

By the Committee on Children, Families, and Elder Affairs

586-1473A-07

1 A bill to be entitled
2 An act relating to child support enforcement;
3 amending s. 61.1814, F.S.; providing for the
4 collection and deposit of an annual fee for
5 certain child support cases; amending s.
6 61.1824, F.S.; revising requirements for
7 certain employers to remit support payments
8 electronically; providing grounds for waiving
9 the requirement for employers to electronically
10 remit support payments; amending s. 409.2564,
11 F.S.; lowering the amount of child support owed
12 to permit federal action against an obligor's
13 passport; amending s. 409.25641, F.S.; revising
14 provisions governing the automated enforcement
15 of a support order from another state; amending
16 s. 409.2567, F.S.; authorizing the Department
17 of Revenue to pay a federally required annual
18 fee; amending ss. 49.011 and 409.257, F.S.;
19 authorizing service of process by publication
20 for unknown legal fathers; amending s. 742.09,
21 F.S.; providing an exception to the prohibition
22 against publication of the name of a party in a
23 paternity action; providing an appropriation;
24 providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 49.011, Florida Statutes, is
29 amended to read:

30 49.011 Service of process by publication; cases in
31 which allowed.--Service of process by publication may be made

1 | in any court on any party identified ~~person mentioned~~ in s.
2 | 49.021 in any action or proceeding:
3 | (1) To enforce any legal or equitable lien or claim to
4 | any title or interest in real or personal property within the
5 | jurisdiction of the court or any fund held or debt owing by
6 | any party on whom process can be served within this state.
7 | (2) To quiet title or remove any encumbrance, lien, or
8 | cloud on the title to any real or personal property within the
9 | jurisdiction of the court or any fund held or debt owing by
10 | any party on whom process can be served within this state.
11 | (3) To partition real or personal property within the
12 | jurisdiction of the court.
13 | (4) For dissolution or annulment of marriage.
14 | (5) For the construction of any will, deed, contract,
15 | or other written instrument and for a judicial declaration or
16 | enforcement of any legal or equitable right, title, claim,
17 | lien, or interest thereunder.
18 | (6) To reestablish a lost instrument or record which
19 | has or should have its situs within the jurisdiction of the
20 | court.
21 | (7) In which a writ of replevin, garnishment, or
22 | attachment has been issued and executed.
23 | (8) In which any other writ or process has been issued
24 | and executed which places any property, fund, or debt in the
25 | custody of a court.
26 | (9) To revive a judgment by motion or scire facias.
27 | (10) For adoption.
28 | (11) In which personal service of process or notice is
29 | not required by the statutes or constitution of this state or
30 | by the Constitution of the United States.
31 |

1 (12) In probate or guardianship proceedings in which
2 personal service of process or notice is not required by the
3 statutes or constitution of this state or by the Constitution
4 of the United States.

5 (13) For termination of parental rights pursuant to
6 part IX of chapter 39.

7 (14) For temporary custody of a minor child, under ss.
8 751.01-751.05.

9 (15) To determine paternity but only as to the legal
10 father in a paternity action in which another man is alleged
11 to be the biological father.

12 Section 2. Subsection (2) of section 61.1814, Florida
13 Statutes, is amended to read:

14 61.1814 Child Support Enforcement Application and
15 Program Revenue Trust Fund.--

16 (2) With the exception of fees required to be
17 deposited in the Clerk of the Court Child Support Enforcement
18 Collection System Trust Fund under s. 61.181(2)(b) and
19 collections determined to be undistributable or unidentifiable
20 under s. 409.2558, the fund shall be used for the deposit of
21 Title IV-D program income received by the department. Each
22 type of program income received shall be accounted for
23 separately. Program income received by the department
24 includes, but is not limited to:

25 (a) Application fees of nonpublic assistance
26 applicants for child support enforcement services;

27 (b) Court-ordered costs recovered from child support
28 obligors;

29 (c) Interest on child support collections;

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1 (d) The balance of fees received under s. 61.181(2)(a)
2 on non-Title IV-D cases required to be processed through the
3 State Disbursement Unit after the clerk's share is paid; ~~and~~

4 (e) Fines imposed under ss. 409.256(7)(b),
5 409.2564(7), and 409.2578; ~~and-~~

6 (f) The annual fee required under s. 409.2567.

7 Section 3. Subsection (6) of section 61.1824, Florida
8 Statutes, is amended to read:

9 61.1824 State Disbursement Unit.--

10 (6) ~~Effective October 1, 1999,~~ All support payments
11 for cases to which the requirements of this section apply
12 shall be made payable to and delivered to the State
13 Disbursement Unit. ~~Effective October 1, 2006,~~

14 (a) An employer that is required to remit tax payments
15 electronically to the department under s. 213.755 or s.
16 443.163 who employed 10 or more employees in any quarter
17 during the preceding state fiscal year or who was subject to
18 and paid tax to the department in an amount of \$30,000 or more
19 shall remit support payments deducted pursuant to an income
20 deduction order or income deduction notice and provide
21 associated case data to the State Disbursement Unit by
22 electronic means approved by the department. The department
23 may waive the requirement to remit payments electronically for
24 an employer that is unable to comply despite good faith
25 efforts or due to circumstances beyond the employer's
26 reasonable control. Grounds for approving a waiver include,
27 but are not limited to, circumstances in which:

28 1. The employer does not have a computer that meets
29 the minimum standards necessary for electronic remittance.

30 2. Additional time is needed to program the employer's
31 computer.

1 3. The employer does not currently file data
2 electronically with any business or government agency.

3 4. Compliance conflicts with the employer's business
4 procedures.

5 5. Compliance would cause a financial hardship.

6 **(b)** The department shall adopt by rule standards for
7 electronic remittance, ~~and~~ data transfer, and waivers that, to
8 the extent feasible, are consistent with the department's
9 rules for electronic filing and remittance of taxes under ss.
10 213.755 and 443.163. A waiver granted by the department from
11 the requirement to file and remit electronically under s.
12 213.755 or s. 443.163 constitutes a waiver from the
13 requirement under this subsection.

14 **(7)** Notwithstanding any other statutory provision to
15 the contrary, funds received by the State Disbursement Unit
16 shall be held, administered, and disbursed by the State
17 Disbursement Unit pursuant to the provisions of this chapter.

18 Section 4. Subsection (10) of section 409.2564,
19 Florida Statutes, is amended to read:

20 409.2564 Actions for support.--

21 (10) For the purposes of denial, revocation, or
22 limitation of an obligor's ~~individual's~~ United States
23 passport, consistent with 42 U.S.C. s. 652(k)(1), the
24 department ~~Title IV D agency~~ shall have procedures to certify
25 to the Secretary of the United States Department of Health and
26 Human Services, ~~in the format and accompanied by such~~
27 ~~supporting documentation as the secretary may require, a~~
28 ~~determination~~ that an obligor ~~individual~~ owes arrearages of
29 support in an amount exceeding ~~\$2,500~~ \$5,000. Said procedures
30 shall provide that the obligor ~~individual~~ be given notice of
31 the determination and of the consequence thereof, ~~and that the~~

1 ~~individual shall be given~~ an opportunity to contest the
2 accuracy of the determination.

3 Section 5. Section 409.25641, Florida Statutes, is
4 amended to read:

5 409.25641 Procedures for processing interstate
6 ~~automated administrative~~ enforcement requests.--

7 (1) The department ~~Title IV D agency~~ shall use
8 automated administrative enforcement, as provided in 42 U.S.C.
9 s. 666(a)(14)(A)(iii) ~~defined in the Social Security Act, to~~
10 respond in response to a request from another state to enforce
11 a support order and shall promptly report the results of the
12 enforcement action to the requesting state.

13 ~~(2) This request:~~

14 ~~(a) May be transmitted from the other state by~~
15 ~~electronic or other means;~~

16 ~~(b) Shall contain sufficient identifying information~~
17 ~~to allow comparison with the databases within the state which~~
18 ~~are available to the Title IV D agency; and~~

19 ~~(c) Shall constitute a certification by the requesting~~
20 ~~state:~~

21 ~~1. Of the amount of arrearage accrued under the order;~~
22 ~~and~~

23 ~~2. That the requesting state has complied with all~~
24 ~~procedural due process requirements applicable to the case.~~

25 ~~(3) If assistance is provided by the Title IV D agency~~
26 ~~to another state as prescribed above, neither state shall~~
27 ~~consider the case to be transferred from the caseload of the~~
28 ~~other state to the caseload of the Title IV D agency.~~

29 ~~(4) The Title IV D agency shall maintain a record of:~~

30 ~~(a) The number of requests received;~~

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1 ~~(b) The number of cases for which the Title IV-D~~
2 ~~agency collected support in response to such a request; and~~

3 ~~(c) The amount of such collected support.~~

4 ~~(5) The department shall have authority to adopt rules~~
5 ~~to implement this section.~~

6 Section 6. Section 409.2567, Florida Statutes, is
7 amended to read:

8 409.2567 Services to individuals not otherwise
9 eligible.--All support services provided by the department
10 shall be made available on behalf of all dependent children.

11 (1) Services shall be provided upon acceptance of
12 public assistance or upon proper application filed with the
13 department. The federally required application fee for
14 individuals who do not receive public assistance is \$1, which
15 shall be waived for all applicants and paid by the department.
16 The annual fee required under 42 U.S.C. s. 654(6)(B) for cases
17 involving an individual who has never received temporary cash
18 assistance and for whom the department has collected at least
19 \$500 of support shall be paid by the department. The obligor
20 is responsible for all administrative costs, as defined in s.
21 409.2554. The court shall order payment of administrative
22 costs without requiring the department to have a member of the
23 bar testify or submit an affidavit as to the reasonableness of
24 the costs.

25 (2) An attorney-client relationship exists only
26 between the department and the legal services providers in
27 Title IV-D cases. The attorney shall advise the obligee in
28 Title IV-D cases that the attorney represents the agency and
29 not the obligee. In Title IV-D cases, any costs, including
30 filing fees, recording fees, mediation costs, service of
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1 ~~process fees, and other expenses incurred by the clerk of the~~
2 ~~circuit court,~~

3 (3) All administrative costs shall be assessed only
4 against the nonprevailing obligor after the court makes a
5 determination of the nonprevailing obligor's ability to pay
6 such costs and fees. In any case where the court does not
7 award all costs, the court shall state in the record its
8 reasons for not awarding the costs. The court shall order
9 payment of costs without requiring the department to have a
10 member of the bar testify or submit an affidavit as to the
11 reasonableness of the costs.

12 (4) The Department of Revenue shall not be considered
13 a party for purposes of this section; however, fees may be
14 assessed against the department pursuant to s. 57.105(1).

15 (5) The department ~~of Revenue~~ shall seek a waiver from
16 the Secretary of the United States Department of Health and
17 Human Services to authorize the department ~~of Revenue~~ to
18 provide services in accordance with Title IV-D of the Social
19 Security Act to individuals who are owed support without need
20 of an application. If the waiver is granted, the department ~~of~~
21 ~~Revenue~~ shall adopt rules to implement the waiver and begin
22 providing Title IV-D services if support payments are not
23 being paid as ordered, except that the individual first must
24 be given written notice of the right to refuse Title IV-D
25 services and a reasonable opportunity to respond.

26 Section 7. Section 409.257, Florida Statutes, is
27 amended to read:

28 409.257 Service of process.--

29 (1) The service of original ~~initial~~ process and orders
30 in any paternity or child support action or proceeding
31 ~~lawsuits~~ filed by the department, ~~under this act,~~ shall be

1 made in accordance with ~~served by the sheriff in the county~~
2 ~~where the person to be served may be found or, if determined~~
3 ~~more effective by the department, by any means permitted under~~
4 ~~chapter 48 for service of process in a civil action.~~ The
5 sheriff shall be reimbursed at the prevailing rate of federal
6 financial participation for service of process and orders as
7 allowed by law. The sheriff shall bill the department monthly
8 as provided for in s. 30.51(2). ~~In addition,~~

9 (2) Process and orders may be served or executed by
10 authorized agents of the department at the department's
11 discretion ~~if; provided that~~ the agent of the department does
12 not take any action against personal property, real property,
13 or persons.

14 (3) Service of process by publication under chapter 49
15 may be made on the legal father in any action or proceeding to
16 determine paternity in which another man is alleged to be the
17 biological father.

18 (4) Notices and other intermediate process, except
19 witness subpoenas, shall be served by the department as
20 provided for in the Florida Rules of Civil Procedure.

21 (5) Witness subpoenas shall be served by the
22 department by United States mail as provided for in s.
23 48.031(3).

24 Section 8. Section 742.09, Florida Statutes, is
25 amended to read:

26 742.09 Publishing names; penalty.--Except for the
27 purpose of serving process by publication, as provided under
28 s. 49.011(15), it shall be unlawful for the owner, publisher,
29 manager, or operator of any newspaper, magazine, radio
30 station, or other publication of any kind whatsoever, or any
31 other person responsible therefor, or any radio broadcaster,

1 to publish the name of any of the parties to any court
2 proceeding to determine paternity, ~~instituted or prosecuted~~
3 ~~under this act~~; and any person violating this provision
4 commits ~~shall be guilty of~~ a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 Section 9. The sums of \$1,204,383 in nonrecurring
7 general revenue and \$1,605,846 in recurring general revenue
8 are appropriated from the General Revenue Fund to the
9 Department of Revenue to pay the federally mandated annual fee
10 under s. 409.2567, Florida Statutes.

11 Section 10. This act shall take effect upon becoming a
12 law.

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15 SENATE SUMMARY

16 Updates statutes relating to child support enforcement to
17 conform to recent federal legislation, including
18 permitting the collection and deposit of an annual fee
19 for certain child support cases and lowering the amount
20 of child support owed to permit federal action against an
21 obligor's passport. Provides grounds for waiving the
22 requirement for employers to electronically remit support
23 payments. Provides for serving process by publication for
24 unknown legal fathers in cases in which another man is
25 alleged to be the biological father.
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