

Bill No. PCS (175202) for SB 1152



252742

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/5/2008	.	
	.	
	.	

1 The Committee on Children, Families, and Elder Affairs (Storms)
 2 recommended the following **amendment**:

Senate Amendment (with title amendment)

Between line(s) 96 and 97

and insert:

Section 3. Subsection (2) of section 409.2558, Florida Statutes, is created to read:

409.2558 Support distribution and disbursement.--

10 (2) Any payments made to the obligee in a Title IV-D case
 11 shall be disbursed electronically. The obligee may designate a
 12 personal account for deposit of payments. If the obligee does
 13 not designate a personal account, the State Disbursement Unit
 14 shall deposit any payments into a stored-value account that can
 15 be accessed by the obligee.

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16 (3)~~(2)~~ UNDISTRIBUTABLE COLLECTIONS.--

17 (a) The department shall establish by rule the method for
18 determining a collection or refund to be undistributable to the
19 final intended recipient. Before determining a collection or
20 refund to be undistributable, the department shall make
21 reasonable efforts to locate persons to whom collections or
22 refunds are owed so that payment can be made. Location efforts
23 may include disclosure through a searchable database of the
24 names of obligees, obligors, and depository account numbers on
25 the Internet in compliance with the requirements of s.
26 119.01(2)(a).

27 (b) Collections that are determined to be undistributable
28 shall be processed in the following order of priority:

29 1. Apply the payment to any assigned arrears on the
30 custodial parent's case; then

31 2. Apply the payment to any administrative costs ordered
32 by the court pursuant to s. 409.2567 associated with the
33 custodial parent's case; then

34 3. When the noncustodial parent is subject to a valid
35 order to support another child in a case with a different
36 custodial parent and the obligation is being enforced by the
37 department, the department shall send by certified mail,
38 restricted delivery, return receipt requested, to the
39 noncustodial parent at the most recent address provided by the
40 noncustodial parent to the tribunal that issued the order, a
41 notice stating the department's intention to apply the payment
42 pursuant to this subparagraph, and advising the noncustodial
43 parent of the right to contest the department's proposed action

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44 in the circuit court by filing and serving a petition on the
45 department within 30 days after the mailing of the notice. If
46 the noncustodial parent does not file and serve a petition
47 within the 30 days after mailing of the notice, or upon a
48 disposition of the judicial action favorable to the department,
49 the department shall apply the payment toward his or her other
50 support obligation. If there is more than one such other case,
51 the department shall allocate the remaining undistributable
52 amount as specified by s. 61.1301(4)(c); then

53 4. Return the payment to the noncustodial parent; then

54 5. If the noncustodial parent cannot be located after
55 diligent efforts by the department, the federal share of the
56 payment shall be credited to the Federal Government and the
57 state share shall be transferred to the General Revenue Fund.

58 (c) Refunds to noncustodial parents that are determined to
59 be undistributable shall be processed in the following manner:

60 1. The federal share of the refund shall be sent to the
61 Federal Government.

62 2. The state share shall be credited to the General
63 Revenue Fund.

64 ~~(4)(3)~~ UNIDENTIFIABLE COLLECTIONS.--

65 (a) The department shall establish by rule the method for
66 determining a collection to be unidentifiable.

67 (b) Upon being determined to be unidentifiable, the
68 federal share of unidentifiable collections shall be credited to
69 the Federal Government and the state share shall be transferred
70 to the General Revenue Fund.

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71 (5)~~(4)~~ RECLAIMING COLLECTIONS DECLARED TO BE
72 UNDISTRIBUTABLE OR UNIDENTIFIABLE.--At such time as an
73 undistributable or unidentifiable collection that has been
74 transferred to the Federal Government and to the General Revenue
75 Fund in the relevant method above becomes distributable or
76 identified, meaning either the noncustodial parent or the
77 custodial parent is identified or located, the department shall
78 retrieve the transferred moneys in the following manner:

79 (a) Offset the next credit to the Federal Government in an
80 amount equal to the share of the collection which had been
81 transferred; and

82 (b) Offset the next transfer to the General Revenue Fund
83 in an amount equal to the state share of the collection which
84 had been transferred to the General Revenue Fund.

85
86 The collection shall then be processed, as appropriate.

87 (6)~~(5)~~ RECONSIDERATION OF DISTRIBUTION AND DISBURSEMENT.--
88 A recipient of collection and distribution services of the
89 department's Child Support Enforcement Program may request a
90 reconsideration by the department concerning the amount
91 collected, the date collected, the amount distributed, the
92 distribution timing, or the calculation of arrears. The
93 department shall establish by rule a reconsideration procedure
94 for informal review of agency action in distributing and
95 disbursing support payments collected by the department. The
96 procedures must provide the recipients of services with an
97 opportunity to review the department's actions before a hearing
98 is requested under chapter 120.

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99 (7)~~(6)~~ OVERPAYMENT.--If the department's records indicate
100 that a support obligee has received an overpayment of support
101 from the department due to either mistake or fraud, the
102 department may take action to recover the overpayment. The
103 department may establish by rule a procedure to recover
104 overpayments.

105 (8)~~(7)~~ ORDER REDIRECTING PAYMENTS TO THE PERSON WITH WHOM
106 THE CHILD RESIDES.--

107 (a) If the department determines in a Title IV-D case that
108 a child for whom a support order has been entered by a tribunal
109 of this state resides with a person other than the obligee or
110 obligor, the department may not disburse current support
111 payments for the child to the obligee without a further order
112 from the tribunal that entered the support order. For purposes
113 of this section, "tribunal" means either the circuit court or
114 the department.

115 (b) A determination by the department under paragraph (a)
116 must be based on one or more of the following factors:

117 1. Public assistance records that show a person other than
118 the obligee or obligor is receiving public assistance for the
119 child.

120 2. A statement by the obligee that the child resides with
121 a person other than the obligee or obligor is submitted to the
122 department.

123 3. A sworn statement or written declaration signed under
124 penalty of perjury by a person who has personal knowledge that
125 the child resides with a person other than the obligee or
126 obligor is submitted to the department.

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127 4. Government records that show the obligee is
128 incarcerated.

129 5. Evidence that the obligee has left the community where
130 the child resides is submitted to the department.

131 6. Other credible information that indicates the child
132 resides with a person other than the obligee or obligor is
133 submitted to the department.

134 (c) When the department determines that a child as
135 specified in paragraph (a) resides with a person other than the
136 obligee or obligor, the department shall submit by regular mail
137 to the obligee, the obligor, and, if known, the person with whom
138 the child resides a notice that states:

139 1. The facts on which the determination is based.

140 2. The name and address of the person with whom the child
141 resides, if known, unless disclosure is prohibited under s.
142 409.2579(3) or (4) or the child is in foster care.

143 3. That the department will not disburse current support
144 payments for the child without a further order from the tribunal
145 that entered the support order.

146 4. If the support order was entered by the circuit court:

147 a. That the department will file a motion and proposed
148 order with the court that asks the court to order that the
149 obligor's current support payments be disbursed to the person
150 with whom the child resides, determine arrearages, and order
151 repayment of arrearages;

152 b. That the obligee, the obligor, and the person with whom
153 the child resides may file an objection in court to the proposed
154 order or a motion to compel disbursement; and

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155 c. That the obligee, the obligor, and the person with whom
156 the child resides will be mailed a copy of the department's
157 motion and notified of any court hearing.

158 5. If the support order was entered by the department:

159 a. That the department intends to disburse the current
160 support payments to the person with whom the child resides, if
161 known, determine arrearages, and order repayment of arrearages;

162 b. The effective date of the intended action to disburse
163 current support payments to the person with whom the child
164 resides, the amount of arrearages owed to the obligee and the
165 person with whom the child resides, and the amount of the order
166 for periodic repayment of arrearages;

167 c. That the obligee, the obligor, and the person with whom
168 the child resides may contest the intended action by filing with
169 the department a petition for an administrative hearing within
170 30 days after the date of mailing of the notice;

171 d. That if a timely petition for an administrative hearing
172 is filed, the parties will be given advance notice of the date,
173 time, and place of the hearing; and

174 e. That if the notice of intended action is not timely
175 contested, the department will enter a final order based on what
176 is stated in the notice.

177 (d) The tribunal that entered the support order shall
178 determine whether support payments not disbursed by the
179 department and current support must be paid to the obligee, paid
180 to the person with whom the child resides, or refunded to the
181 obligor. The person with whom the child resides is deemed a
182 party to the proceedings. The tribunal is not required to hold a

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183 hearing unless a party has filed a timely objection to the
184 proposed order or a timely petition for an administrative
185 hearing. If the department is the tribunal and a timely petition
186 for an administrative hearing is filed, the hearing shall be
187 conducted by the Division of Administrative Hearings and the
188 administrative law judge shall enter a final order. If a hearing
189 is not required, the tribunal shall enter an order within 30
190 days after the department's motion is filed or the notice of
191 intended action is mailed. If a timely objection or petition for
192 an administrative hearing is filed, a hearing shall be conducted
193 and an order entered within 30 days after the objection or
194 petition is filed.

195 (e) If the tribunal finds by a preponderance of the
196 evidence that the child does not reside with the obligee, the
197 tribunal shall enter an order that redirects the obligor's
198 current support payments due under the support order to the
199 person with whom the child resides, determine arrearages owed to
200 the obligee and the person with whom the child resides, and
201 order repayment of arrearages. The tribunal need not recompute
202 the obligor's support obligation under the child support
203 guidelines. If the person with whom the child resides is unknown
204 and the obligor owes no arrearages or costs, the tribunal shall
205 enter an order that refunds the payments not disbursed by the
206 department to the obligor. If the child resides with the
207 obligor, the person with whom the child resides is unknown, or
208 the child's place of residence is unknown, the tribunal shall
209 consider whether to abate, terminate, or modify the support
210 order.

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211 (f) A tribunal that enters an order that redirects or
 212 refunds support payments shall file a copy of the order with the
 213 depository that serves as official recordkeeper for payments due
 214 under the support order. The depository shall maintain separate
 215 accounts and separate account numbers for individual payees.

216 ~~(9)~~ (8) RULEMAKING AUTHORITY.--The department may adopt
 217 rules to administer this section. The department shall provide a
 218 draft of the proposed concepts for the rule for the
 219 undistributable collections to interested parties for review and
 220 recommendations prior to full development of the rule and
 221 initiating the formal rule-development process. The department
 222 shall consider but is not required to implement the
 223 recommendations. The department shall provide a report to the
 224 President of the Senate and the Speaker of the House of
 225 Representatives containing the recommendations received from
 226 interested parties and the department's response regarding
 227 incorporating the recommendations into the rule.

228
 229 (renumber subsequent sections)

230
 231 ===== T I T L E A M E N D M E N T =====

232 And the title is amended as follows:

233 On line(s) 14 after "Revenue"

234 insert:

235 amending s. 409.2558, F.S., requiring the State
 236 Disbursement Unit to disburse payments to obligees
 237 electronically;