

By Senator Burgess

23-00238-24

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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           notice that is required to accompany income deduction  
 6           orders; providing a contingent effective date.

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

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 10           Section 1. Paragraph (b) of subsection (6) of section  
 11           775.088, Florida Statutes, as created by SB \_\_\_\_, 2024 Regular  
 12           Session, is amended to read:

13           775.088 Child maintenance restitution.—

14           (6)

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

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

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

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

29           3. Within 15 days after having an income deduction order

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

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

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

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

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

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

57 e. Provide that the payor may collect up to \$5 from the  
58 defendant's income to reimburse the payor for administrative

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59 costs for the first income deduction and up to \$2 for each  
60 deduction thereafter;

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

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

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

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

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

87 5. The clerk of the court shall enforce income deduction

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

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

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

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