

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: General Government Appropriations Committee

BILL: SB 166

SPONSOR: Senator Aronberg

SUBJECT: Child Support

DATE: February 8, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|------------------------|
| 1. | Sanford | Whiddon | CF | Fav/1 amendment |
| 2. | Blizzard | Hayes | GA | Favorable |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Senate Bill 166 relates to the role of the Department of Revenue (department) in determining that a collection is undistributable to the final recipient in a child support case.

The bill requires the department to make reasonable efforts to locate and notify persons to whom collections or refunds are owed. In so doing, the department is authorized to disclose names and other information on the Internet.

The bill provides an effective date of July 1, 2005.

This bill substantially amends section 409.2558 of the Florida Statutes.

II. Present Situation:

Section 409.2558, F.S., was created in 1998 to require the department to distribute and disburse child support payments collected in Title IV-D cases in accordance with 42 U.S.C. 657 and regulations adopted hereunder by the Secretary of the U.S. Department of Health and Human Services.¹ The federal Office of Child Support Enforcement has indicated a preference for

¹ See Chapter 98-397, L.O.F.

processing undistributable payments as a matter of state law, but if such collections are treated as unclaimed property or become property of the state, they are to be considered as program income and an amount equal to the federal financial participation (66 percent) must be transferred to the federal government. The state share is credited to the General Revenue Fund.²

An “undistributable collection” is defined as a support payment received by the department which is determined to be unable to be distributed to the final intended recipient.³ This happens most often when a party moves and does not notify the department of the address change.

Section 409.2558, F.S., specifically requires the department to establish by rule a method to determine that a collection or refund to a non-custodial parent is undistributable to the final intended recipient. Current law provides a specified process of application of collections in priority order:

- Apply payment to any arrearages on the custodial parent’s case;
- Apply payment to any administrative costs ordered by the court associated with the custodial parent’s case;
- When the non-custodial parent is subject to a valid order to support other children in another case with a different custodial parent and the obligation is enforced by the department, if the department has the non-custodial parent’s permission, the payment is applied to those other obligations;
- Return the payment to the non-custodial parent; and,
- If the non-custodial parent cannot be located after diligent efforts by the department, the federal share of the payment is credited to the federal government and the state share is transferred to the General Revenue Fund.⁴

The department promulgated Rule 12E-1.005, governing the collection and distribution of payments, but it does not address the priority status for applying payment required under s. 409.2558(2)(b), F.S. Rule 12E-1.005 predates the priority status requirement under s. 409.2558, F.S.

According to the department, the amount of money currently undistributable due to incomplete or inaccurate addresses for the parent is approximately \$2.7 million.

III. Effect of Proposed Changes:

Senate Bill 166 relates to the role of the department in determining that a collection is undistributable to the final recipient in a child support case.

The bill requires the department to provide for reasonable efforts to locate and notify persons to whom collections or refunds are owed. In so doing, the department is authorized to disclose names and other information on the Internet.

² s. 409.2558(2)(c) 2., F.S.

³ s. 409.2554, F.S.

⁴ s. 409.2558(2)(b), F.S.

Rule 12E-1.005 is currently undergoing revision to conform to s. 409.2558(2), F.S., to parallel the priority status provided for in statute to include returning undistributable funds to the non-custodial parent.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The broad grant of authority to place identifying information about persons to whom or from whom child support is owed on the Internet may raise issues regarding privacy rights of Florida's citizens. Section 23 of Article I of the State Constitution provides that "every natural person has the right to be let alone and free from governmental intrusion into the person's private life." Department officials report that it is not their intention in implementing this bill to post lists of names on the Internet; they intend instead to establish a privacy-protected interactive database which will be publicized to the general public so that those to whom child support is owed may have another avenue to access that support.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

More intended recipients may be located with this additional statutory authority to the department.

C. Government Sector Impact:

The department estimates expenditures in the amount of \$6,880 associated with this bill. The department would need to purchase a new server to provide an internet site for custodial and non-custodial parents to search for undistributed child support collections. This estimated cost of \$6,880 includes the server, hardware and an operating system.

The department can purchase the necessary equipment within existing resources in the Child Support Enforcement Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

Barcode 423164 by Children and Families:

Removes the word “notice” from the bill to eliminate any possible confusion with formal legal notice, clarifies that the information to be provided on the Internet is through a searchable database, not a list of names, and requires the Department of Revenue to provide safeguards to the privacy of persons named in the database. (WITH TITLE AMENDMENT)

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