

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-1473-07

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 until its automated system is updated;
19 amending ss. 49.011 and 409.257, F.S.;
20 authorizing service of process by publication
21 for unknown legal fathers; amending s. 742.09,
22 F.S.; providing an exception to the prohibition
23 against publication of the name of a party in a
24 paternity action; providing for department
25 revenues to be shifted to cover the cost of a
26 federal fee; providing an effective date.

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

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30 Section 1. Section 49.011, Florida Statutes, is
31 amended to read:

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.

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

17 61.1814 Child Support Enforcement Application and
18 Program Revenue Trust Fund.--

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

28 (a) Application fees of nonpublic assistance
29 applicants for child support enforcement services;

30 (b) Court-ordered costs recovered from child support
31 obligors;

- 1 (c) Interest on child support collections;
- 2 (d) The balance of fees received under s. 61.181(2)(a)
- 3 on non-Title IV-D cases required to be processed through the
- 4 State Disbursement Unit after the clerk's share is paid; and
- 5 (e) Fines imposed under ss. 409.256(7)(b),
- 6 409.2564(7), and 409.2578.
- 7 (f) The annual fee required under s. 454(6)(B) of the
- 8 Social Security Act for each child support case in which the
- 9 state has collected at least \$500 during the year and the
- 10 custodial parent has never received temporary cash assistance,
- 11 as defined in s. 414.0252.

12 Section 3. Subsection (6) of section 61.1824, Florida

13 Statutes, is amended to read:

14 61.1824 State Disbursement Unit.--

15 (6) ~~Effective October 1, 1999,~~ All support payments

16 for cases to which the requirements of this section apply

17 shall be made payable to and delivered to the State

18 Disbursement Unit. ~~Effective October 1, 2006,~~

19 (a) An employer that is required to remit tax payments

20 electronically to the department under s. 213.755 or s.

21 443.163 who employed 10 or more employees in any quarter

22 during the preceding state fiscal year or who was subject to

23 and paid tax to the department in an amount of \$30,000 or more

24 shall remit support payments deducted pursuant to an income

25 deduction order or income deduction notice and provide

26 associated case data to the State Disbursement Unit by

27 electronic means approved by the department. The department

28 may waive the requirement to remit payments electronically for

29 an employer that is unable to comply despite good faith

30 efforts or due to circumstances beyond the employer's

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1 reasonable control. Grounds for approving a waiver include,
2 but are not limited to, circumstances in which:

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

5 2. Additional time is needed to program the employer's
6 computer.

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

9 4. Compliance conflicts with the employer's business
10 procedures.

11 5. Compliance would cause a financial hardship.

12 (b) The department shall adopt by rule standards for
13 electronic remittance, ~~and~~ data transfer, and waivers that, to
14 the extent feasible, are consistent with the department's
15 rules for electronic filing and remittance of taxes under ss.
16 213.755 and 443.163. A waiver granted by the department from
17 the requirement to file and remit electronically under s.
18 213.755 or s. 443.163 constitutes a waiver from the
19 requirement under this subsection.

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

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

26 409.2564 Actions for support.--

27 (10) For the purposes of denial, revocation, or
28 limitation of an obligor's ~~individual's~~ United States
29 passport, consistent with s. 452(k)(1) of the Social Security
30 Act 42 U.S.C. s. 652(k)(1), the department ~~Title IV-D agency~~
31 shall have procedures to certify to the Secretary of the

1 United States Department of Health and Human Services, ~~in the~~
2 ~~format and accompanied by such supporting documentation as the~~
3 ~~secretary may require, a determination~~ that an obligor
4 ~~individual~~ owes arrearages of support in an amount exceeding
5 ~~\$2,500~~\$5,000. Said procedures shall provide that the obligor
6 ~~individual~~ be given notice of the determination and of the
7 consequence thereof, ~~and that the individual shall be given an~~
8 opportunity to contest the accuracy of the determination.

9 Section 5. Section 409.25641, Florida Statutes, is
10 amended to read:

11 409.25641 Procedures for processing interstate
12 ~~automated administrative~~ enforcement requests.--

13 (1) The department ~~Title IV D agency~~ shall use
14 automated administrative enforcement, as provided in s.
15 466(a)(14) of defined in the Social Security Act, to respond
16 ~~in response~~ to a request from another state to enforce a
17 support order and shall promptly report the results of the
18 enforcement action to the requesting state.

19 ~~(2) This request:~~

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

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

25 ~~(c) Shall constitute a certification by the requesting~~
26 ~~state:~~

27 1. ~~Of the amount of arrearage accrued under the order;~~
28 ~~and~~

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

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

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

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

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

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

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

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

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

17 (1) Services shall be provided upon acceptance of
18 public assistance or upon proper application filed with the
19 department. The federally required application fee for
20 individuals who do not receive public assistance is \$1, which
21 shall be waived for all applicants and paid by the department.
22 ~~The obligor is responsible for all administrative costs, as~~
23 ~~defined in s. 409.2554. The court shall order payment of~~
24 ~~administrative costs without requiring the department to have~~
25 ~~a member of the bar testify or submit an affidavit as to the~~
26 ~~reasonableness of the costs.~~

27 (2) An attorney-client relationship exists only
28 between the department and the legal services providers in
29 Title IV-D cases. The attorney shall advise the obligee in
30 Title IV-D cases that the attorney represents the agency and
31 not the obligee. ~~In Title IV D cases, any costs, including~~

1 ~~filing fees, recording fees, mediation costs, service of~~
2 ~~process fees, and other expenses incurred by the clerk of the~~
3 ~~circuit court,~~

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

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

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

27 (6) The federally required annual fee collected under
28 s. 61.1814(2)(f) shall be paid by the department until
29 automated system changes are made which enable the department
30 to account for and collect the fee from the obligor. When the
31 system changes are completed, the department shall collect the

1 annual fee from the obligor and may use any remedies available
2 for collection of child support to collect the fee.

3 Section 7. Section 409.257, Florida Statutes, is
4 amended to read:

5 409.257 Service of process.--

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

17 (2) Process and orders may be served or executed by
18 authorized agents of the department at the department's
19 discretion ~~if; provided that~~ the agent of the department does
20 not take any action against personal property, real property,
21 or persons.

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

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

29 (5) Witness subpoenas shall be served by the
30 department by United States mail as provided for in s.
31 48.031(3).

1 Section 8. Section 742.09, Florida Statutes, is
2 amended to read:

3 742.09 Publishing names; penalty.--Except for the
4 purpose of serving process by publication, as provided under
5 s. 49.011(15), it shall be unlawful for the owner, publisher,
6 manager, or operator of any newspaper, magazine, radio
7 station, or other publication of any kind whatsoever, or any
8 other person responsible therefor, or any radio broadcaster,
9 to publish the name of any of the parties to any court
10 proceeding to determine paternity, instituted or prosecuted
11 under this act; and any person violating this provision
12 commits shall be guilty of a misdemeanor of the first degree,
13 punishable as provided in s. 775.082 or s. 775.083.

14 Section 9. For the 2007-2008 fiscal year, \$1,204,383
15 is shifted from current appropriations in the Child Support
16 Application and Program Revenue Trust Fund to the General
17 Revenue Fund for the Department of Revenue to pay the
18 federally mandated annual fee under s. 61.1814(2)(f), Florida
19 Statutes, as amended, as required by the Federal Deficit
20 Reduction Act of 2005. The annualization of this cost is
21 \$401,461.

22 Section 10. This act shall take effect upon becoming a
23 law.

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26 SENATE SUMMARY

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