

By the Committee on Children, Families, and Elder Affairs; and
Senator Book

586-02621-21

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

586-02621-21

20211532c1

30 electronic means under certain circumstances; amending
31 s. 409.25658, F.S.; revising provisions related to the
32 department's joint efforts with the Department of
33 Financial Services to use unclaimed property for past
34 due child support; amending s. 409.2567, F.S.;
35 authorizing the department to include confidential and
36 exempt information in unencrypted electronic mail
37 communications with parents, caregivers, or other
38 authorized persons under certain circumstances, with
39 exceptions; amending s. 409.2576, F.S.; requiring
40 service recipients to report certain information to
41 the State Directory of New Hires; defining the term
42 "service recipient"; providing reporting requirements
43 for service recipients; conforming provisions to
44 changes made by the act; providing an effective date.
45

46 Be It Enacted by the Legislature of the State of Florida:
47

48 Section 1. Paragraph (d) of subsection (1) of section
49 61.13, Florida Statutes, is amended to read:

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

52 (1)

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

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

586-02621-21

20211532c1

59 not subject to immediate income deduction may be directed
60 through the depository under s. 61.181 or made payable directly
61 to the obligee. Payments made by immediate income deduction
62 shall be made to the State Disbursement Unit. The court shall
63 provide a copy of the order to the depository.

64 3. For support orders payable directly to the obligee, any
65 party, ~~or the department in a IV-D case,~~ may subsequently file
66 an affidavit with the depository alleging a default in payment
67 of child support and stating that the party wishes to require
68 that payments be made through the depository. The party shall
69 provide copies of the affidavit to the court and to each other
70 party. Fifteen days after receipt of the affidavit, the
71 depository shall notify all parties that future payments shall
72 be paid through the depository, except that payments in Title
73 IV-D cases and income deduction payments shall be made to the
74 State Disbursement Unit. In Title IV-D cases, an affidavit of
75 default or a default in payments is not required to receive
76 depository services. Upon notice by the department that it is
77 providing Title IV-D services in a case with an existing support
78 order, the depository shall transmit case data through, and set
79 up appropriate payment accounts in, regardless of whether there
80 is a delinquency, the Clerk of the Court Child Support
81 Enforcement Collection System as required under s. 61.181(2)(b).

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

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

86 (3) A consumer reporting agency ~~For purposes of determining~~
87 ~~an individual's income and establishing an individual's capacity~~

586-02621-21

20211532c1

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

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

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

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

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

116 Section 3. Present paragraph (c) of subsection (2) of

586-02621-21

20211532c1

117 section 61.30, Florida Statutes, is redesignated as paragraph
118 (e), new paragraphs (c) and (d) are added to that subsection,
119 and subsection (10) of that section is amended, to read:

120 61.30 Child support guidelines; retroactive child support.-

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

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

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

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

136 (b)1. A parent is entitled to credit for social security
137 benefits paid directly to the child or the child's caregiver
138 when the benefits are paid due to the parent's retirement or
139 disability. The parent's share of the monthly support obligation
140 is paid in full each month for which such benefits are paid that
141 are equal to or greater than the parent's share of the monthly
142 obligation. If the benefits are less than the parent's share of
143 the monthly obligation, the parent owes the difference. If the
144 benefits are more than the parent's share of the monthly
145 obligation, the excess inures to the benefit of the child and

586-02621-21

20211532c1

146 may not be credited to arrears or retroactive support that
147 accrued before the benefits commenced.

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

158 Section 4. Paragraph (i) of subsection (1) of section
159 409.256, Florida Statutes, is amended to read:

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

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

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

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

170 409.2563 Administrative establishment of child support
171 obligations.—

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

173 (e) "Rendered" means that a signed written order is issued
174 by ~~filed with the clerk or any deputy clerk of the department~~

586-02621-21

20211532c1

175 and served on the respondent. ~~The date of filing must be~~
176 ~~indicated on the face of the order at the time of rendition.~~

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

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

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

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

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

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

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

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

202 409.25656 Garnishment.—

203 (4) A notice that is delivered under this section is

586-02621-21

20211532c1

204 effective at the time of delivery against all credits, other
205 personal property, or debts of the obligor which are not at the
206 time of such notice subject to an attachment, garnishment, or
207 execution issued through a judicial process. Upon express
208 written consent of a person who is or may be in possession of
209 personal property belonging to the obligor, the department may
210 deliver the notices required by this section to that person by
211 secure electronic means.

212 Section 7. Section 409.25658, Florida Statutes, is amended
213 to read:

214 409.25658 Use of unclaimed property for past due support.-

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

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

586-02621-21

20211532c1

233 (3) As the state's Title IV-D agency under s. 409.2557(1),
234 the department is authorized to submit claims for unclaimed
235 property to the Department of Financial Services for the purpose
236 of collecting past due support and shall do so in accordance
237 with the standards established by the Department of Financial
238 Services ~~Upon receipt of the data match list, the department~~
239 ~~shall provide to the Department of Financial Services the~~
240 ~~obligor's last known address. The Department of Financial~~
241 ~~Services shall follow the notification procedures under s.~~
242 ~~717.118.~~

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

586-02621-21

20211532c1

262 from further liability related to the transferred property.

263 (5) ~~The provisions of~~ This section provides ~~provide~~ a
264 supplemental remedy, and the department may use this remedy in
265 conjunction with any other method of collecting support.

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

268 409.2567 Services to individuals not otherwise eligible.—

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

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

289 Section 9. Section 409.2576, Florida Statutes, is amended
290 to read:

586-02621-21

20211532c1

291 409.2576 State Directory of New Hires.—

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

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

305 (a) "Employee" is defined as an individual who is an
306 employee within the meaning of chapter 24 of the Internal
307 Revenue Code of 1986.

308 (b) "Employer" has the meaning given such term in s.
309 3401(d) of the Internal Revenue Code of 1986 and includes any
310 government entity and labor organization.

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

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

318 (e) "Service recipient" means a person engaged in a trade
319 or business who pays an individual for services rendered in the

586-02621-21

20211532c1

320 course of such trade or business.

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

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

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

586-02621-21

20211532c1

349 (b) A service recipient shall report to the State Directory
350 of New Hires an individual who is not an employee in the same
351 manner as described in paragraph (a) but who the service
352 recipient, while engaged in a trade or business, pays in an
353 amount of \$600 or more per calendar year for services rendered
354 in the course of the trade or business. The report must include
355 the name, address, and social security number or other
356 identifying number assigned to the individual under section 6109
357 of the Internal Revenue Code of 1986; the date services for
358 payment were first rendered by the individual; and the name,
359 address, and employer identification number of the service
360 recipient.

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

369 (4) TIME FOR REPORTS.—

370 (a) Employers must report new hire information, as
371 described in subsection (3), within 20 days of the hire date of
372 the employee, or, in the case of employers that report new hire
373 information electronically or by magnetic tape, by two monthly
374 transmissions, if necessary, not less than 12 days nor more than
375 16 days apart.

376 (b) Service recipients must report on individuals subject
377 to reporting under paragraph (3) (b) within 20 days after the

586-02621-21

20211532c1

378 earlier of:

379 1. The date of the first payment made which requires an
380 information return in accordance with section 6041A(a) of the
381 Internal Revenue Code of 1986; or

382 2. The date on which a contract providing for such payments
383 is entered into.

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

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

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

404 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT
405 NOTICE.—The department shall transmit a wage withholding notice
406 consistent with s. 61.1301 and, when appropriate, a national

586-02621-21

20211532c1

407 medical support notice, as defined in s. 61.046, ~~to the~~
408 ~~employee's employer~~ within 2 business days after entry of the
409 new hire information into the State Directory of New Hires'
410 database, unless the court has determined that the obligor's
411 ~~employee's~~ wages or other income is ~~are~~ not subject to
412 withholding or, for purposes of the national medical support
413 notice, the support order does not contain a provision ~~for the~~
414 ~~employee~~ to provide health insurance. The withholding notice
415 shall direct the employer or other payor of income to withhold
416 income in accordance with the income deduction order, and the
417 national medical support notice shall direct the employer to
418 withhold premiums for health insurance.

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

586-02621-21

20211532c1

436 an ongoing investigation or intelligence mission.

437 (9) DISCLOSURE OF INFORMATION.—

438 (a) ~~New-hire~~ Information reported under this section shall
439 be disclosed to the state agency administering the following
440 programs for the purposes of determining eligibility under those
441 programs:

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

444 2. The Medicaid program under Title XIX of the Social
445 Security Act;

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

448 4. The food assistance program under the Food and Nutrition
449 Act of 2008; and

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

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

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