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1                   A bill to be entitled  
2       An act relating to child support enforcement; amending s.  
3       61.046, F.S.; defining the term "health insurance" for  
4       purposes of provisions establishing and providing for  
5       enforcement of medical support obligations in child-  
6       support-enforcement cases; amending s. 61.13, F.S.;  
7       establishing standards for a presumption of reasonable  
8       costs of and accessibility of health insurance; requiring  
9       that the court make a written finding before deviating  
10      from the presumed reasonable cost; providing method for  
11      calculating a child's health insurance and noncovered  
12      medical expenses under certain circumstances; amending s.  
13      61.1301, F.S.; conforming a provision to changes made by  
14      the act; amending s. 409.2554, F.S.; defining the term  
15      "health insurance" for purposes of provisions establishing  
16      and providing for the enforcement of medical support  
17      obligations in child-support-enforcement cases that  
18      received services under the Social Security Act; amending  
19      s. 409.2561, F.S.; conforming provisions to changes made  
20      by the act; amending s. 409.2563, F.S.; conforming  
21      provisions to changes made by the act; amending s.  
22      409.2572, F.S.; conforming a cross-reference to changes  
23      made by the act; amending s. 409.2576, F.S.; conforming  
24      provisions to changes made by the act; providing an  
25      effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:  
28

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

33 61.046 Definitions.--As used in this chapter, the term:

34 (7) "Health insurance" means coverage under a fee-for-  
 35 service arrangement, health maintenance organization, or  
 36 preferred provider organization, and other types of coverage  
 37 available to either parent, under which medical services could  
 38 be provided to a dependent child.

39 Section 2. Paragraph (b) of subsection (1) of section  
 40 61.13, Florida Statutes, is amended to read:

41 61.13 Support of children; parenting and time-sharing;  
 42 powers of court.--

43 (1)

44 (b) Each order for support shall contain a provision for  
 45 health insurance ~~care coverage~~ for the minor child when health  
 46 insurance ~~the coverage~~ is reasonable in cost and accessible to  
 47 the child ~~reasonably available~~. Health insurance is presumed to  
 48 be reasonable in cost if the incremental cost of adding health  
 49 insurance for the child or children does not exceed 5 percent of  
 50 the gross income, as defined in s. 61.30, of the parent  
 51 responsible for providing health insurance. Health insurance is  
 52 accessible to the child if the health insurance is available to  
 53 be used in the county of the child's primary residence or in  
 54 another county if the parent who has the most time under the  
 55 time-sharing plan agrees. If the time-sharing plan provides for  
 56 equal time-sharing, health insurance is accessible to the child

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57 if the health insurance is available to be used in either county  
58 where the child resides or in another county if both parents  
59 agree. Coverage is reasonably available if either the obligor or  
60 obligee has access at a reasonable rate to a group health plan.  
61 The court may require the obligor ~~either~~ to provide health  
62 insurance ~~care coverage~~ or to reimburse the obligee for the cost  
63 of health insurance ~~care coverage~~ for the minor child when  
64 insurance coverage is provided by the obligee. The presumption  
65 of reasonable cost may be rebutted by evidence of any of the  
66 factors in s. 61.30(11)(a). The court may deviate from what is  
67 presumed reasonable in cost only upon a written finding  
68 explaining its determination why ordering or not ordering the  
69 provision of health insurance or the reimbursement of the  
70 obligee's cost for providing health insurance for the minor  
71 child would be unjust or inappropriate. In any ~~either~~ event, the  
72 court shall apportion the cost of health insurance coverage, and  
73 any noncovered medical, dental, and prescription medication  
74 expenses of the child, to both parties by adding the cost to the  
75 basic obligation determined pursuant to s. 61.30(6). The court  
76 may order that payment of noncovered ~~uncovered~~ medical, dental,  
77 and prescription medication expenses of the minor child be made  
78 directly to the obligee on a percentage basis. In a proceeding  
79 for medical support only, each parent's share of the child's  
80 health insurance and noncovered medical expenses shall equal the  
81 parent's percentage share of the combined net income of the  
82 parents. The percentage share shall be calculated by dividing  
83 each parent's net monthly income by the combined monthly net

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84 income of both parents. Net income is calculated as specified by  
85 s. 61.30(3) and (4).

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

90 a. The obligor fails to provide written proof to the  
91 obligee within 30 days after receiving effective notice of the  
92 court order that the health insurance ~~care coverage~~ has been  
93 obtained or that application for health insurance ~~coverage~~ has  
94 been made;

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

98 c. The obligor fails within 15 days after the mailing of  
99 the notice to provide written proof to the obligee that the  
100 health insurance ~~care coverage~~ existed as of the date of  
101 mailing.

102 2.a. A support order enforced under Title IV-D of the  
103 Social Security Act which requires that the obligor provide  
104 health insurance ~~care coverage~~ is enforceable by the department  
105 through the use of the national medical support notice, and an  
106 amendment to the support order is not required. The department  
107 shall transfer the national medical support notice to the  
108 obligor's union or employer. The department shall notify the  
109 obligor in writing that the notice has been sent to the  
110 obligor's union or employer, and the written notification must  
111 include the obligor's rights and duties under the national

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112 | medical support notice. The obligor may contest the withholding  
113 | required by the national medical support notice based on a  
114 | mistake of fact. To contest the withholding, the obligor must  
115 | file a written notice of contest with the department within 15  
116 | business days after the date the obligor receives written  
117 | notification of the national medical support notice from the  
118 | department. Filing with the department is complete when the  
119 | notice is received by the person designated by the department in  
120 | the written notification. The notice of contest must be in the  
121 | form prescribed by the department. Upon the timely filing of a  
122 | notice of contest, the department shall, within 5 business days,  
123 | schedule an informal conference with the obligor to discuss the  
124 | obligor's factual dispute. If the informal conference resolves  
125 | the dispute to the obligor's satisfaction or if the obligor  
126 | fails to attend the informal conference, the notice of contest  
127 | is deemed withdrawn. If the informal conference does not resolve  
128 | the dispute, the obligor may request an administrative hearing  
129 | under chapter 120 within 5 business days after the termination  
130 | of the informal conference, in a form and manner prescribed by  
131 | the department. However, the filing of a notice of contest by  
132 | the obligor does not delay the withholding of premium payments  
133 | by the union, employer, or health plan administrator. The union,  
134 | employer, or health plan administrator must implement the  
135 | withholding as directed by the national medical support notice  
136 | unless notified by the department that the national medical  
137 | support notice is terminated.

138 |       b. In a Title IV-D case, the department shall notify an  
139 | obligor's union or employer if the obligation to provide health

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140 insurance ~~care coverage~~ through that union or employer is  
141 terminated.

142 3. In a non-Title IV-D case, upon receipt of the order  
143 pursuant to subparagraph 1., or upon application of the obligor  
144 pursuant to the order, the union or employer shall enroll the  
145 minor child as a beneficiary in the group health plan regardless  
146 of any restrictions on the enrollment period and withhold any  
147 required premium from the obligor's income. If more than one  
148 plan is offered by the union or employer, the child shall be  
149 enrolled in the group health plan in which the obligor is  
150 enrolled.

151 4.a. Upon receipt of the national medical support notice  
152 under subparagraph 2. in a Title IV-D case, the union or  
153 employer shall transfer the notice to the appropriate group  
154 health plan administrator within 20 business days after the date  
155 on the notice. The plan administrator must enroll the child as a  
156 beneficiary in the group health plan regardless of any  
157 restrictions on the enrollment period, and the union or employer  
158 must withhold any required premium from the obligor's income  
159 upon notification by the plan administrator that the child is  
160 enrolled. The child shall be enrolled in the group health plan  
161 in which the obligor is enrolled. If the group health plan in  
162 which the obligor is enrolled is not available where the child  
163 resides or if the obligor is not enrolled in group coverage, the  
164 child shall be enrolled in the lowest cost group health plan  
165 that is accessible to ~~available where~~ the child ~~resides~~.

166 b. If health insurance ~~care coverage~~ or the obligor's  
167 employment is terminated in a Title IV-D case, the union or

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168 employer that is withholding premiums for health insurance ~~care~~  
 169 ~~coverage~~ under a national medical support notice must notify the  
 170 department within 20 days after the termination and provide the  
 171 obligor's last known address and the name and address of the  
 172 obligor's new employer, if known.

173 5.a. The amount withheld by a union or employer in  
 174 compliance with a support order may not exceed the amount  
 175 allowed under s. 303(b) of the Consumer Credit Protection Act,  
 176 15 U.S.C. s. 1673(b), as amended. The union or employer shall  
 177 withhold the maximum allowed by the Consumer Credit Protection  
 178 Act in the following order:

179 (I) Current support, as ordered.

180 (II) Premium payments for health insurance ~~care coverage~~,  
 181 as ordered.

182 (III) Past due support, as ordered.

183 (IV) Other medical support or insurance ~~coverage~~, as  
 184 ordered.

185 b. If the combined amount to be withheld for current  
 186 support plus the premium payment for health insurance ~~care~~  
 187 ~~coverage~~ exceed the amount allowed under the Consumer Credit  
 188 Protection Act, and the health insurance ~~care coverage~~ cannot be  
 189 obtained unless the full amount of the premium is paid, the  
 190 union or employer may not withhold the premium payment. However,  
 191 the union or employer shall withhold the maximum allowed in the  
 192 following order:

193 (I) Current support, as ordered.

194 (II) Past due support, as ordered.

195 (III) Other medical support or insurance ~~coverage~~, as  
 196 ordered.

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

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

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

208 61.1301 Income deduction orders.--

209 (5) By July 1, 2006, the department shall provide a payor  
 210 with Internet access to income deduction and national medical  
 211 support notices issued by the department on or after July 1,  
 212 2006, concerning an obligor to whom the payor pays income. The  
 213 department shall provide a payor who requests Internet access  
 214 with a user code and password to allow the payor to receive  
 215 notices electronically and to download the information necessary  
 216 to begin income deduction and health insurance ~~care coverage~~  
 217 enrollment. If a participating payor does not respond to  
 218 electronic notice by accessing the data posted by the department  
 219 within 48 hours, the department shall mail the income deduction  
 220 or medical support notice to the payor.

221 Section 4. Subsections (5) through (14) of section  
 222 409.2554, Florida Statutes, are renumbered as subsections (6)



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223 through (15), respectively, and a new subsection (5) is added to  
 224 that section to read:

225 409.2554 Definitions; ss. 409.2551-409.2598.--As used in  
 226 ss. 409.2551-409.2598, the term:

227 (5) "Health insurance" means coverage under a fee-for-  
 228 service arrangement, health maintenance organization, or  
 229 preferred provider organization, and other types of coverage  
 230 available to either parent, under which medical services could  
 231 be provided to a dependent child.

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

234 409.2561 Support obligations when public assistance is  
 235 paid; assignment of rights; subrogation; medical and health  
 236 insurance information.--

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

239 (b) When ~~the obligor receives~~ health insurance is obtained  
 240 ~~coverage~~ for the dependent child, the IV-D agency shall provide  
 241 health insurance policy information, including any information  
 242 available about the health insurance policy which would permit a  
 243 claim to be filed or, in the case of a health maintenance or  
 244 preferred provider organization, service to be provided, to the  
 245 state Medicaid agency.

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

251 (e) Upon the state Medicaid agency receiving notice from  
 252 the ~~obligor's~~ insuring entity that the health insurance ~~coverage~~  
 253 is discontinued due to cancellation or other means, the Medicaid  
 254 agency shall notify the IV-D agency of such discontinuance and  
 255 the effective date. When appropriate, the IV-D agency shall then  
 256 take action to bring the obligor before the court for  
 257 enforcement.

258 Section 6. Paragraph (e) of subsection (7) of section  
 259 409.2563, Florida Statutes, is amended to read:

260 409.2563 Administrative establishment of child support  
 261 obligations.--

262 (7) ADMINISTRATIVE SUPPORT ORDER.--

263 (e) An administrative support order must comply with ss.  
 264 61.13(1) and 61.30 ~~s. 61.30~~. The department shall develop a  
 265 standard form or forms for administrative support orders. An  
 266 administrative support order must provide and state findings, if  
 267 applicable, concerning:

- 268 1. The full name and date of birth of the child or  
 269 children;
- 270 2. The name of the parent from whom support is being  
 271 sought and the other parent or caretaker relative;
- 272 3. The parent's duty and ability to provide support;
- 273 4. The amount of the parent's monthly support obligation;
- 274 5. Any obligation to pay retroactive support;
- 275 6. The parent's obligation to provide for the health care  
 276 needs of each child, whether through health insurance ~~coverage~~,  
 277 contribution towards the cost of health insurance ~~coverage~~,

278 | payment or reimbursement of health care expenses for the child,  
 279 | or any combination thereof;

280 |         7. The beginning date of any required monthly payments and  
 281 | health insurance ~~care coverage~~;

282 |         8. That all support payments ordered must be paid to the  
 283 | Florida State Disbursement Unit as provided by s. 61.1824;

284 |         9. That the parents, or caretaker relative if applicable,  
 285 | must file with the department when the administrative support  
 286 | order is rendered, if they have not already done so, and update  
 287 | as appropriate the information required pursuant to paragraph  
 288 | (13) (b);

289 |         10. That both parents, or parent and caretaker relative if  
 290 | applicable, are required to promptly notify the department of  
 291 | any change in their mailing addresses pursuant to paragraph  
 292 | (13) (c); and

293 |         11. That if the parent ordered to pay support receives  
 294 | unemployment compensation benefits, the payor shall withhold,  
 295 | and transmit to the department, 40 percent of the benefits for  
 296 | payment of support, not to exceed the amount owed.

297 |  
 298 | An income deduction order as provided by s. 61.1301 must be  
 299 | incorporated into the administrative support order or, if not  
 300 | incorporated into the administrative support order, the  
 301 | department or the Division of Administrative Hearings shall  
 302 | render a separate income deduction order.

303 |         Section 7. Subsection (5) of section 409.2572, Florida  
 304 | Statutes, is amended to read:

305 |         409.2572 Cooperation.--

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306 (5) As used in this section only, the term "applicant for  
307 or recipient of public assistance for a dependent child" refers  
308 to such applicants and recipients of public assistance as  
309 defined in s. 409.2554(8) ~~s. 409.2554(7)~~, with the exception of  
310 applicants for or recipients of Medicaid solely for the benefit  
311 of a dependent child.

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

314 409.2576 State Directory of New Hires.--

315 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT  
316 NOTICE.--The department shall transmit a wage withholding notice  
317 consistent with s. 61.1301 and, when appropriate, a national  
318 medical support notice, as defined in s. 61.046, to the  
319 employee's employer within 2 business days after entry of the  
320 new hire information into the State Directory of New Hires'  
321 database, unless the court has determined that the employee's  
322 wages are not subject to withholding or, for purposes of the  
323 national medical support notice, the support order does not  
324 contain a provision for the employee to provide health insurance  
325 ~~care coverage~~. The withholding notice shall direct the employer  
326 to withhold income in accordance with the income deduction  
327 order, and the national medical support notice shall direct the  
328 employer to withhold premiums for health insurance ~~care~~  
329 ~~coverage~~.

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