

Governor's Budget Recommendation Conforming Bill
Department of Revenue Delivery of Notice

1 A bill to be entitled

2 An act relating to the Department of Revenue Delivery
3 of Notice; amending s. 213.67, F.S., allowing delivery
4 of a notice of levy to levy by regular mail; amending
5 ss. 61.1301 and 409.2574, F.S.; providing for the use
6 of regular mail relating to income deduction orders in
7 alimony or child support cases; providing for the use
8 of regular mail relating to income deduction
9 enforcement in Title IV-D cases; amending ss. 409.256
10 and 409.2563, F.S.; revising serving notice
11 requirements for genetic testing; revising serving
12 notice requirements for establishing administrative
13 support orders; amending s. 409.25656, F.S.; revising
14 serving notice requirements for notice of levy issued;
15 amending s. 409.2567(1), F.S., allowing the Department
16 of Revenue to pay the annual fee related to child
17 support for certain individuals as required under 42
18 U.S.C. s. 654(6) (B); providing an effective date.

19
20
21 Be It Enacted by the Legislature of the State of Florida:

22 Section 1. Subsections (1) and (3) of section 213.67,
23 Florida Statutes are amended to read:

24 213.67 Garnishment.-

25 (1) If a person is delinquent in the payment of any taxes,
26 penalties, and interest owed to the department, the executive
27 director or his designee may give notice of the amount of such
28 delinquency by regular ~~registered~~ mail, by personal service, or

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29 | by electronic means, including but not limited to facsimile
30 | transmissions, electronic data interchange, or use of the
31 | Internet, to all persons having possession or under their control
32 | any credits or personal property, exclusive of wages, belonging
33 | to the delinquent taxpayer, or owing any debts to such
34 | delinquent taxpayer at the time of receipt by them of such
35 | notice. Thereafter, any person who has been notified may not
36 | transfer or make any other disposition of such credits, other
37 | personal property, or debts until the executive director or his
38 | or her designee consents to the transfer or disposition or until
39 | 60 days after the receipt of such notice. However, the credits,
40 | other personal property, or debts that exceed the delinquent
41 | amount stipulated in the notice are not subject to this section,
42 | wherever held, if the taxpayer does not have a prior history of
43 | tax delinquencies. If during the effective period of the notice
44 | to withhold, any person so notified makes any transfer or
45 | disgiven.n of the property or debts required to be withheld under
46 | this section, he or she is liable to the state for any
47 | indebtedness owed to the department by the person with respect to
48 | whose obligation the notice was given to the extent of the value
49 | of the property or the amount of the debts thus transferred or
50 | paid if, solely by reason of such transfer or disposition, the
51 | state is unable to recover the indebtedness of the person with
52 | respect to whose obligation the notice was given. If the
53 | delinquent taxpayer contests the intended levy in circuit court
54 | or under Chapter 120, the notice under this section remains
55 | effective until that final resolution of the contest. Any
56 | financial institution receiving such notice will maintain a right

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57 of setoff for any transaction involving a debit card occurring
58 on or before the date of receipt of such notice.

59 (3) During the last 30 days of the 60-day period set forth
60 in subsection (1), the executive director or his or her designee
61 may levy upon such credits, other personal property, or debts.
62 The levy must be accomplished by delivery of a notice of levy by
63 regular ~~registered~~ mail, by personal service, or by electronic
64 means, including by facsimile transmission or electronic data
65 exchange. Upon receipt of the notice of levy, which the person
66 possessing the credits, other personal property, or debts shall
67 transfer them to the department or pay to the department the
68 amount owed to the delinquent taxpayer.

69 Section 2. Subsections (1), (2), and (3) of section
70 61.1301, Florida Statutes, are amended to read:

71 61.1301 Income deduction orders.-

72 (1) ISSUANCE IN CONJUNCTION WITH AN ORDER ESTABLISHING,
73 ENFORCING, OR MODIFYING AN OBLIGATION FOR ALIMONY OR CHILD
74 SUPPORT.-

75 (a) Upon the entry of an order establishing, enforcing, or
76 modifying an obligation for alimony, for child support, or for
77 alimony and child support, other than a temporary order, the
78 court shall enter a separate order for income deduction if one
79 has not been entered. Upon the entry of a temporary order
80 establishing support or the entry of a temporary order enforcing
81 or modifying a temporary order of support, the court may enter a
82 separate order of income deduction. Copies of the orders shall
83 be furnished to ~~served on~~ the obligee and obligor by regular
84 mail. If the order establishing, enforcing, or modifying the

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85 obligation directs that payments be made through the depository,
86 the court shall provide to the depository a copy of the order
87 establishing, enforcing, or modifying the obligation. If the
88 obligee is a recipient of Title IV-D services, the court shall
89 furnish to the Title IV-D agency a copy of the income deduction
90 order and the order establishing, enforcing, or modifying the
91 obligation.

92 1. In Title IV-D cases, the Title IV-D agency may implement
93 income deduction after receiving a copy of an order from the
94 court under this paragraph or a forwarding agency under UIFSA,
95 URESA, or RURESA by issuing an income deduction notice to the
96 payor.

97 2. The income deduction notice must state that it is based
98 upon a valid support order and that it contains an income
99 deduction requirement or upon a separate income deduction order.
100 The income deduction notice must contain the notice to payor
101 provisions specified by paragraph (2) (e). The income deduction
102 notice must contain the following information from the income
103 deduction order upon which the notice is based: the case number,
104 the court that entered the order, and the date entered.

105 3. Payors shall deduct support payments from income, as
106 specified in the income deduction notice, in the manner provided
107 under paragraph (2) (e).

108 4. In non-Title IV-D cases, the income deduction notice must
109 be accompanied by a copy of the support order upon which the
110 notice is based. In Title IV-D cases, upon request of a payor,
111 the Title IV-D agency shall furnish the payor a copy of the
112 income deduction order.

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113 5. If a support order entered before January 1, 1994, in a
114 non-Title IV-D case does not specify income deduction, income
115 deduction may be initiated upon a delinquency without the need
116 for any amendment to the support order or any further action by
117 the court. In such case the obligee may implement income
118 deduction by serving a notice of delinquency on the obligor as
119 provided for under paragraph (f).

120 (b) The income deduction order shall:

121 1. Direct a payor to deduct from all income due and payable
122 to an obligor the amount required by the court to meet the
123 obligor's support obligation including any attorney's fees or
124 costs owed and forward the deducted amount pursuant to the order.

125 2. State the amount of arrearage owed, if any, and direct a
126 payor to withhold an additional 20 percent or more of the
127 periodic amount specified in the order establishing, enforcing,
128 or modifying the obligation, until full payment is made of any
129 arrearage, attorney's fees and costs owed, provided no deduction
130 shall be applied to attorney's fees and costs until the full
131 amount of any arrearage is paid.

132 3. Provide that if a delinquency accrues after the order
133 establishing, modifying, or enforcing the obligation has been
134 entered and there is no order for repayment of the delinquency or
135 a preexisting arrearage, a payor shall deduct an additional 20
136 percent of the current support obligation or other amount agreed
137 to by the parties until the delinquency and any attorney's fees
138 and costs are paid in full. No deduction may be applied to
139 attorney's fees and costs until the delinquency is paid in full.

140 4. Direct a payor not to deduct in excess of the amounts

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141 allowed under s. 303(b) of the Consumer Credit Protection Act, 15
142 U.S.C. s. 1673(b), as amended.

143 5. Direct whether a payor shall deduct all, a specified
144 portion, or no income which is paid in the form of a bonus or
145 other similar one-time payment, up to the amount of arrearage
146 reported in the income deduction notice or the remaining balance
147 thereof, and forward the payment to the governmental depository.
148 For purposes of this subparagraph, bonus" means a payment in
149 addition to an obligor's usual compensation and which is in
150 addition to any amounts contracted for or otherwise legally due
151 and shall not include any commission payments due an obligor.

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

154 7. In Title IV-D cases, if an obligation to pay current
155 support is reduced or terminated due to emancipation of a child
156 and the obligor owes an arrearage, retroactive support,
157 delinquency, or costs, direct the payor to continue the income
158 deduction at the rate in effect immediately prior to
159 emancipation until all arrearages, retroactive support,
160 delinquencies, and costs are paid in full or until the amount of
161 withholding is modified.

162 8. Direct that, ~~at such time as the State Disbursement Unit~~
163 ~~becomes operational,~~ all payments in those cases in which the
164 obligee is receiving Title IV-D services and in those cases in
165 which the obligee is not receiving Title IV-D services in which
166 the initial support order was issued in this state on or after
167 January 1, 1994, and in which the obligor's child support
168 obligation is being paid through income deduction, be made

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169 payable to and delivered to the State Disbursement Unit.
170 Notwithstanding any other statutory provision to the contrary,
171 funds received by the State Disbursement Unit shall be held,
172 administered, and disbursed by the State Disbursement Unit
173 pursuant to the provisions of this chapter.

174 (c) The income deduction order is effective immediately
175 unless the court upon good cause shown finds that the income
176 deduction order shall be effective upon a delinquency in an
177 amount specified by the court but not to exceed 1 month's
178 payment, pursuant to the order establishing, enforcing, or
179 modifying the obligation. In order to find good cause, the court
180 must at a minimum make written findings that:

181 1. Explain why implementing immediate income deduction would
182 not be in the child's best interest;

183 2. There is proof of timely payment of the previously
184 ordered obligation without an income deduction order in cases of
185 modification; and

186 3. a. There is an agreement by the obligor to advise the IV-
187 D agency and court depository of any change in payor and health
188 insurance; or

189 b. There is a signed written agreement providing an
190 alternative arrangement between the obligor and the obligee and,
191 at the option of the IV-D agency, by the IV-D agency in IV-D
192 cases in which there is an assignment of support rights to the
193 state, reviewed and entered in the record by the court.

194 (d) The income deduction order shall be effective as long
195 as the order upon which it is based is effective or until further
196 order of the court. Notwithstanding the foregoing, however, ~~at~~

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197 ~~such time as the State Disbursement Unit becomes operational,~~ in
198 those cases in which the obligee is receiving Title IV-D services
199 and in those cases in which the obligee is not receiving Title
200 IV-D services in which the initial support order was issued in
201 this state on or after January 1, 1994, and in which the obligor'
202 s child support obligation is being paid through income
203 deduction, such payments shall be made payable to and delivered
204 to the State Disbursement Unit.

205 (e) When the court orders the income deduction to be
206 effective immediately, the court shall furnish to the obligor a
207 statement of his or her rights, remedies, and duties in regard to
208 the income deduction order. The statement shall state:

209 1. All fees or interest which shall be imposed.

210 2. The total amount of income to be deducted for each pay
211 period until the arrearage, if any, is paid in full and shall
212 state the total amount of income to be deducted for each pay
213 period thereafter. The amounts deducted may not be in excess of
214 that allowed under s. 303(b) of the Consumer Credit Protection
215 Act, 15 U.S.C. s. 1673(b), as amended.

216 3. That the income deduction order applies to current and
217 subsequent payors and periods of employment.

218 4. That a copy of the income deduction order or, in Title
219 IV-D cases, the income deduction notice will be provided to
220 ~~served on~~ the obligor's payor or payors by regular mail.

221 5. That enforcement of the income deduction order may only
222 be contested on the ground of mistake of fact regarding the
223 amount owed pursuant to the order establishing, enforcing, or
224 modifying the obligation, the arrearages, or the identity of the

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225 obligor, the payor, or the obligee.

226 6. That the obligor is required to notify the obligee and,
227 when the obligee is receiving IV-D services, the IV-D agency
228 within 7 days of changes in the obligor's address, payors, and
229 the addresses of his or her payors.

230 7. That in a Title IV-D case, if an obligation to pay
231 current support is reduced or terminated due to emancipation of a
232 child and the obligor owes an arrearage, retroactive support,
233 delinquency, or costs, income deduction continues at the rate in
234 effect immediately prior to emancipation until all arrearages,
235 retroactive support, delinquencies, and costs are paid in full
236 or until the amount of withholding is modified.

237 (f) If a support order was entered before January 1, 1994,
238 the court orders the income deduction to be effective upon
239 delinquency as provided in paragraph (c), or a delinquency has
240 accrued under an order entered before July 1, 2006, that
241 established, modified, or enforced the obligation and there is no
242 order for repayment of the delinquency or a preexisting
243 arrearage, the obligee or, in Title IV-D cases, the Title IV-D
244 agency may enforce the income deduction by serving a notice of
245 delinquency by regular mail on the obligor under this paragraph.
246 Service of the notice is complete upon mailing.

247 1. The notice of delinquency shall state:

248 a. The terms of the order establishing, enforcing, or
249 modifying the obligation.

250 b. The period of delinquency and the total amount of the
251 delinquency as of the date the notice is mailed.

252 c. All fees or interest which may be imposed.

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253 d. The total amount of income to be deducted for each pay
254 period until the arrearage, and all applicable fees and interest,
255 is paid in full and shall state the total amount of income to be
256 deducted for each pay period thereafter. The amounts deducted may
257 not be in excess of that allowed under s. 303(b) of the Consumer
258 Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

259 e. That the income deduction order applies to current and
260 subsequent payors and periods of employment.

261 f. That a copy of the notice of delinquency will be
262 provided by regular mail to ~~served on~~ the obligor's payor or
263 payors, together with a copy of the income deduction order or,
264 in Title IV-D cases, the income deduction notice, unless the
265 obligor applies to the court to contest enforcement of the income
266 deduction. If the income deduction order being enforced was
267 rendered by the Title IV-D agency pursuant to s. 409.2563 and the
268 obligor contests the deduction, the obligor shall file a
269 petition for an administrative hearing with the Title IV-D
270 agency. The application or petition shall be filed within 15 days
271 after the date the notice of delinquency was mailed ~~served~~.

272 g. That enforcement of the income deduction order may only
273 be contested on the ground of mistake of fact regarding the
274 amount owed pursuant to the order establishing, enforcing, or
275 modifying the obligation, the amount of arrearages, or the
276 identity of the obligor, the payor, or the obligee.

277 h. That the obligor is required to notify the obligee of
278 the obligor's current address and current payors and of the
279 address of current payors. All changes shall be reported by the
280 obligor within 7 days. If the IV-D agency is enforcing the order,

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281 the obligor shall make these notifications to the agency instead
282 of to the obligee.

283 2. The failure of the obligor to receive the notice of
284 delinquency does not preclude subsequent service by regular mail
285 of the income deduction order or, in Title IV-D cases, the income
286 deduction notice on the obligor's payor. A notice of delinquency
287 which fails to state an arrearage does not mean that an arrearage
288 is not owed.

289 (g) At any time, any party, including the IV-D agency, may
290 apply to the court to:

291 1. Modify, suspend, or terminate the income deduction order
292 in accordance with a modification, suspension, or termination of
293 the support provisions in the underlying order; or

294 2. Modify the amount of income deducted when the arrearage
295 has been paid.

296 (2) Enforcement of income deduction orders.--

297 (a) The obligee or his or her agent shall serve an income
298 deduction order and notice to payor, or, in Title IV-D cases,
299 the Title IV-D agency shall issue an income deduction notice, and
300 in the case of a delinquency a notice of delinquency, on the
301 obligor's payor by regular mail unless the obligor has applied
302 for a hearing to contest the enforcement of the income deduction
303 pursuant to paragraph (c).

304 (b) 1. Unless otherwise provided, service by or upon any
305 person who is a party to a proceeding under this section shall
306 be made in the manner prescribed in the Florida Rules of Civil
307 Procedure for service upon parties.

308 2. Service upon an obligor's payor or successor payor under

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309 | this section shall be made by regular ~~prepaid certified mail,~~
310 | ~~return receipt requested, or in the manner prescribed in chapter~~
311 | ~~48.~~

312 | (c)1. The obligor, within 15 days after service of a notice
313 | of delinquency, may apply for a hearing to contest the
314 | enforcement of the income deduction on the ground of mistake of
315 | fact regarding the amount owed pursuant to an order establishing,
316 | enforcing, or modifying an obligation for alimony, for child
317 | support, or for alimony and child support, the amount of the
318 | arrearage, or the identity of the obligor, the payor, or the
319 | obligee. The obligor shall send a copy of the pleading to the
320 | obligee and, if the obligee is receiving IV-D services, to the
321 | IV-D agency. The timely filing of the pleading shall stay
322 | service by regular mail of an income deduction order or, in
323 | Title IV-D cases, income deduction notice on all payors of the
324 | obligor until a hearing is held and a determination is made as to
325 | whether enforcement of the income deduction order is proper. The
326 | payment of a delinquent obligation by an obligor upon entry of an
327 | income deduction order shall not preclude service by regular mail
328 | of the income deduction order or, in Title IV-D cases, an income
329 | deduction notice on the obligor's payor.

330 | 2. When an obligor timely requests a hearing to contest
331 | enforcement of an income deduction order, the court, after due
332 | notice to all parties and the IV-D agency if the obligee is
333 | receiving IV-D services, shall hear the matter within 20 days
334 | after the application is filed. The court shall enter an order
335 | resolving the matter within 10 days after the hearing. A copy of
336 | this order shall be provided by regular mail to ~~served on~~ the

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337 parties and the IV-D agency if the obligee is receiving IV-D
338 services. If the court determines that income deduction is
339 proper, it shall specify the date the income deduction order must
340 be served by regular mail on the obligor's payor.

341 (d) When a court determines that an income deduction order
342 is proper pursuant to paragraph (c), the obligee or his or her
343 agent shall furnish cause a copy of the notice of delinquency to
344 ~~be served on~~ the obligor's payors by regular mail. A copy of
345 the income deduction order or, in Title IV-D cases, income
346 deduction notice, and in the case of a delinquency a notice of
347 delinquency, shall also be furnished to the obligor.

348 (e) Notice to payor and income deduction notice. The notice
349 to payor or, in Title IV-D cases, income deduction notice shall
350 contain only information necessary for the payor to comply with
351 the order providing for income deduction. The notice shall:

352 1. Provide the obligor's social security number.

353 2. Require the payor to deduct from the obligor's income the
354 amount specified in the income deduction order, and in the case
355 of a delinquency the amount specified in the notice of
356 delinquency, and to pay that amount to the obligee or to the
357 depository, as appropriate. The amount actually deducted plus all
358 administrative charges shall not be in excess of the amount
359 allowed under s. 303(b) of the Consumer Credit Protection Act, 15
360 U.S.C. s. 1673(b);

361 3. Instruct the payor to implement income deduction no later
362 than the first payment date which occurs more than 14 days after
363 the date the income deduction notice was served on the payor,
364 and the payor shall conform the amount specified in the income

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365 deduction order or, in Title IV-D cases, income deduction notice
366 to the obligor's pay cycle. The court should request at the time
367 of the order that the payment cycle reflect that of the payor;

368 4. Instruct the payor to forward, within 2 days after each
369 date the obligor is entitled to payment from the payor, to the
370 obligee or to the depository the amount deducted from the
371 obligor's income, a statement as to whether the amount totally or
372 partially satisfies the periodic amount specified in the income
373 deduction order or, in Title IV-D cases, income deduction notice,
374 and the specific date each deduction is made. If the IV- D agency
375 is enforcing the order, the payor shall make these notifications
376 to the agency instead of the obligee;

377 5. Specify that if a payor fails to deduct the proper amount
378 from the obligor's income, the payor is liable for the amount the
379 payor should have deducted, plus costs, interest, and reasonable
380 attorney's fees;

381 6. Provide that the payor may collect up to \$5 against the
382 obligor's income to reimburse the payor for administrative costs
383 for the first income deduction and up to \$2 for each deduction
384 thereafter;

385 7. State that the notice to payor or, in Title IV-D cases,
386 income deduction notice, and in the case of a delinquency the
387 notice of delinquency, are binding on the payor until further
388 notice by the obligee, IV-D agency, or the court or until the
389 payor no longer provides income to the obligor;

390 8. Instruct the payor that, when he or she no longer
391 provides income to the obligor, he or she shall notify the
392 obligee and shall also provide the obligor's last known address

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393 and the name and address of the obligor's new payor, if known;
394 and that, if the payor violates this provision, the payor is
395 subject to a civil penalty not to exceed \$250 for the first
396 violation or \$500 for any subsequent violation. If the IV-D
397 agency is enforcing the order, the payor shall make these
398 notifications to the agency instead of to the obligee. Penalties
399 shall be paid to the obligee or the IV-D agency, whichever is
400 enforcing the income deduction order;

401 9. State that the payor shall not discharge, refuse to
402 employ, or take disciplinary action against an obligor because of
403 the requirement for income deduction and shall state that a
404 violation of this provision subjects the payor to a civil
405 penalty not to exceed \$250 for the first violation or \$500 for
406 any subsequent violation. Penalties shall be paid to the obligee
407 or the IV-D agency, whichever is enforcing the income deduction,
408 if any alimony or child support obligation is owing. If no
409 alimony or child support obligation is owing, the penalty shall
410 be paid to the obligor;

411 10. State that an obligor may bring a civil action in the
412 courts of this state against a payor who refuses to employ,
413 discharges, or otherwise disciplines an obligor because of
414 income deduction. The obligor is entitled to reinstatement and
415 all wages and benefits lost, plus reasonable attorney's fees and
416 costs incurred;

417 11. Inform the payor that the requirement for income
418 deduction has priority over all other legal processes under state
419 law pertaining to the same income and that payment, as required
420 by the notice to payor or income deduction notice, is a complete

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421 defense by the payor against any claims of the obligor or his or
422 her creditors as to the sum paid;

423 12. Inform the payor that, when the payor receives notices
424 to payor or income deduction notices requiring that the income of
425 two or more obligors be deducted and sent to the same
426 depository, the payor may combine the amounts that are to be paid
427 to the depository in a single payment as long as the payments
428 attributable to each obligor are clearly identified;

429 13. Inform the payor that if the payor receives more than
430 one notice to payor or income deduction notice against the same
431 obligor, the payor shall contact the court or, in Title IV-0
432 cases, the Title IV-D agency for further instructions. Upon being
433 so contacted, the court or, in Title IV-0 cases when all the
434 cases upon which the notices are based are Title IV-D cases, the
435 Title IV-D agency shall allocate amounts available for income
436 deduction as provided in subsection (4); and

437 14. State that in a Title IV-D case, if an obligation to pay
438 current support is reduced or terminated due to the emancipation
439 of a child and the obligor owes an arrearage, retroactive
440 support, delinquency, or costs, income deduction continues at the
441 rate in effect immediately prior to emancipation until all
442 arrearages, retroactive support, delinquencies, and costs are
443 paid in full or until the amount of withholding is modified.

444 (f) At any time an income deduction order is being enforced,
445 the obligor may apply to the court for a hearing to contest the
446 continued enforcement of the income deduction on the same
447 grounds set out in paragraph (c), with a copy to the obligee and,
448 in IV-D cases, to the IV-D agency. If the income deduction order

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449 being enforced was rendered by the IV-D agency pursuant to s.
450 409.2563 and the obligor contests the withholding, the obligor
451 shall file a petition for an administrative hearing with the IV-D
452 agency. The application or petition does not affect the continued
453 enforcement of the income deduction until the court or IV-D
454 agency, if applicable, enters an order granting relief to the
455 obligor. The obligee or the IV-D agency is released from
456 liability for improper receipt of moneys pursuant to an income
457 deduction order upon return to the appropriate party of any
458 moneys received.

459 (g) An obligee or his or her agent shall enforce an income
460 deduction order against an obligor's successor payor who is
461 located in this state in the same manner prescribed in this
462 section for the enforcement of an income deduction order against
463 a payor.

464 (h)1. When an income deduction order is to be enforced
465 against a payor located outside the state, the obligee who is
466 receiving IV-D services or his or her agent shall promptly
467 request the agency responsible for income deduction in the other
468 state to enforce the income deduction order. The request shall
469 contain all information necessary to enforce the income deduction
470 order, including the amount to be periodically deducted, a copy
471 of the order establishing, enforcing, or modifying the
472 obligation, and a statement of arrearages, if applicable.

473 2. When the IV-D agency is requested by the agency
474 responsible for income deduction in another state to enforce an
475 income deduction order against a payor located in this state for
476 the benefit of an obligee who is being provided IV-D services by

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477 the agency in the other state, the IV-D agency shall act
478 promptly pursuant to the applicable provisions of this section.

479 3. When an obligor who is subject to an income deduction
480 order enforced against a payor located in this state for the
481 benefit of an obligee who is being provided IV-D services by the
482 agency responsible for income deduction in another state
483 terminates his or her relationship with his or her payor, the
484 IV-D agency shall notify the agency in the other state and
485 provide it with the name and address of the obligor and the
486 address of any new payor of the obligor, if known.

487 4. a. The procedural rules and laws of this state govern the
488 procedural aspects of income deduction whenever the agency
489 responsible for income deduction in another state requests the
490 enforcement of an income deduction order in this state.

491 b. Except with respect to when withholding must be
492 implemented, which is controlled by the state where the order
493 establishing, enforcing, or modifying the obligation was entered,
494 the substantive law of this state shall apply whenever the agency
495 responsible for income deduction in another state requests the
496 enforcement of an income deduction in this state.

497 c. When the IV-D agency is requested by an agency
498 responsible for income deduction in another state to implement
499 income deduction against a payor located in this state for the
500 benefit of an obligee who is being provided IV-D services by the
501 agency in the other state or when the IV-D agency in this state
502 initiates an income deduction request on behalf of an obligee
503 receiving IV-D services in this state against a payor in another
504 state, pursuant to this section or the Uniform Interstate Family

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505 Support Act, the IV-D agency shall file the interstate income
506 deduction documents, or an affidavit of such request when the
507 income deduction documents are not available, with the depository
508 and if the IV-D agency in this state is responding to a request
509 from another state, provide copies to the payor and obligor in
510 accordance with subsection (1). The depository created pursuant
511 to s. 61.181 shall accept the interstate income deduction
512 documents or affidavit and shall establish an account for the
513 receipt and disbursement of child support or child support and
514 alimony payments and advise the IV-D agency of the account number
515 in writing within 2 days after receipt of the documents or
516 affidavit.

517 (i) Certified copies of payment records maintained by a
518 depository shall, without further proof, be admitted into
519 evidence in any legal proceeding in this state.

520 (j)1. A person may not discharge, refuse to employ, or take
521 disciplinary action against an employee because of the
522 enforcement of an income deduction order. An employer who
523 violates this subsection is subject to a civil penalty not to
524 exceed \$250 for the first violation or \$500 for any subsequent
525 violation. Penalties shall be paid to the obligee or the IV-D
526 agency, whichever is enforcing the income deduction, if an
527 alimony or child support is owing. If no alimony or child support
528 is owing, the penalty shall be paid to the obligor.

529 2. An employee may bring a civil action in the courts of
530 this state against an employer who refuses to employ, discharges,
531 or otherwise disciplines an employee because of an income
532 deduction order. The employee is entitled to reinstatement and

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533 all wages and benefits lost plus reasonable attorney's fees and
534 costs incurred.

535 (k) When a payor no longer provides income to an obligor, he
536 or she shall notify the obligee and, if the obligee is a IV-D
537 applicant, the IV-D agency and shall also provide the obligor's
538 last known address and the name and address of the obligor's new
539 payor, if known. A payor who violates this subsection is subject
540 to a civil penalty not to exceed \$250 for the first violation or
541 \$500 for a subsequent violation. Penalties shall be paid to the
542 obligee or the IV-D agency, whichever is enforcing the income
543 deduction order.

544 (3) (a) It is the intent of the Legislature that this
545 section may be used to collect arrearages in child support or in
546 alimony payments.

547 (b) In a Title IV-D case, if an obligation to pay current
548 support is reduced or terminated due to the emancipation of a
549 child and the obligor owes an arrearage, retroactive support,
550 delinquency, or costs, income deduction continues at the rate in
551 effect immediately prior to emancipation until all arrearages,
552 retroactive support, delinquencies, and costs are paid in full or
553 until the amount of withholding is modified. Any income- deducted
554 amount that is in excess of the obligation to pay current support
555 shall be credited against the arrearages, retroactive support,
556 delinquency, and costs owed by the obligor. The department shall
557 send notice of this requirement by regular mail to the payor and
558 the depository operated pursuant to s. 61.181, and the notice
559 shall state the amount of the obligation to pay current support,
560 if any, and the amount owed for arrearages, retroactive support,

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561 delinquency, and costs. For income deduction orders entered
562 before July 1, 2004, which do not include this requirement, the
563 department shall send by regular ~~certified mail, restricted~~
564 ~~delivery, return receipt requested,~~ to the obligor at the most
565 recent address provided by the obligor to the tribunal that
566 issued the order or a more recent address if known, notice of
567 this requirement, that the obligor may contest the withholding as
568 provided by paragraph (2)(f), and that the obligor may request
569 the tribunal that issued the income deduction to modify the
570 amount of the withholding. This paragraph provides an additional
571 remedy for collection of unpaid support and applies to cases in
572 which a support order or income deduction order was entered
573 before, on, or after July 1, 2004.

574 (c) If a delinquency accrues after an order establishing,
575 modifying, or enforcing a support obligation has been entered, an
576 income deduction order entered after July 1, 2006, is in effect,
577 and there is no order for repayment of the delinquency or a
578 preexisting arrearage, a payor who receives ~~is served with~~ an
579 income deduction order or, in a Title IV-D case, an income
580 deduction notice shall deduct an additional 20 percent of the
581 current support obligation or other amount agreed to by the
582 parties until the delinquency and any attorney's fees and costs
583 are paid in full. No deduction may be applied to attorney's fees
584 and costs until the delinquency is paid in full.

585 Section 3. Subsection (2) of section 409.2574, Florida
586 Statutes, is amended to read:

587 409.2574 Income deduction enforcement in Title IV-D cases.-

588 (2) (a) In a support order being enforced under Title IV-D

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589 of the Social Security Act and which order does not specify
590 income deduction, income deduction shall be enforced by the
591 department or its designee without the need for any amendment to
592 the support order or any further action by the court.

593 (b) The department shall serve a notice on the obligor that
594 the income deduction notice has been served on the employers.
595 Service upon an obligor under this section shall be made by
596 regular mail to the obligor's last known address of record with
597 the local depository or a more recent address if known ~~in the~~
598 ~~manner prescribed in chapter 48~~. The department shall furnish to
599 the obligor a statement of the obligor's rights, remedies, and
600 duties in regard to the income deduction.

601 (c) The obligor has 15 days from the mailing ~~servicing~~ of the
602 notice to file a request for a hearing with the department to
603 contest enforcement of income deduction.

604 (d) The department shall adopt rules to ensure that
605 applicable provisions of s. 61.1301 are followed.

606 Section 4. Subsection (4) of section 409.256, Florida
607 Statutes, is amended to read:

608 409.256 Administrative proceeding to establish paternity or
609 paternity and child support; order to appear for genetic
610 testing.-

611 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR PATERNITY AND
612 CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC TESTING; MANNER OF
613 SERVICE; CONTENTS.-The Department of Revenue shall commence a
614 proceeding to determine paternity, or a proceeding to determine
615 both paternity and child support, by serving the respondent with
616 a notice as provided in this section. An order to appear for

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617 genetic testing may be served at the same time as a notice of the
618 proceeding or may be served separately. A copy of the affidavit
619 or written declaration upon which the proceeding is based shall
620 be provided to the respondent when notice is served. A notice or
621 order to appear for genetic testing shall be served by certified
622 mail, ~~restricted delivery~~, return receipt requested, or in
623 accordance with the requirements for service of process in a
624 civil action. Service by certified mail is completed when the
625 certified mail is received or refused by the addressee or by an
626 authorized agent as designated by the addressee in writing. If a
627 person other than the addressee signs the return receipt, the
628 department shall attempt to reach the addressee by telephone to
629 confirm whether the notice was received, and the department shall
630 document any telephonic communications. If someone other than
631 the addressee signs the return receipt, the addressee does not
632 respond to the notice, and the department is unable to confirm
633 that the addressee has received the notice, service is not
634 completed and the department shall attempt to have the addressee
635 served personally. For purposes of this section, an employee or
636 an authorized agent of the department may serve the notice or
637 order to appear for genetic testing and execute an affidavit of
638 service. The department may serve an order to appear for genetic
639 testing on a caregiver. The department shall provide a copy of
640 the notice or order to appear by regular mail to the mother and
641 caregiver, if they are not respondents.

642 Section 5. Subsection (4) of section 409.2563 is amended to
643 read:

644 409.2563 Administrative establishment of child support

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645 obligations.—

646 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT
647 ORDER.—To commence a proceeding under this section, the
648 department shall provide to the parent from whom support is not
649 being sought and serve the parent from whom support is being
650 sought with a notice of proceeding to establish administrative
651 support order and a blank financial affidavit form. The notice
652 must state:

653 (a) The names of both parents, the name of the caregiver, if
654 any, and the name and date of birth of the child or children;

655 (b) That the department intends to establish an
656 administrative support order as defined in this section;

657 (c) That both parents must submit a completed financial
658 affidavit to the department within 20 days after receiving the
659 notice, as provided by paragraph (13) (a);

660 (d) That both parents, or parent and caregiver if
661 applicable, are required to furnish to the department information
662 regarding their identities and locations, as provided by
663 paragraph (13) (b);

664 (e) That both parents, or parent and caregiver if
665 applicable, are required to promptly notify the department of
666 any change in their mailing addresses to ensure receipt of all
667 subsequent pleadings, notices, and orders, as provided by
668 paragraph (13) (c);

669 (f) That the department will calculate support obligations
670 based on the child support guidelines schedule in s. 61.30 and
671 using all available information, as provided by paragraph (5) (a),
672 and will incorporate such obligations into a proposed

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673 administrative support order;

674 (g) That the department will send by regular mail to both
675 parents, or parent and caregiver if applicable, a copy of the
676 proposed administrative support order, the department's child
677 support worksheet, and any financial affidavits submitted by a
678 parent or prepared by the department;

679 (h) That the parent from whom support is being sought may
680 file a request for a hearing in writing within 20 days after the
681 date of mailing or other service of the proposed administrative
682 support order or will be deemed to have waived the right to
683 request a hearing;

684 (i) That if the parent from whom support is being sought
685 does not file a timely request for hearing after service of the
686 proposed administrative support order, the department will issue
687 an administrative support order that incorporates the findings
688 of the proposed administrative support order, and will send by
689 regular mail a copy of the administrative support order to both
690 parents, or parent and caregiver if applicable;

691 (j) That after an administrative support order is rendered,
692 the department will file a copy of the order with the clerk of
693 the circuit court;

694 (k) That after an administrative support order is rendered,
695 the department may enforce the administrative support order by
696 any lawful means;

697 (l) That either parent, or caregiver if applicable, may
698 file at any time a civil action in a circuit court having
699 jurisdiction and proper venue to determine parental support
700 obligations, if any, and that a support order issued by a

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701 circuit court supersedes an administrative support order
702 rendered by the department;

703 (m) That neither the department nor the Division of
704 Administrative Hearings has jurisdiction to award or change
705 child custody or rights of parental contact or time-sharing, and
706 these issues may be addressed only in circuit court.

707 1. The parent from whom support is being sought may request
708 in writing that the department proceed in circuit court to
709 determine his or her support obligations.

710 2. The parent from whom support is being sought may state
711 in writing to the department his or her intention to address
712 issues concerning custody or rights to parental contact in
713 circuit court.

714 3. If the parent from whom support is being sought submits
715 the request authorized in subparagraph 1., or the statement
716 authorized in subparagraph 2. to the department within 20 days
717 after the receipt of the initial notice, the department shall
718 file a petition in circuit court for the determination of the
719 parent's child support obligations, and shall send to the parent
720 from whom support is being sought a copy of its petition, a
721 notice of commencement of action, and a request for waiver of
722 service of process as provided in the Florida Rules of Civil
723 Procedure.

724 4. If, within 10 days after receipt of the department's
725 petition and waiver of service, the parent from whom support is
726 being sought signs and returns the waiver of service form to the
727 department, the department shall terminate the administrative
728 proceeding without prejudice and proceed in circuit court.

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729 5. In any circuit court action filed by the department
730 pursuant to this paragraph or filed by a parent from whom
731 support is being sought or other person pursuant to paragraph
732 (1) or paragraph (n), the department shall be a party only with
733 respect to those issues of support allowed and reimbursable under
734 Title IV-D of the Social Security Act. It is the responsibility
735 of the parent from whom support is being sought or other person
736 to take the necessary steps to present other issues for the
737 court to consider.

738 (n) That if the parent from whom support is being sought
739 files an action in circuit court and serves the department with
740 a copy of the petition within 20 days after being served notice
741 under this subsection, the administrative process ends without
742 prejudice and the action must proceed in circuit court;

743 (o) Information provided by the Office of State Courts
744 Administrator concerning the availability and location of self-
745 help programs for those who wish to file an action in circuit
746 court but who cannot afford an attorney. The department may serve
747 the notice of proceeding to establish administrative support
748 order by certified mail, ~~restricted delivery~~, return receipt
749 requested. Alternatively, the department may serve the notice by
750 any means permitted for service of process in a civil action.
751 For purposes of this section, an authorized employee of the
752 department may serve the notice and execute an affidavit of
753 service. Service by certified mail is completed when the
754 certified mail is received or refused by the addressee or by an
755 authorized agent as designated by the addressee in writing. If a
756 person other than the addressee signs the return receipt, the

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757 department shall attempt to reach the addressee by telephone to
758 confirm whether the notice was received, and the department shall
759 document any telephonic communications. If someone other than the
760 addressee signs the return receipt, the addressee does not
761 respond to the notice, and the department is unable to confirm
762 that the addressee has received the notice, service is not
763 completed and the department shall attempt to have the addressee
764 served personally. The department shall provide the parent from
765 whom support is not being sought or the caregiver with a copy of
766 the notice by regular mail to the last known address of the
767 parent from whom support is not being sought or caregiver.

768 Section 6. Subsection (1), (3) and (7) of section
769 409.25656, Florida Statutes, is amended to read:

770 (1) If a person has a support obligation which is subject
771 to enforcement by the department as the state Title IV-D
772 program, the executive director or his or her designee may give
773 notice of past due and/or overdue support by regular ~~registered~~
774 mail to all persons who have in their possession or under their
775 control any credits or personal property, including wages,
776 belonging to the support obligor, or owing any debts to the
777 support obligor at the time of receipt by them of such notice.
778 Thereafter, any person who has been notified may not transfer or
779 make any other disposition, up to the amount provided for in the
780 notice, of such credits, other personal property, or debts until
781 the executive director or his or her designee consents to a
782 transfer or disposition, or until 60 days after the receipt of
783 such notice. If the obligor contests the intended levy in the
784 circuit court or under chapter 120, the notice under this section

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785 shall remain in effect until final disposition of that circuit
786 court or chapter 120 action. Any financial institution receiving
787 such notice will maintain a right of setoff for any transaction
788 involving a debit card occurring on or before the date of
789 receipt of such notice.

790 (2) Each person who is notified under this section must,
791 within 5 days after receipt of the notice, advise the executive
792 director or his or her designee of the credits, other personal
793 property, or debts in their possession, under their control, or
794 owed by them and must advise the executive director or designee
795 within 5 days of coming into possession or control of any
796 subsequent credits, personal property, or debts owed during the
797 time prescribed by the notice. Any such person coming into
798 possession or control of such subsequent credits, personal
799 property, or debts shall not transfer or dispose of them during
800 the time prescribed by the notice or until the department
801 consents to a transfer.

802 (3) During the last 30 days of the 60-day period set forth
803 in subsection (1), the executive director or his or her designee
804 may levy upon such credits, personal property, or debts. The
805 levy must be accomplished by delivery of a notice of levy by
806 regular ~~registered~~ mail, upon receipt of which the person
807 possessing the credits, other personal property, or debts shall
808 transfer them to the department or pay to the department the
809 amount owed by the obligor. If the department levies upon
810 securities and the value of the securities is less than the
811 total amount of past due or overdue support, the person who
812 possesses or controls the securities shall liquidate the

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813 securities in a commercially reasonable manner. After
814 liquidation, the person shall transfer to the department the
815 proceeds, less any applicable commissions or fees, or both, which
816 are charged in the normal course of business. If the value of the
817 securities exceeds the total amount of past due or overdue
818 support, the obligor may, within 7 days after receipt of the
819 department's notice of levy, instruct the person who possesses
820 or controls the securities which securities are to be sold to
821 satisfy the obligation for past due or overdue support. If the
822 obligor does not provide instructions for liquidation, the
823 person who possesses or controls the securities shall liquidate
824 the securities in a commercially reasonable manner in an amount
825 sufficient to cover the obligation for past due or overdue
826 support and any applicable commissions or fees, or both, which
827 are charged in the normal course of business, beginning with the
828 securities purchased most recently. After liquidation, the
829 person who possesses or controls the securities shall transfer
830 to the department the total amount of past due or overdue
831 support.

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

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841 (5) The department is authorized to bring an action in
842 circuit court for an order compelling compliance with any notice
843 issued under this section.

844 (6) Any person acting in accordance with the terms of the
845 notice or levy issued by the executive director or his or her
846 designee is expressly discharged from any obligation or
847 liability to the obligor with respect to such credits, other
848 personal property, or debts of the obligor affected by compliance
849 with the notice of freeze or levy.

850 (7) (a) Levy may be made under subsection (3) upon credits,
851 other personal property, or debt of any person with respect to
852 any past due or overdue support obligation only after the
853 executive director or his or her designee has notified such
854 person in writing of the intention to make such levy.

855 (b) Not less than 30 days before the day of the levy, the
856 notice of intent to levy required under paragraph (a) must be
857 given in person or sent by regular ~~certified or registered~~ mail
858 to the person's last known address.

859 (c) The notice required in paragraph (a) must include a
860 brief statement that sets forth:

861 1. The provisions of this section relating to levy and sale
862 of property;

863 2. The procedures applicable to the levy under this section;

864 3. The administrative and judicial appeals available to the
865 obligor with respect to such levy and sale, and the procedures
866 relating to such appeals; and

867 4. The alternatives, if any, available to the obligor which
868 could prevent levy on the property.

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869 | (d) The obligor may consent in writing to the levy at any
870 | time after receipt of a notice of intent to levy.

871 | Section 7. This act shall take effect on July 1, 2023.

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