

Bill No. CS for SB 1272

Amendment No. Barcode 574330

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Peaden moved the following amendment:

Senate Amendment (with title amendment)

On page 8, line 22, through page 17, line 15, delete those lines

and insert:

Section 6. Paragraph (c) of subsection (14) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.--

(14) DEPARTMENT OF REVENUE.--

(c) Proceedings for administrative ~~child~~ support orders.--~~Notwithstanding the provisions of s. 120.569 or s. 120.57 to the contrary,~~In proceedings for the establishment of administrative support orders pursuant to s. 409.2563, final orders in cases referred by the Department of Revenue to the Division of Administrative Hearings shall be entered by the division's administrative law judge and transmitted to the Department of Revenue for filing and rendering indexing. The Department of Revenue has the right to seek judicial review

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1 under s. 120.68 of a final order entered by an administrative
2 law judge. Administrative support orders rendered pursuant to
3 s. 409.2563 may be enforced pursuant to s. 120.69 or,
4 alternatively, by any method prescribed by law for the
5 enforcement of judicial support orders, except contempt.

6 Section 7. Subsection (3) of section 409.2557, Florida
7 Statutes, is amended to read:

8 409.2557 State agency for administering child support
9 enforcement program.--

10 (3) SPECIFIC RULEMAKING AUTHORITY.--The department has
11 the authority to adopt rules pursuant to ss. 120.536(1) and
12 120.54 to implement all laws administered by the department in
13 its capacity as the Title IV-D agency for this state
14 including, but not limited to, the following:

15 (a) Background screening of department employees and
16 applicants, including criminal records checks;

17 (b) Confidentiality and retention of department
18 records; access to records; record requests;

19 (c) Department trust funds;

20 (d) Federal funding procedures;

21 (e) Agreements with law enforcement and other state
22 agencies; National Crime Information Center (NCIC) access;
23 Parent Locator Service access;

24 (f) Written agreements entered into between the
25 department and support obligors in establishment, enforcement,
26 and modification proceedings;

27 (g) Procurement of services by the department, pilot
28 programs, and demonstration projects;

29 (h) Management of cases by the department involving
30 any documentation or procedures required by federal or state
31 law, including but not limited to, cooperation; review and

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1 adjustment; audits; interstate actions; diligent efforts for
2 service of process;

3 (i) Department procedures for orders for genetic
4 testing; subpoenas to establish, enforce, or modify orders;
5 increasing the amount of monthly obligations to secure
6 delinquent support; suspending or denying driver's and
7 professional licenses and certificates; fishing and hunting
8 license suspensions; suspending vehicle and vessel
9 registrations; screening applicants for new or renewal
10 licenses, registrations, or certificates; income deduction;
11 credit reporting and accessing; tax refund intercepts;
12 passport denials; liens; financial institution data matches;
13 expedited procedures; medical support; and all other
14 responsibilities of the department as required by state or
15 federal law;

16 (j) Collection and disbursement of support and alimony
17 payments by the department as required by federal law;
18 collection of genetic testing costs and other costs awarded by
19 the court;

20 (k) Report information to and receive information from
21 other agencies and entities;

22 (l) Provide location services, including accessing
23 from and reporting to federal and state agencies;

24 (m) Privatizing location, establishment, enforcement,
25 modification, and other functions;

26 (n) State case registry;

27 (o) State disbursement unit; ~~and~~

28 (p) Administrative proceedings to establish
29 child-support obligations; and

30 (q)~~(p)~~ All other responsibilities of the department as
31 required by state or federal law.

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1 Section 8. Subsections (1), (2), (4), (6), (7), (8),
2 (11), paragraph (c) of subsection (5), paragraph (d) of
3 subsection (9), paragraph (b) of subsection (10), and
4 paragraph (a) of subsection (13) of Section 409.2563, Florida
5 Statutes, are amended to read:

6 409.2563 Pilot program for Administrative
7 establishment of child support obligations.--

8 (1) DEFINITIONS.--As used in this section, the term:

9 (a) "Administrative support order" means a final order
10 rendered by or on behalf of the department pursuant to this
11 section establishing or modifying the obligation of a
12 noncustodial parent to contribute to the support and
13 maintenance of his or her child or children, which may include
14 provisions for monetary support, retroactive support, health
15 care, and other elements of support pursuant to chapter 61.

16 (b) "Caretaker relative" has the same meaning ascribed
17 in s. 414.0252(11).

18 (c) "Filed" means a document has been received and
19 accepted for filing at the offices of the department by the
20 clerk or any authorized deputy clerk of the department. The
21 date of filing must be indicated on the face of the document
22 by the clerk or deputy clerk.

23 (d) "Financial affidavit" means an affidavit or
24 written declaration as provided by s. 92.525(2) which shows an
25 individual's income, allowable deductions, net income, and
26 other information needed to calculate the child support
27 guideline amount under s. 61.30

28 ~~(e)~~(d) "Rendered" means that a signed written order is
29 filed with the clerk or any deputy clerk of the department and
30 served on the respondent. The date of filing must be indicated
31 on the face of the order at the time of rendition.

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1 ~~(e)~~ (f) "Title IV-D case" means a case or proceeding in
2 which the department is providing child support services
3 within the scope of Title IV-D of the Social Security Act, 42
4 U.S.C. ss. 651 et seq.

5 ~~(f)~~ (g) "Retroactive support" means a child support
6 obligation established pursuant to s. 61.30(17).

7
8 Other terms used in this section have the meanings ascribed in
9 ss. 61.046 and 409.2554.

10 (2) PURPOSE AND SCOPE.--

11 (a) It is not the Legislature's intent to limit the
12 jurisdiction of the circuit courts to hear and determine
13 issues regarding child support. This section is intended to
14 provide the department with an alternative procedure for
15 establishing child support obligations in Title IV-D cases in
16 a fair and expeditious manner when there is no court order of
17 support.

18 (b) The administrative procedure set forth in this
19 section concerns only the establishment of child support
20 obligations. This section does not grant jurisdiction to the
21 department or the Division of Administrative Hearings to hear
22 or determine issues of dissolution of marriage, separation,
23 alimony or spousal support, termination of parental rights,
24 dependency, disputed paternity, award of or change of custody,
25 or visitation. This paragraph notwithstanding, the department
26 and the Division of Administrative Hearings may make findings
27 of fact that ~~which~~ are necessary for a proper determination of
28 a noncustodial parent's support obligation as authorized by
29 this section.

30 (c) If there is no support order for a child in a
31 Title IV-D case whose paternity has been established or is

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1 presumed by law, the department may establish the a
2 noncustodial parent's child support obligation pursuant to
3 this section, s. 61.30, and other relevant provisions of state
4 law. The noncustodial parent's obligation determined by the
5 department may include any obligation to pay retroactive
6 support and any obligation to provide for health care for a
7 child, whether through insurance coverage, reimbursement of
8 expenses, or both. The department may proceed on behalf of:

9 1. An applicant or recipient of public assistance, as
10 provided by ss. 409.2561 and 409.2567;

11 2. A former recipient of public assistance, as
12 provided by s. 409.2569;

13 3. An individual who has applied for services as
14 provided by s. 409.2567;

15 4. Itself or the child, as provided by s. 409.2561; or

16 5. A state or local government of another state, as
17 provided by chapter 88.

18 (d) Either parent, or a caretaker relative if
19 applicable, may at any time file a civil action in a circuit
20 court having jurisdiction and proper venue to determine the
21 noncustodial parent's child support obligations, if any. A
22 support order issued by a circuit court prospectively
23 supersedes an administrative support order rendered by the
24 department.

25 (e) Pursuant to paragraph (b), neither the department
26 nor the Division of Administrative Hearings have jurisdiction
27 to award or change child custody or rights of parental
28 contact. Either parent may at any time file a civil action in
29 a circuit having jurisdiction and proper venue for a
30 determination of child custody and rights of parental contact.

31 (f) The department shall terminate the administrative

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1 proceeding and file an action in circuit court to determine
2 support if within 20 days after receipt of the initial notice
3 the noncustodial parent requests in writing that the
4 department proceed in circuit court or states in writing the
5 noncustodial parent's intention to address issues concerning
6 custody or rights to parental contact in court and if within
7 10 days after receipt of the department's petition and waiver
8 of service the noncustodial parent signs and returns the
9 waiver of service form to the department.

10 (g) The notices and orders issued by the department
11 under this section shall be written clearly and plainly.

12 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
13 SUPPORT ORDER.--To commence a proceeding under this section,
14 the department shall provide to the custodial parent and serve
15 the noncustodial parent with a notice of proceeding to
16 establish administrative support order and a blank financial
17 affidavit form. The notice must state:

18 (a) The names of both parents, the name of the
19 caretaker relative, if any, and the name and date of birth of
20 the child or children;

21 (b) That the department intends to establish an
22 administrative support order as defined in this section;

23 (c) That both parents must submit a completed
24 financial affidavit to the department within 20 days after
25 receiving the notice, as provided by paragraph (13)(a);

26 (d) That both parents, or parent and caretaker
27 relative if applicable, are required to furnish to the
28 department information regarding their identities and
29 locations, as provided by paragraph (13)(b);

30 (e) That both parents, or parent and caretaker
31 relative if applicable, are required to promptly notify the

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1 department of any change in their mailing addresses to ensure
2 receipt of all subsequent pleadings, notices, and orders, as
3 provided by paragraph (13)(c);

4 (f) That the department will calculate support
5 obligations based on the child support guidelines in s. 61.30
6 and using all available information, as provided by paragraph
7 (5)(a), and will incorporate such obligations into a proposed
8 administrative support order;

9 (g) That the department will send by regular mail to
10 both parents, or parent and caretaker relative if applicable,
11 a copy of the proposed administrative support order, the
12 department's child support worksheet, and any financial
13 affidavits submitted by a parent or prepared by the
14 department;

15 (h) That the noncustodial parent may file a request
16 for a hearing in writing within 20 days after the date of
17 mailing or other service of the proposed administrative
18 support order or will be deemed to have waived the right to
19 request a hearing;

20 (i) That if the noncustodial parent does not file a
21 timely request for hearing after service of the proposed
22 administrative support order, the department will issue an
23 administrative support order that incorporates the findings of
24 the proposed administrative support order, and will send by
25 regular mail a copy of the administrative support order to
26 both parents, or parent and caretaker relative if applicable;

27 (j) That after an administrative support order is
28 rendered, the department will file a copy of the order with
29 the clerk of the circuit court;

30 (k) That after an administrative support order is
31 rendered, the department may enforce the administrative

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1 support order by any lawful means; ~~and~~

2 (l) That either parent, or caretaker relative if
3 applicable, may file at any time a civil action in a circuit
4 court having jurisdiction and proper venue to determine the
5 noncustodial parent's child support obligations, if any, and
6 that a support order issued by a circuit court supersedes an
7 administrative support order rendered by the department;:-

8 (m) That, neither the department nor the Division of
9 Administrative Hearings have jurisdiction to award or change
10 child custody or rights of parental contact and these issues
11 may only be addressed in circuit court. That if the
12 noncustodial parent has issues regarding child custody or
13 right of parental contact or requests to proceed in circuit
14 court the noncustodial parent may request in writing that the
15 department proceed in circuit court to determine support.
16 That the noncustodial parent must make such request in writing
17 within 20 days after receipt of the initial notice. That
18 upon such request the department shall send the noncustodial
19 parent by regular mail a copy of the department's petition and
20 waiver of service form. That the noncustodial parent must
21 sign and return the waiver of service form, within 10 days of
22 receipt of the petition at which time the department shall
23 terminate the administrative proceeding and file an action in
24 circuit court to determine support;

25 (n) That if the noncustodial parent files an action in
26 circuit court and serves the department with a copy of the
27 petition within 20 days after being served notice under this
28 subsection, the administrative process ends without prejudice
29 and the action must proceed in circuit court;

30 (o) Information provided by the Office of State Courts
31 Administrator concerning the availability and location of

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1 self-help programs for those who wish to file an action in
2 circuit court but who cannot afford an attorney.

3
4 The department may serve the notice of proceeding to establish
5 administrative support order by certified mail, restricted
6 delivery, return receipt requested. Alternatively, the
7 department may serve the notice by any means permitted for
8 service of process in a civil action. For purposes of this
9 section, an authorized employee of the department may serve
10 the notice and execute an affidavit of service. Service by
11 certified mail is completed when the certified mail is
12 received or refused by the addressee or by an authorized agent
13 as designated by the addressee in writing. If a person other
14 than the addressee signs the return receipt, the department
15 shall attempt to reach the addressee by telephone to confirm
16 whether the notice was received, and the department shall
17 document any telephonic communications. If someone other than
18 the addressee signs the return receipt, the addressee does not
19 respond to the notice, and the department is unable to confirm
20 that the addressee has received the notice, service is not
21 completed and the department shall attempt to have the
22 addressee served personally.The department shall provide the
23 custodial parent or caretaker relative with a copy of the
24 notice by regular mail to the last known address of the
25 custodial parent or caretaker.

26 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

27 (c) The department shall provide a notice of rights
28 with the proposed administrative support order, which notice
29 must inform the noncustodial parent that:

30 1. The noncustodial parent may, within 20 days after
31 the date of mailing or other service of the proposed

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1 administrative support order, request a hearing by filing a
2 written request for hearing in a form and manner specified by
3 the department;

4 2. If the noncustodial parent files a timely request
5 for a hearing, the case shall be transferred to the Division
6 of Administrative Hearings, which shall conduct further
7 proceedings and may enter an administrative support order;

8 3. A noncustodial parent who fails to file a timely
9 request for a hearing shall be deemed to have waived the right
10 to a hearing, and the department may render an administrative
11 support order pursuant to paragraph (7)(b);

12 4. The noncustodial parent may consent in writing to
13 entry of an administrative support order without a hearing;

14 5. The noncustodial parent may, within 10 days after
15 the date of mailing or other service of the proposed
16 administrative support order, contact a department
17 representative, at the address or telephone number specified
18 in the notice, to informally discuss the proposed
19 administrative support order and, if informal discussions are
20 requested timely ~~and held within a reasonable time~~, the time
21 for requesting a hearing will be extended until 10 days after
22 the department notifies the noncustodial parent that the
23 informal discussions have been concluded; and

24 6. If an administrative support order that establishes
25 a noncustodial parent's support obligation is rendered,
26 whether after a hearing or without a hearing, the department
27 may enforce the administrative support order by any lawful
28 means.

29 (6) HEARING.--If the noncustodial parent files a
30 timely request for hearing, the department shall refer the
31 hearing request to the Division of Administrative Hearings.

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1 Unless otherwise provided by this section, chapter 120 and the
2 ~~division's~~ Uniform Rules of Procedure shall govern the conduct
3 of the proceedings. The administrative law judge shall
4 consider all available and admissible information and any
5 presumptions that apply as provided by paragraph (5)(a). ~~A~~
6 ~~designated employee or other representative of the department,~~
7 ~~who need not be an attorney, may represent the department as a~~
8 ~~qualified representative at the hearing.~~

9 (7) ADMINISTRATIVE SUPPORT ORDER.--

10 (a) If a hearing is held, notwithstanding ss. 120.569
11 and 120.57, the administrative law judge of the Division of
12 Administrative Hearings shall issue an administrative support
13 order, or a final order denying an administrative support
14 order, which constitutes final agency action by the
15 department. The Division of Administrative Hearings shall
16 transmit any such order to the department for filing and
17 rendering indexing.

18 (b) If the noncustodial parent does not file a timely
19 request for a hearing, the noncustodial parent will be deemed
20 to have waived the right to request a hearing.

21 (c) If the noncustodial parent waives the right to a
22 hearing, or consents in writing to the entry of an order
23 without a hearing, the department may render an administrative
24 support order.

25 (d) The department shall send by regular mail a copy
26 of the administrative support order, or the final order
27 denying an administrative support order, to both parents, or a
28 parent and caretaker relative if applicable. The noncustodial
29 parent shall be notified of the right to seek judicial review
30 of the administrative support order in accordance with s.
31 120.68.

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1 (e) An administrative support order must comply with
2 s. 61.30. The department, ~~after consultation with the Division~~
3 ~~of Administrative Hearings and the chief judge of the circuit~~
4 ~~in which the pilot program is located,~~ shall develop a
5 standard form or forms for administrative support orders. An
6 administrative support order must provide and state findings,
7 if applicable, concerning:

8 1. The full name and date of birth of the child or
9 children;

10 2. The name of the noncustodial parent and the
11 custodial parent or caretaker relative;

12 3. The noncustodial parent's duty and ability to
13 provide support;

14 4. The amount of the noncustodial parent's monthly
15 support obligation ~~for each child~~;

16 5. Any obligation to pay retroactive support;

17 6. The noncustodial parent's obligation to provide for
18 the health care needs of each child, whether through insurance
19 coverage, contribution towards the cost of insurance coverage,
20 payment or reimbursement of health care expenses for the
21 child, or any combination thereof;

22 7. The beginning date of any required monthly payments
23 and health care coverage;

24 8. That all support payments ordered must be paid to
25 the Florida State Disbursement Unit as provided by s. 61.1824;

26 9. That the parents, or caretaker relative if
27 applicable, must file with the department when the
28 administrative support order is rendered, if they have not
29 already done so, and update as appropriate the information
30 required pursuant to paragraph (13)(b); ~~and~~

31 10. That both parents, or parent and caretaker

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1 relative if applicable, are required to promptly notify the
2 department of any change in their mailing addresses pursuant
3 to paragraph (13)(c); and-

4 11. That if the noncustodial parent receives
5 unemployment compensation benefits, the payor shall withhold,
6 and transmit to the department, 40 percent of the benefits for
7 payment of support, not to exceed the amount owed.

8
9 An income deduction order as provided by s. 61.1301 must be
10 incorporated into the administrative support order or, if not
11 incorporated into the administrative support order, the
12 department or the Division of Administrative Hearings shall
13 render a separate income deduction order.

14 (8) FILING WITH THE CLERK OF THE CIRCUIT COURT;
15 OFFICIAL PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.--The
16 department shall file with the clerk of the circuit court a
17 certified copy of an administrative support order rendered
18 under this section. The depository operated pursuant to s.
19 61.181 for the county where the administrative support order
20 has been filed shall:

21 (a) Act as the official recordkeeper for payments
22 required under the administrative support order;

23 (b) Establish and maintain the necessary payment
24 accounts;

25 (c) Upon a delinquency, initiate the judgment by
26 operation of law procedure as provided by s. 61.14(6); and

27 (d) Perform all other duties required of a depository
28 with respect to a support order entered by a court of this
29 state.

30 (9) COLLECTION ACTION; ENFORCEMENT.--

31 (d) An administrative support order rendered under

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1 this section has the same force and effect as court order and,
2 until modified by the department or superseded by a court
3 order, may be enforced:

4 1. In any manner permitted for enforcement of a
5 support order issued by a court of this state, except for
6 contempt; or

7 2. Pursuant to s. 120.69.

8 (10) JUDICIAL REVIEW, ENFORCEMENT, OR COURT ORDER
9 SUPERSEDING ADMINISTRATIVE SUPPORT ORDER.--

10 (b) An administrative support order rendered under
11 this section has the same force and effect as a court order
12 and may be enforced by any circuit court in the same manner as
13 a support order issued by the court, except for contempt. If
14 the circuit court issues its own order enforcing ~~based on~~ the
15 administrative support order, the circuit court may enforce
16 its own order by contempt. The presumption of ability to pay
17 and purge contempt established in s. 61.14(5)(a) applies to an
18 administrative support order that includes a finding of
19 present ability to pay. Enforcement by the court, without any
20 change by the court in the support obligations established in
21 the administrative support order, does not supersede the
22 administrative support order or affect the department's
23 authority to modify the administrative support order as
24 provided by subsection (12). An order by the court that
25 requires the noncustodial parent to make periodic payments on
26 arrearages does not constitute a change in the support
27 obligations established in the administrative support order
28 and does not supersede the administrative order.

29 (11) EFFECTIVENESS OF ADMINISTRATIVE SUPPORT
30 ORDER.--An administrative support order rendered under this
31 section has the same force and effect as a court order and

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1 remains in effect until modified by the department, vacated on
2 appeal, or superseded by a subsequent court order. If the
3 department closes a Title IV-D case in which an administrative
4 support order has been rendered:

5 (a) The department shall take no further action to
6 enforce or modify the administrative support order;

7 (b) The administrative support order remains effective
8 until superseded by a subsequent court order; and

9 (c) The administrative support order may be enforced
10 by the obligee by any means provided by law.

11 (12) MODIFICATION OF ADMINISTRATIVE SUPPORT ORDER.--If
12 it has not been superseded by a subsequent court order, the
13 department may modify, suspend, or terminate an administrative
14 support order in a Title IV-D case prospectively, subject to
15 the requirements for modifications of judicial support orders
16 established in chapters 61 and 409, by following the same
17 procedures set forth in this section for establishing an
18 administrative support order, as applicable.

19 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT
20 TO ADDRESS OF RECORD.--In all proceedings pursuant to this
21 section:

22 (a) The noncustodial parent and custodial parent must
23 execute and furnish to the department, no later than 20 days
24 after receipt of the notice of proceeding to establish
25 administrative support order, a financial affidavit in the
26 form prescribed by the department ~~in the Florida Family Law~~
27 ~~Rules of Procedure~~. An updated financial affidavit must be
28 executed and furnished to the department at the inception of
29 each proceeding to modify an administrative support order.
30 Caretaker relatives are not required to furnish financial
31 affidavits.

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(Redesignate subsequent sections.)

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 1, line 26, through page 2, line 3, delete those lines

and insert:

circumstances; amending s. 120.80, F.S.;
providing for immediate judicial review of any
such order; providing for enforcement; amending
s. 409.2557, F.S.; authorizing the Department
of Revenue to adopt rules for administrative
proceedings to establish child-support
obligations; amending s. 409.2563, F.S.;
revising the pilot program for administrative
establishment of child-support obligations;
providing process for optional pursuit of
judicial process; providing for the withholding
of a specified portion of a noncustodial
parent's unemployment compensation; authorizing
the Division of Administrative Hearings to
render an income deduction order; providing for
the use of a financial affidavit as prescribed
by the department; amending s.