁵ Telephone interview with DOR on February 2, 2005.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 9, 2005, the Civil Justice Committee considered the bill. The Committee adopted an amendment that sets forth that specific privacy safeguards are to be included in the Department's searchable online database to protect the identities of the individuals in the child support system. The bill was reported favorably as amended.