

IN THE CIRCUIT COURT OF THE  
NINETEENTH JUDICIAL CIRCUIT,  
IN AND FOR INDIAN RIVER, MARTIN,  
OKEECHOBEE AND SAINT LUCIE,  
COUNTIES, FLORIDA.

ADMINISTRATIVE ORDER NO. 86-5

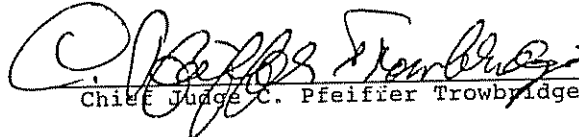
IN RE: Authorization for Clerk  
to Dismiss F.S. 316.646  
Citations.

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WHEREAS, the Legislature of the State of Florida has not authorized the Clerk of the Court to dismiss a violation of F.S. 316.646 on payment of a \$5.00 fee if the violator produces proof of valid insurance at the time of the offense, it is therefore

ORDERED and ADJUDGED that the Clerk of the Court has the authority to dismiss a violation of F.S. 316.646 on payment of \$5.00 Clerk's fee if the violator produces proof of insurance valid at the time of the offense.

DONE and ORDERED in quadruplicate at Stuart, Martin County, Florida, this the 10<sup>th</sup> day of December, 1987.

  
Chief Judge C. Pfeiffer Trowbridge

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MAY 2 1986

IN AND FOR THE NINETEENTH JUDICIAL  
CIRCUIT OF FLORIDA

ADMINISTRATIVE ORDER  
86 - 4

IN RE: PERIODIC ALIMONY AND CHILD SUPPORT COLLECTION AND ENFORCEMENT

ORDER

Implementing Chapter 85-178, Laws of Florida, it is ORDERED that:

CENTRAL GOVERNMENTAL DEPOSITORY

1. The office of the Clerk of Circuit Court in each county shall be the central governmental depository to receive, record and disburse all payments for alimony and child support.

FORMS

2. The attached forms shall be sufficient to comply with the required procedures under Chapter 85-178, Laws of Florida.

ORDERS AND JUDGMENTS FOR ALIMONY,  
CHILD SUPPORT, OR ENFORCEMENT

3. (a) With respect to any order or judgment requiring the payment of alimony, child support or any arrearage thereon entered on or after January 1, 1985, unless the provisions of Sections 61.08(4)(c) (alimony, but no minor children) or 61.13(1)(3) (parties request direct payment), Florida Statutes (1984) apply, the Court shall direct that said payments shall be made through the Clerk of Court.  
(b) With respect to any order or judgment which does not require payment through the Clerk of Court, either party may subsequently apply directly to the Clerk to activate participation in the depository program (Forms CCD-1 and 2) or the court may so order in any subsequent proceedings. A Memorandum To Clerk (Form CCD-5) shall be filed with the petition.

If it is alleged that an arrearage is owed at the time of the requested modification, the Court shall conduct a hearing to determine the arrearage with notice to Payor (Form CCD-3).

- (c) Once payments are ordered through the Clerk of Court, the parties jointly may later request the court to modify the support order to allow direct payments to the Payee (Form CCD-4).
4. Any order or judgment for payment of alimony, child support or arrearage through the Clerk of Court entered after January 1, 1985, including a temporary order, shall contain the following provisions:

IT IS FURTHER ORDERED that (Payor) shall promptly notify the Clerk of Court of all changes in (his/her) mailing and residence address, and all changes in the name and address of (his/her) employer.

IT IS FURTHER ORDERED that upon (Payor) falling in arrears on any support payment, the Clerk of Court is authorized to summons (Payor) to appear and give a sworn statement as to (his/her) current employment status and sources of income. (Payor) may be summoned to appear before the Clerk by sheriff service or by registered mail, restricted delivery, and the cost thereof shall be reimbursed by (Payor). Failure of (Payor) to appear before the Clerk after being properly summoned, shall be deemed contempt of court and punished as such.

IT IS FURTHER ORDERED that the (child support/alimony) payments ordered herein are subject to further orders of this Court for income deduction pursuant to Section 61.181, Florida Statutes (1985). Upon the payment of any support ordered herein becoming delinquent more

than 30 days, the Clerk of Court shall promptly apply for an order of income deduction, if appropriate.

All such orders or judgments shall clearly state the date payments are to begin, name the person(s) for whom support is payable, how often payments are to be made, and state the amount of each type of support or arrearage payment ordered. This information shall be written in the judgment itself, rather than provided by reference to a property settlement or custody agreement. Judges should refrain from using language providing for cost of living adjustments because the Clerk of Court will have no practical way of calculating each adjustment.

5. In addition to and together with any order or judgment for payment of support or alimony through the Clerk of Court, a Memorandum to the Clerk (Form CCD-5) must be attached to such order and forwarded to the Clerk of Court. The ultimate responsibility for obtaining information for the memorandum lies with the judge issuing the order, not the Clerk of Court.

PROCEDURE FOR INCOME DEDUCTION  
BY ORDER OF COURT  
(Non-HRS/URESAs Cases)

With respect to alimony, child support and arrearage payments payable through the Clerk of Court where neither the Department of Health and Rehabilitative Services nor the State Attorney is responsible for enforcement, and the Payee has not instituted enforcement proceedings, the following shall apply:

6. Upon any periodic support or arrearage payment becoming 30 days past due, the Clerk of Court shall summons (Form CCD-6) the Payor to appear before him or his designated deputy to give a sworn statement (Form CCD-7) as to his current employment status and sources of income. The Payor may avoid a personal appearance before the Clerk by providing a sworn statement containing all the requested information (Form CCD-7) in advance of the time scheduled for his appearance. Failure to comply with a duly served summons should be promptly brought to the Court's attention for further action.
7. When it is verified that the Payor is employed while support payments are delinquent, the Clerk of Court should proceed as follows:
  - a) Notice To Payor Of Delinquency (Form CCD-8) shall be served on Payor.
  - b) If the delinquency is not brought current within 15 days after service of the notice of delinquency on Payor, then an Income Deduction Order (Form CCD-9) shall be obtained by the Clerk of Court from an appropriate judge on an ex parte basis, and served on the employer (Form CCD-10).

The Judge issuing the Income Deduction Order shall be responsible for determining the amount of the deduction in accordance with the provisions of 61.181(3)(b), Florida Statutes (1985) and 15 U.S.C. 1673(b), using the information provided on Form CCD-7. The Court, in its discretion, may set the matter of the amount to be deducted for a hearing.

8. If the Payor files a notice with the Clerk of Court (Form CCD-11) that he is contesting the income deduction within 15 days after he is served with notice of the delinquency, then a hearing thereon shall be held and a decision made by the Court rendered within 30 days after Payor received notice of the intent to obtain an income deduction order.

A petition to modify child support payments shall not stay an income deduction proceeding.

PROCEDURE FOR INCOME DEDUCTION  
BY ORDER OF COURT  
(HRS Cases)

With respect to child support and arrearage payments payable to the Clerk of Court and enforced by the Department of Health and Rehabilitative Services,

the following shall apply:

9. The Department of Health and Rehabilitative Services shall act as Enforcement Administrator to enforce child support orders for all persons receiving public assistance at the time a delinquency occurs. The Department shall also enforce child support orders for those persons who received public assistance within six months prior to the delinquency unless the Payee has notified the Department in writing that they do not want such service.
10. The Department shall follow the due process procedures required by Chapter 85-178, Laws of Florida, as to notifying the Payor of the delinquency, its intent to seek an income deduction order and the Payor's right to contest income deduction. The Department shall file proof of such compliance in the court file.
11. After the effective date of this Administrative Order, the Department of Health and Rehabilitative Services shall not seek an income deduction of child support, reimbursement, or arrearage payments by authority of a Court order until such time as the Department obtains from the Court an income deduction order in substantially the same form as Form CCD-9. Once an income deduction order becomes effective upon an employer, it shall be discontinued only by operation of law or further order of the Court; the Department of Health and Rehabilitative Services is not authorized to notify employers to discontinue honoring court orders.

PROCEDURE FOR INCOME DEDUCTION  
BY ORDER OF COURT  
(URESAs Cases)

With respect to child support and arrearage payments payable to the Clerk of Court pursuant to Chapter 88, Florida Statutes (Revised Uniform Reciprocal Enforcement Support Act), the following shall apply:

12. The office of the State Attorney shall act as Enforcement Administrator in regard to interstate cases filed under the Revised Uniform Reciprocal Enforcement of Support Act, Chapter 88, Florida Statutes (1968).
13. In such cases, the State Attorney shall have the same authority to act as the Clerk of Court and shall follow the procedure outlined in Paragraphs 6 through 8 above to obtain enforcement by income deduction. The State Attorney shall use forms substantially the same as Forms CCD 6 - 11.

JUDGE'S RESPONSIBILITIES BEFORE  
ENTERING INCOME DEDUCTION ORDERS

14. Before entering an income deduction order (Form CCD-9), the judge shall determine the following:
  - a) Whether the Clerk of Court is receiving payments directly from Payor's employer, and if so, by what authority the employer is deducting such sums.
  - b) Whether the income deduction order about to be entered would be confusing or inconsistent with any prior court orders for income deduction in effect.
  - c) Whether the total amount to be deducted from Payor's income after entry of the new order would exceed the maximum deduction allowed by law.
  - d) Whether it is necessary to modify any prior income deduction orders in effect. If so, it shall be the responsibility of the judge entering the new income deduction order to draft an order which will 1) modify the prior orders, 2) explain to the employer the new amount he is ordered to deduct and the effective date, and 3) explain to the Clerk of Court specifically how the money paid pursuant to the order is to be allocated if different from the rule of construction outlined below.

PROCEDURE FOR ENFORCEMENT  
BY PAYEE WITHOUT COUNSEL

15. If income deduction procedures prove ineffective, the Clerk of Court shall assist any Payee without counsel in enforcing a support order using the following procedure:
- a) Payee shall file a Motion For Adjudication of Contempt (Form CCD-12). If Payee is indigent she shall also file an Oath of Inability To Pay Service Charge (Form CCD-13) and supporting Affidavit (Form CCD-14). If the Clerk doubts the Oath of Inability to Pay Service Charge, it should be forwarded to the judge for review.
  - b) The Clerk shall prepare a Certification of Delinquency (Form CCD-15) and a Notice of Hearing (Form CCD-16). As much as possible, judges are to set enforcement hearings within fourteen days of the date the Motion For Adjudication of Contempt is filed in order to comply with the state-wide administrative order governing trial court time standards.
  - c) The Clerk shall make the arrangements for service of the Motion For Adjudication of Contempt, the Certification of Delinquency, and the Notice of Hearing on Payor (Form CCD-17).
  - d) The Clerk shall deliver to the Payee a Notice To Appear (Form CCD-18)
  - e) Within 24 hours of the contempt hearing, the Clerk shall provide the Court with a certified copy of the support payment ledger or a sworn statement of the payment history. The Clerk shall not be required to attend the contempt hearing unless deemed necessary by the Court.

SERVICE OF PROCESS

16. Service of all documents or papers required by this order may be accomplished by sheriff's service (Form CCD-17) or registered mail, restricted delivery.

RULE OF CONSTRUCTION

17. Each payment made by Payor shall be allocated first to the Clerk's fees and costs, next to current child support, next to current alimony support, next to arrearage on child support (including reimbursement for welfare benefits), next to arrearage on alimony support, and finally to any remaining obligation.

CLERK'S FEES AND COSTS

18. For each payment to the depository pursuant to any temporary or permanent support order entered after the effective date of the Order, the Clerk shall charge the following as a fee for services based on the total amount paid by Payor:

| <u>Total Amount Received</u> | <u>Fee</u> |
|------------------------------|------------|
| \$ 1.00 through \$ 66.00     | \$ 1.00    |
| 67.00 through 99.00          | 2.00       |
| 100.00 through 133.00        | 3.00       |
| 134.00 through 166.00        | 4.00       |
| 167.00 through 199.00        | 5.00       |
| 200.00 through 233.00        | 6.00       |
| 234.00 through 266.00        | 7.00       |
| 267.00 through 299.00        | 8.00       |
| 300.00 through 333.00        | 9.00       |
| 334.00 and up                | 10.00      |

19. Payor shall pay \$10.00 as court costs for service of the notice of

delinquency and \$10.00 for service of the income deduction order.


SHERIFF'S RESPONSIBILITIES

20. The Sheriff of each county in the Circuit is directed to expedite, as much as possible, service of papers for enforcement of support orders.

PRIOR ADMINISTRATIVE ORDERS

21. The previous Administrative Order dated July 23, 1974, on support enforcement proceedings shall remain in effect to enforce support orders issued prior to the date of this order until such time as those prior orders are modified for payment through the central governmental depository with income deduction provisions.
22. Administrative Order 85-2 is rescinded.

Done and Ordered at Stuart, Martin County, Florida, in quadruplicate, this 27th day of April, 1986.

  
CHIEF JUDGE

Copies furnished to:  
All Circuit Judges  
All Acting Circuit Judges  
All Clerks of Court  
All Sheriffs  
Bruce H. Colton, State Attorney  
Osborne O'Quinn, HRS Attorney  
David B. Douglass, Court Administrator