

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

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 49.011, Florida Statutes, is amended to
 24 read:

25 49.011 Service of process by publication; cases in which
 26 allowed.--Service of process by publication may be made in any
 27 court on any party identified ~~person mentioned~~ in s. 49.021 in
 28 any action or proceeding:

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

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

37 (3) To partition real or personal property within the
38 jurisdiction of the court.

39 (4) For dissolution or annulment of marriage.

40 (5) For the construction of any will, deed, contract, or
41 other written instrument and for a judicial declaration or
42 enforcement of any legal or equitable right, title, claim, lien,
43 or interest thereunder.

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

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

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

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

52 (10) For adoption.

53 (11) In which personal service of process or notice is not
54 required by the statutes or constitution of this state or by the
55 Constitution of the United States.

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56 (12) In probate or guardianship proceedings in which
57 personal service of process or notice is not required by the
58 statutes or constitution of this state or by the Constitution of
59 the United States.

60 (13) For termination of parental rights pursuant to part
61 IX of chapter 39.

62 (14) For temporary custody of a minor child, under ss.
63 751.01-751.05.

64 (15) To determine paternity, but only as to the legal
65 father in a paternity action in which another man is alleged to
66 be the biological father.

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

69 61.1814 Child Support Enforcement Application and Program
70 Revenue Trust Fund.--

71 (2) With the exception of fees required to be deposited in
72 the Clerk of the Court Child Support Enforcement Collection
73 System Trust Fund under s. 61.181(2)(b) and collections
74 determined to be undistributable or unidentifiable under s.
75 409.2558, the fund shall be used for the deposit of Title IV-D
76 program income received by the department. Each type of program
77 income received shall be accounted for separately. Program
78 income received by the department includes, but is not limited
79 to:

80 (a) Application fees of nonpublic assistance applicants
81 for child support enforcement services;

82 (b) Court-ordered costs recovered from child support
83 obligors;

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- 84 (c) Interest on child support collections;
- 85 (d) The balance of fees received under s. 61.181(2)(a) on
- 86 non-Title IV-D cases required to be processed through the State
- 87 Disbursement Unit after the clerk's share is paid; ~~and~~
- 88 (e) Fines imposed under ss. 409.256(7)(b), 409.2564(7),
- 89 and 409.2578; and
- 90 (f) The annual fee required under s. 409.2567.

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

93 61.1824 State Disbursement Unit.--

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

98 (a) An employer that is required to remit tax payments
 99 electronically to the department under s. 213.755 or s. 443.163
 100 ~~who employed 10 or more employees in any quarter during the~~
 101 ~~preceding state fiscal year or who was subject to and paid tax~~
 102 ~~to the department in an amount of \$30,000 or more shall remit~~
 103 support payments deducted pursuant to an income deduction order
 104 or income deduction notice and provide associated case data to
 105 the State Disbursement Unit by electronic means approved by the
 106 department. The department may waive the requirement to remit
 107 payments electronically for an employer that is unable to comply
 108 despite good faith efforts or due to circumstances beyond the
 109 employer's reasonable control. Grounds for approving a waiver
 110 include, but are not limited to, circumstances in which:

- 111 1. The employer does not have a computer that meets the

112 minimum standards necessary for electronic remittance.

113 2. Additional time is needed to program the employer's
 114 computer.

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

117 4. Compliance conflicts with the employer's business
 118 procedures.

119 5. Compliance would cause a financial hardship.

120 (b) The department shall adopt by rule standards for
 121 electronic remittance, and data transfer, and waivers that, to
 122 the extent feasible, are consistent with the department's rules
 123 for electronic filing and remittance of taxes under ss. 213.755
 124 and 443.163. A waiver granted by the department from the
 125 requirement to file and remit electronically under s. 213.755 or
 126 s. 443.163 constitutes a waiver from the requirement under this
 127 subsection.

128 (7) Notwithstanding any other statutory provision to the
 129 contrary, funds received by the State Disbursement Unit shall be
 130 held, administered, and disbursed by the State Disbursement Unit
 131 pursuant to the provisions of this chapter.

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

134 409.2564 Actions for support.--

135 (10) For the purposes of denial, revocation, or limitation
 136 of an obligor's ~~individual's~~ United States passport, consistent
 137 with 42 U.S.C. s. 652(k)(1), the department ~~Title IV D agency~~
 138 shall have procedures to certify to the Secretary of the United
 139 States Department of Health and Human Services, ~~in the format~~

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140 ~~and accompanied by such supporting documentation as the~~
 141 ~~secretary may require, a determination that an obligor~~
 142 ~~individual owes arrearages of support in an amount exceeding~~
 143 ~~\$2,500 \$5,000. Said procedures shall provide that the obligor~~
 144 ~~individual be given notice of the determination and of the~~
 145 ~~consequence thereof and that the individual shall be given an~~
 146 ~~opportunity to contest the accuracy of the determination.~~

147 Section 5. Section 409.25641, Florida Statutes, is amended
 148 to read:

149 409.25641 Procedures for processing interstate automated
 150 ~~administrative~~ enforcement requests.--

151 (1) The department ~~Title IV D agency~~ shall use automated
 152 administrative enforcement, as provided in 42 U.S.C. s.
 153 666(a)(14)(A)(iii) to respond ~~defined in the Social Security~~
 154 ~~Act, in response~~ to a request from another state to enforce a
 155 support order and shall promptly report the results of the
 156 enforcement action to the requesting state.

157 ~~(2) This request:~~

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

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

163 ~~(c) Shall constitute a certification by the requesting~~
 164 ~~state:~~

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

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

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

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

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

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

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

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

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

181 409.2567 Services to individuals not otherwise eligible.--

182 (1) All support services provided by the department shall
 183 be made available on behalf of all dependent children. Services
 184 shall be provided upon acceptance of public assistance or upon
 185 proper application filed with the department. The federally
 186 required application fee for individuals who do not receive
 187 public assistance is \$1, which shall be waived for all
 188 applicants and paid by the department. The annual fee required
 189 under 42 U.S.C. s. 654(6)(B) for cases involving an individual
 190 who has never received temporary cash assistance and for whom
 191 the department has collected at least \$500 of support shall be
 192 paid by the department. The obligor is responsible for all
 193 administrative costs, as defined in s. 409.2554. The court shall
 194 order payment of administrative costs without requiring the

195 ~~department to have a member of the bar testify or submit an~~
 196 ~~affidavit as to the reasonableness of the costs.~~

197 (2) An attorney-client relationship exists only between
 198 the department and the legal services providers in Title IV-D
 199 cases. The attorney shall advise the obligee in Title IV-D cases
 200 that the attorney represents the agency and not the obligee. ~~In~~
 201 ~~Title IV D cases, any costs, including filing fees, recording~~
 202 ~~fees, mediation costs, service of process fees, and other~~
 203 ~~expenses incurred by the clerk of the circuit court,~~

204 (3) All administrative costs shall be assessed only
 205 against the nonprevailing obligor after the court makes a
 206 determination of the nonprevailing obligor's ability to pay such
 207 costs and fees. In any case where the court does not award all
 208 costs, the court shall state in the record its reasons for not
 209 awarding the costs. The court shall order payment of costs
 210 without requiring the department to have a member of the bar
 211 testify or submit an affidavit as to the reasonableness of the
 212 costs.

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

216 (5) The Department of Revenue shall seek a waiver from the
 217 Secretary of the United States Department of Health and Human
 218 Services to authorize the Department of Revenue to provide
 219 services in accordance with Title IV-D of the Social Security
 220 Act to individuals who are owed support without need of an
 221 application. If the waiver is granted, the Department of Revenue
 222 shall adopt rules to implement the waiver and begin providing

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223 Title IV-D services if support payments are not being paid as
 224 ordered, except that the individual first must be given written
 225 notice of the right to refuse Title IV-D services and a
 226 reasonable opportunity to respond.

227 Section 7. Section 409.257, Florida Statutes, is amended
 228 to read:

229 409.257 Service of process.--

230 (1) The service of original initial process and orders in
 231 any paternity or child support action or proceeding lawsuits
 232 filed by the department, under this act, shall be made in
 233 accordance with served by the sheriff in the county where the
 234 person to be served may be found or, if determined more
 235 effective by the department, by any means permitted under
 236 chapter 48 for service of process in a civil action. The sheriff
 237 shall be reimbursed at the prevailing rate of federal financial
 238 participation for service of process and orders as allowed by
 239 law. The sheriff shall bill the department monthly as provided
 240 for in s. 30.51(2). ~~In addition,~~

241 (2) Process and orders may be served or executed by
 242 authorized agents of the department at the department's
 243 discretion if, provided that the agent of the department does
 244 not take any action against personal property, real property, or
 245 persons.

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

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

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

255 Section 8. Section 742.09, Florida Statutes, is amended to
 256 read:

257 742.09 Publishing names; penalty.--Except for the purpose
 258 of serving process by publication, as provided under s.
 259 49.011(15), it shall be unlawful for the owner, publisher,
 260 manager, or operator of any newspaper, magazine, radio station,
 261 or other publication of any kind whatsoever, or any other person
 262 responsible therefor, or any radio broadcaster, to publish the
 263 name of any of the parties to any court proceeding to determine
 264 paternity. A person who violates this section commits instituted
 265 ~~or prosecuted under this act; and any person violating this~~
 266 ~~provision shall be guilty of a misdemeanor of the first degree,~~
 267 punishable as provided in s. 775.082 or s. 775.083.

268 Section 9. This act shall take effect July 1, 2007.