

By Senator Burgess

23-02046-23

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1 A bill to be entitled
2 An act relating to fees; amending s. 775.088, F.S.;
3 authorizing payors to collect certain administrative
4 costs from the defendant's income, as a part of the
5 required notice that is required to accompany income
6 deduction orders; providing a contingent effective
7 date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraph (b) of subsection (6) of section
12 775.088, Florida Statutes, as created by SB ____, 2023 Regular
13 Session, is amended to read:

14 775.088 Child maintenance restitution.—

15 (6)

16 (b) *Enforcement of income deduction orders.*—

17 1. The clerk of the court or the defendant's probation
18 officer shall serve an income deduction order and the notice
19 described in subparagraph 4. to each of the defendant's payors,
20 unless the defendant has applied for a hearing to contest the
21 enforcement of the income deduction order.

22 2.a. Service by or upon any person who is a party to a
23 proceeding under this paragraph must be made in the manner
24 prescribed in the Florida Rules of Civil Procedure for service
25 upon parties.

26 b. Service upon the defendant's payor or successor payor
27 under this paragraph must be made by prepaid certified mail,
28 return receipt requested, or in the manner prescribed in chapter
29 48.

23-02046-23

20231090__

30 3. Within 15 days after having an income deduction order
31 entered against him or her, the defendant may apply for a
32 hearing to contest the enforcement of the income deduction order
33 on the ground of mistake of fact regarding the amount of
34 restitution owed. The timely request for a hearing stays the
35 service of an income deduction order on all payors of the
36 defendant until a hearing is held and a determination is made as
37 to whether the enforcement of the income deduction order is
38 proper.

39 4. The notice to each payor may contain only that
40 information necessary for the payor to comply with the income
41 deduction order. The notice must:

42 a. Require the payor to deduct from the defendant's income
43 the amount specified in the income deduction order and to pay
44 that amount to the clerk of the court;

45 b. Instruct the payor to implement the income deduction
46 order no later than the first payment date that occurs more than
47 14 days after the date the income deduction order was served on
48 the payor;

49 c. Instruct the payor to forward within 2 days after each
50 payment date to the clerk of the court the amount deducted from
51 the defendant's income and a statement as to whether the amount
52 totally or partially satisfies the periodic amount specified in
53 the income deduction order;

54 d. Specify that, if a payor fails to deduct the proper
55 amount from the defendant's income, the payor is liable for the
56 amount the payor should have deducted plus costs, interest, and
57 reasonable attorney fees;

58 e. Provide that the payor may collect up to \$5 from the

23-02046-23

20231090__

59 defendant's income to reimburse the payor for administrative
60 costs for the first income deduction and up to \$2 for each
61 deduction thereafter;

62 f. State that the income deduction order and the notice to
63 payor are binding on the payor until further notice by the court
64 or until the payor no longer provides income to the defendant;

65 ~~g.f.~~ Instruct the payor that, when he or she no longer
66 provides income to the defendant, the payor must notify the
67 clerk of the court and must also provide the defendant's last
68 known address and the name and address of the defendant's new
69 payor, if known, and that, if the payor violates this sub-
70 subparagraph, the payor is subject to a civil penalty not to
71 exceed \$250 for the first violation or \$500 for any subsequent
72 violation;

73 ~~h.g.~~ State that the payor may not discharge, refuse to
74 employ, or take disciplinary action against the defendant
75 because of an income deduction order and that a violation of
76 this sub-subparagraph subjects the payor to a civil penalty not
77 to exceed \$250 for the first violation or \$500 for any
78 subsequent violation;

79 ~~i.h.~~ Inform the payor that, when he or she receives income
80 deduction orders requiring that the income of two or more
81 defendants be deducted and sent to the same clerk of the court,
82 the payor may combine the amounts that are to be paid to the
83 depository in a single payment as long as he or she identifies
84 the portion of the payment attributable to each defendant; and

85 ~~j.i.~~ Inform the payor that if the payor receives more than
86 one income deduction order against the same defendant, he or she
87 must contact the court for further instructions.

23-02046-23

20231090__

88 5. The clerk of the court shall enforce income deduction
89 orders against the defendant's successor payor who is located in
90 this state in the same manner prescribed in this subsection for
91 the enforcement of an income deduction order against an original
92 payor.

93 6. A person may not discharge, refuse to employ, or take
94 disciplinary action against an employee because of the
95 enforcement of an income deduction order. An employer who
96 violates this subparagraph is subject to a civil penalty not to
97 exceed \$250 for the first violation or \$500 for any subsequent
98 violation.

99 7. When a payor no longer provides income to a defendant,
100 the payor must notify the clerk of the court and must provide
101 the defendant's last known address and the name and address of
102 the defendant's new payor, if known. A payor who violates this
103 subparagraph is subject to a civil penalty not to exceed \$250
104 for the first violation or \$500 for a subsequent violation.

105 Section 2. This act shall take effect on the same date that
106 SB ___ or similar legislation takes effect, if such legislation
107 is adopted in the same legislative session or an extension
108 thereof and becomes a law.