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1 A bill to be entitled
 2 An act relating to child support enforcement; amending s.
 3 61.1814, F.S.; providing for the collection and deposit of
 4 an annual fee for certain child support cases; amending s.
 5 61.1824, F.S.; revising requirements for certain employers
 6 to remit support payments electronically; providing
 7 grounds for waiving the requirement for employers to
 8 electronically remit support payments; amending s.
 9 409.2564, F.S.; lowering the amount of child support owed
 10 to permit federal action against an obligor's passport;
 11 amending s. 409.25641, F.S.; revising provisions governing
 12 the automated enforcement of a support order from another
 13 state; amending s. 409.2567, F.S.; authorizing the
 14 Department of Revenue to pay a federally required annual
 15 fee; amending ss. 49.011 and 409.257, F.S.; authorizing
 16 service of process by publication for unknown legal
 17 fathers; amending s. 742.09, F.S.; providing an exception
 18 to the prohibition against publication of the name of a
 19 party in a paternity action; providing an effective date.

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

22
 23 Section 1. Section 49.011, Florida Statutes, is amended to
 24 read:

25 49.011 Service of process by publication; cases in which
 26 allowed.--Service of process by publication may be made in any
 27 court on any party identified ~~person mentioned~~ in s. 49.021 in
 28 any action or proceeding:

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

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

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

39 (4) For dissolution or annulment of marriage.

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

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

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

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

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

52 (10) For adoption.

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

56 (12) In probate or guardianship proceedings in which
 57 personal service of process or notice is not required by the

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58 | statutes or constitution of this state or by the Constitution of
 59 | the United States.

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

62 | (14) For temporary custody of a minor child, under ss.
 63 | 751.01-751.05.

64 | (15) To determine the legal father in a paternity action in
 65 | which another man is alleged to be the biological father.

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

68 | 61.1814 Child Support Enforcement Application and Program
 69 | Revenue Trust Fund.--

70 | (2) With the exception of fees required to be deposited in
 71 | the Clerk of the Court Child Support Enforcement Collection
 72 | System Trust Fund under s. 61.181(2)(b) and collections
 73 | determined to be undistributable or unidentifiable under s.
 74 | 409.2558, the fund shall be used for the deposit of Title IV-D
 75 | program income received by the department. Each type of program
 76 | income received shall be accounted for separately. Program income
 77 | received by the department includes, but is not limited to:

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

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

82 | (c) Interest on child support collections;

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

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86 (e) Fines imposed under ss. 409.256(7)(b), 409.2564(7), and
 87 409.2578; and

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

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

91 61.1824 State Disbursement Unit.--

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

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

109 1. The employer does not have a computer that meets the
 110 minimum standards necessary for electronic remittance.

111 2. Additional time is needed to program the employer's
 112 computer.

113 3. The employer does not currently file data electronically
 114 with any business or government agency.

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115 4. Compliance conflicts with the employer's business
 116 procedures.

117 5. Compliance would cause a financial hardship.

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

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

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

132 409.2564 Actions for support.--

133 (10) For the purposes of denial, revocation, or limitation
 134 of an obligor's ~~individual's~~ United States passport, consistent
 135 with 42 U.S.C. s. 652(k)(1), the department ~~Title IV D agency~~
 136 shall have procedures to certify to the Secretary of the United
 137 States Department of Health and Human Services, ~~in the format and~~
 138 ~~accompanied by such supporting documentation as the secretary may~~
 139 ~~require, a determination~~ that an obligor ~~individual~~ owes
 140 arrearages of support in an amount exceeding \$2,500 ~~\$5,000~~. Said
 141 procedures shall provide that the obligor ~~individual~~ be given
 142 notice of the determination and of the consequence thereof and

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143 ~~that the individual shall be given~~ an opportunity to contest the
 144 accuracy of the determination.

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

147 409.25641 Procedures for processing interstate ~~automated~~
 148 ~~administrative~~ enforcement requests.--

149 (1) The department ~~Title IV D agency~~ shall use automated
 150 administrative enforcement, as provided in 42 U.S.C. s.
 151 666(a)(14)(A)(iii) to respond defined in the Social Security Act,
 152 ~~in response~~ to a request from another state to enforce a support
 153 order and shall promptly report the results of the enforcement
 154 action to the requesting state.

155 (2) ~~This request:~~

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

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

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

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

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

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

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

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

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

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

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

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

179 409.2567 Services to individuals not otherwise eligible.--

180 (1) All support services provided by the department shall
 181 be made available on behalf of all dependent children. Services
 182 shall be provided upon acceptance of public assistance or upon
 183 proper application filed with the department. The federally
 184 required application fee for individuals who do not receive
 185 public assistance is \$1, which shall be waived for all applicants
 186 and paid by the department. The annual fee required under 42
 187 U.S.C. s. 654(6)(B) for cases involving an individual who has
 188 never received temporary cash assistance and for whom the
 189 department has collected at least \$500 of support shall be paid
 190 by the department. ~~The obligor is responsible for all~~
 191 ~~administrative costs, as defined in s. 409.2554. The court shall~~
 192 ~~order payment of administrative costs without requiring the~~
 193 ~~department to have a member of the bar testify or submit an~~
 194 ~~affidavit as to the reasonableness of the costs.~~

195 (2) An attorney-client relationship exists only between the
 196 department and the legal services providers in Title IV-D cases.
 197 The attorney shall advise the obligee in Title IV-D cases that
 198 the attorney represents the agency and not the obligee. ~~In Title~~
 199 ~~IV-D cases, any costs, including filing fees, recording fees,~~

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200 ~~mediation costs, service of process fees, and other expenses~~
 201 ~~incurred by the clerk of the circuit court,~~

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

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

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

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

226 409.257 Service of process.--

227 (1) The service of original initial process and orders in
 228 any paternity or child support action or proceeding lawsuits

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229 | filed by the department, ~~under this act,~~ shall be made in
 230 | accordance with ~~served by the sheriff in the county where the~~
 231 | ~~person to be served may be found or, if determined more effective~~
 232 | ~~by the department, by any means permitted under chapter 48 for~~
 233 | ~~service of process in a civil action.~~ The sheriff shall be
 234 | reimbursed at the prevailing rate of federal financial
 235 | participation for service of process and orders as allowed by
 236 | law. The sheriff shall bill the department monthly as provided
 237 | for in s. 30.51(2). ~~In addition,~~

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

243 | (3) Service of process by publication under chapter 49 may
 244 | be made on the legal father in any action or proceeding to
 245 | determine paternity in which another man is alleged to be the
 246 | biological father.

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

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

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

254 | 742.09 Publishing names; penalty.--Except for the purpose
 255 | of serving process by publication, as provided under s.
 256 | 49.011(15), it shall be unlawful for the owner, publisher,
 257 | manager, or operator of any newspaper, magazine, radio station,

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258 | or other publication of any kind whatsoever, or any other person
259 | responsible therefor, or any radio broadcaster, to publish the
260 | name of any of the parties to any court proceeding to determine
261 | paternity. A person who violates this section commits instituted
262 | ~~or prosecuted under this act, and any person violating this~~
263 | ~~provision shall be guilty of~~ a misdemeanor of the first degree,
264 | punishable as provided in s. 775.082 or s. 775.083.

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