

CONFERENCE COMMITTEE AMENDMENT

Bill No. HB 5129

Amendment No.

CHAMBER ACTION

Senate

House

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1 The Conference Committee on HB 5129 offered the following:

2  
3 **Conference Committee Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5  
6 Section 1. Subsections (7) through (22) of section 61.046,  
7 Florida Statutes, are renumbered as subsections (8) through  
8 (23), respectively, and a new subsection (7) is added to that  
9 section to read:

10 61.046 Definitions.--As used in this chapter, the term:  
11 (7) "Health insurance" means coverage under a fee-for-  
12 service arrangement, health maintenance organization, or  
13 preferred provider organization, and other types of coverage  
14 available to either parent, under which medical services could  
15 be provided to a dependent child.

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16 Section 2. Paragraph (b) of subsection (1) of section  
17 61.13, Florida Statutes, is amended to read:

18 61.13 Support of children; parenting and time-sharing;  
19 powers of court.--

20 (1)

21 (b) Each order for support shall contain a provision for  
22 health insurance ~~care coverage~~ for the minor child when health  
23 insurance ~~the coverage~~ is reasonable in cost and accessible to  
24 the child ~~reasonably available~~. Health insurance is presumed to  
25 be reasonable in cost if the incremental cost of adding health  
26 insurance for the child or children does not exceed 5 percent of  
27 the gross income, as defined in s. 61.30, of the parent  
28 responsible for providing health insurance. Health insurance is  
29 accessible to the child if the health insurance is available to  
30 be used in the county of the child's primary residence or in  
31 another county if the parent who has the most time under the  
32 time-sharing plan agrees. If the time-sharing plan provides for  
33 equal time-sharing, health insurance is accessible to the child  
34 if the health insurance is available to be used in either county  
35 where the child resides or in another county if both parents  
36 agree. Coverage is reasonably available if either the obligor or  
37 obligee has access at a reasonable rate to a group health plan.  
38 The court may require the obligor ~~either~~ to provide health  
39 insurance ~~care coverage~~ or to reimburse the obligee for the cost  
40 of health insurance ~~care coverage~~ for the minor child when  
41 insurance ~~coverage~~ is provided by the obligee. The presumption  
42 of reasonable cost may be rebutted by evidence of any of the  
43 factors in s. 61.30(11) (a). The court may deviate from what is

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44 presumed reasonable in cost only upon a written finding  
45 explaining its determination why ordering or not ordering the  
46 provision of health insurance or the reimbursement of the  
47 obligee's cost for providing health insurance for the minor  
48 child would be unjust or inappropriate. In any ~~either~~ event, the  
49 court shall apportion the cost of health insurance ~~coverage~~, and  
50 any noncovered medical, dental, and prescription medication  
51 expenses of the child, to both parties by adding the cost to the  
52 basic obligation determined pursuant to s. 61.30(6). The court  
53 may order that payment of noncovered ~~uncovered~~ medical, dental,  
54 and prescription medication expenses of the minor child be made  
55 directly to the obligee on a percentage basis. In a proceeding  
56 for medical support only, each parent's share of the child's  
57 health insurance and noncovered medical expenses shall equal the  
58 parent's percentage share of the combined net income of the  
59 parents. The percentage share shall be calculated by dividing  
60 each parent's net monthly income by the combined monthly net  
61 income of both parents. Net income is calculated as specified by  
62 s. 61.30(3) and (4).

63 1. In a non-Title IV-D case, a copy of the court order for  
64 health insurance ~~care~~ ~~coverage~~ shall be served on the obligor's  
65 union or employer by the obligee when the following conditions  
66 are met:

67 a. The obligor fails to provide written proof to the  
68 obligee within 30 days after receiving effective notice of the  
69 court order that the health insurance ~~care~~ ~~coverage~~ has been  
70 obtained or that application for health insurance ~~coverage~~ has  
71 been made;

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72           b. The obligee serves written notice of intent to enforce  
73 an order for health insurance ~~care coverage~~ on the obligor by  
74 mail at the obligor's last known address; and

75           c. The obligor fails within 15 days after the mailing of  
76 the notice to provide written proof to the obligee that the  
77 health insurance ~~care coverage~~ existed as of the date of  
78 mailing.

79           2.a. A support order enforced under Title IV-D of the  
80 Social Security Act which requires that the obligor provide  
81 health insurance ~~care coverage~~ is enforceable by the department  
82 through the use of the national medical support notice, and an  
83 amendment to the support order is not required. The department  
84 shall transfer the national medical support notice to the  
85 obligor's union or employer. The department shall notify the  
86 obligor in writing that the notice has been sent to the  
87 obligor's union or employer, and the written notification must  
88 include the obligor's rights and duties under the national  
89 medical support notice. The obligor may contest the withholding  
90 required by the national medical support notice based on a  
91 mistake of fact. To contest the withholding, the obligor must  
92 file a written notice of contest with the department within 15  
93 business days after the date the obligor receives written  
94 notification of the national medical support notice from the  
95 department. Filing with the department is complete when the  
96 notice is received by the person designated by the department in  
97 the written notification. The notice of contest must be in the  
98 form prescribed by the department. Upon the timely filing of a  
99 notice of contest, the department shall, within 5 business days,  
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100 schedule an informal conference with the obligor to discuss the  
101 obligor's factual dispute. If the informal conference resolves  
102 the dispute to the obligor's satisfaction or if the obligor  
103 fails to attend the informal conference, the notice of contest  
104 is deemed withdrawn. If the informal conference does not resolve  
105 the dispute, the obligor may request an administrative hearing  
106 under chapter 120 within 5 business days after the termination  
107 of the informal conference, in a form and manner prescribed by  
108 the department. However, the filing of a notice of contest by  
109 the obligor does not delay the withholding of premium payments  
110 by the union, employer, or health plan administrator. The union,  
111 employer, or health plan administrator must implement the  
112 withholding as directed by the national medical support notice  
113 unless notified by the department that the national medical  
114 support notice is terminated.

115       b. In a Title IV-D case, the department shall notify an  
116 obligor's union or employer if the obligation to provide health  
117 insurance ~~care coverage~~ through that union or employer is  
118 terminated.

119       3. In a non-Title IV-D case, upon receipt of the order  
120 pursuant to subparagraph 1., or upon application of the obligor  
121 pursuant to the order, the union or employer shall enroll the  
122 minor child as a beneficiary in the group health plan regardless  
123 of any restrictions on the enrollment period and withhold any  
124 required premium from the obligor's income. If more than one  
125 plan is offered by the union or employer, the child shall be  
126 enrolled in the group health plan in which the obligor is  
127 enrolled.

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128           4.a. Upon receipt of the national medical support notice  
129 under subparagraph 2. in a Title IV-D case, the union or  
130 employer shall transfer the notice to the appropriate group  
131 health plan administrator within 20 business days after the date  
132 on the notice. The plan administrator must enroll the child as a  
133 beneficiary in the group health plan regardless of any  
134 restrictions on the enrollment period, and the union or employer  
135 must withhold any required premium from the obligor's income  
136 upon notification by the plan administrator that the child is  
137 enrolled. The child shall be enrolled in the group health plan  
138 in which the obligor is enrolled. If the group health plan in  
139 which the obligor is enrolled is not available where the child  
140 resides or if the obligor is not enrolled in group coverage, the  
141 child shall be enrolled in the lowest cost group health plan  
142 that is accessible to ~~available where~~ the child ~~resides~~.

143           b. If health insurance ~~care coverage~~ or the obligor's  
144 employment is terminated in a Title IV-D case, the union or  
145 employer that is withholding premiums for health insurance ~~care~~  
146 ~~coverage~~ under a national medical support notice must notify the  
147 department within 20 days after the termination and provide the  
148 obligor's last known address and the name and address of the  
149 obligor's new employer, if known.

150           5.a. The amount withheld by a union or employer in  
151 compliance with a support order may not exceed the amount  
152 allowed under s. 303(b) of the Consumer Credit Protection Act,  
153 15 U.S.C. s. 1673(b), as amended. The union or employer shall  
154 withhold the maximum allowed by the Consumer Credit Protection  
155 Act in the following order:

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156 (I) Current support, as ordered.

157 (II) Premium payments for health insurance ~~care coverage~~,  
158 as ordered.

159 (III) Past due support, as ordered.

160 (IV) Other medical support or insurance ~~coverage~~, as  
161 ordered.

162 b. If the combined amount to be withheld for current  
163 support plus the premium payment for health insurance ~~care~~  
164 ~~coverage~~ exceed the amount allowed under the Consumer Credit  
165 Protection Act, and the health insurance ~~care coverage~~ cannot be  
166 obtained unless the full amount of the premium is paid, the  
167 union or employer may not withhold the premium payment. However,  
168 the union or employer shall withhold the maximum allowed in the  
169 following order:

170 (I) Current support, as ordered.

171 (II) Past due support, as ordered.

172 (III) Other medical support or insurance ~~coverage~~, as  
173 ordered.

174 6. An employer, union, or plan administrator who does not  
175 comply with the requirements in sub-subparagraph 4.a. is subject  
176 to a civil penalty not to exceed \$250 for the first violation  
177 and \$500 for subsequent violations, plus attorney's fees and  
178 costs. The department may file a petition in circuit court to  
179 enforce the requirements of this subparagraph.

180 7. The department may adopt rules to administer the child  
181 support enforcement provisions of this section that affect Title  
182 IV-D cases.

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183 Section 3. Subsection (5) of section 61.1301, Florida  
184 Statutes, is amended to read:

185 61.1301 Income deduction orders.--

186 (5) By July 1, 2006, the department shall provide a payor  
187 with Internet access to income deduction and national medical  
188 support notices issued by the department on or after July 1,  
189 2006, concerning an obligor to whom the payor pays income. The  
190 department shall provide a payor who requests Internet access  
191 with a user code and password to allow the payor to receive  
192 notices electronically and to download the information necessary  
193 to begin income deduction and health insurance ~~care coverage~~  
194 enrollment. If a participating payor does not respond to  
195 electronic notice by accessing the data posted by the department  
196 within 48 hours, the department shall mail the income deduction  
197 or medical support notice to the payor.

198 Section 4. Subsections (5) through (14) of section  
199 409.2554, Florida Statutes, are renumbered as subsections (6)  
200 through (15), respectively, and a new subsection (5) is added to  
201 that section to read:

202 409.2554 Definitions; ss. 409.2551-409.2598.--As used in  
203 ss. 409.2551-409.2598, the term:

204 (5) "Health insurance" means coverage under a fee-for-  
205 service arrangement, health maintenance organization, or  
206 preferred provider organization, and other types of coverage  
207 available to either parent, under which medical services could  
208 be provided to a dependent child.

209 Section 5. Paragraphs (b), (c), and (e) of subsection (5)  
210 of section 409.2561, Florida Statutes, are amended to read:

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211 409.2561 Support obligations when public assistance is  
212 paid; assignment of rights; subrogation; medical and health  
213 insurance information.--

214 (5) With respect to cases for which there is an assignment  
215 in effect:

216 (b) When ~~the obligor receives~~ health insurance is obtained  
217 ~~coverage~~ for the dependent child, the IV-D agency shall provide  
218 health insurance policy information, including any information  
219 available about the health insurance policy which would permit a  
220 claim to be filed or, in the case of a health maintenance or  
221 preferred provider organization, service to be provided, to the  
222 state Medicaid agency.

223 (c) The state Medicaid agency, upon receipt of the health  
224 insurance ~~coverage~~ information from the IV-D agency, shall  
225 notify the ~~obligor's~~ insuring entity that the Medicaid agency  
226 must be notified within 30 days after the health insurance ~~when~~  
227 ~~such coverage~~ is discontinued.

228 (e) Upon the state Medicaid agency receiving notice from  
229 the ~~obligor's~~ insuring entity that the health insurance ~~coverage~~  
230 is discontinued due to cancellation or other means, the Medicaid  
231 agency shall notify the IV-D agency of such discontinuance and  
232 the effective date. When appropriate, the IV-D agency shall then  
233 take action to bring the obligor before the court for  
234 enforcement.

235 Section 6. Paragraph (e) of subsection (7) of section  
236 409.2563, Florida Statutes, is amended to read:

237 409.2563 Administrative establishment of child support  
238 obligations.--

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- 239 (7) ADMINISTRATIVE SUPPORT ORDER.--
- 240 (e) An administrative support order must comply with ss.
- 241 61.13(1) and 61.30 ~~s. 61.30~~. The department shall develop a
- 242 standard form or forms for administrative support orders. An
- 243 administrative support order must provide and state findings, if
- 244 applicable, concerning:
- 245 1. The full name and date of birth of the child or
  - 246 children;
  - 247 2. The name of the parent from whom support is being
  - 248 sought and the other parent or caretaker relative;
  - 249 3. The parent's duty and ability to provide support;
  - 250 4. The amount of the parent's monthly support obligation;
  - 251 5. Any obligation to pay retroactive support;
  - 252 6. The parent's obligation to provide for the health care
  - 253 needs of each child, whether through health insurance ~~coverage~~,
  - 254 contribution towards the cost of health insurance ~~coverage~~,
  - 255 payment or reimbursement of health care expenses for the child,
  - 256 or any combination thereof;
  - 257 7. The beginning date of any required monthly payments and
  - 258 health insurance ~~care coverage~~;
  - 259 8. That all support payments ordered must be paid to the
  - 260 Florida State Disbursement Unit as provided by s. 61.1824;
  - 261 9. That the parents, or caretaker relative if applicable,
  - 262 must file with the department when the administrative support
  - 263 order is rendered, if they have not already done so, and update
  - 264 as appropriate the information required pursuant to paragraph
  - 265 (13) (b);

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266 10. That both parents, or parent and caretaker relative if  
267 applicable, are required to promptly notify the department of  
268 any change in their mailing addresses pursuant to paragraph  
269 (13) (c); and

270 11. That if the parent ordered to pay support receives  
271 unemployment compensation benefits, the payor shall withhold,  
272 and transmit to the department, 40 percent of the benefits for  
273 payment of support, not to exceed the amount owed.

274  
275 An income deduction order as provided by s. 61.1301 must be  
276 incorporated into the administrative support order or, if not  
277 incorporated into the administrative support order, the  
278 department or the Division of Administrative Hearings shall  
279 render a separate income deduction order.

280 Section 7. Subsection (5) of section 409.2572, Florida  
281 Statutes, is amended to read:

282 409.2572 Cooperation.--

283 (5) As used in this section only, the term "applicant for  
284 or recipient of public assistance for a dependent child" refers  
285 to such applicants and recipients of public assistance as  
286 defined in s. 409.2554(8) ~~s. 409.2554(7)~~, with the exception of  
287 applicants for or recipients of Medicaid solely for the benefit  
288 of a dependent child.

289 Section 8. Subsection (7) of section 409.2576, Florida  
290 Statutes, is amended to read:

291 409.2576 State Directory of New Hires.--

292 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT  
293 NOTICE.--The department shall transmit a wage withholding notice  
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294 consistent with s. 61.1301 and, when appropriate, a national  
295 medical support notice, as defined in s. 61.046, to the  
296 employee's employer within 2 business days after entry of the  
297 new hire information into the State Directory of New Hires'  
298 database, unless the court has determined that the employee's  
299 wages are not subject to withholding or, for purposes of the  
300 national medical support notice, the support order does not  
301 contain a provision for the employee to provide health insurance  
302 ~~care coverage~~. The withholding notice shall direct the employer  
303 to withhold income in accordance with the income deduction  
304 order, and the national medical support notice shall direct the  
305 employer to withhold premiums for health insurance ~~care~~  
306 ~~coverage~~.

307 Section 9. This act shall take effect upon becoming a law.  
308  
309

310 -----  
311 **T I T L E A M E N D M E N T**

312 Remove the entire title and insert:

313 A bill to be entitled

314 An act relating to child support enforcement; amending s.  
315 61.046, F.S.; defining the term "health insurance" for  
316 purposes of provisions establishing and providing for  
317 enforcement of medical support obligations in child-  
318 support-enforcement cases; amending s. 61.13, F.S.;  
319 establishing standards for a presumption of reasonable  
320 costs of and accessibility of health insurance; requiring  
321 that the court make a written finding before deviating

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322 from the presumed reasonable cost; providing method for  
323 calculating a child's health insurance and noncovered  
324 medical expenses under certain circumstances; amending s.  
325 61.1301, F.S.; conforming a provision to changes made by  
326 the act; amending s. 409.2554, F.S.; defining the term  
327 "health insurance" for purposes of provisions establishing  
328 and providing for the enforcement of medical support  
329 obligations in child-support-enforcement cases that  
330 received services under the Social Security Act; amending  
331 s. 409.2561, F.S.; conforming provisions to changes made  
332 by the act; amending s. 409.2563, F.S.; conforming  
333 provisions to changes made by the act; amending s.  
334 409.2572, F.S.; conforming a cross-reference to changes  
335 made by the act; amending s. 409.2576, F.S.; conforming  
336 provisions to changes made by the act; providing an  
337 effective date.

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