

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 87 CS Children's Services  
**SPONSOR(S):** Gottlieb and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 166

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

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### SUMMARY ANALYSIS

Section 286.25, F.S., requires any nongovernmental organization which sponsors a program financed partially by state funds or funds obtained from a state agency shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by the State of Florida." HB 87 amends s. 409.1671, F.S., to exempt a lead community-based provider and its subcontractors from including this statement or the logo of the Department of Children and Family Services in written documents, unless the provider or the subcontractor receives more than 35 percent of the total funding from the state.

Section 409.2558(2)(a), F.S., currently provides that the Department of Revenue (DOR) must establish a rule determining when a collection or refund to a noncustodial parent is undistributable to the final recipient. HB 87 will require the DOR method for determining that a support collection cannot be distributed to contain reasonable efforts to locate and notify persons to whom collections or refunds are owed, including the disclosure of names and other specified identifying information in an Internet-accessible database, with appropriate safeguards to protect the privacy of the individuals listed in the database.

#### Fiscal Impact:

State Government: There is a one-time cost of \$5,000 for DOR. According to DOR, the cost will be paid from the base budget.

Local Government: No impact.

Private Sector: The direct positive economic impact on the private sector is unknown; however, if parties who are due collections or refunds from support payments that have been determined to be undistributable can be located, those moneys can be refunded or distributed to those individuals.

This bill will take effect on July 1, 2005.

## 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:

##### **Lead Community-Based Providers**

Section 286.25, F.S., requires any nongovernmental organization which sponsors a program financed partially by state funds or funds obtained from a state agency shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by the State of Florida." HB 87 amends s. 409.1671, F.S., to exempt a lead community-based provider and its subcontractors from including this statement or the logo of the Department of Children and Family Services in written documents, unless the provider or the subcontractor receives more than 35 percent of the total funding from the state.

##### **Undistributable Collections**

Section 409.2558, F.S., 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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> An "undistributable collection" is defined as a support payment received by DOR which the department determines cannot be distributed to the final intended recipient.<sup>4</sup> 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:

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<sup>1</sup> Chapter 98-397, Laws of Fla.

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

<sup>3</sup> Chapter 2001-158, Laws of Fla.

<sup>4</sup> Section 409.2554, F.S.

**Section 1.** Amends s. 409.1671, F.S., to provide an exemption (from s. 286.25) to a lead community-based provider and its subcontractors from including the statement "Sponsored by the State of Florida" or the logo of the Department of Children and Family Services in written documents, unless the provider or the subcontractor receives more than 35 percent of their total funding from the state.

**Section 2.** Amends s. 409.2558(2)(a), F.S., 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 3.** Establishes an effective date of July 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

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 budget.

### 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:

Fiscal statements above address the provision related to undistributable child support payments.

## 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:

Art. III, s. 6 of the State Constitution requires that a bill must pertain to a single subject, briefly stated in the bill's title. Courts have interpreted this to mean that all provisions of a bill must be "properly connected" to the subject of the bill in a "natural or logical" way.<sup>5</sup> This bill may raise single-subject concerns because the two provisions of the bill may not appear to be naturally and logically connected, although both sections relate in a general way to services provided to children and families.

**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.<sup>6</sup>

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**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.

On March 11, 2005, the State Administration Appropriations Committee considered the bill. The Committee adopted an amendment to provide an exemption (from section 286.25) to a lead community-based provider and its subcontractors from including the statement "Sponsored by the State of Florida" or the logo of the Department of Children and Family Services in written documents, unless the provider or the subcontractor receives more than 35 percent of their total funding from the state.

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<sup>5</sup> See, e.g., *Franklin v. State*, 887 So. 2d 1063, 1078-79 (Fla. 2004); *Env'tl. Confed. of Sw. Fla. v. State*, 886 So. 2d 1013, 1018-19 (Fla. 1st DCA 2004).

<sup>6</sup> Telephone interview with DOR on February 2, 2005.