

By the Committee on Criminal Justice; and Senator Burgess

591-02986-24

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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.

7

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

9

10 Section 1. Paragraph (b) of subsection (6) of section
11 775.088, Florida Statutes, as created by SB 116, 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 116 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.