

By Senator Book

32-01585-21

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1 A bill to be entitled
2 An act relating to child support; amending s. 61.13,
3 F.S.; revising requirements for child support
4 depositories in Title IV-D cases; requiring the
5 depositories to create a case in the Clerk of Court
6 Child Support Enforcement Collection System and set up
7 appropriate payment accounts upon certain notice from
8 the Department of Revenue; amending s. 61.1354, F.S.;
9 revising provisions related to the sharing of
10 information between consumer reporting agencies and
11 the department; requiring consumer reports to be kept
12 confidential and used only for specified purposes;
13 amending s. 61.30, F.S.; prohibiting the treatment of
14 incarceration as voluntary employment for purposes of
15 establishing or modifying child support orders, with
16 exceptions; providing that certain social security
17 benefits are included in a parent's gross income;
18 authorizing certain social security benefits paid to
19 be applied as a credit for purposes of monthly support
20 obligations; providing requirements for such credit;
21 providing procedures for a parent to seek application
22 of such credit; amending s. 409.256, F.S.; revising
23 the definition of the term "rendered"; amending s.
24 409.2563, F.S.; revising the definition of the term
25 "rendered"; deleting a requirement that a certain
26 order filed by the department be a certified copy of
27 the order; amending s. 409.25656, F.S.; authorizing
28 the department to deliver certain notices by secure
29 electronic means under certain circumstances; amending

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30 s. 409.25658, F.S.; revising provisions related to the
31 department's joint efforts with the Department of
32 Financial Services to use unclaimed property for past
33 due child support; amending s. 409.2567, F.S.;
34 authorizing the department to include confidential and
35 exempt information in electronic mail communications
36 with parents, caregivers, or other authorized persons
37 under certain circumstances, with exceptions; amending
38 s. 409.2576, F.S.; requiring service recipients to
39 report certain information to the State Directory of
40 New Hires; defining the term "service recipient";
41 providing reporting requirements for service
42 recipients; conforming provisions to changes made by
43 the act; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Paragraph (d) of subsection (1) of section
48 61.13, Florida Statutes, is amended to read:

49 61.13 Support of children; parenting and time-sharing;
50 powers of court.—

51 (1)

52 (d)1. All child support orders shall provide the full name
53 and date of birth of each minor child who is the subject of the
54 child support order.

55 2. If both parties request and the court finds that it is
56 in the best interest of the child, support payments need not be
57 subject to immediate income deduction. Support orders that are
58 not subject to immediate income deduction may be directed

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59 through the depository under s. 61.181 or made payable directly
60 to the obligee. Payments made by immediate income deduction
61 shall be made to the State Disbursement Unit. The court shall
62 provide a copy of the order to the depository.

63 3. For support orders payable directly to the obligee, any
64 party, ~~or the department in a IV-D case,~~ may subsequently file
65 an affidavit with the depository alleging a default in payment
66 of child support and stating that the party wishes to require
67 that payments be made through the depository. The party shall
68 provide copies of the affidavit to the court and to each other
69 party. Fifteen days after receipt of the affidavit, the
70 depository shall notify all parties that future payments shall
71 be paid through the depository, except that payments in Title
72 IV-D cases and income deduction payments shall be made to the
73 State Disbursement Unit. In Title IV-D cases, an affidavit of
74 default or a default in payments is not required to receive
75 depository services. Upon notice by the department that it has
76 begun providing Title IV-D services in a case with an existing
77 support order, the depository shall establish a case in the
78 Clerk of Court Child Support Enforcement Collection System and
79 set up the appropriate payment accounts regardless of whether
80 there is a delinquency.

81 Section 2. Subsection (3) of section 61.1354, Florida
82 Statutes, is amended to read:

83 61.1354 Sharing of information between consumer reporting
84 agencies and the IV-D agency.—

85 (3) A consumer reporting agency ~~For purposes of determining~~
86 ~~an individual's income and establishing an individual's capacity~~
87 ~~to make support payments or for determining the appropriate~~

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88 ~~amount of child support payment to be made by the individual,~~
89 ~~consumer reporting agencies shall provide, upon request,~~
90 ~~consumer reports to the department head of the IV-D agency~~
91 ~~pursuant to s. 604 of the Fair Credit Reporting Act, provided~~
92 ~~that the department head of the IV-D agency, or its designee,~~
93 certifies that:

94 (a) The consumer report is needed for the purpose of
95 ~~determining an individual's income and establishing an~~
96 ~~individual's capacity to make support payments, ~~or~~ determining~~
97 ~~the appropriate level of support payments, or enforcing a child~~
98 ~~support order, award, agreement, or judgment amount of child~~
99 ~~support payment to be made by the individual;~~

100 (b) The consumer's parentage of the child to whom the
101 obligation relates has been established or acknowledged by the
102 consumer in accordance with state laws under which the
103 obligation arises ~~Paternity of the child of the individual whose~~
104 ~~report is sought, if that individual is the father of the child,~~
105 ~~has been established or acknowledged pursuant to the laws of~~
106 ~~Florida;~~

107 (c) The individual whose report is sought was provided with
108 at least 15 days' prior notice, by regular ~~certified or~~
109 ~~registered~~ mail to the individual's last known address, that the
110 report was requested; and

111 (d) The consumer report will be kept confidential, will be
112 used solely for the purpose described in paragraph (a), and will
113 not be used in connection with any other civil, administrative,
114 or criminal proceeding or for any other purpose.

115 Section 3. Present paragraph (c) of subsection (2) of
116 section 61.30, Florida Statutes, is redesignated as paragraph

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117 (e), new paragraphs (c) and (d) are added to that subsection,
118 and subsection (10) of that section is amended, to read:

119 61.30 Child support guidelines; retroactive child support.-

120 (2) Income shall be determined on a monthly basis for each
121 parent as follows:

122 (c) Except for incarceration for willful nonpayment of
123 child support or for an offense against a child or person who is
124 owed child support, incarceration may not be treated as
125 voluntary unemployment in establishing or modifying a support
126 order. However, the court may deviate from the child support
127 guideline amount as provided in paragraph (1) (a).

128 (d) Social security benefits received by a minor child due
129 to the retirement or disability of the child's parent shall be
130 included in the parent's gross income.

131 (10) (a) Each parent's actual dollar share of the total
132 minimum child support need shall be determined by multiplying
133 the minimum child support need by each parent's percentage share
134 of the combined monthly net income.

135 (b)1. A parent is entitled to credit for social security
136 benefits paid directly to the child or the child's caregiver
137 when the benefits are paid due to the parent's retirement or
138 disability. The parent's share of the monthly support obligation
139 is paid in full each month for which such benefits are paid that
140 are equal to or greater than the parent's share of the monthly
141 obligation. If the benefits are less than the parent's share of
142 the monthly obligation, the parent owes the difference. If the
143 benefits are more than the parent's share of the monthly
144 obligation, the excess inures to the benefit of the child and
145 may not be credited to arrears or retroactive support that

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146 accrued before the benefits commenced.

147 2. To obtain credit for social security benefits paid, a
148 parent subject to a court order for child support, or the
149 department in a Title IV-D case, may file a motion with the
150 court or include the request in a petition to modify the support
151 order. Alternatively, in a Title IV-D case, the department may
152 determine and apply credit after notice and an opportunity for a
153 hearing are provided in accordance with chapter 120. If the
154 department determines that a credit applies, the department
155 shall notify the clerk of court, and the clerk shall update the
156 payment record to reflect the credit.

157 Section 4. Paragraph (i) of subsection (1) of section
158 409.256, Florida Statutes, is amended to read:

159 409.256 Administrative proceeding to establish paternity or
160 paternity and child support; order to appear for genetic
161 testing.—

162 (1) DEFINITIONS.—As used in this section, the term:

163 (i) "Rendered" means that a signed written order is issued
164 ~~by filed with the clerk or a deputy clerk of the Department of~~
165 ~~Revenue and served on the respondent. The date of filing must be~~
166 ~~indicated on the face of the order at the time of rendition.~~

167 Section 5. Paragraph (e) of subsection (1) and subsection
168 (8) of section 409.2563, Florida Statutes, are amended to read:

169 409.2563 Administrative establishment of child support
170 obligations.—

171 (1) DEFINITIONS.—As used in this section, the term:

172 (e) "Rendered" means that a signed written order is issued
173 ~~by filed with the clerk or any deputy clerk of the department~~
174 ~~and served on the respondent. The date of filing must be~~

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175 ~~indicated on the face of the order at the time of rendition.~~

176
177 Other terms used in this section have the meanings ascribed in
178 ss. 61.046 and 409.2554.

179 (8) FILING WITH THE CLERK OF THE CIRCUIT COURT; OFFICIAL
180 PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.—The department
181 shall file with the clerk of the circuit court a ~~certified~~ copy
182 of an administrative support order rendered under this section.
183 The depository operated pursuant to s. 61.181 for the county
184 where the administrative support order has been filed shall:

185 (a) Act as the official recordkeeper for payments required
186 under the administrative support order;

187 (b) Establish and maintain the necessary payment accounts;

188 (c) Upon a delinquency, initiate the judgment by operation
189 of law procedure as provided by s. 61.14(6); and

190 (d) Perform all other duties required of a depository with
191 respect to a support order entered by a court of this state.

192
193 When a proceeding to establish an administrative support order
194 is commenced under subsection (4), the department shall file a
195 copy of the initial notice with the depository. The depository
196 shall assign an account number and provide the account number to
197 the department within 4 business days after the initial notice
198 is filed.

199 Section 6. Subsection (4) of section 409.25656, Florida
200 Statutes, is amended to read:

201 409.25656 Garnishment.—

202 (4) A notice that is delivered under this section is
203 effective at the time of delivery against all credits, other

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204 personal property, or debts of the obligor which are not at the
205 time of such notice subject to an attachment, garnishment, or
206 execution issued through a judicial process. Upon the obligor's
207 express written consent, the department may deliver the notices
208 required by this section to the obligor by secure electronic
209 means.

210 Section 7. Section 409.25658, Florida Statutes, is amended
211 to read:

212 409.25658 Use of unclaimed property for past due support.—

213 (1) In a joint effort to facilitate the collection and
214 payment of past due support, the Department of Revenue, in
215 cooperation with the Department of Financial Services, shall
216 identify persons owing support collected by the department
217 ~~through a court~~ who are presumed to have unclaimed property held
218 by the Department of Financial Services.

219 (2) The Department of Financial Services ~~department~~ shall
220 periodically provide the department ~~of Financial Services~~ with
221 an electronic file of unclaimed property accounts. The
222 department shall use the data to identify obligors with
223 unclaimed property accounts and shall provide the Department of
224 Financial Services with an electronic data file that includes
225 the names and other personal identifying information of the
226 obligors ~~support obligors who owe past due support~~. The
227 ~~Department of Financial Services shall conduct a data match of~~
228 ~~the file against all apparent owners of unclaimed property under~~
229 ~~chapter 717 and provide the resulting match list to the~~
230 ~~department.~~

231 (3) As the state's Title IV-D agency under s. 409.2557(1),
232 the department is authorized to submit claims for unclaimed

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233 property to the Department of Financial Services for the purpose
234 of collecting past due support and shall do so in accordance
235 with the standards established by the Department of Financial
236 Services ~~Upon receipt of the data match list, the department~~
237 ~~shall provide to the Department of Financial Services the~~
238 ~~obligor's last known address. The Department of Financial~~
239 ~~Services shall follow the notification procedures under s.~~
240 ~~717.118.~~

241 (4) ~~Before~~ Prior to paying an obligor's approved claim, the
242 Department of Financial Services shall notify the department
243 that such claim has been approved. Upon confirmation that the
244 Department of Financial Services has approved the claim or a
245 claim submitted by the department, the department shall
246 ~~immediately~~ send a notice by regular ~~certified~~ mail to the
247 obligor, ~~with a copy to the Department of Financial Services,~~
248 advising the obligor of the department's intent to intercept the
249 property approved claim up to the amount of the past due
250 support, and informing the obligor of the obligor's right to
251 request a hearing under chapter 120. If there is a hearing, the
252 Department of Financial Services shall retain custody of the
253 property until a final order has been entered and any appeals
254 thereon have been concluded. If the obligor fails to request a
255 hearing, the department shall inform ~~enter a final order~~
256 ~~instructing~~ the Department of Financial Services to transfer to
257 the department the property up to the amount of past-due support
258 owed ~~in the amount stated in the final order~~. Upon such
259 transfer, the Department of Financial Services shall be released
260 from further liability related to the transferred property.

261 (5) ~~The provisions of This section provides~~ provide a

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262 supplemental remedy, and the department may use this remedy in
263 conjunction with any other method of collecting support.

264 Section 8. Subsection (1) of section 409.2567, Florida
265 Statutes, is amended to read:

266 409.2567 Services to individuals not otherwise eligible.—

267 (1) (a) All support services provided by the department
268 shall be made available on behalf of all dependent children.
269 Services shall be provided upon acceptance of public assistance
270 or upon proper application filed with the department. The
271 federally required application fee for individuals who do not
272 receive public assistance is \$1, which shall be waived for all
273 applicants and paid by the department. The annual fee required
274 under 42 U.S.C. s. 654(6)(B), as amended by Pub. L. No. 115-123,
275 for cases involving an individual who has never received
276 temporary cash assistance and for whom the department has
277 collected the federally required minimum amount of support shall
278 be paid by the department.

279 (b) The department may include confidential and exempt
280 information in electronic mail communications with a parent,
281 caregiver, or other person who is authorized to receive the
282 information, provided the parent, caregiver, or other person
283 consents to such communications, except that social security
284 numbers, federal tax information, driver license numbers, and
285 bank account numbers may not be provided in this manner.

286 Section 9. Section 409.2576, Florida Statutes, is amended
287 to read:

288 409.2576 State Directory of New Hires.—

289 (1) DIRECTORY CREATED.—The State Directory of New Hires is
290 hereby created and shall be administered by the Department of

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291 Revenue or its agent. All employers and service recipients in
292 this ~~the~~ state shall furnish a report consistent with subsection
293 (3) for each newly hired or rehired employee or individual who
294 is not an employee but is provided payment for services
295 rendered, unless the employee or individual is employed by or
296 under contract with a federal or state agency performing
297 intelligence or counterintelligence functions and the head of
298 such agency has determined that reporting pursuant to this
299 section could endanger the safety of the employee or individual
300 or compromise an ongoing investigation or intelligence mission.

301 (2) DEFINITIONS.—For purposes of this section:

302 (a) "Employee" is defined as an individual who is an
303 employee within the meaning of chapter 24 of the Internal
304 Revenue Code of 1986.

305 (b) "Employer" has the meaning given such term in s.
306 3401(d) of the Internal Revenue Code of 1986 and includes any
307 government entity and labor organization.

308 (c) "Labor organization" has the meaning given such term in
309 s. 2(5) of the National Labor Relations Act and includes any
310 entity which is used by the organization and an employer to
311 carry out requirements described in s. 8(f)(3) of such act of an
312 agreement between the organization and employer.

313 (d) "Date of hire" is the first day of work for which the
314 employee is owed income.

315 (e) "Service recipient" means a person engaged in a trade
316 or business who pays an individual for services rendered in the
317 course of such trade or business.

318 (3) EMPLOYERS AND SERVICE RECIPIENTS TO FURNISH REPORTS.—

319 (a) ~~Each employer subject to the reporting requirements of~~

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320 ~~chapter 443 with 250 or more employees, shall provide to the~~
321 ~~State Directory of New Hires, a report listing the employer's~~
322 ~~legal name, address, and reemployment assistance identification~~
323 ~~number. The report must also provide the name and social~~
324 ~~security number of each new employee or rehired employee at the~~
325 ~~end of the first pay period following employment or~~
326 ~~reemployment.~~

327 ~~(b)~~ All employers shall furnish a report to the State
328 Directory of New Hires of the state in which the newly hired or
329 rehired employee works. The report required in this section
330 shall be made on a W-4 form or, at the option of the employer,
331 an equivalent form, and can be transmitted magnetically,
332 electronically, by first-class mail, or other methods which may
333 be prescribed by the State Directory. Each report shall include
334 the name, address, date of hire, and social security number of
335 every new and rehired employee and the name, address, and
336 federal employer identification number of the reporting
337 employer. If available, the employer may also include the
338 employee's date of birth in the report. Multistate employers
339 that report new hire information electronically or magnetically
340 may designate a single state to which it will transmit the above
341 noted report, provided the employer has employees in that state
342 and the employer notifies the Secretary of Health and Human
343 Services in writing to which state the information will be
344 provided. Agencies of the United States Government shall report
345 directly to the National Directory of New Hires.

346 (b) A service recipient shall report to the State Directory
347 of New Hires an individual who is not an employee in the same
348 manner as described in paragraph (a) but who the service

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349 recipient, while engaged in a trade or business, pays in an
350 amount of \$600 or more per calendar year for services rendered
351 in the course of the trade or business. The report must include
352 the name, address, and social security number or other
353 identifying number assigned to the individual under section 6109
354 of the Internal Revenue Code of 1986, the date services for
355 payment were first rendered by the individual, and the name,
356 address, and employer identification number of the service
357 recipient.

358 (c) Pursuant to the federal Personal Responsibility and
359 Work Opportunity Reconciliation Act of 1996, each party is
360 required to provide his or her social security number in
361 accordance with this section. Disclosure of social security
362 numbers obtained through this requirement shall be limited to
363 the purpose of administration of the Title IV-D program for
364 child support enforcement and those programs listed in
365 subsection (9).

366 (4) TIME FOR REPORTS.—

367 (a) Employers must report new hire information, as
368 described in subsection (3), within 20 days of the hire date of
369 the employee, or, in the case of employers that report new hire
370 information electronically or by magnetic tape, by two monthly
371 transmissions, if necessary, not less than 12 days nor more than
372 16 days apart.

373 (b) Service recipients must report on individuals subject
374 to reporting under paragraph (5) (b) within 20 days after the
375 earlier of:

376 1. The date of the first payment made which requires an
377 information return in accordance with section 6041A(a) of the

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378 Internal Revenue Code of 1986; or

379 2. The date on which a contract providing for such payments
380 is entered into.

381
382 If service recipients report individuals under this paragraph
383 electronically or by magnetic tape, the reports may be made by
384 two monthly transmissions, if necessary, but may not be less
385 than 12 days or more than 16 days apart.

386 (5) ENTRY OF DATA.—The State Directory of New Hires shall
387 enter ~~new hire~~ information reported under this section into an
388 automated database within 5 business days of receipt.

389 (6) MATCHES TO STATE REGISTRY. ~~Not later than May 1, 1998,~~
390 The Department of Revenue or its agent must conduct automated
391 matches of the social security numbers of employees reported to
392 the State Directory of New Hires against the social security
393 numbers of records in the State Case Registry. The Title IV-D
394 agency shall use the new hire information received to locate
395 individuals for the purposes of establishing paternity and
396 establishing, modifying, and enforcing support obligations.
397 Private entities under contract with the Title IV-D agency to
398 provide Title IV-D services may have access to information
399 obtained from the State Directory of New Hires and must comply
400 with privacy safeguards.

401 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT
402 NOTICE.—The department shall transmit a wage withholding notice
403 consistent with s. 61.1301 and, when appropriate, a national
404 medical support notice, as defined in s. 61.046, ~~to the~~
405 ~~employee's employer~~ within 2 business days after entry of the
406 new hire information into the State Directory of New Hires'

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407 database, unless the court has determined that the obligor's
408 ~~employee's~~ wages or other income are not subject to withholding
409 or, for purposes of the national medical support notice, the
410 support order does not contain a provision ~~for the employee~~ to
411 provide health insurance. The withholding notice shall direct
412 the employer or other payor of income to withhold income in
413 accordance with the income deduction order, and the national
414 medical support notice shall direct the employer to withhold
415 premiums for health insurance.

416 (8) PROVIDING INFORMATION TO NATIONAL DIRECTORY.—The State
417 Directory of New Hires must furnish information regarding newly
418 hired or rehired employees and other individuals subject to
419 reporting to the National Directory of New Hires for matching
420 with the records of other state case registries within 3
421 business days of entering such information ~~from the employer~~
422 into the State Directory of New Hires. The State Directory of
423 New Hires shall enter into an agreement with the Department of
424 Economic Opportunity or its tax collection service provider for
425 the quarterly reporting to the National Directory of New Hires
426 information on wages and reemployment assistance taken from the
427 quarterly report to the Secretary of Labor, now required by
428 Title III of the Social Security Act, except that no report
429 shall be filed with respect to an employee of a state or local
430 agency performing intelligence or counterintelligence functions,
431 if the head of such agency has determined that filing such a
432 report could endanger the safety of the employee or compromise
433 an ongoing investigation or intelligence mission.

434 (9) DISCLOSURE OF INFORMATION.—

435 (a) ~~New hire~~ Information reported under this section shall

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436 be disclosed to the state agency administering the following
437 programs for the purposes of determining eligibility under those
438 programs:

439 1. Any state program funded under part A of Title IV of the
440 Social Security Act;

441 2. The Medicaid program under Title XIX of the Social
442 Security Act;

443 3. The reemployment assistance or unemployment compensation
444 program under s. 3304 of the Internal Revenue Code of 1954;

445 4. The food assistance program under the Food and Nutrition
446 Act of 2008; and

447 5. Any state program under a plan approved under Title I
448 (Old-Age Assistance for the Aged), Title X (Aid to the Blind),
449 Title XIV (Aid to the Permanently and Totally Disabled), or
450 Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental
451 Security Income for the Aged, Blind, and Disabled) of the Social
452 Security Act.

453 (b) ~~New-hire~~ Information reported under this section shall
454 be disclosed to the state agencies operating employment security
455 and workers' compensation programs for the purposes of
456 administering such programs.

457 Section 10. This act shall take effect October 1, 2021.