

1 49.011 Service of process by publication; cases in
2 which allowed.--Service of process by publication may be made
3 in any court on any party identified ~~person mentioned~~ in s.
4 49.021 in any action or proceeding:

5 (1) To enforce any legal or equitable lien or claim to
6 any title or interest in real or personal property within the
7 jurisdiction of the court or any fund held or debt owing by
8 any party on whom process can be served within this state.

9 (2) To quiet title or remove any encumbrance, lien, or
10 cloud on the title to any real or personal property within the
11 jurisdiction of the court or any fund held or debt owing by
12 any party on whom process can be served within this state.

13 (3) To partition real or personal property within the
14 jurisdiction of the court.

15 (4) For dissolution or annulment of marriage.

16 (5) For the construction of any will, deed, contract,
17 or other written instrument and for a judicial declaration or
18 enforcement of any legal or equitable right, title, claim,
19 lien, or interest thereunder.

20 (6) To reestablish a lost instrument or record which
21 has or should have its situs within the jurisdiction of the
22 court.

23 (7) In which a writ of replevin, garnishment, or
24 attachment has been issued and executed.

25 (8) In which any other writ or process has been issued
26 and executed which places any property, fund, or debt in the
27 custody of a court.

28 (9) To revive a judgment by motion or scire facias.

29 (10) For adoption.
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1 (11) In which personal service of process or notice is
2 not required by the statutes or constitution of this state or
3 by the Constitution of the United States.

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

8 (13) For termination of parental rights pursuant to
9 part IX of chapter 39.

10 (14) For temporary custody of a minor child, under ss.
11 751.01-751.05.

12 (15) To determine paternity but only as to the legal
13 father in a paternity action in which another man is alleged
14 to be the biological father, in which case it is necessary to
15 serve the legal father in order to establish paternity in the
16 alleged biological father.

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

19 61.1814 Child Support Enforcement Application and
20 Program Revenue Trust Fund.--

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

30 (a) Application fees of nonpublic assistance
31 applicants for child support enforcement services;

1 (b) Court-ordered costs recovered from child support
2 obligors;

3 (c) Interest on child support collections;

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

7 (e) Fines imposed under ss. 409.256(7)(b),
8 409.2564(7), and 409.2578; ~~and-~~

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

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

12 61.1824 State Disbursement Unit.--

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

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

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

3 2. Additional time is needed to program the employer's
4 computer.

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

7 4. Compliance conflicts with the employer's business
8 procedures.

9 5. Compliance would cause a financial hardship.

10 (b) The department shall adopt by rule standards for
11 electronic remittance, ~~and~~ data transfer, and waivers that, to
12 the extent feasible, are consistent with the department's
13 rules for electronic filing and remittance of taxes under ss.
14 213.755 and 443.163. A waiver granted by the department from
15 the requirement to file and remit electronically under s.
16 213.755 or s. 443.163 constitutes a waiver from the
17 requirement under this subsection.

18 (7) Notwithstanding any other statutory provision to
19 the contrary, funds received by the State Disbursement Unit
20 shall be held, administered, and disbursed by the State
21 Disbursement Unit pursuant to the provisions of this chapter.

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

24 409.2564 Actions for support.--

25 (10) For the purposes of denial, revocation, or
26 limitation of an obligor's ~~individual's~~ United States
27 passport, consistent with 42 U.S.C. s. 652(k)(1), the
28 department ~~Title IV-D agency~~ shall have procedures to certify
29 to the Secretary of the United States Department of Health and
30 Human Services, ~~in the format and accompanied by such~~
31 ~~supporting documentation as the secretary may require, a~~

1 ~~determination~~ that an obligor individual owes arrearages of
2 support in an amount exceeding ~~\$2,500~~\$5,000. Said procedures
3 shall provide that the obligor individual be given notice of
4 the determination and of the consequence thereof, ~~and that the~~
5 ~~individual shall be given~~ an opportunity to contest the
6 accuracy of the determination.

7 Section 5. Section 409.25641, Florida Statutes, is
8 amended to read:

9 409.25641 Procedures for processing interstate
10 ~~automated administrative~~ enforcement requests.--

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

17 (2) ~~This request:~~

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

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

23 (c) ~~Shall constitute a certification by the requesting~~
24 ~~state:~~

25 1. ~~Of the amount of arrearage accrued under the order;~~
26 ~~and~~

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

29 (3) ~~If assistance is provided by the Title IV D agency~~
30 ~~to another state as prescribed above, neither state shall~~

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1 ~~consider the case to be transferred from the caseload of the~~
2 ~~other state to the caseload of the Title IV D agency.~~

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

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

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

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

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

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

12 409.2567 Services to individuals not otherwise
13 eligible.--All support services provided by the department
14 shall be made available on behalf of all dependent children.

15 (1) Services shall be provided upon acceptance of
16 public assistance or upon proper application filed with the
17 department. The federally required application fee for
18 individuals who do not receive public assistance is \$1, which
19 shall be waived for all applicants and paid by the department.
20 The annual fee required under 42 U.S.C. s. 654(6)(B) for cases
21 involving an individual who has never received temporary cash
22 assistance and for whom the department has collected at least
23 \$500 of support shall be paid by the department. The obligor
24 ~~is responsible for all administrative costs, as defined in s.~~
25 ~~409.2554. The court shall order payment of administrative~~
26 ~~costs without requiring the department to have a member of the~~
27 ~~bar testify or submit an affidavit as to the reasonableness of~~
28 ~~the costs.~~

29 (2) An attorney-client relationship exists only
30 between the department and the legal services providers in
31 Title IV-D cases. The attorney shall advise the obligee in

1 Title IV-D cases that the attorney represents the agency and
2 not the obligee. ~~In Title IV D cases, any costs, including~~
3 ~~filing fees, recording fees, mediation costs, service of~~
4 ~~process fees, and other expenses incurred by the clerk of the~~
5 ~~circuit court,~~

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

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

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

29 Section 7. Section 409.257, Florida Statutes, is
30 amended to read:

31 409.257 Service of process.--

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

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

17 (3) Service of process by publication under chapter 49
18 may be made on the legal father in any action or proceeding to
19 determine paternity, which may result in termination of the
20 legal father's parental rights, in which another man is
21 alleged to be the biological father. Before service of process
22 by publication may be made, the petitioner shall conduct a
23 diligent search and inquiry to locate the legal father. A
24 diligent search must include the inquiries required by s.
25 63.088(5). The petitioner shall execute an affidavit of
26 diligent search and file it with the court confirming
27 completion of each aspect of the diligent search enumerated in
28 s. 63.088(5) and specifying the results. If the legal father
29 cannot be located, he shall be served with process by
30 publication in the manner provided in chapter 49. The notice
31 shall be published in the county where the legal father was

1 last known to have resided. The clerk of the circuit court
2 shall mail a copy of the notice to the legal father at his
3 last known address.

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

7 (5) Witness subpoenas shall be served by the
8 department by United States mail as provided for in s.
9 48.031(3).

10 Section 8. Section 742.09, Florida Statutes, is
11 amended to read:

12 742.09 Publishing names; penalty.--Except for the
13 purpose of serving process by publication, as provided under
14 s. 49.011(15), it shall be unlawful for the owner, publisher,
15 manager, or operator of any newspaper, magazine, radio
16 station, or other publication of any kind whatsoever, or any
17 other person responsible therefor, or any radio broadcaster,
18 to publish the name of any of the parties to any court
19 proceeding to determine paternity, instituted or prosecuted
20 ~~under this act;~~ and any person violating this provision
21 commits shall be guilty of a misdemeanor of the first degree,
22 punishable as provided in s. 775.082 or s. 775.083.

23 Section 9. This act shall take effect upon becoming a
24 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2870
4 The committee substitute:
5 -- Provides that it is necessary to serve the legal father
6 in a paternity action in which another man is alleged to
7 be the biological father in order to establish paternity
8 in the alleged biological father.
9 -- Requires that a diligent search and inquiry be made for
10 the legal father in an action to determine paternity in
11 which another man is alleged to be the biological father
12 prior to conducting service of process by publication.
13 -- Provides requirements for conducting service of process
14 by publication in a paternity proceeding.
15 -- Deletes the appropriation of \$1,204,383 in nonrecurring
16 general revenue and \$1,605,846 in recurring general
17 revenue to pay for a federally mandated annual fee.
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