

Reduction on delinquent child support payments

Number: AGO 88-35

Date: December 18, 1997

Subject:
Reduction on delinquent child support payments

The Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902

RE: CLERK OF CIRCUIT COURT–DISSOLUTION OF MARRIAGE–CHILD
SUPPORT–enforcement of delinquent child support payments made through local depository. s.
61.14, F.S.

Dear Mr. Green:

You have asked substantially the following question:

Is a local depository required to reduce to judgment all delinquent child support payments due and unpaid prior to July 1, 1987, pursuant to the amendment of s. 61.14(5), F.S., by s. 6, Ch. 88-170, Laws of Florida?

In sum:

The amendment of s. 61.14(5), F.S., by s. 6, Ch. 88-170, Laws of Florida, operates prospectively on delinquent child support payments which accrue against an obligor on or after July 1, 1988. A local depository is not required to reduce to judgment support payments due and unpaid prior to July 1, 1987, pursuant to such amendment.

Section 61.14, F.S., relates to the enforcement and modification of support, maintenance or alimony agreements or orders in connection with proceedings for dissolution of marriage or separate maintenance.[1]

Subsection (5)(a) of s. 61.14, F.S., was amended by s. 6, Ch. 88-170, Laws of Florida, to provide in part:

"When support payments are made through the local depository,[1] *any* an unpaid payment or installment of support which becomes due *and is unpaid* after July 1, 1987, under any support order and is delinquent; *and it, and all other costs and fees herein provided for*, shall become, after notice to the obligor and the time for response contained therein as set forth *in this subsection* paragraph (b), a final judgment by operation of law, *which has* and shall have the full force, effect, and attributes of a judgment entered by a court in this state for which execution

may issue."

(Words are deletions; words underlined are additions.)

The 1988 amendment deleted the language "after July 1, 1987." You ask whether the statute must now be applied retroactively to require a local depository to reduce to judgment all payments due and unpaid prior to July 1, 1987.

Section 21, Ch. 88-170, Laws of Florida, states:

"The provisions for a judgment rendered by operation of law against an obligor for a delinquent child support payment, which provisions are contained in section 61.14(5), Florida Statutes, as created by section 5 of chapter 87-95, Laws of Florida, apply to any delinquent child support payments which accrued against an obligor before the effective date of this section.[2] The provisions for a judgment rendered by operation of law against an obligor for a delinquent child support payment, which provisions are contained in section 61.14(5), Florida Statutes, as amended by this act, apply to any delinquent child support payment which accrued against an obligor on or after the effective date of this section."

Pursuant to s. 27, Ch. 88-170, Laws of Florida, the relevant provisions became effective July 1, 1988.[3]

Thus, as specifically provided in s. 21, *supra*, delinquent child support payments which accrued prior to July 1, 1988, will be governed by s. 61.14(5)(a), F.S.1987. The amendments to s. 61.14(5), F.S.1987, contained in Ch. 88-170, Laws of Florida, apply prospectively only, *i.e.*, "to any delinquent child support payment which accrued against an obligor on or after [July 1, 1988]."

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgh

[1] Section 61.046(3), F.S., defines "[d]epository" as "the central governmental depository established pursuant to s. 61.181 to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments."

[2] Section 24, Ch. 87-95, Laws of Florida, specifically provides that "[t]he amendment of any laws by this act shall not effect any cause of action which accrued prior to, or was pending upon, [July 1, 1987]."

[3] Section 27, Ch. 88-170, Laws of Florida, provides that:

"This act shall take effect October 1, 1988, *except that* this section and *sections* 1, 2, 4, 6, 18, 19, 20, and 21 shall take effect upon becoming a law." (e.s.)

Governor Martinez signed CS for CS for SB 487 (subsequently assigned Ch. 88-170, Laws of Florida) on July 1, 1988.