

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO  
THE SUPREME COURT APPROVED  
FAMILY LAW FORMS**

**CASE NO. SC10-2344**

**FLORIDA DEPARTMENT OF REVENUE’S COMMENTS IN  
RESPONSE TO THE AMENDMENTS TO THE  
SUPREME COURT APPROVED FAMILY LAW FORMS**

The Florida Department of Revenue respectfully submits these comments in response to the Amendments to the Supreme Court Approved Family Law Forms that were adopted by the Court on April 7, 2011.

**Order Granting Petition for Temporary Custody by Extended Family**

Section V of the Order Granting Temporary Custody by Extended Family provides the method of payment for child support and arrearages. The heading for paragraph 1 is “**State Disbursement Unit.**” The Department suggests the heading be changed to “Payment” or “Place of Payment” in order to reflect that the options under paragraph 1 include direct payments to the petitioner and are not limited to payments through the State Disbursement (SDU). If paragraph 1(b) is checked, payments are ordered to be made directly to the petitioner, not through the depository or the SDU.

Paragraph 1(a) provides for the payment of court-ordered support directly to the SDU along with the deposit service charge. The Department

submits that “deposit service charge” in paragraph 1(a) of Section IV should be changed to “fee required by Section 61.181(2)(a)” in order to comply the term used in the statute. Section 61.181(2)(a), Fla. Stat. (2010), requires fees on payments processed by the SDU in non-Title IV-D cases. Fees are not required on SDU payments in cases being enforced by the Department under Title IV-D of the Social Security Act (Title IV-D cases).

Paragraph 1(b) provides for direct payment of support payments, but allows for any party to subsequently apply requiring payment through the SDU. The Department suggests that “State Disbursement Unit” in paragraph 1(b) be changed to “depository” in order to comply with Section 61.13(1)(d)(3), Fla. Stat. (2010). The statute provides a process to redirect payments to *the depository*, not the SDU. Upon filing of an affidavit, the depository notifies the parties that payments should be made through the depository, except income deduction payments shall be made to the SDU.

Paragraph 2(a) of the form order governs immediate income deduction orders. The last sentence states “[u]ntil support payments are deducted, the Payor is responsible for making timely payments directly to the State Disbursement Unit or the Petitioner as previously set forth in this Order.” The Department suggests the term “Payor” in this paragraph should be changed to “the Parent(s)” or “the Obligor(s).” Use of the term “Payor”

to designate the parent(s) obligated to pay child support may result in confusion. Section 61.046 (16), Fla. Stat. (2010), defines a “Payor” as “an employer or former employer or any other person or agency providing or administering income to the obligor.” Section 61.046(13) defines “Obligor” as “a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.” In addition, the General Information section of the Family Law Forms provides a Family Law Glossary of Common Terms and Definitions. The Family Law Glossary defines “Payor” as “an employer or other person who provides income to the obligor.” The Glossary defines “Obligor” as “a person who is ordered by the court to pay money, such as child support or alimony.” The word “Payor” in paragraph 2(a) should be changed to “Obligor(s)” in order to confirm with the terminology in the statute, existing family law forms and the Family Law Glossary.

The Department also submits that the words “or the Petitioner” should be deleted in paragraph 2(a). Section 61.1824(1), Fla. Stat. (2010), requires that all child support cases with an initial support order is issued on or after January 1, 1994, and in which the obligor’s child support is being paid through income deduction must be paid through the State Disbursement Unit

(SDU). The current wording could result in confusion as to where the payments should be made until the Income Deduction Order is implemented by the obligor's employer. Payments made direct to the obligee prior the employer's implementation of the IDO would not be automatically credited to the obligor's child support case by the official record keeper and would require the obligor to seek credit for those direct payments with the court.

Paragraph 2(b) governs deferred income deduction orders. Deferred income deduction may be ordered where immediate income deduction is not in the best interest of the children and there is proof of timely payment of a previously ordered obligation without an IDO and there is an agreement by the payor(s) to advise the SDU of any change in payor or health insurance. The Department submits that the language "there is an agreement by the Payor(s) to advise the State Disbursement Unit of any change in Payor(s) or health insurance" should be changed to "there is an agreement by the Obligor(s) to advise the Petitioner of any change in Payor(s) or health insurance OR ( ) there is a signed, written agreement providing an alternative arrangement between the Petitioner and Obligor(s)." It appears that the purpose of this provision is to require the parent(s) obligated to pay support to notify the Petitioner/obligee of any changes in employers or

payors of income in the event that a delinquency occurs and income deduction is required in the future.

In addition, the SDU should not be notified of changes in payors or health insurance. The SDU processes child support payments by receiving payments from obligors, employers, and other entities and disburses payments to the obligees. *See* Section 61.1824(3), Fla. Stat. (2010). The SDU does not enforce child support or health insurance in any cases. The SDU is not responsible for sending out income deduction orders to employers or payors of income. The SDU has no involvement with enforcing health insurance. Requiring the parents to send the SDU information on changes in payors and health insurance is an unnecessary provision of the order and places an unnecessary burden on the SDU to receive information it cannot use or maintain.

**Order Granting Petition for Concurrent Custody by Extended Family**

The comments made by the Department regarding paragraphs 1 and 2 of Section V of the form Order Granting Petition for Temporary Custody By Extended Family apply equally to paragraphs 1 and 2 of Section IV of the form Order Granting Petition for Concurrent Custody by Extended Family.

Respectfully submitted this 6<sup>th</sup> day of June, 2011.

---

Joan K. Koch  
Chief Legal Counsel  
Florida Department of Revenue  
Child Support Enforcement Program  
P.O. Box 8030  
Tallahassee, FL 32314-8030  
Florida Bar No. 0880980  
Phone (850) 617-8608  
Fax (850) 922-6665  
[kochj@dor.state.fl.us](mailto:kochj@dor.state.fl.us)