

Senate Judiciary Committee Amendment No. 1 (by Kyle)

Amendment No. 1 to SB2398

**Person
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Date _____
Time _____
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Comm. Amdt. _____

AMEND Senate Bill No. 2398*

House Bill No. 2688

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 5, Part 1, is amended by adding the following as a new section thereto:

Section (____). Payments and identifying information required for support payments made to the centralized collection and disbursement unit.

(a) All payments to the centralized collection and disbursement unit by either the obligor parent or a payer on behalf of the obligor parent shall include the following information:

(1) the name, social security number and return address of the obligor parent;

(2) the code identifier for the court for which the payment is being made and the docket number of the case in which the support order was entered; and

(3) for cases involving deductions from compensation of the obligor by an employer or other payer of income by income assignment, the date the payment was deducted from the employee's or other payee's compensation.

(b) As an alternative to compliance with subsection (a), an employer or other payer of support on behalf of an obligor parent may submit a payment document provided by the department of human services on which the employer or other payer shall include the amount of income withholding on each affected employee or other payee, and, if

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appropriate, shall provide the name and address of any new employer of an affected employee or payee if known to the employer or other payer.

(c) As an alternative to subsection (a), a self-employed obligor parent, or an obligor parent whose employer or other payer of income is unknown to the department, may submit a payment coupon provided by the department to the parent with the payment due.

(d) Any payment made to the centralized collection and disbursement unit that does not comply with the requirements of subsection (a)-(c) shall be subject to a penalty.

(e)(1) If, after prior warning notification by the department of human services of failure to provide the information with the payments as required by this section, any employer, or other payer of income, fails or refuses to comply with the requirements of this section, the violator shall be subject to a civil penalty of one hundred dollars (\$100.00) per individual for whom the required information is not provided upon the first failure to comply, two hundred dollars (\$200.00) per individual for the second failure to comply and five hundred dollars (\$500.00) per individual for each occurrence thereafter. The warning notification shall specifically state the information required to be submitted and the information omitted by the employer or other payer of income, shall provide a telephone number for questions, and shall set forth the penalties for failure to comply, referencing statutory authority.

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(2) If, after prior warning notification by the department of human services of failure to provide the information with the payments as required by this section, any obligor fails or refuses to comply with the requirements of this section, the violator shall be subject to a civil penalty of one hundred dollars (\$100) or the amount equaling twenty-five percent (25%) of the obligor's monthly support obligation, whichever is less, for the first failure to provide the required information, two hundred dollars (\$200), or the amount equaling fifty percent (50%) of the obligor's monthly obligation, whichever is less, for the second failure to comply and five hundred dollars (\$500) or the obligor's monthly support obligation, whichever is less, for each occurrence thereafter. The warning notification shall specifically state the information required to be submitted and the information omitted by the obligor, shall provide a telephone number for questions, and shall set forth the penalties for failure to comply, referencing statutory authority.

(3) Any employer, payer of income or obligor who conspires not to provide the information required by this section or who conspires to provide false or incomplete information shall each be subject to a civil penalty of five hundred dollars (\$500).

(4) These penalties shall be assessed by the commissioner of human services after written notice to the violator. The notice shall

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provide fifteen (15) days from the mailing date of such notice to file a written request to the department for appeal of the civil penalty.

(5) If an appeal is timely filed with the department by the employer, payer of income or obligor, the department shall set an administrative hearing on the issue of the assessment pursuant to the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 relative to contested case hearings.

(6) Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(7) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination.

(8)(A) Failure to pay an assessment shall result in a lien against the real or personal property of the employer, payer of income or the obligor in favor of the department. If the violator fails to pay an assessment when it becomes final, the department may collect the amount of the civil penalty by any available administrative enforcement procedures or by court action.

(B) The employer, payer of income or obligor shall be liable for all court costs and litigation taxes of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the state and for the time of any of its Title IV-D or contractor staff utilized in litigating the assessment.

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(9) Any appeal of the action of the commissioner pursuant to this section shall be made in conformity with § 36-5-1003.

SECTION 2. This act shall apply to any pending child support order owed under a court or administrative order that is subject to centralized collection and disbursement.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.