

CHAPTER 2021-103

Committee Substitute for Committee Substitute for Senate Bill No. 1532

An act relating to child support; amending s. 61.13, F.S.; revising requirements for child support depositories in Title IV-D cases; requiring the depositories to transmit case data through and set up appropriate payment accounts in the Clerk of the Court Child Support Enforcement Collection System upon certain notice from the Department of Revenue; amending s. 61.1354, F.S.; revising provisions related to the sharing of information between consumer reporting agencies and the department; requiring consumer reports to be kept confidential and used only for specified purposes; amending s. 61.21, F.S.; revising legislative findings; revising course topics for the Parent Education and Family Stabilization Course; requiring certain parties to complete a Parent Education and Family Stabilization Course tailored to education relating to children who have special needs or emotional concerns; authorizing the court to require additional education courses for certain parents; amending s. 61.30, F.S.; prohibiting the treatment of incarceration as voluntary unemployment for purposes of establishing or modifying child support orders, with exceptions; providing that certain social security benefits are included in a parent's gross income; authorizing certain social security benefits paid to be applied as a credit for purposes of monthly support obligations; providing requirements for such credit; providing procedures for a parent to seek application of such credit; amending s. 409.256, F.S.; revising the definition of the term "rendered"; amending s. 409.2563, F.S.; revising the definition of the term "rendered"; deleting a requirement that a certain order filed by the department be a certified copy of the order; amending s. 409.25656, F.S.; authorizing the department to deliver certain notices by secure electronic means under certain circumstances; amending s. 409.25658, F.S.; revising provisions related to the department's joint efforts with the Department of Financial Services to use unclaimed property for past due child support; amending s. 409.2567, F.S.; authorizing the department to include confidential and exempt information in unencrypted electronic mail communications with parents, caregivers, or other authorized persons under certain circumstances, with exceptions; amending s. 409.2576, F.S.; requiring service recipients to report certain information to the State Directory of New Hires; defining the term "service recipient"; providing reporting requirements for service recipients; conforming provisions to changes made by the act; providing an effective date.

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

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

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

(1)

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

2. If both parties request and the court finds that it is in the best interest of the child, support payments need not be subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181 or made payable directly to the obligee. Payments made by immediate income deduction shall be made to the State Disbursement Unit. The court shall provide a copy of the order to the depository.

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

Section 2. Subsection (3) of section 61.1354, Florida Statutes, is amended to read:

61.1354 Sharing of information between consumer reporting agencies and the IV-D agency.—

(3) A consumer reporting agency ~~For purposes of determining an individual's income and establishing an individual's capacity to make support payments or for determining the appropriate amount of child support payment to be made by the individual,~~ consumer reporting agencies shall provide, upon request, consumer reports to the department ~~head of the IV-D agency~~ pursuant to s. 604 of the Fair Credit Reporting Act, provided that the department ~~head of the IV-D agency, or its designee,~~ certifies that:

(a) ~~The consumer report is needed for the purpose of determining an individual's income and establishing an individual's capacity to make support payments, or determining the appropriate level of support payments, or enforcing a child support order, award, agreement, or judgment amount of child support payment to be made by the individual;~~

(b) The consumer’s parentage of the child to whom the obligation relates has been established or acknowledged by the consumer in accordance with state laws under which the obligation arises ~~Paternity of the child of the individual whose report is sought, if that individual is the father of the child, has been established or acknowledged pursuant to the laws of Florida;~~

(c) The individual whose report is sought was provided with at least 15 days’ prior notice, by regular certified ~~or registered~~ mail to the individual’s last known address, that the report was requested; and

(d) The consumer report will be kept confidential, will be used solely for the purpose described in paragraph (a), and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.

Section 3. Present paragraph (d) of subsection (1) of section 61.21, Florida Statutes, is redesignated as paragraph (e), a new paragraph (d) is added to that subsection, subsection (12) is added to that section, and paragraph (c) of subsection (1), paragraph (a) of subsection (2), and subsection (4) of that section are amended, to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(c) ~~It is has been found to be~~ beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving time-sharing and child support disputes.
2. The emotional experiences and problems of divorcing adults.
3. The family problems and the emotional concerns and needs of the children.
4. The availability of community services and resources.

(d) It is also beneficial to divorcing or separating parents of children who have identified special needs or emotional concerns to have available an educational program that will provide information tailored to children who have special needs or emotional concerns.

(2) The Department of Children and Families shall approve a parenting course which must ~~shall~~ be a course of a minimum of 4 hours and designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section ~~is shall be~~ named the Parent Education and Family Stabilization Course and may include, but need not be limited to, the following topics as they relate to court actions between parents involving custody, care, time-sharing, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.
2. Emotional aspects of separation and divorce on adults.
3. Emotional aspects of separation and divorce on children.
4. Family relationships and family dynamics.
5. Financial responsibilities to a child or children.
6. Issues regarding spousal or child abuse and neglect.
7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.
8. Particularized needs of children who have identified special needs or emotional concerns.

(4)(a) All parties to a dissolution of marriage proceeding with minor children or a paternity action that involves issues of parental responsibility ~~shall be required to complete the Parent Education and Family Stabilization Course before prior to the entry by the court of a final judgment. If the parties have children who have identified special needs or emotional concerns, the parties must select a Parent Education and Family Stabilization Course that is tailored to education relating to children who have special needs or emotional concerns.~~

(b) The court may excuse a party from attending the parenting course, or from completing the course within the required time, for good cause.

(12) The court, in its discretion, may require a parent to attend educational courses relating to children who have special needs or emotional concerns in addition to the Parent Education and Family Stabilization Course required under this section.

Section 4. Present paragraph (c) of subsection (2) of section 61.30, Florida Statutes, is redesignated as paragraph (e), new paragraphs (c) and (d) are added to that subsection, and subsection (10) of that section is amended, to read:

61.30 Child support guidelines; retroactive child support.—

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

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

(d) Social security benefits received by a minor child due to the retirement or disability of the child's parent shall be included in the parent's gross income.

(10)(a) Each parent's actual dollar share of the total minimum child support need shall be determined by multiplying the minimum child support need by each parent's percentage share of the combined monthly net income.

(b)1. A parent is entitled to credit for social security benefits paid directly to the child or the child's caregiver when the benefits are paid due to the parent's retirement or disability. The parent's share of the monthly support obligation is paid in full each month for which such benefits are paid that are equal to or greater than the parent's share of the monthly obligation. If the benefits are less than the parent's share of the monthly obligation, the parent owes the difference. If the benefits are more than the parent's share of the monthly obligation, the excess inures to the benefit of the child and may not be credited to arrears or retroactive support that accrued before the benefits commenced.

2. To obtain credit for social security benefits paid, a parent subject to a court order for child support, or the department in a Title IV-D case, may file a motion with the court or include the request in a petition to modify the support order. Alternatively, in a Title IV-D case, the department may determine and apply credit after notice and an opportunity for a hearing are provided in accordance with chapter 120. If the department determines that a credit applies, the department shall notify the clerk of court, and the clerk shall update the payment record to reflect the credit.

Section 5. Paragraph (i) of subsection (1) of section 409.256, Florida Statutes, is amended to read:

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

(1) DEFINITIONS.—As used in this section, the term:

(i) “Rendered” means that a signed written order is ~~issued by~~ filed with the clerk or a deputy clerk of the Department of Revenue and served on the respondent. The date of filing must be indicated on the face of the order at the time of rendition.

Section 6. Paragraph (e) of subsection (1) and subsection (8) of section 409.2563, Florida Statutes, are amended to read:

409.2563 Administrative establishment of child support obligations.—

(1) DEFINITIONS.—As used in this section, the term:

(e) “Rendered” means that a signed written order is issued by filed with the clerk or any deputy clerk of the department and served on the respondent. The date of filing must be indicated on the face of the order at the time of rendition.

Other terms used in this section have the meanings ascribed in ss. 61.046 and 409.2554.

(8) FILING WITH THE CLERK OF THE CIRCUIT COURT; OFFICIAL PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.—The department shall file with the clerk of the circuit court a ~~certified~~ copy of an administrative support order rendered under this section. The depository operated pursuant to s. 61.181 for the county where the administrative support order has been filed shall:

(a) Act as the official recordkeeper for payments required under the administrative support order;

(b) Establish and maintain the necessary payment accounts;

(c) Upon a delinquency, initiate the judgment by operation of law procedure as provided by s. 61.14(6); and

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

When a proceeding to establish an administrative support order is commenced under subsection (4), the department shall file a copy of the initial notice with the depository. The depository shall assign an account number and provide the account number to the department within 4 business days after the initial notice is filed.

Section 7. Subsection (4) of section 409.25656, Florida Statutes, is amended to read:

409.25656 Garnishment.—

(4) A notice that is delivered under this section is effective at the time of delivery against all credits, other personal property, or debts of the obligor which are not at the time of such notice subject to an attachment, garnishment, or execution issued through a judicial process. Upon express written consent of a person who is or may be in possession of personal property belonging to the obligor, the department may deliver the notices required by this section to that person by secure electronic means.

Section 8. Section 409.25658, Florida Statutes, is amended to read:

409.25658 Use of unclaimed property for past due support.—

(1) In a joint effort to facilitate the collection and payment of past due support, the Department of Revenue, in cooperation with the Department of Financial Services, shall identify persons owing support collected by the department through a court who are presumed to have unclaimed property held by the Department of Financial Services.

(2) ~~The Department of Financial Services department shall periodically provide the department of Financial Services with an electronic file of unclaimed property accounts. The department shall use the data to identify obligors with unclaimed property accounts and shall provide the Department of Financial Services with an electronic data file that includes the names and other personal identifying information of the obligors support obligors who owe past due support. The Department of Financial Services shall conduct a data match of the file against all apparent owners of unclaimed property under chapter 717 and provide the resulting match list to the department.~~

(3) ~~As the state’s Title IV-D agency under s. 409.2557(1), the department is authorized to submit claims for unclaimed property to the Department of Financial Services for the purpose of collecting past due support and shall do so in accordance with the standards established by the Department of Financial Services Upon receipt of the data match list, the department shall provide to the Department of Financial Services the obligor’s last known address. The Department of Financial Services shall follow the notification procedures under s. 717.118.~~

(4) ~~Before Prior to paying an obligor’s approved claim, the Department of Financial Services shall notify the department that such claim has been approved. Upon confirmation that the Department of Financial Services has approved the claim or a claim submitted by the department, the department shall immediately send a notice by regular certified mail to the obligor, with a copy to the Department of Financial Services, advising the obligor of the department’s intent to intercept the property approved claim up to the amount of the past due support, and informing the obligor of the obligor’s right to request a hearing under chapter 120. If there is a hearing, the Department of Financial Services shall retain custody of the property until a final order has been entered and any appeals thereon have been concluded. If the obligor fails to request a hearing, the department shall inform enter a final order instructing the Department of Financial Services to transfer to the department the property up to the amount of past due support owed in the amount stated in the final order. Upon such transfer, the Department of Financial Services shall be released from further liability related to the transferred property.~~

(5) ~~The provisions of This section provides provide a supplemental remedy, and the department may use this remedy in conjunction with any other method of collecting support.~~

Section 9. Subsection (1) of section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—

(1)(a) 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), as amended by Pub. L. No. 115-123, for cases involving an individual who has never received temporary cash assistance and for whom the department has collected the federally required minimum amount of support shall be paid by the department.

(b) The department may include confidential and exempt information in unencrypted electronic mail communications with a parent, a caregiver, or any other person who is authorized to receive the information, provided the parent, caregiver, or other person consents to such communications, except that social security numbers, federal tax information, driver license numbers, and bank account numbers may not be provided in this manner.

Section 10. Section 409.2576, Florida Statutes, is amended to read:

409.2576 State Directory of New Hires.—

(1) DIRECTORY CREATED.—The State Directory of New Hires is hereby created and shall be administered by the Department of Revenue or its agent. All employers and service recipients in this the state shall furnish a report consistent with subsection (3) for each newly hired or rehired employee or individual who is not an employee but is provided payment for services rendered, unless the employee or individual is employed by or under contract with a federal or state agency performing intelligence or counter-intelligence functions and the head of such agency has determined that reporting pursuant to this section could endanger the safety of the employee or individual or compromise an ongoing investigation or intelligence mission.

(2) DEFINITIONS.—For purposes of this section:

(b)(a) “Employee” is defined as an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986.

~~(c)(b)~~ “Employer” has the meaning given such term in s. 3401(d) of the Internal Revenue Code of 1986 and includes any government entity and labor organization.

~~(d)(e)~~ “Labor organization” has the meaning given such term in s. 2(5) of the National Labor Relations Act and includes any entity which is used by the organization and an employer to carry out requirements described in s. 8(f)(3) of such act of an agreement between the organization and employer.

(a)(d) “Date of hire” is the first day of work for which the employee is owed income.

(e) “Service recipient” means a person engaged in a trade or business who pays an individual for services rendered in the course of such trade or business.

(3) EMPLOYERS AND SERVICE RECIPIENTS TO FURNISH REPORTS.—

(a) ~~Each employer subject to the reporting requirements of chapter 443 with 250 or more employees, shall provide to the State Directory of New Hires, a report listing the employer’s legal name, address, and reemployment assistance identification number. The report must also provide the name and social security number of each new employee or rehired employee at the end of the first pay period following employment or reemployment.~~

(b) All employers shall furnish a report to the State Directory of New Hires of the state in which the newly hired or rehired employee works. The report required in this section shall be made on a W-4 form or, at the option of the employer, an equivalent form, and can be transmitted magnetically, electronically, by first-class mail, or other methods which may be prescribed by the State Directory. Each report shall include the name, address, date of hire, and social security number of every new and rehired employee and the name, address, and federal employer identification number of the reporting employer. If available, the employer may also include the employee’s date of birth in the report. Multistate employers that report new hire information electronically or magnetically may designate a single state to which it will transmit the above noted report, provided the employer has employees in that state and the employer notifies the Secretary of Health and Human Services in writing to which state the information will be provided. Agencies of the United States Government shall report directly to the National Directory of New Hires.

(b) A service recipient shall report to the State Directory of New Hires an individual who is not an employee in the same manner as described in paragraph (a) but who the service recipient, while engaged in a trade or business, pays in an amount of \$600 or more per calendar year for services rendered in the course of the trade or business. The report must include the name, address, and social security number or other identifying number assigned to the individual under section 6109 of the Internal Revenue Code of 1986; the date services for payment were first rendered by the individual; and the name, address, and employer identification number of the service recipient.

(c) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the

purpose of administration of the Title IV-D program for child support enforcement and those programs listed in subsection (9).

(4) TIME FOR REPORTS.—

(a) Employers must report new hire information, as described in subsection (3), within 20 days of the hire date of the employee, or, in the case of employers that report new hire information electronically or by magnetic tape, by two monthly transmissions, if necessary, not less than 12 days nor more than 16 days apart.

(b) Service recipients must report on individuals subject to reporting under paragraph (3)(b) within 20 days after the earlier of:

1. The date of the first payment made which requires an information return in accordance with section 6041A(a) of the Internal Revenue Code of 1986; or

2. The date on which a contract providing for such payments is entered into.

If service recipients report individuals under this paragraph electronically or by magnetic tape, the reports may be made by two monthly transmissions, if necessary, but may not be less than 12 days or more than 16 days apart.

(5) ENTRY OF DATA.—~~The State Directory of New Hires shall enter new hire information reported under this section into an automated database within 5 business days of receipt.~~

(6) MATCHES TO STATE REGISTRY.—~~Not later than May 1, 1998,~~ The Department of Revenue or its agent must conduct automated matches of the social security numbers of employees reported to the State Directory of New Hires against the social security numbers of records in the State Case Registry. The Title IV-D agency shall use the new hire information received to locate individuals for the purposes of establishing paternity and establishing, modifying, and enforcing support obligations. Private entities under contract with the Title IV-D agency to provide Title IV-D services may have access to information obtained from the State Directory of New Hires and must comply with privacy safeguards.

(7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT NOTICE.—The department shall transmit a wage withholding notice consistent with s. 61.1301 and, when appropriate, a national medical support notice, as defined in s. 61.046, ~~to the employee's employer~~ within 2 business days after entry of the new hire information into the State Directory of New Hires' database, unless the court has determined that the obligor's employee's wages or other income is are not subject to withholding or, for purposes of the national medical support notice, the support order does not contain a provision ~~for the employee to provide health insurance.~~ The withholding notice shall direct the employer or other payor of income to withhold income in accordance with the income deduction order,

and the national medical support notice shall direct the employer to withhold premiums for health insurance.

(8) **PROVIDING INFORMATION TO NATIONAL DIRECTORY.**—The State Directory of New Hires must furnish information regarding newly hired or rehired employees and other individuals subject to reporting to the National Directory of New Hires for matching with the records of other state case registries within 3 business days of entering such information ~~from the employer~~ into the State Directory of New Hires. The State Directory of New Hires shall enter into an agreement with the Department of Economic Opportunity or its tax collection service provider for the quarterly reporting to the National Directory of New Hires information on wages and reemployment assistance taken from the quarterly report to the Secretary of Labor, now required by Title III of the Social Security Act, except that no report shall be filed with respect to an employee of a state or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(9) **DISCLOSURE OF INFORMATION.**—

(a) New-hire Information reported under this section shall be disclosed to the state agency administering the following programs for the purposes of determining eligibility under those programs:

1. Any state program funded under part A of Title IV of the Social Security Act;
2. The Medicaid program under Title XIX of the Social Security Act;
3. The reemployment assistance or unemployment compensation program under s. 3304 of the Internal Revenue Code of 1954;
4. The food assistance program under the Food and Nutrition Act of 2008; and
5. Any state program under a plan approved under Title I (Old-Age Assistance for the Aged), Title X (Aid to the Blind), Title XIV (Aid to the Permanently and Totally Disabled), or Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

(b) New-hire Information reported under this section shall be disclosed to the state agencies operating employment security and workers' compensation programs for the purposes of administering such programs.

Section 11. This act shall take effect October 1, 2021.

Approved by the Governor June 16, 2021.

Filed in Office Secretary of State June 16, 2021.