

## House Bill No. 7107

An act relating to child support enforcement; amending s. 61.1814, F.S.; providing for the collection and deposit of an annual fee for certain child support cases; amending s. 61.1824, F.S.; revising requirements for certain employers to remit support payments electronically; providing grounds for waiving the requirement for employers to electronically remit support payments; amending s. 409.2564, F.S.; lowering the amount of child support owed to permit federal action against an obligor's passport; amending s. 409.25641, F.S.; revising provisions governing the automated enforcement of a support order from another state; amending s. 409.2567, F.S.; authorizing the Department of Revenue to pay a federally required annual fee; amending ss. 49.011 and 409.257, F.S.; authorizing service of process by publication for unknown legal fathers; providing for diligent search and inquiry; amending s. 742.09, F.S.; providing an exception to the prohibition against publication of the name of a party in a paternity action; providing an effective date.

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

Section 1. Section 49.011, Florida Statutes, is amended to read:

49.011 Service of process by publication; cases in which allowed.—Service of process by publication may be made in any court on any party identified person mentioned in s. 49.021 in any action or proceeding:

(1) To enforce any legal or equitable lien or claim to any title or interest in real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

(2) To quiet title or remove any encumbrance, lien, or cloud on the title to any real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

(3) To partition real or personal property within the jurisdiction of the court.

(4) For dissolution or annulment of marriage.

(5) For the construction of any will, deed, contract, or other written instrument and for a judicial declaration or enforcement of any legal or equitable right, title, claim, lien, or interest thereunder.

(6) To reestablish a lost instrument or record which has or should have its situs within the jurisdiction of the court.

(7) In which a writ of replevin, garnishment, or attachment has been issued and executed.

(8) In which any other writ or process has been issued and executed which places any property, fund, or debt in the custody of a court.

(9) To revive a judgment by motion or scire facias.

(10) For adoption.

(11) In which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.

(12) In probate or guardianship proceedings in which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.

(13) For termination of parental rights pursuant to part IX of chapter 39.

(14) For temporary custody of a minor child, under ss. 751.01-751.05.

(15) To determine paternity, but only as to the legal father in a paternity action in which another man is alleged to be the biological father, in which case it is necessary to serve process on the legal father in order to establish paternity with regard to the alleged biological father.

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

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

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

(a) Application fees of nonpublic assistance applicants for child support enforcement services;

(b) Court-ordered costs recovered from child support obligors;

(c) Interest on child support collections;

(d) The balance of fees received under s. 61.181(2)(a) on non-Title IV-D cases required to be processed through the State Disbursement Unit after the clerk's share is paid; ~~and~~

(e) Fines imposed under ss. 409.256(7)(b), 409.2564(7), and 409.2578;

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

Section 3. Subsection (6) of section 61.1824, Florida Statutes, is amended to read:

61.1824 State Disbursement Unit.—

(6) ~~Effective October 1, 1999,~~ All support payments for cases to which the requirements of this section apply shall be made payable to and delivered to the State Disbursement Unit. ~~Effective October 1, 2006,~~

(a) An employer that is required to remit tax payments electronically to the department under s. 213.755 or s. 443.163 who employed 10 or more employees in any quarter during the preceding state fiscal year or who was subject to and paid tax to the department in an amount of \$30,000 or more shall remit support payments deducted pursuant to an income deduction order or income deduction notice and provide associated case data to the State Disbursement Unit by electronic means approved by the department. The department may waive the requirement to remit payments electronically for an employer that is unable to comply despite good faith efforts or due to circumstances beyond the employer's reasonable control. Grounds for approving a waiver include, but are not limited to, circumstances in which:

1. The employer does not have a computer that meets the minimum standards necessary for electronic remittance.
2. Additional time is needed to program the employer's computer.
3. The employer does not currently file data electronically with any business or government agency.
4. Compliance conflicts with the employer's business procedures.
5. Compliance would cause a financial hardship.

(b) The department shall adopt by rule standards for electronic remittance, and data transfer, and waivers that, to the extent feasible, are consistent with the department's rules for electronic filing and remittance of taxes under ss. 213.755 and 443.163. A waiver granted by the department from the requirement to file and remit electronically under s. 213.755 or s. 443.163 constitutes a waiver from the requirement under this subsection.

(7) Notwithstanding any other statutory provision to the contrary, funds received by the State Disbursement Unit shall be held, administered, and disbursed by the State Disbursement Unit pursuant to the provisions of this chapter.

Section 4. Subsection (10) of section 409.2564, Florida Statutes, is amended to read:

409.2564 Actions for support.—

(10) For the purposes of denial, revocation, or limitation of an obligor's individual's United States passport, consistent with 42 U.S.C. s. 652(k)(1), the department Title IV-D agency shall have procedures to certify to the Secretary of the United States Department of Health and Human Services,

~~in the format and accompanied by such supporting documentation as the secretary may require, a determination that an obligor individual owes arrearages of support in an amount exceeding \$2,500 \$5,000. Said procedures shall provide that the obligor individual be given notice of the determination and of the consequence thereof and that the individual shall be given an opportunity to contest the accuracy of the determination.~~

Section 5. Section 409.25641, Florida Statutes, is amended to read:

409.25641 Procedures for processing interstate ~~automated administrative~~ enforcement requests.—

(1) The ~~department~~ Title IV-D agency shall use automated administrative enforcement, as provided in 42 U.S.C. s. 666(a)(14)(A) to respond defined in the Social Security Act, in response to a request from another state to enforce a support order and shall promptly report the results of the enforcement action to the requesting state.

(2) ~~This request:~~

(a) ~~May be transmitted from the other state by electronic or other means;~~

(b) ~~Shall contain sufficient identifying information to allow comparison with the databases within the state which are available to the Title IV-D agency; and~~

(c) ~~Shall constitute a certification by the requesting state:~~

1. ~~Of the amount of arrearage accrued under the order; and~~

2. ~~That the requesting state has complied with all procedural due process requirements applicable to the case.~~

(3) ~~If assistance is provided by the Title IV-D agency to another state as prescribed above, neither state shall consider the case to be transferred from the caseload of the other state to the caseload of the Title IV-D agency.~~

(4) ~~The Title IV-D agency shall maintain a record of:~~

(a) ~~The number of requests received;~~

(b) ~~The number of cases for which the Title IV-D agency collected support in response to such a request; and~~

(c) ~~The amount of such collected support.~~

(5) ~~The department shall have authority to adopt rules to implement this section.~~

Section 6. Section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—(1) All support services provided by the department shall be made available on behalf of all dependent children. Services shall be provided upon acceptance of public assistance or upon proper application filed with the department. The

federally required application fee for individuals who do not receive public assistance is \$1, which shall be waived for all applicants and paid by the department. The annual fee required under 42 U.S.C. s. 654(6)(B) for cases involving an individual who has never received temporary cash assistance and for whom the department has collected at least \$500 of support shall be paid by the department. The obligor is responsible for all administrative costs, as defined in s. 409.2554. The court shall order payment of administrative costs without requiring the department to have a member of the bar testify or submit an affidavit as to the reasonableness of the costs.

(2) An attorney-client relationship exists only between the department and the legal services providers in Title IV-D cases. The attorney shall advise the obligee in Title IV-D cases that the attorney represents the agency and not the obligee. ~~In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court,~~

(3) All administrative costs shall be assessed only against the non-prevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. In any case where the court does not award all costs, the court shall state in the record its reasons for not awarding the costs. The court shall order payment of costs without requiring the department to have a member of the bar testify or submit an affidavit as to the reasonableness of the costs.

(4) The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1).

(5) The Department of Revenue shall seek a waiver from the Secretary of the United States Department of Health and Human Services to authorize the Department of Revenue to provide services in accordance with Title IV-D of the Social Security Act to individuals who are owed support without need of an application. If the waiver is granted, the Department of Revenue shall adopt rules to implement the waiver and begin providing Title IV-D services if support payments are not being paid as ordered, except that the individual first must be given written notice of the right to refuse Title IV-D services and a reasonable opportunity to respond.

Section 7. Section 409.257, Florida Statutes, is amended to read:

409.257 Service of process.—

(1) The service of original initial process and orders in any paternity or child support action or proceeding lawsuits filed by the department, ~~under this act, shall be made in accordance with~~ served by the sheriff in the county where the person to be served may be found or, if determined more effective by the department, by any means permitted under chapter 48 for service of process in a civil action. The sheriff shall be reimbursed at the prevailing rate of federal financial participation for service of process and orders as allowed by law. The sheriff shall bill the department monthly as provided for in s. 30.51(2). ~~In addition,~~

(2) Process and orders may be served or executed by authorized agents of the department at the department's discretion ~~if, provided that~~ the agent of the department does not take any action against personal property, real property, or persons.

(3) Service of process by publication under chapter 49 may be made on the legal father in any action or proceeding to determine paternity, which may result in termination of the legal father's parental rights, in which another man is alleged to be the biological father. Before service of process by publication may be made, the petitioner shall conduct a diligent search and inquiry to locate the legal father. A diligent search must include the inquiries required by s. 63.088(5). The petitioner shall execute an affidavit of diligent search and file it with the court confirming completion of each aspect of the diligent search enumerated in s. 63.088(5) and specifying the results. If the legal father cannot be located, he shall be served with process by publication in the manner provided in chapter 49. The notice shall be published in the county where the legal father was last known to have resided. The clerk of the circuit court shall mail a copy of the notice to the legal father at his last known address.

(4) Notices and other intermediate process, except witness subpoenas, shall be served by the department as provided for in the Florida Rules of Civil Procedure.

(5) Witness subpoenas shall be served by the department by United States mail as provided for in s. 48.031(3).

Section 8. Section 742.09, Florida Statutes, is amended to read:

742.09 Publishing names; penalty.—Except for the purpose of serving process by publication, as provided under s. 49.011(15), it shall be unlawful for the owner, publisher, manager, or operator of any newspaper, magazine, radio station, or other publication of any kind whatsoever, or any other person responsible therefor, or any radio broadcaster, to publish the name of any of the parties to any court proceeding to determine paternity. A person who violates this section commits instituted or prosecuted under this act; and any person violating this provision shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. This act shall take effect July 1, 2007.

Approved by the Governor May 24, 2007.

Filed in Office Secretary of State May 24, 2007.