

1 A bill to be entitled
2 An act relating to child support; amending s. 61.046,
3 F.S.; revising the definition of the term
4 "depository"; amending s. 61.13016, F.S.; authorizing
5 deferral of support payments for an obligor's good
6 faith job training efforts; amending s. 61.181, F.S.;
7 requiring a depository to impose and collect a fee on
8 certain cases; providing a minimum and maximum amount
9 for the fee; removing language relating to the State
10 Disbursement Unit collecting fees; specifying how such
11 fee must be distributed; requiring certain moneys to
12 be remitted to the Department of Children and Families
13 at specified intervals; removing requirements for a
14 depository to provide certain information to the Title
15 IV-D agency; conforming provisions to changes made by
16 the act; removing obsolete language; making technical
17 changes; amending s. 61.30, F.S.; removing exceptions
18 relating to incarceration when establishing or
19 modifying a support order; amending s. 409.256, F.S.;
20 authorizing a child's caregiver to provide an
21 affidavit or a written declaration regarding a
22 putative father; amending s. 409.2563, F.S.; requiring
23 the department to file a certain payment record with
24 the clerk of the circuit court; requiring the clerk of
25 the circuit court to update certain information and

26 | apply credits under certain circumstances; authorizing
 27 | a party to dispute the application of a credit in a
 28 | subsequent proceeding; amending ss. 61.13, 61.1811,
 29 | and 61.1814, F.S.; conforming cross-references;
 30 | providing effective dates.

31 |
 32 | Be It Enacted by the Legislature of the State of Florida:

33 |
 34 | Section 1. Subsection (4) of section 61.046, Florida
 35 | Statutes, is amended to read:

36 | 61.046 Definitions.—As used in this chapter, the term:

37 | (4) "Depository" means a ~~the central governmental~~
 38 | ~~depository established by the clerk of the circuit court in each~~
 39 | ~~county pursuant to s. 61.181, created by special act of the~~
 40 | ~~Legislature or other entity established before June 1, 1985, to~~
 41 | ~~perform depository functions and~~ to receive, record, report,
 42 | disburse, monitor, and otherwise handle alimony and child
 43 | support payments not otherwise required to be processed by the
 44 | State Disbursement Unit.

45 | Section 2. Paragraph (c) of subsection (1) of section
 46 | 61.13016, Florida Statutes, is amended to read:

47 | 61.13016 Suspension of driver licenses and motor vehicle
 48 | registrations.—

49 | (1) The driver license and motor vehicle registration of a
 50 | support obligor who is delinquent in payment or who has failed

51 to comply with subpoenas or a similar order to appear or show
52 cause relating to paternity or support proceedings may be
53 suspended. When an obligor is 15 days delinquent making a
54 payment in support or failure to comply with a subpoena, order
55 to appear, order to show cause, or similar order in IV-D cases,
56 the Title IV-D agency may provide notice to the obligor of the
57 delinquency or failure to comply with a subpoena, order to
58 appear, order to show cause, or similar order and the intent to
59 suspend by regular United States mail that is posted to the
60 obligor's last address of record with the Department of Highway
61 Safety and Motor Vehicles. When an obligor is 15 days delinquent
62 in making a payment in support in non-IV-D cases, and upon the
63 request of the obligee, the depository or the clerk of the court
64 must provide notice to the obligor of the delinquency and the
65 intent to suspend by regular United States mail that is posted
66 to the obligor's last address of record with the Department of
67 Highway Safety and Motor Vehicles. In either case, the notice
68 must state:

69 (c) That notification will be given to the Department of
70 Highway Safety and Motor Vehicles to suspend the obligor's
71 driver license and motor vehicle registration unless, within 20
72 days after the date that the notice is mailed, the obligor:

73 1.a. Pays the delinquency in full and any other costs and
74 fees accrued between the date of the notice and the date the
75 delinquency is paid;

76 b. Enters into a written agreement for payment with the
 77 obligee in non-IV-D cases or with the Title IV-D agency in IV-D
 78 cases; or in IV-D cases, complies with a subpoena or order to
 79 appear, order to show cause, or a similar order, which may
 80 include a reasonable period of payment deferral to accommodate
 81 an obligor's good faith job-seeking or job training efforts;

82 c. Files a petition with the circuit court to contest the
 83 delinquency action;

84 d. Demonstrates that he or she receives reemployment
 85 assistance or unemployment compensation pursuant to chapter 443;

86 e. Demonstrates that he or she is disabled and incapable
 87 of self-support or that he or she receives benefits under the
 88 federal Supplemental Security Income program or Social Security
 89 Disability Insurance program;

90 f. Demonstrates that he or she receives temporary cash
 91 assistance pursuant to chapter 414; or

92 g. Demonstrates that he or she is making payments in
 93 accordance with a confirmed bankruptcy plan under chapter 11,
 94 chapter 12, or chapter 13 of the United States Bankruptcy Code,
 95 11 U.S.C. ss. 101 et seq.; and

96 2. Pays any applicable delinquency fees.

97
 98 If an obligor in a non-IV-D case enters into a written agreement
 99 for payment before the expiration of the 20-day period, the
 100 obligor must provide a copy of the signed written agreement to

101 the depository or the clerk of the court. If an obligor seeks to
 102 satisfy sub-subparagraph 1.d., sub-subparagraph 1.e., sub-
 103 subparagraph 1.f., or sub-subparagraph 1.g. before expiration of
 104 the 20-day period, the obligor must provide the applicable
 105 documentation or proof to the depository or the clerk of the
 106 court.

107 Section 3. Subsections (5) through (8) and (10) of section
 108 61.181, Florida Statutes, are renumbered as subsections (4)
 109 through (7) and (9), respectively, and present subsections (1),
 110 (2), (3), (4), (8), and (9) of that section are amended to read:

111 61.181 Depositories ~~Depository~~ for alimony transactions,
 112 support, maintenance, and support payments; fees.—

113 (1)(a) The office of the clerk of the court in each county
 114 shall operate a depository ~~unless the depository is otherwise~~
 115 ~~created by special act of the Legislature or unless, prior to~~
 116 ~~June 1, 1985, a different entity was established to perform such~~
 117 ~~functions.~~ The department shall, ~~no later than July 1, 1998,~~
 118 extend participation in the federal child support cost
 119 reimbursement program to the ~~central~~ depository in each county,
 120 to the ~~maximum~~ extent allowable ~~possible~~ under existing federal
 121 law. Each ~~The~~ depository shall receive reimbursement for
 122 services provided under a cooperative agreement with the
 123 department pursuant to s. 61.1826. Each depository shall
 124 participate in the State Disbursement Unit and shall implement
 125 all statutory and contractual duties imposed on the State

126 Disbursement Unit. Each depository shall receive from and
127 transmit to the State Disbursement Unit required data through
128 the Clerk of Court Child Support Enforcement Collection System.
129 Payments on non-Title IV-D cases without income deduction orders
130 shall not be sent to the State Disbursement Unit.

131 (b) Upon request by the department, each ~~the~~ depository
132 operated under ~~created pursuant to~~ paragraph (a) shall establish
133 an account for the receipt and disbursement of support payments
134 for Title IV-D interstate cases. The department shall provide a
135 copy of the other state's order with the request, and each ~~the~~
136 depository shall advise the department of the account number in
137 writing within 4 business days after receipt of the request.

138 (2)(a) Each depository shall impose and collect a fee for
139 payments ~~not required to be processed through the State~~
140 ~~Disbursement Unit, the depository shall impose and collect a fee~~
141 ~~on each payment made for receiving, recording, reporting,~~
142 ~~disbursing, monitoring, or handling alimony or child support~~
143 ~~payments as required under this section.~~ for non-Title IV-D
144 cases ~~required to be processed by the State Disbursement Unit~~
145 ~~pursuant to this chapter, the State Disbursement Unit shall, on~~
146 ~~each payment received, collect a fee, and shall transmit to the~~
147 ~~depository in which the case is located 40 percent of such~~
148 ~~service charge for the depository's administration, management,~~
149 ~~and maintenance of such case. If a payment is made to the State~~
150 ~~Disbursement Unit which is not accompanied by the required fee,~~

151 ~~the State Disbursement Unit shall not deduct any moneys from the~~
152 ~~support payment for payment of the fee. The fee shall be a flat~~
153 ~~fee based, to the extent practicable, upon estimated reasonable~~
154 ~~costs of operation. The fee is 4 shall be reduced in any case in~~
155 ~~which the fixed fee results in a charge to any party of an~~
156 ~~amount greater than 3 percent of the amount of any support~~
157 ~~payment made in satisfaction of the amount which the party is~~
158 ~~obligated to pay, except that a no fee may not shall be less~~
159 ~~than \$1 or no more than \$5.25 \$5 per payment made. The fee must~~
160 ~~shall be considered by the court in determining the amount of~~
161 ~~support that the obligor is, or may be, required to pay. A fee~~
162 ~~may not be imposed on payments for Title IV-D cases.~~

163 ~~(b)1. The fee imposed in paragraph (a) shall be increased~~
164 ~~to 4 percent of the support payments which the party is~~
165 ~~obligated to pay, except that no fee shall be more than \$5.25.~~
166 ~~The fee shall be considered by the court in determining the~~
167 ~~amount of support that the obligor is, or may be, required to~~
168 ~~pay. Notwithstanding the provisions of s. 145.022, the fee~~
169 ~~imposed under paragraph (a) shall be distributed as follows:~~

170 ~~1. To 75 percent of the additional revenues generated by~~
171 ~~this paragraph shall be remitted monthly to the Clerk of the~~
172 ~~Court Child Support Enforcement Collection System Trust Fund,~~
173 ~~calculated as follows:~~

- 174 ~~a. For each support payment of less than \$33, 18.75 cents.~~
175 ~~b. For each support payment of at least \$33 but not more~~

176 than \$140, an amount equal to 75 percent of the difference
 177 between 4 percent of the support payment amount, not to exceed
 178 \$5.25, and 3 percent of the support payment amount, not to
 179 exceed \$5.

180 c. For each support payment in excess of \$140, 18.75 cents
 181 ~~administered by the department as provided in subparagraph 2.~~

182
 183 These funds shall be used exclusively for the development,
 184 implementation, and operation of the Clerk of the Court Child
 185 Support Enforcement Collection System to be operated by the
 186 depositories, including the automation of civil case information
 187 necessary for the State Case Registry. The department shall
 188 contract with the Florida Association of Court Clerks and the
 189 depositories to design, establish, operate, upgrade, and
 190 maintain the automation of the depositories to include, but not
 191 be limited to, the provision of online electronic transfer of
 192 information to the IV-D agency as otherwise required by this
 193 chapter. The department's obligation to fund the automation of
 194 the depositories is limited to the state share of funds
 195 available in the Clerk of the Court Child Support Enforcement
 196 Collection System Trust Fund. Each depository created under this
 197 section must ~~shall~~ fully participate in the Clerk of the Court
 198 Child Support Enforcement Collection System and transmit data in
 199 a readable format as required by the contract between the
 200 Florida Association of Court Clerks and the department.

201 2. For support payments not processed through the State
 202 Disbursement Unit, the clerk of the court shall retain the
 203 balance of the fee imposed under paragraph (a) for receiving,
 204 recording, reporting, disbursing, monitoring, or handling
 205 support payments as required under this section ~~Moneys to be~~
 206 ~~remitted to the department by the depository shall be done daily~~
 207 ~~by electronic funds transfer and calculated as follows:~~

208 ~~a. For each support payment of less than \$33, 18.75 cents.~~

209 ~~b. For each support payment between \$33 and \$140, an~~
 210 ~~amount equal to 18.75 percent of the fee charged.~~

211 ~~e. For each support payment in excess of \$140, 18.75~~
 212 ~~cents.~~

213 3. For support payments processed through the State
 214 Disbursement Unit, the clerk of the court shall retain 40
 215 percent of the fee imposed under paragraph (a) for the
 216 depository's administration, management, and maintenance of each
 217 case. After retaining 40 percent of the fee imposed under
 218 paragraph (a) and paying the amount due to the Clerk of the
 219 Court Child Support Enforcement Collection System Trust Fund,
 220 the clerk of the court shall transmit the balance of the fee to
 221 the department, which shall be treated as program income under
 222 s. 61.1814(2).

223 (c) Each depository must remit moneys due to the
 224 department under subparagraphs (b)1. and 3. at least monthly as
 225 required under s. 28.245.

226 (d) The fees established by this section shall be set
 227 forth and included in every order of support entered by a court
 228 of this state which requires payment to be made into a ~~the~~
 229 depository.

230 (3) (a) For payments not required to be processed through
 231 the State Disbursement Unit, a ~~the~~ depository shall collect and
 232 distribute all support payments paid into the depository to the
 233 appropriate party. ~~On or after July 1, 1998,~~ If a payment is
 234 made on a Title IV-D case which is not accompanied by the
 235 required transaction fee, a ~~the~~ depository may ~~shall~~ not deduct
 236 any moneys from the support payment for payment of the fee.
 237 Nonpayment of the required fee is ~~shall be~~ considered a
 238 delinquency, and when the total of fees and costs which are due
 239 but not paid exceeds \$50, the judgment by operation of law
 240 process set forth in s. 61.14(6) (a) shall become applicable and
 241 operational. As part of its collection and distribution
 242 functions, each ~~the~~ depository shall maintain records listing:

- 243 1. The obligor's name, address, social security number,
 244 place of employment, and any other sources of income.
- 245 2. The obligee's name, address, and social security
 246 number.
- 247 3. The amount of support due as provided in the court
 248 order.
- 249 4. The schedule of payment as provided in the court order.
- 250 5. The actual amount of each support payment received, the

251 date of receipt, the amount disbursed, and the recipient of the
 252 disbursement.

253 6. The unpaid balance of any arrearage due as provided in
 254 the court order.

255 7. Other records as necessary to comply with federal
 256 reporting requirements.

257 (b) A ~~The~~ depository may require a payor or obligor to
 258 complete an information form, which shall request the following
 259 about the payor or obligor who provides payment by check:

- 260 1. Full name, address, and home phone number.
- 261 2. Driver license number.
- 262 3. Social security number.
- 263 4. Name, address, and business phone number of obligor's
 264 employer.
- 265 5. Date of birth.
- 266 6. Weight and height.
- 267 7. Such other information as may be required by the State
 268 Attorney if prosecution for an insufficient check becomes
 269 necessary.

270
 271 If a ~~the~~ depository requests such information, and a payor or
 272 obligor does not comply, the depository may refuse to accept
 273 personal checks from the payor or obligor.

274 (c) Parties using a ~~the~~ depository for support payments
 275 must notify ~~shall inform~~ the depository of:

276 1. Changes in their names or addresses. ~~An obligor shall,~~
 277 ~~additionally, notify the depository of all~~

278 2. Changes in employment or sources of income, including
 279 the payor's name and address. ~~and~~

280 3. Changes in the amounts of income received.

281
 282 Notification of all changes must ~~shall~~ be made in writing to the
 283 depository within 7 days after such ~~of a~~ change.

284 (d) When time-sharing of a child is relinquished by a
 285 parent who is entitled to receive child support moneys from a
 286 ~~the~~ depository to the custody of a licensed or registered long-
 287 term care child agency, that agency may request from the court
 288 an order directing child support payments that would otherwise
 289 be distributed to the parent be distributed to the agency for
 290 the period of time that the child is with the agency.

291 Thereafter, payments shall be distributed to the agency as if
 292 the agency were the parent until further order of the court.

293 ~~(4) The depository shall provide to the IV-D agency, at~~
 294 ~~least once a month, a listing of IV-D accounts which identifies~~
 295 ~~all delinquent accounts, the period of delinquency, and total~~
 296 ~~amount of delinquency. The list shall be in alphabetical order~~
 297 ~~by name of obligor, shall include the obligee's name and case~~
 298 ~~number, and shall be provided at no cost to the IV-D agency.~~

299 (7)(8) Each ~~On or before July 1, 1994,~~ the depository
 300 shall provide information required by this chapter to be

301 transmitted to the Title IV-D agency by online electronic
 302 transmission ~~pursuant to rules promulgated by the Title IV-D~~
 303 ~~agency.~~

304 ~~(9) If the increase in fees as provided by paragraph~~
 305 ~~(2)(b) expires or is otherwise terminated, the depository shall~~
 306 ~~not be required to provide the Title IV-D agency the date~~
 307 ~~provided by a payor as required by s. 61.1301.~~

308 Section 4. Effective upon this act becoming a law,
 309 paragraph (c) of subsection (2) of section 61.30, Florida
 310 Statutes, is amended to read:

311 61.30 Child support guidelines; retroactive child
 312 support.—

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

315 (c) ~~Except for incarceration for willful nonpayment of~~
 316 ~~child support or for an offense against a child or person who is~~
 317 ~~owed child support,~~ Incarceration may not be treated as
 318 voluntary unemployment in establishing or modifying a support
 319 order. However, the court may deviate from the child support
 320 guideline amount as provided in paragraph (1)(a).

321 Section 5. Paragraph (a) of subsection (2) of section
 322 409.256, Florida Statutes, is amended to read:

323 409.256 Administrative proceeding to establish paternity
 324 or paternity and child support; order to appear for genetic
 325 testing.—

326 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
 327 THE COURTS.—

328 (a) The department may commence a paternity proceeding or
 329 a paternity and child support proceeding as provided in
 330 subsection (4) if:

331 1. The child's paternity has not been established.

332 2. No one is named as the father on the child's birth
 333 certificate or the person named as the father is the putative
 334 father named in an affidavit or a written declaration as
 335 provided in subparagraph 5.

336 3. The child's mother was unmarried when the child was
 337 conceived and born.

338 4. The department is providing services under Title IV-D
 339 of the Social Security Act.

340 5. The child's mother or caregiver or a putative father
 341 has stated in an affidavit, or in a written declaration as
 342 provided in s. 92.525(2), that the putative father is or may be
 343 the child's biological father. The affidavit or written
 344 declaration must set forth the factual basis for the allegation
 345 of paternity as provided in s. 742.12(2).

346 Section 6. Subsection (8) of section 409.2563, Florida
 347 Statutes, is amended to read:

348 409.2563 Administrative establishment of child support
 349 obligations.—

350 (8) (a) FILING WITH THE CLERK OF THE CIRCUIT COURT;

351 OFFICIAL PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.—The
 352 department shall file with the clerk of the circuit court a copy
 353 of an administrative support order rendered under this section.
 354 The depository operated pursuant to s. 61.181 for the county
 355 where the administrative support order has been filed must do
 356 all of the following ~~shall~~:

357 1.(a) Act as the official recordkeeper for payments
 358 required under the administrative support order. ~~†~~

359 2.(b) Establish and maintain the necessary payment
 360 accounts. ~~†~~

361 3.(e) Upon a delinquency, initiate the judgment by
 362 operation of law procedure as provided by s. 61.14(6) ~~.† and~~

363 4.(d) Perform all other duties required of a depository
 364 with respect to a support order entered by a court of this
 365 state.

366 (b) When a proceeding to establish an administrative
 367 support order is commenced under subsection (4), the department
 368 shall file a copy of the initial notice with the depository for
 369 the county where the proceeding is filed. The depository shall
 370 assign an account number and provide the account number to the
 371 department within 4 business days after the initial notice is
 372 filed.

373 (c) If the department receives a payment record from a
 374 Title IV-D agency or a court outside this state, as defined in
 375 s. 88.1011, and the payment record shows that the obligor made a

376 payment in that state pursuant to an administrative support
377 order rendered by the department, the department must file the
378 payment record with the appropriate clerk of the circuit court.
379 The clerk of the circuit court shall review the payment record,
380 update the clerk's payment accounts, and apply a credit for
381 payments made to the other state for which the clerk has not
382 previously provided credit. If the payment record from the other
383 state indicates that the obligor has made payments that are not
384 reflected in the clerk's payment accounts, the clerk must credit
385 the account in the amount of the payment made to the other
386 state. Any party to the administrative proceeding may dispute
387 the application of credit in a subsequent proceeding concerning
388 payment under the administrative support order.

389 Section 7. Paragraph (d) of subsection (1) of section
390 61.13, Florida Statutes, is amended to read:

391 61.13 Support of children; parenting and time-sharing;
392 powers of court.—

393 (1)

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

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

401 through the depository under s. 61.181 or made payable directly
 402 to the obligee. Payments made by immediate income deduction
 403 shall be made to the State Disbursement Unit. The court shall
 404 provide a copy of the order to the depository.

405 3. For support orders payable directly to the obligee, any
 406 party may subsequently file an affidavit with the depository
 407 alleging a default in payment of child support and stating that
 408 the party wishes to require that payments be made through the
 409 depository. The party shall provide copies of the affidavit to
 410 the court and to each other party. Fifteen days after receipt of
 411 the affidavit, the depository shall notify all parties that
 412 future payments shall be paid through the depository, except
 413 that payments in Title IV-D cases and income deduction payments
 414 shall be made to the State Disbursement Unit. In Title IV-D
 415 cases, an affidavit of default or a default in payments is not
 416 required to receive depository services. Upon notice by the
 417 department that it is providing Title IV-D services in a case
 418 with an existing support order, the depository shall transmit
 419 case data through, and set up appropriate payment accounts in,
 420 regardless of whether there is a delinquency, the Clerk of the
 421 Court Child Support Enforcement Collection System as required
 422 under s. 61.181(2)(b)1. ~~s. 61.181(2)(b).~~

423 Section 8. Section 61.1811, Florida Statutes, is amended
 424 to read:

425 61.1811 Clerk of the Court Child Support Enforcement

426 Collection System Trust Fund.—There is hereby created the Clerk
 427 of the Court Child Support Enforcement Collection System Trust
 428 Fund to be used to deposit the department's share of the fees
 429 generated in s. 61.181(2)(b)1. ~~s. 61.181(2)(b).~~

430 Section 9. Subsection (2) of section 61.1814, Florida
 431 Statutes, is amended to read:

432 61.1814 Child Support Enforcement Application and Program
 433 Revenue Trust Fund.—

434 (2) With the exception of fees required to be deposited in
 435 the Clerk of the Court Child Support Enforcement Collection
 436 System Trust Fund under s. 61.181(2)(b)1. ~~s. 61.181(2)(b)~~ and
 437 collections determined to be undistributable or unidentifiable
 438 under s. 409.2558, the fund shall be used for the deposit of
 439 Title IV-D program income received by the department. Each type
 440 of program income received must ~~shall~~ be accounted for
 441 separately. Program income received by the department includes,
 442 but is not limited to, all of the following:

443 (a) Application fees of nonpublic assistance applicants
 444 for child support enforcement services.†

445 (b) Court-ordered costs recovered from child support
 446 obligors.†

447 (c) Interest on child support collections.†

448 (d) The balance of the fee fees received under s.
 449 61.181(2)(b)3. ~~s. 61.181(2)(a)~~ on non-Title IV-D cases required
 450 to be processed through the State Disbursement Unit after the

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451 clerk's share is paid.‡

452 (e) Fines imposed under ss. 409.256(7)(b), 409.2564(7),
453 and 409.2578.~~‡~~ and

454 (f) The annual fee required under s. 409.2567.

455 Section 10. Except as otherwise expressly provided in this
456 act and except for this section, which shall take effect upon
457 this act becoming a law, this act shall take effect July 1,
458 2023.