

1 A bill to be entitled
 2 An act relating to child support enforcement; amending
 3 s. 61.13016, F.S.; providing that a child support
 4 obligor may avoid the suspension of his or her driver
 5 license and motor vehicle registration by beginning to
 6 pay his or her obligation by income deduction within a
 7 specified period; amending s. 322.058, F.S.; providing
 8 that a child support obligor may avoid the suspension
 9 of his or her driver license and motor vehicle
 10 registration by beginning to pay his or her obligation
 11 by income deduction within a specified period;
 12 amending s. 409.25656, F.S.; providing that a
 13 garnishee may consent to receive certain notices by
 14 secure e-mail or fax; requiring establishment of an
 15 automated method for the Chief Financial Officer to
 16 periodically provide the Department of Revenue an
 17 electronic file of individuals to whom the state pays
 18 money for goods or services or who lease real property
 19 to the state; requiring garnishment of such payments
 20 for past due or overdue support; deleting provisions
 21 requiring the Department of Revenue to provide certain
 22 information to the Chief Financial Officer for such
 23 purpose; amending s. 409.25658, F.S.; revising
 24 provisions concerning use of unclaimed property for
 25 collection of past due support; amending s. 409.2575,
 26 F.S.; revising language concerning who may cause
 27 certain liens to be placed for unpaid and delinquent
 28 support; authorizing liens on a claim, settlement, or

29 judgment that may result in payment to the obligor;
 30 providing for notice to the obligor; providing
 31 requirements for such notice; providing an effective
 32 date.

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

36 Section 1. Subsection (1), paragraph (a) of subsection
 37 (2), and subsection (3) of section 61.13016, Florida Statutes,
 38 are amended to read:

39 61.13016 Suspension of driver ~~driver's~~ licenses and motor
 40 vehicle registrations.—

41 (1) The driver ~~driver's~~ license and motor vehicle
 42 registration of a support obligor who is delinquent in payment
 43 or who has failed to comply with subpoenas or a similar order to
 44 appear or show cause relating to paternity or support
 45 proceedings may be suspended. When an obligor is 15 days
 46 delinquent making a payment in support or failure to comply with
 47 a subpoena, order to appear, order to show cause, or similar
 48 order in IV-D cases, the Title IV-D agency may provide notice to
 49 the obligor of the delinquency or failure to comply with a
 50 subpoena, order to appear, order to show cause, or similar order
 51 and the intent to suspend by regular United States mail that is
 52 posted to the obligor's last address of record with the
 53 Department of Highway Safety and Motor Vehicles. When an obligor
 54 is 15 days delinquent in making a payment in support in non-IV-D
 55 cases, and upon the request of the obligee, the depository or
 56 the clerk of the court must provide notice to the obligor of the

57 delinquency and the intent to suspend by regular United States
 58 mail that is posted to the obligor's last address of record with
 59 the Department of Highway Safety and Motor Vehicles. In either
 60 case, the notice must state:

61 (a) The terms of the order creating the support
 62 obligation;

63 (b) The period of the delinquency and the total amount of
 64 the delinquency as of the date of the notice or describe the
 65 subpoena, order to appear, order to show cause, or other similar
 66 order that ~~which~~ has not been complied with;

67 (c) That notification will be given to the Department of
 68 Highway Safety and Motor Vehicles to suspend the obligor's
 69 driver ~~driver's~~ license and motor vehicle registration unless,
 70 within 20 days after the date the notice is mailed, the obligor:

71 1.a. Pays the delinquency in full and any other costs and
 72 fees accrued between the date of the notice and the date the
 73 delinquency is paid;

74 b. Enters into a written agreement for payment with the
 75 obligee in non-IV-D cases or with the Title IV-D agency in IV-D
 76 cases; or in IV-D cases, complies with a subpoena or order to
 77 appear, order to show cause, or a similar order; ~~or~~

78 c. Files a petition with the circuit court to contest the
 79 delinquency action; or ~~and~~

80 d. Begins paying the delinquency by income deduction; and

81 2. Pays any applicable delinquency fees.

82
 83 If the obligor in non-IV-D cases enters into a written agreement
 84 for payment before the expiration of the 20-day period, the

85 obligor must provide a copy of the signed written agreement to
 86 the depository or the clerk of the court.

87 (2) (a) Upon petition filed by the obligor in the circuit
 88 court within 20 days after the mailing date of the notice, the
 89 court may, in its discretion, direct the department to issue a
 90 license for driving privileges restricted to business purposes
 91 only, as defined by s. 322.271, if the person is otherwise
 92 qualified for such a license. As a condition for the court to
 93 exercise its discretion under this subsection, the obligor must
 94 agree to a schedule of payment on any child support arrearages
 95 and to maintain current child support obligations. If the
 96 obligor fails to comply with the schedule of payment, the court
 97 shall direct the Department of Highway Safety and Motor Vehicles
 98 to suspend the obligor's driver ~~driver's~~ license.

99 (3) If the obligor does not, within 20 days after the
 100 mailing date on the notice, pay the delinquency; ~~enter into a~~
 101 written payment agreement; ~~comply with the subpoena, order to~~
 102 appear, order to show cause, or other similar order; begin
 103 paying the delinquency by income deduction; ~~or file a motion to~~
 104 contest, the Title IV-D agency in IV-D cases, or the depository
 105 or clerk of the court in non-IV-D cases, may ~~shall~~ file the
 106 notice with the Department of Highway Safety and Motor Vehicles
 107 and request the suspension of the obligor's driver ~~driver's~~
 108 license and motor vehicle registration in accordance with s.
 109 322.058.

110 Section 2. Subsections (1) and (2) of section 322.058,
 111 Florida Statutes, are amended to read:

112 322.058 Suspension of driving privileges due to support
 113 delinquency; reinstatement.—

114 (1) When the department receives notice from the Title IV-
 115 D agency or depository or the clerk of the court that any person
 116 licensed to operate a motor vehicle in the State of Florida
 117 under the provisions of this chapter has a delinquent support
 118 obligation or has failed to comply with a subpoena, order to
 119 appear, order to show cause, or similar order, the department
 120 shall suspend the driver driver's license of the person named in
 121 the notice and the registration of all motor vehicles owned by
 122 that person.

123 (2) The department must reinstate the driving privilege
 124 and allow registration of a motor vehicle when the Title IV-D
 125 agency in IV-D cases or the depository or the clerk of the court
 126 in non-IV-D cases provides to the department an affidavit
 127 stating that:

128 (a) The person has paid the delinquency;

129 (b) The person has reached a written agreement for payment
 130 with the Title IV-D agency or the obligee in non-IV-D cases;

131 (c) A court has entered an order granting relief to the
 132 obligor ordering the reinstatement of the license and motor
 133 vehicle registration; or

134 (d) The person has complied with the subpoena, order to
 135 appear, order to show cause, or similar order; or

136 (e) The obligor is paying the delinquency by income
 137 deduction.

138 Section 3. Subsections (4) and (10) of section 409.25656,
 139 Florida Statutes, are amended to read:

140 409.25656 Garnishment.—

141 (4) A notice that is delivered under this section is
 142 effective at the time of delivery against all credits, other
 143 personal property, or debts of the obligor which are not at the
 144 time of such notice subject to an attachment, garnishment, or
 145 execution issued through a judicial process. Upon the
 146 garnishee's written consent, the department may send notices to
 147 the garnishee by secure e-mail or fax.

148 (10) The Chief Financial Officer shall work cooperatively
 149 with the department to establish an automated method for
 150 periodically disclosing to the department an electronic file of
 151 individuals to whom the state pays money for goods or services
 152 or who lease real property to the state. The department shall
 153 use the data provided to identify individuals who owe past due
 154 or overdue support and may garnish payments owed to such
 155 individuals by the state as provided in this section ~~The~~
 156 ~~department shall provide notice to the Chief Financial Officer,~~
 157 ~~in electronic or other form specified by the Chief Financial~~
 158 ~~Officer, listing the obligors for whom warrants are outstanding.~~
 159 ~~Pursuant to subsection (1), the Chief Financial Officer shall,~~
 160 ~~upon notice from the department, withhold all payments to any~~
 161 ~~obligor who provides commodities or services to the state,~~
 162 ~~leases real property to the state, or constructs a public~~
 163 ~~building or public work for the state. The department may levy~~
 164 ~~upon the withheld payments in accordance with subsection (3).~~
 165 Section 215.422 does not apply from the date the notice is filed
 166 with the Chief Financial Officer until the date the department
 167 notifies the Chief Financial Officer of its consent to make

168 payment to the person or 60 days after receipt of the
 169 department's notice in accordance with subsection (1), whichever
 170 occurs earlier.

171 Section 4. Subsections (1) and (4) of section 409.25658,
 172 Florida Statutes, are amended to read:

173 409.25658 Use of unclaimed property for past due support.—

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

180 (4) Before ~~Prior to~~ paying an obligor's approved claim,
 181 the Department of Financial Services shall notify the department
 182 that the ~~such~~ claim has been approved. Upon confirmation that
 183 the Department of Financial Services has approved the claim, the
 184 department shall immediately send a notice by certified mail to
 185 the obligor at the address provided by the obligor to the
 186 Department of Financial Services, with a copy to the Department
 187 of Financial Services, advising the obligor of the department's
 188 intent to intercept the approved claim up to the amount of the
 189 past due support, and informing the obligor of the obligor's
 190 right to request a hearing under chapter 120. The Department of
 191 Financial Services shall retain custody of the property until a
 192 final order has been entered and any appeals thereon have been
 193 concluded, or, if the intercept is uncontested, until notified
 194 by the department. If the obligor fails to request a hearing,
 195 the department shall notify ~~enter a final order instructing~~ the

196 Department of Financial Services, electronically or in writing,
 197 to transfer to the department the property in the amount stated
 198 in the notice or electronic file ~~final order~~. Upon such
 199 transfer, the Department of Financial Services shall be released
 200 from further liability related to the transferred property.

201 Section 5. Section 409.2575, Florida Statutes, is amended
 202 to read:

203 409.2575 Administrative liens ~~on motor vehicles and~~
 204 ~~vessels.~~-

205 (1) The department ~~director of the state IV-D program, or~~
 206 ~~the director's designee,~~ may cause a lien for unpaid and
 207 delinquent support to be placed upon motor vehicles, as defined
 208 in chapter 320, ~~and~~ upon vessels, as defined in chapter 327,
 209 that are registered in the name of an obligor who is delinquent
 210 in support payments, ~~if the title to the property is held by a~~
 211 ~~lienholder,~~ in the manner provided in chapter 319 or chapter
 212 328, and upon a claim, settlement, or judgment that may result
 213 in payment to the obligor. The department shall notify the
 214 obligor of the intent to place a lien by certified mail sent to
 215 the obligor's address of record on file with the depository. The
 216 notice must state the amount of past due support owed and inform
 217 the obligor of the right to contest the lien at an
 218 administrative hearing as provided by chapter 120. Notice of
 219 lien shall not be mailed unless the delinquency in support
 220 exceeds \$600.

221 (2) If the first lienholder fails, neglects, or refuses to
 222 forward the certificate of title to the appropriate department
 223 as requested pursuant to s. 319.24 or s. 328.15, the department

PCS for HB 935

ORIGINAL

2012

224 ~~director of the IV-D program, or the director's designee,~~ may
225 apply to the circuit court for an order to enforce the
226 requirements of s. 319.24 or s. 328.15, whichever applies.

227 Section 6. This act shall take effect July 1, 2012.