

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 808

SPONSOR: Committee on Fiscal Policy, Committee on Children and Families and Senator Diaz-Balart

SUBJECT: Child Support Enforcement

DATE: April 14, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosby</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>Peters</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Committee Substitute for Senate Bill 808 amends a number of sections in chs. 61 and 409, F.S., as well as other miscellaneous provisions in the statutes.

Language is added to s. 61.052, F.S., to require additional information, in a dissolution of marriage, on the children of the marriage for child support purposes. Section 61.13, F.S., is amended to require additional information for each minor who is the subject of a child support order. Several sections in ch. 61, F.S., are amended to clarify that support payments will be made to the State Disbursement Unit. A “family violence indicator” is defined for purposes of the State Case Registry. Section 61.13016, F.S., is amended to provide a time-certain (15 days) for delinquency in payment when the suspension of a driver’s license will result.

The CS/CS/SB 808 also includes a number of technical changes to portions of ch. 409, F.S., relevant to child support enforcement. Section 409.2558, F.S., is amended to create statutory authority for two Department of Revenue rules, Rule 12E-1.022, F.A.C., Payment Recovery, and Rule 12E-1.006, F.A.C., Request for Reconsideration. Language is added to Section 409.2561 to require child support collections for public assistance recipients to be deposited into the General Revenue Fund up to the level specified in Section 61.1812, F.S. Language is restored to s. 409.2564, F.S., to allow the department to impose a fine if a party fails to respond to a subpoena. This section is also amended to allow the Department of Revenue, upon notification to the court, to redirect child support payments where the residential caretaker receiving public assistance is different from the payee named in the support order. Section 409.25656, F.S., is amended to allow an obligor to consent in writing to a levy. For increased efficiency for the department and the private sector, s. 409.25657, F.S., is amended to allow the department to obtain from financial institutions the balance of accounts held by a past due obligor. Obsolete and redundant language is deleted. The effective date of this act is July 1, 1999 except that the sections regarding State Disbursement Unit and redirection of payments will take effect October 1, 1999.

This bill substantially amends the following sections of the Florida Statutes: 61.052, 61.13, 61.1301, 61.13016, 61.14, 61.1824, 61.1825, 61.1826, 409.2558, 409.2561, 409.2564, 409.25641, 409.25656, 409.25657, 409.2577, 741.04, 839.13.

II. Present Situation:

Chapter 409, F.S.

Child Support and Public Assistance:

Under s. 409.2558, F.S., the Department of Revenue (department or Revenue) is given authority to distribute and disburse child support payments pursuant to federal laws and regulations. Pursuant to federal regulations, the state retains the court-ordered support payments in public assistance cases to reimburse public assistance paid by the federal and state governments on behalf of the family. The amount retained by the state is limited to the amount paid to the family as assistance. The Child Support Enforcement (CSE) program, however, does not have the statutory authority to redirect child support payments from the original payee to a caretaker relative when the child moves to another household. In such a case, CSE must establish a new order or modify the existing order to specify the new payee. This may be a lengthy process and may result in a situation where a person who no longer is caring for the child continues to receive child support payments.

Section 409.2561(1), F.S., states that “[a]ny payment of public assistance money made to, or for the benefit of, any dependent child creates an obligation in the amount equal to the amount of public assistance paid.” Section 61.30(17), F.S., the child support guidelines, allows the court to award child support retroactively and in accordance with the child support guidelines. The department reports that federal guidelines require that child support be based upon the state’s child support guidelines, not the amount of public assistance paid. Thus, there exists conflict between the two sections of law as well as conflict between s. 409.2561, F.S. and the federal regulations.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires that state Title IV-D programs (in Florida, this program is located in the Department of Revenue) have the authority to subpoena any financial data or other information needed to establish, modify or enforce a support order and to impose penalties for failure to respond to such a subpoena. Until the 1998 session, s. 409.2564, F.S., contained language enabling the department to levy a fine for failure to comply with an administrative subpoena in child support actions. This language, along with language regarding compelling compliance, was inadvertently removed last year.

The department reports that recent federal changes to PRWORA have resulted in a number of new requirements not contained in current state law. Failure to meet these requirements could result in federal sanctions. Among the federal requirements is the use of the federal definition for the term “automated administrative enforcement” (currently defined at s. 409.25641, F.S., 1998 Supplement).

Information Sharing and Data Transfer:

Section 409.2561(5)(e), F.S., requires the executive director of the Department of Revenue and the commissioner of the Department of Insurance to enter into a cooperative agreement for the purpose of requesting and obtaining insurance information. The Child Support Enforcement division in Revenue currently exchanges insurance coverage data with the Department of Children and Family Services who in turn exchanges with the Agency of Health Care Administration (AHCA); AHCA exchanges with the Department of Insurance but Revenue and Insurance have no direct relationship.

Federal requirements include coordination with the Federal Parent Locator Service, which is a data match system for multi-state financial institutions. Section 409.25657(2), F.S., provides that financial institutions, when conducting a data match, furnish the department with in-depth information on each obligor (defined at s. 61.046, F.S., as a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or both) who maintains an account and who owes past due child support. Financial institutions are not required to provide an average daily account balance, however, and without this account balance information, the department could request levies on accounts with very low, zero or negative balances. This section also requires that financial institutions perform the data match between their account holders and the department's database of obligors who owe past due support.

Under s. 409.25656, F.S., garnishment, the department is required to send each obligor a "Notice of Intent to Levy." Funds cannot be transferred until 30 days have passed from the time this notice was sent to the obligor.

Chapter 61, F.S.*Dissolution of Marriage:*

Section 61.052, F.S., regarding dissolution of marriage, requires that certain information be provided. For example, pursuant to the federal PRWORA, each party is required to provide his or her social security number in the initial pleading for a dissolution of marriage. Disclosure of social security numbers obtained through this requirement are limited to use in the administration of the Title IV-D program for child support enforcement.

Child Support Issues:

Section 61.13, F.S., regarding custody and support of children provides, in pertinent part that, in a proceeding for dissolution of marriage, the court may at any time order either or both parents who owe a duty of support to a child to pay support in accordance with the guidelines in s. 61.30, F.S. The court initially entering an order requiring one or both parents to make child support payments shall have continuing jurisdiction after the entry of the initial order to modify the amount, terms, and conditions of the child support payments when modification is found necessary by the court in the best interests of the child, when the child reaches majority, or when there is a substantial change in the circumstances of the parties. The court initially entering a child support order shall also have continuing jurisdiction to require the obligee (defined at s. 61.046,

F.S., as the person to whom payments are made pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for both) to report to the court regarding the disposition of the child support payments. Each order for child support shall contain a provision for health insurance for the minor child when the insurance is reasonably available. To the extent necessary to protect an award of child support, the court may order the obligor to purchase or maintain a life insurance policy or a bond, or to otherwise secure the child support award with other assets. Unless otherwise provided, all child support orders entered on or after January 1, 1985, shall direct that the payments of child support be made (as provided in s. 61.181, F.S.) through the depository in the county where the court is located.

Pursuant to the federal PRWORA, at the time an order for child support is entered each party is required to provide his or her social security number to the court if this information has not previously been provided. Disclosure of social security numbers obtained through this requirement is limited to use in the administration of the Title IV-D program for child support enforcement.

Section 61.1301, F.S., regarding income deduction orders, provides in pertinent part that upon the entry of an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for both, other than a temporary order, the court shall enter a separate order for income deduction if one has not been entered. If the order establishing, enforcing, or modifying the obligation directs that payments be made through the depository, the court shall provide to the depository a copy of said order. If the obligee is a recipient of Title IV-D services, the court shall furnish to the Title IV-D agency a copy of the income deduction order and the order establishing, enforcing, or modifying the obligation. The income deduction notice must state that it is based upon a valid support order and that it contains an income deduction requirement. The income deduction notice must contain the case number, the name of the court that entered the order, and the date entered. Payors (defined at s. 61.046, F.S., as an employer or former employer or any other person or agency providing or administering income to the obligor) shall deduct support payments from income, as specified in the income deduction notice. In non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the relevant support order. In Title IV-D cases, upon request of a payor, the Title IV-D agency shall furnish the payor a copy of the income deduction order. The income deduction order shall:

- Direct a payor to deduct from the obligor's income the amount required by the court to meet the obligor's support obligation, including any attorney's fees or costs owed, and forward the deducted amount pursuant to the order.
- State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent or more of the periodic amount specified in the order until full payment is made of any arrearage, attorney's fees and costs owed; no deduction shall be applied to attorney's fees and costs until the full amount of any arrearage is paid.
- Direct a payor not to deduct in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.
- Direct whether a payor shall deduct any or all income which is paid in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the income

deduction notice or the remaining balance thereof, and forward the payment to the governmental depository.

- In Title IV-D cases, direct a payor to provide to the court depository the date on which each deduction is made.

Section 61.13016, F.S., provides for the suspension of driver's licenses and motor vehicle registrations, and states that the driver's license and motor vehicle registration of a child support obligor who is delinquent in payment or who has failed to comply with a subpoena or an order relating to paternity or child support proceedings may be suspended. Upon a delinquency in child support or failure to comply with a subpoena or order in IV-D cases, the Title IV-D agency may provide notice (by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles) to the obligor of the delinquency or failure to comply with a subpoena and the intent to suspend. Upon a delinquency in child support in non-IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must provide by the same method (U.S. mail) notice to the obligor of the delinquency and the intent to suspend. In either case, the statute prescribes information that must be contained in the notice. Notification will be given to the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver's license and motor vehicle registration unless, within 20 days after the date the notice is mailed, the obligor pays the delinquency in full; enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or, in Title IV-D cases, complies with a subpoena or relevant order; or files a petition with the circuit court to contest the delinquency action and pays any applicable delinquency fees.

If the obligor in non-IV-D cases enters into a written agreement for payment before the expiration of the 20-day period, the obligor must provide a copy of the signed written agreement to the depository or the clerk of the court.

Section 61.14, F.S., regarding enforcement and modification of support, provides in pertinent part that, when support payments are made through the local depository, any payment or installment of support which becomes due and is unpaid under any support order is delinquent. This unpaid payment or installment, and all other costs and fees, become, after notice to the obligor and the statutory time for response has passed, a final judgment by operation of law. No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment until the total amount of support payments due the obligee under the judgment has been paid. A certified copy of the support order and a certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment.

State Disbursement Unit:

Section 61.181, F.S., regarding the central depository, provides that the office of the clerk of the court shall operate a depository unless the depository is otherwise created by a special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county to the maximum extent possible under existing federal law. The depository shall receive reimbursement

for services provided under a cooperative agreement with the department pursuant to s. 61.1826, F.S.

Each depository shall participate in the State Disbursement Unit (SDU) and shall implement all statutory and contractual duties imposed on the SDU. Each depository shall receive from and transmit to the SDU required data through the Clerk of Court Child Support Enforcement Collection System. Payments on non-Title IV-D cases without income deduction orders shall not be sent to the SDU. For payments not required to be processed through the SDU, the depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments. This fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay; no fee shall be less than \$1 nor more than \$5 per payment made. For the period of July 1, 1992, through June 30, 2002, this fee is increased to 4 percent of the support payments; no fee shall be more than \$5.25. These fees are considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

Notwithstanding the provisions of s. 145.022, F.S., regarding compensation of county officials, 75 percent of the additional revenues generated shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund, which is administered by the department. These funds shall be used exclusively for the development, implementation, and operation of the Clerk of the Court Child Support Enforcement Collection System to be operated by the depositories, including the automation of civil case information necessary for the State Case Registry. The department shall contract with the Florida Association of Court Clerks and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include the provision of on-line electronic transfer of information to the IV-D agency. The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund. Each depository created under this section shall fully participate in the Clerk of the Court Child Support Enforcement Collection System and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the department.

For payments not required to be processed through the SDU, the depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1, 1998, if a payment is made on a Title IV-D case which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency and when the total of fees and costs which are due but not paid exceeds \$50 the judgment by operation of law process set forth in s. 61.14, F.S., shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing specified data including the obligor's name, address, social security number, place of employment, and any other sources of income; the obligee's name, address, and social security number; the amount of support due as provided in the court order; the actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement; any unpaid balance; and other records as necessary to comply with federal reporting requirements. Other information may be required.

Parties using the depository for support payments shall inform the depository of changes in their names or addresses. An obligor shall, additionally, notify the depository of all changes in employment or sources of income, including the payor's name and address, and changes in the amounts of income received.

Section 61.1824, F.S., regarding the SDU, provides that the SDU shall be operated by the department or by a contractor responsible directly to the department and shall be responsible for the collection and disbursement of payments for the following:

- All child support cases enforced by the department pursuant to Title IV-D of the Social Security Act; and
- All child support cases not being enforced by the department pursuant to Title IV-D of the Social Security Act in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction.

The SDU must be operated in coordination with the department's child support enforcement automated system in Title IV-D cases and shall perform the following functions:

- Disburse all receipts from intercepts, including, but not limited to, United States Internal Revenue Service, unemployment compensation, lottery, and administrative offset intercepts.
- Provide employers and payors with one address to which all income deduction collections are sent.
- When there is more than one income deduction order being enforced against the same obligor by the payor, allocate the amounts available for income deduction in the manner set forth in s. 61.1301, F.S.

The SDU will, to the extent feasible, use automated procedures for the collection and disbursement of support payments, including, but not limited to, procedures for receipt of payments from obligors, employers, other states and jurisdictions, and other entities; timely disbursement of payments to obligees, the department, and other state Title IV-D agencies; accurate identification of payment source and amount; and furnishing any parent, upon request, with timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

Information regarding disbursement must be transmitted in the following manner:

1. In Title IV-D cases, the SDU shall transmit, in an electronic format as prescribed by the department, all required information to the department on the same business day the information is received from the employer or other source of periodic income. The department shall determine distribution allocation of a collection and shall electronically transmit that information to the SDU, whereupon the SDU shall disburse the collection. The SDU may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such

arrearages. The SDU may delay the disbursement of Title IV-D collections until authorization by the Title IV-D agency has been received.

2. In non-Title IV-D cases, payment information is not transmitted to the department. The SDU may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages.

For cases in which the obligor or payor fails to submit payment directly to the central address provided by the SDU, the depositories shall have procedures for accepting a support payment tendered in the form of cash or a check, if allowed. Obligees receiving payments through the SDU shall inform the SDU of changes in their names and addresses. Notification of all changes must be made directly to the SDU within 7 business days after a change.

State Case Registry:

Section 61.1825, F.S., relevant to the State Case Registry, provides that the department or its agent shall operate and maintain a State Case Registry as required under 42 U.S.C. s. 654A. The State Case Registry must contain records for:

- Each case in which services are being provided by the department as the state's Title IV-D agency; and
- By October 1, 1998, each support order established or modified in the state on or after that date, in which services are not being provided by the Title IV-D agency.

The department shall maintain that part of the State Case Registry that includes support order information for Title IV-D cases on the department's child support enforcement automated system.

By October 1, 1998, for each support order established or modified by a court on or after that date, the depository for the court that enters the support order in a non-Title IV-D case shall provide, in an electronic format prescribed by the department, the following information to that component of the State Case Registry that receives, maintains, and transmits support order information for non-Title IV-D cases:

- The names of the obligor, obligee, and child or children;
- The social security numbers of the obligor, obligee, and child or children;
- The dates of birth of the obligor, obligee, and child or children;
- Whether a family violence indicator is present or if a court order has been entered against a party in a domestic violence or protective action;
- The date the support order was established or modified;

- The case identification number, which is the two-digit numeric county code followed by the civil circuit case number;
- The federal information processing system numeric designation for the county and state where the support order was established or modified; and
- Any other data as may be required by the United States Secretary of Health and Human Services.

The depository, using standardized data elements, provides the support order information required above to the entity that maintains the non-Title IV-D support order information for the State Case Registry at a frequency and in a format prescribed by the department.

The entity that maintains State Case Registry information for non-Title IV-D cases shall make the information available to the department in a readable and searchable electronic format that is compatible with the department's automated child support enforcement system.

State Case Registry information must be transmitted electronically to the Federal Case Registry of Child Support Orders by the department in a manner and frequency prescribed by the United States Secretary of Health and Human Services.

Section 61.1826, F.S., addresses procurement of services for the SDU and the non-Title IV-D component of the State Case Registry, and provides the legislative directive that the department contract with the Florida Association of Court Clerks and each depository to perform duties with respect to the operation and maintenance of an SDU and the non-Title IV-D component of the State Case Registry. Each depository shall enter into a standard cooperative agreement with the department for participation in the SDU and the non-Title IV-D component of the State Case Registry through the Clerk of Court Child Support Enforcement Collection System. The Florida Association of Court Clerks shall enter into a written contract with the department that fully complies with all federal and state laws. The contract between the Florida Association of Court Clerks and the department, and cooperative agreements entered into by the depositories and the department, must contain, but are not limited to, the following terms:

- The initial term of the contract and cooperative agreements is for 5 years. The subsequent term of the contract and cooperative agreements is for 3 years, with the option of two 1-year renewal periods, at the sole discretion of the department.
- The duties and responsibilities of the Florida Association of Court Clerks, the depositories, and the department.
- Under s. 287.058(1)(a), F.S., relating to procurement of property and services, all providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, a report of monthly expenditures in a format prescribed by the department and in sufficient detail for proper pre- and post-audit.

- All providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, management reports in a format prescribed by the department.
- All subcontractors shall comply with ch. 280, F.S., relating to security for public deposits, as may be required.
- Federal financial participation for eligible Title IV-D expenditures incurred by the Florida Association of Court Clerks and the depositories shall be at the maximum level permitted by federal law for expenditures incurred for the provision of services in support of child support enforcement in accordance with 45 C.F.R. part 74 and the relevant Federal Office of Management and Budget Circulars and based upon an annual cost allocation study of each depository. The depositories shall submit directly, or through the Florida Association of Court Clerks, claims for Title IV-D expenditures monthly to the department in a standardized format as prescribed by the department. The Florida Association of Court Clerks shall contract with a certified public accounting firm, selected by the Florida Association of Court Clerks and the department, to audit and certify quarterly to the department all claims for expenditures submitted by the depositories for Title IV-D reimbursement.
- Upon termination of the contracts between the department and the Florida Association of Court Clerks or the depositories, the Florida Association of Court Clerks, its agents, and the depositories shall assist the department in making an orderly transition to a private vendor.

If either the department or the Florida Association of Court Clerks objects to a term of the standard cooperative agreement or contract specified herein, the disputed term or terms shall be presented jointly by the parties to the Attorney General or the Attorney General's designee, who shall act as special master.

As provided by this subsection, the Office of Program Policy Analysis and Government Accountability shall conduct comprehensive performance reviews of the SDU and State Case Registry.

If any of the following events occur, the department may discontinue its plans to contract, or terminate its contract, with the Florida Association of Court Clerks and the depositories upon 30 days' written notice by the department and may, through competitive bidding, procure services from a private vendor to perform functions necessary for the department to operate the SDU and the non-Title IV-D component of the State Case Registry with a minimum amount of disruption in service to the children and citizens of the state:

- Receipt by the department of final notice by the United States Secretary of Health and Human Services or the secretary's designee that the contractual arrangement between the department, the Florida Association of Court Clerks, and the depositories does not satisfy federal requirements for a SDU or a State Case Registry and that the state's Title IV-D State Plan will not be approved, or that federal Title IV-D funding is not made available to fund the non-Title IV-D component of the State Case Registry or the SDU;

- The Florida Association of Court Clerks, a depository, or any subcontractor fails to comply with any material contractual term or state or federal requirement;
- The non-Title IV-D component of the State Case Registry is not established and operational, consistent with the terms of the contract, by October 1, 1998; or
- The SDU is not established and operational, consistent with the terms of the contract, by October 1, 1999.

If either event specified in the first contingency above does occur, the depositories are relieved of all responsibilities and duties under this chapter relating to Title IV-D payment processing and data transmission to the department.

Each depository shall participate in the non-Title IV-D component of the State Case Registry by using an automated system compatible with the department's automated child support enforcement system. For participation in the SDU, each depository shall use the CLERC System and receive electronically and record payment information from the SDU for each support order entered by the court.

All depositories must participate in the SDU and the non-Title IV-D component of the State Case Registry. If a depository fails to comply with this requirement or with any material contractual term or other state or federal requirement, the failure constitutes misfeasance which subjects the county officer or officers responsible for the depository to suspension under Art. IV of the State Constitution. The department shall report any continuing acts of misfeasance by a depository to the Governor and Cabinet and to the Florida Association of Court Clerks.

Miscellaneous Provisions

Marriage License:

Section 741.04, F.S., relating to marriage license issuance, provides in pertinent part that no county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties. Pursuant to the federal PRWORA, social security numbers are required. 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.

Clerk's Duties:

Section 839.13, F.S., regarding falsifying records, requires that if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or any person whatsoever, shall steal, embezzle, alter, corruptly withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or knowingly and willfully takes off, discharges or conceals any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or shall forge, deface, or falsify any document

or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or shall fraudulently alter, deface, or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state or if any person shall cause or procure any of the offenses aforesaid to be committed, or be in anyway concerned therein, the person so offending shall be guilty of a misdemeanor of the first degree.

Administrative Procedures Act Issues:

Under the recent revisions to the Administrative Procedures Act, the department was required to identify all rules which exceed specific statutory authority. This the department did in 1998; however, two rules included on the department list were not authorized in the 1998 rules authorizing bill. Therefore, the statutory authority does not currently exist for two existing department rules (regarding payment recovery and request for reconsideration).

III. Effect of Proposed Changes:

Section 1 amends subsections (7) and (8) of s. 61.052, F.S., dissolution of marriage, to require, for purposes of the child support program, the full names and social security numbers of each child of the marriage in an initial pleading for dissolution of marriage.

Section 2 amends subsections (1) and (10) of s. 61.13, F.S., relating to custody and support of children, to require the full name, date of birth, and social security number of each minor (in addition to the parties) who is the subject of a child support order.

Section 3 amends s. 61.1301(1), F.S., income deduction orders, to direct that, at such time as the SDU becomes operational, all child support payments will be made payable to and delivered to the SDU. Language is clarified to provide that funds received by the SDU shall be held, administered, and disbursed by the SDU.

Section 4 amends s. 61.13016, F.S., suspension of a driver's license and motor vehicle registration, to provide a time-certain (15 days delinquent) for purposes of suspension of a driver's license and motor vehicle registration.

Section 5 amends s. 61.14(6), F.S., enforcement and modification of support, to delete the requirement that a certified copy of the support order constitutes evidence of a final judgment. Hereafter, only a certified statement by the local depository is required.

Section 6 amends s. 61.1824(6), F.S., State Disbursement Unit, to clarify that, at such time as the SDU becomes operational, all child support payments will be made payable to and delivered to the SDU. Language is clarified to provide that funds received by the SDU shall be held, administered, and disbursed by the SDU.

Section 7 amends s. 61.1825 (2), F.S., State Case Registry, to strike language relevant to the family violence indicator. A new subsection (3) is thereafter created in which the term "family violence indicator" is defined for purposes of placing this indicator in the participant's file in said Registry. Evidence such as a final injunction, a judgment indicating domestic violence, a dependency order, or a criminal conviction resulting from domestic violence must accompany a

sworn statement by the participant when the indicator is requested. Other evidence may include participation in the address confidentiality program or receipt by the department of information indicating that a court has granted a party a domestic violence or repeat violence injunction; such information will come from the Domestic Violence and Repeat Violence Injunction Statewide Verification System.

Section 8 amends s. 61.1826(9), F.S., regarding penalties for non-participation in the State Disbursement Unit, to provide that if, after notice and an opportunity to cure a curable default, a depository fails to comply with the terms of the cooperative agreement, this failure to comply subjects the county officer or officers responsible to sanctions provided in the State Constitution. No county officer will be subject to these sanctions for any non-curable default resulting from conditions outside the control of the depository.

Section 9 amends s. 409.2558, F.S., child support distribution and disbursement, to create two new subsections. These subsections add language to give the department authority to promulgate rules for review of agency action, as well as overpayment recovery.

Section 10 amends subsections (1) and (5) of s. 409.2561, F.S., relating to child support obligations in public assistance cases, to clarify that in public assistance cases, as in non-public assistance cases, retroactive child support obligations are determined in accordance with the child support guidelines and that the payment of public assistance money made to, or on behalf of, any dependent child creates an obligation in the amount of those guidelines. The purpose of this change is to provide for a consistent method of establishing child support in all cases, therefore, ensuring accordance with federal regulations. This section requires child support collections for public assistance recipients to be deposited into the General Revenue Fund up to the level specified in Section 61.1812, F.S. (\$41 million).

Section 10 also removes a statutory requirement that the Department of Revenue and the Department of Insurance cooperatively share insurance information. The purpose of this change is to delete the obsolete cooperation requirement, still existent in statute, which has not been necessary since the child support enforcement program was transferred from the former Department of Health and Rehabilitative Services to the Department of Revenue.

Section 11 amends s. 409.2564(8), F.S., actions for support, to reinstate language, removed in 1998, to authorize the department to impose an administrative fine of not more than \$500 for the failure to comply with a subpoena. Provisions for enforcement of the subpoena, as well as collection of the fine, are provided. Interstate applicability of this and other Title IV-D programs, as required by federal law, are also provided. Technical errors in cross-reference are also cured in this section.

Section 12 amends s. 409.2564, F.S., to allow the department to redirect child support payments to a relative caretaker upon the filing of a verified motion. The court shall enter a temporary order, ex parte, within 5 days to redirect the payment pending a final hearing. Upon the filing of a verified motion by the department, the relative caretaker becomes a party to the proceedings. If the court determines that the child support payment was improperly diverted, the department must pay the child support payments to the appropriate party and attempt to recoup any payments improperly paid.

Section 13 amends s. 409.25641(1), F.S., procedures for processing automated administrative enforcement requests, to redefine the term “automated administrative enforcement.” The definition will henceforth be pursuant to the Social Security Act. Currently, under federal law, “automated administrative enforcement” is defined as the identification of assets through automated data matches with financial institutions and other entities and the seizure of assets through levy or other such processes. (Reportedly, the federal definition changes with some frequency and should henceforth be more flexible in the Florida Statutes.)

Section 14 amends s. 409.25656(7), F.S., garnishment. Currently, this section requires the department to send to each obligor a “Notice of Intent to Levy” when initiating a levy action on an account. The obligor’s account will then be frozen for a period of 30 days, even if the obligor has waived the right to contest this action. A new paragraph is added to this subsection to provide that an obligor may consent in writing to a levy thereby expediting collection in cases where the obligor has waived the right to contest.

Section 15 amends s. 409.25657, F.S., requirements for financial institutions, to require such institutions to provide the department with the average daily account balance of such obligor. The purpose of this amendment is to reduce workload on the department and the financial institutions by avoiding departmental levies on accounts with very low, zero or negative balances. This section is also amended to allow financial institutions to provide a list of their account holders to the department so that the department may conduct the data match.

Section 16 is a technical amendment of s. 409.2577, F.S., and deletes repetitive language.

Section 17 provides an appropriation of \$24,480 from the General Revenue Fund and \$47,520 from the Grants and Donations Trust Fund to the Department of Revenue to implement s. 25657, F.S.

Section 18 amends s. 741.04, F.S., marriage license issuance, to provide that any non-citizen may provide either a social security number or an alien number for purposes of issuance of a marriage license. If such a number is not available, a county court should still issue said license.

Section 19 provides that 50 percent of the actual, documented net cost for full participation in the State Disbursement Unit for Miami-Dade, Seminole, and Collier Counties will be reimbursed by the Court Child Support Enforcement Collection System Trust Fund. Actual, documented cost for full participation will be determined by a jointly funded independent entity selected by agreement of all parties. Ongoing maintenance costs remain the responsibility of the individual, participating depository.

Section 20 provides an appropriation of \$73,778 from the General Revenue Fund and \$143,216 from the Grants and Donations Trust Fund to the Department of Revenue to implement s. 409.2564, F.S.

Section 21 provides that this act shall take effect on July 1, 1999 unless otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill authorizes the department to impose an administrative fine of not more than \$500 for the failure to comply with a subpoena.

C. Government Sector Impact:

The Department of Revenue reported that this bill would cost the agency approximately \$288,000 in nonrecurring expenses. The majority of this expense is in the area of data processing. The bill contains appropriations information for this purpose.

No fiscal note was submitted by the department to address the numerous amendments to ch. 61, F.S., which resulted in this bill, as filed, becoming a committee substitute in the Committee on Children and Families.

Fifty percent of the actual, documented cost for full participation for Miami-Dade, Seminole, and Collier Counties will be reimbursed by the Clerk of the Court Child Support Enforcement Collection System Trust Fund after any costs are paid by any other sources (i.e. federal sources). The actual, total cost for full participation is as yet unknown but earlier estimations report a cost of \$551,000 (Miami-Dade), \$175,000 (Seminole), and \$211,770 (Collier) for a total of \$937,770. The total cost to the trust fund will range from an estimated low of \$159,421 (assuming that federal government will pay two thirds of the actual costs of this figure which results in \$618,928) to an estimated high of \$468,885 (assuming no reimbursement is made from the federal government).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
