

1 A bill to be entitled
2 An act relating to the determination and
3 enforcement of obligations for child support;
4 amending s. 61.046, F.S.; defining the term
5 "national medical support notice"; amending s.
6 61.13, F.S.; requiring that the court issue an
7 order for health care coverage for a minor
8 child in a proceeding for dissolution of
9 marriage rather than an order for health
10 insurance; providing for enforcement of such an
11 order through use of the national medical
12 support notice; requiring the Department of
13 Revenue to notify the obligor of withholding
14 premium payments under the notice; providing a
15 procedure under which the obligor may contest
16 the withholding; providing procedures for
17 enrolling a child in a group health plan;
18 providing certain limitations on the amount of
19 withholding allowed under a support order;
20 amending s. 61.181, F.S.; continuing the
21 increased fee charged to child support obligors
22 by the depository; repealing s. 61.1826(5),
23 F.S., relating to performance reviews; amending
24 s. 61.1826, F.S.; conforming to repeal of s.
25 61.1826(5), F.S.; amending ss. 61.14, 61.30,
26 F.S.; requiring that the Department of Revenue
27 seek modification of certain awards of child
28 support; requiring that such modification be
29 made without proof or showing of a change in
30 circumstances; amending s. 120.80, F.S.;
31 providing for immediate judicial review of any

1 such order; providing for enforcement; amending
2 s. 409.2557, F.S.; authorizing the Department
3 of Revenue to adopt rules for administrative
4 proceedings to establish child-support
5 obligations; amending s. 409.2563, F.S.;
6 revising the pilot program for administrative
7 establishment of child-support obligations;
8 providing process for optional pursuit of
9 judicial process; providing for the withholding
10 of a specified portion of a noncustodial
11 parent's unemployment compensation; authorizing
12 the Division of Administrative Hearings to
13 render an income deduction order; providing for
14 the use of a financial affidavit as prescribed
15 by the department; amending s. 409.25656, F.S.;
16 providing a procedure for liquidating
17 securities that are levied to satisfy an
18 obligation for past due or overdue support;
19 amending s. 409.25658, F.S.; providing for the
20 use of unclaimed property to satisfy an
21 obligation for past due support; amending s.
22 409.2576, F.S.; requiring that the Department
23 of Revenue transmit a national medical support
24 notice to an employee's employer under certain
25 circumstances; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Effective July 1, 2002, present subsections
30 (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19)
31 of section 61.046, Florida Statutes, are redesignated as

1 subsections (11), (12), (13), (14), (15), (16), (17), (18),
2 (19), and (20), respectively, and a new subsection (10) is
3 added to that section to read:

4 61.046 Definitions.--As used in this chapter:

5 (10) "National medical support notice" means the
6 notice required under 42 U.S.C. s. 666(a)(19).

7 Section 2. Effective July 1, 2002, paragraph (b) of
8 subsection (1) of section 61.13, Florida Statutes, is amended
9 to read:

10 61.13 Custody and support of children; visitation
11 rights; power of court in making orders.--

12 (1)

13 (b) Each order for ~~child~~ support shall contain a
14 provision for health care coverage insurance for the minor
15 child when the coverage insurance is reasonably available.
16 Coverage insurance is reasonably available if either the
17 obligor or obligee has access at a reasonable rate to a group
18 health plan group insurance. The court may require the
19 obligor either to provide health care insurance coverage or to
20 reimburse the obligee for the cost of health care insurance
21 coverage for the minor child when coverage is provided by the
22 obligee. In either event, the court shall apportion the cost
23 of coverage, and any noncovered medical, dental, and
24 prescription medication expenses of the child, to both parties
25 by adding the cost to the basic obligation determined pursuant
26 to s. 61.30(6). The court may order that payment of uncovered
27 medical, dental, and prescription medication expenses of the
28 minor child be made directly to the obligee payee on a
29 percentage basis.

30 1. In a non-Title IV-D case, a copy of the court order
31 for health care insurance coverage shall be served on the

1 obligor's ~~payor or~~ union or employer by the obligee ~~or the~~
2 ~~IV-D agency~~ when the following conditions are met:

3 a. The obligor fails to provide written proof to the
4 obligee ~~or the IV-D agency~~ within 30 days after ~~of~~ receiving
5 effective notice of the court order, that the health care
6 coverage insurance has been obtained or that application for
7 coverage insurability has been made;

8 b. The obligee ~~or IV-D agency~~ serves written notice of
9 ~~its~~ intent to enforce an order for health care coverage
10 ~~medical support~~ on the obligor by mail at the obligor's last
11 known address; and

12 c. The obligor fails within 15 days after the mailing
13 of the notice to provide written proof to the obligee ~~or the~~
14 ~~IV-D agency~~ that the health care insurance coverage existed as
15 of the date of mailing.

16 2.a. A support order enforced under Title IV-D of the
17 Social Security Act which requires that the obligor provide
18 health care coverage is enforceable by the department through
19 the use of the national medical support notice and an
20 amendment to the support order is not required. The department
21 shall transfer the national medical support notice to the
22 obligor's union or employer. The department shall notify the
23 obligor in writing that the notice has been sent to the
24 obligor's union or employer and the written notification must
25 include the obligor's rights and duties under the national
26 medical support notice. The obligor may contest the
27 withholding required by the national medical support notice
28 based on a mistake of fact. To contest the withholding, the
29 obligor must file a written notice of contest with the
30 department within 15 business days after the date the obligor
31 receives written notification of the national medical support

1 notice from the department. Filing with the department is
2 complete when the notice is received by the person designated
3 by the department in the written notification. The notice of
4 contest must be in the form prescribed by the department. Upon
5 the timely filing of a notice of contest, the department
6 shall, within 5 business days, schedule an informal conference
7 with the obligor to discuss the obligor's factual dispute. If
8 the informal conference resolves the dispute to the obligor's
9 satisfaction or if the obligor fails to attend the informal
10 conference, the notice of contest is deemed withdrawn. If the
11 informal conference does not resolve the dispute, the obligor
12 may request an administrative hearing under chapter 120 within
13 5 business days after the termination of the informal
14 conference, in a form and manner prescribed by the department.
15 However, the filing of a notice of contest by the obligor does
16 not delay the withholding of premium payments by the union,
17 employer, or health plan administrator. The union, employer,
18 or health plan administrator must implement the withholding as
19 directed by the national medical support notice unless
20 notified by the department that the national medical support
21 notice is terminated.

22 b. In a Title IV-D case, the department shall notify
23 an obligor's union or employer if the obligation to provide
24 health care coverage through that union or employer is
25 terminated.~~In cases in which the noncustodial parent provides~~
26 ~~health care coverage and the noncustodial parent changes~~
27 ~~employment and the new employer provides health care coverage,~~
28 ~~the IV-D agency shall transfer notice of the provision to the~~
29 ~~employer, which notice shall operate to enroll the child in~~
30 ~~the noncustodial parent's health plan, unless the noncustodial~~
31 ~~parent contests the notice. Notice to enforce medical~~

1 ~~coverage under this section shall be served by the IV-D agency~~
2 ~~upon the obligor by mail at the obligor's last known address.~~
3 ~~The obligor shall have 15 days from the date of mailing of the~~
4 ~~notice to contest the notice with the IV-D agency.~~

5 3. In a non-Title IV-D case, upon receipt of the order
6 pursuant to subparagraph 1. or the notice pursuant to
7 subparagraph 2., or upon application of the obligor pursuant
8 to the order, the payor, union, or employer shall enroll the
9 minor child as a beneficiary in the group health insurance
10 plan regardless of any restrictions on the enrollment period
11 and withhold any required premium from the obligor's income.
12 If more than one plan is offered by the payor, union, or
13 employer, the child shall be enrolled in the group health
14 insurance plan in which the obligor is enrolled.

15 4.a. Upon receipt of the national medical support
16 notice under subparagraph 2. in a Title IV-D case, the union
17 or employer shall transfer the notice to the appropriate group
18 health plan administrator within 20 business days after the
19 date on the notice. The plan administrator must enroll the
20 child as a beneficiary in the group health plan regardless of
21 any restrictions on the enrollment period, and the union or
22 employer must withhold any required premium from the obligor's
23 income upon notification by the plan administrator that the
24 child is enrolled. The child shall be enrolled in the group
25 health plan in which the obligor is enrolled. If the group
26 health plan in which the obligor is enrolled is not available
27 where the child resides or if the obligor is not enrolled in
28 group coverage, the child shall be enrolled in the lowest cost
29 group health plan that is available where the child resides.

30 b. If health care coverage or the obligor's employment
31 is terminated in a Title IV-D case, the union or employer that

1 is withholding premiums for health care coverage under a
2 national medical support notice must notify the department
3 within 20 days after the termination and provide the obligor's
4 last known address and the name and address of the obligor's
5 new employer, if known.

6 5.a. The amount withheld by a union or employer in
7 compliance with a support order may not exceed the amount
8 allowed under s. 303(b) of the Consumer Credit Protection Act,
9 15 U.S.C. s. 1673(b), as amended. The union or employer shall
10 withhold the maximum allowed by the Consumer Credit Protection
11 Act in the following order:

12 (I) Current support, as ordered.

13 (II) Premium payments for health care coverage, as
14 ordered.

15 (III) Past due support, as ordered.

16 (IV) Other medical support or coverage, as ordered.

17 b. If the combined amount to be withheld for current
18 support plus the premium payment for health care coverage
19 exceed the amount allowed under the Consumer Credit Protection
20 Act, and the health care coverage cannot be obtained unless
21 the full amount of the premium is paid, the union or employer
22 may not withhold the premium payment. However, the union or
23 employer shall withhold the maximum allowed in the following
24 order:

25 (I) Current support, as ordered.

26 (II) Past due support, as ordered.

27 (III) Other medical support or coverage, as ordered.

28 6.4. The Department of Revenue ~~may shall have the~~
29 authority to adopt rules to administer ~~implement~~ the child
30 support enforcement provisions of this section which affect
31 Title IV-D cases.

1 Section 3. Paragraph (b) of subsection (1) of section
2 61.14, Florida Statutes, is amended to read:

3 61.14 Enforcement and modification of support,
4 maintenance, or alimony agreements or orders.--

5 (1)

6 (b) For each support order reviewed by the department
7 as required by s. 409.2564(12), if the amount of the child
8 support award under the order differs by at least 10 percent
9 but not less than \$25 from the amount that would be awarded
10 under s. 61.30, the department shall seek to have the order
11 modified and any modification shall be made without a
12 requirement for proof or showing of a change in circumstances.
13 ~~In Title IV-D cases reviewed pursuant to the 3-year review and~~
14 ~~adjustment cycle, no substantial change of circumstance need~~
15 ~~be proven to warrant a modification.~~

16 Section 4. Paragraph (b) of subsection (2) of section
17 61.181, Florida Statutes, is amended to read:

18 61.181 Depository for alimony transactions, support,
19 maintenance, and support payments; fees.--

20 (2)

21 (b)1. For the period of July 1, 1992, through June 30,
22 2003 ~~2002~~, the fee imposed in paragraph (a) shall be increased
23 to 4 percent of the support payments which the party is
24 obligated to pay, except that no fee shall be more than \$5.25.
25 The fee shall be considered by the court in determining the
26 amount of support that the obligor is, or may be, required to
27 pay. Notwithstanding the provisions of s. 145.022, 75 percent
28 of the additional revenues generated by this paragraph shall
29 be remitted monthly to the Clerk of the Court Child Support
30 Enforcement Collection System Trust Fund administered by the
31 department as provided in subparagraph 2. These funds shall

1 be used exclusively for the development, implementation, and
2 operation of the Clerk of the Court Child Support Enforcement
3 Collection System to be operated by the depositories,
4 including the automation of civil case information necessary
5 for the State Case Registry. The department shall contract
6 with the Florida Association of Court Clerks and the
7 depositories to design, establish, operate, upgrade, and
8 maintain the automation of the depositories to include, but
9 not be limited to, the provision of on-line electronic
10 transfer of information to the IV-D agency as otherwise
11 required by this chapter. The department's obligation to fund
12 the automation of the depositories is limited to the state
13 share of funds available in the Clerk of the Court Child
14 Support Enforcement Collection System Trust Fund. Each
15 depository created under this section shall fully participate
16 in the Clerk of the Court Child Support Enforcement Collection
17 System and transmit data in a readable format as required by
18 the contract between the Florida Association of Court Clerks
19 and the department.

20 2. ~~No later than December 31, 1996,~~ Moneys to be
21 remitted to the department by the depository shall be done
22 daily by electronic funds transfer and calculated as follows:

23 a. For each support payment of less than \$33, 18.75
24 cents.

25 b. For each support payment between \$33 and \$140, an
26 amount equal to 18.75 percent of the fee charged.

27 c. For each support payment in excess of \$140, 18.75
28 cents.

29 3. The fees established by this section shall be set
30 forth and included in every order of support entered by a
31

1 court of this state which requires payment to be made into the
2 depository.

3 Section 5. Subsection (5) of section 61.1826, Florida
4 Statutes, is repealed.

5 Section 6. Subsection (1) of section 61.1826, Florida
6 Statutes, is amended to read:

7 61.1826 Procurement of services for State Disbursement
8 Unit and the non-Title IV-D component of the State Case
9 Registry; contracts and cooperative agreements; penalties;
10 withholding payment.--

11 (1) LEGISLATIVE FINDINGS.--The Legislature finds that
12 the clerks of court play a vital role, as essential
13 participants in the establishment, modification, collection,
14 and enforcement of child support, in securing the health,
15 safety, and welfare of the children of this state. The
16 Legislature further finds and declares that:

17 (a) It is in the state's best interest to preserve the
18 essential role of the clerks of court in disbursing child
19 support payments and maintaining official records of child
20 support orders entered by the courts of this state.

21 (b) As official recordkeeper for matters relating to
22 court-ordered child support, the clerks of court are necessary
23 parties to obtaining, safeguarding, and providing child
24 support payment and support order information.

25 (c) As provided by the federal Personal Responsibility
26 and Work Opportunity Reconciliation Act of 1996, the state
27 must establish and operate a State Case Registry in full
28 compliance with federal law by October 1, 1998, and a State
29 Disbursement Unit by October 1, 1999.

30 (d) Noncompliance with federal law could result in a
31 substantial loss of federal funds for the state's child

1 support enforcement program and the temporary assistance for
2 needy families welfare block grant.

3 (e) The potential loss of substantial federal funds
4 poses a direct and immediate threat to the health, safety, and
5 welfare of the children and citizens of the state and
6 constitutes an emergency for purposes of s. 287.057(4)(a).

7 (f) The clerks of court maintain the official payment
8 record of the court for amounts received, payments credited,
9 arrearages owed, liens attached, and current mailing addresses
10 of all parties, payor, obligor, and payee.

11 (g) The clerks of court have established a statewide
12 Clerk of Court Child Support Enforcement Collection System for
13 the automation of all payment processing using state and local
14 government funds as provided under s. 61.181(2)(b)1.

15 (h) The Legislature acknowledges the improvements made
16 by and the crucial role of the Clerk of the Court Child
17 Support Enforcement Collection System in speeding payments to
18 the children of Florida.

19 (i) There is no viable alternative to continuing the
20 role of the clerks of court in collecting, safeguarding, and
21 providing essential child support payment information.

22

23 For these reasons, the Legislature hereby directs the
24 Department of Revenue, subject to the provisions of subsection
25 (5)~~(6)~~, to contract with the Florida Association of Court
26 Clerks and each depository to perform duties with respect to
27 the operation and maintenance of a State Disbursement Unit and
28 the non-Title IV-D component of the State Case Registry as
29 further provided by this section.

30 Section 7. Paragraph (c) of subsection (1) of section
31 61.30, Florida Statutes, is amended to read:

1 61.30 Child support guidelines; retroactive child
2 support.--

3 (1)

4 (c) For each support order reviewed by the department
5 as required by s. 409.2564(12), if the amount of the child
6 support award under the order differs by at least 10 percent
7 but not less than \$25 from the amount that would be awarded
8 under s. 61.30, the department shall seek to have the order
9 modified and any modification shall be made without a
10 requirement for proof or showing of a change in circumstances.
11 ~~In Title IV-D cases reviewed pursuant to the 3-year review and~~
12 ~~adjustment cycle, no change of circumstance need be proven to~~
13 ~~warrant a modification.~~

14 Section 8. Paragraph (c) of subsection (14) of section
15 120.80, Florida Statutes, is amended to read:

16 120.80 Exceptions and special requirements;
17 agencies.--

18 (14) DEPARTMENT OF REVENUE.--

19 (c) Proceedings for administrative ~~child~~ support
20 orders.--~~Notwithstanding the provisions of s. 120.569 or s.~~
21 ~~120.57 to the contrary,~~In proceedings for the establishment
22 of administrative support orders pursuant to s. 409.2563,
23 final orders in cases referred by the Department of Revenue to
24 the Division of Administrative Hearings shall be entered by
25 the division's administrative law judge and transmitted to the
26 Department of Revenue for filing and rendering ~~indexing~~. The
27 Department of Revenue has the right to seek judicial review
28 under s. 120.68 of a final order entered by an administrative
29 law judge. Administrative support orders rendered pursuant to
30 s. 409.2563 may be enforced pursuant to s. 120.69 or,
31

1 alternatively, by any method prescribed by law for the
2 enforcement of judicial support orders, except contempt.

3 Section 9. Subsection (3) of section 409.2557, Florida
4 Statutes, is amended to read:

5 409.2557 State agency for administering child support
6 enforcement program.--

7 (3) SPECIFIC RULEMAKING AUTHORITY.--The department has
8 the authority to adopt rules pursuant to ss. 120.536(1) and
9 120.54 to implement all laws administered by the department in
10 its capacity as the Title IV-D agency for this state
11 including, but not limited to, the following:

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

14 (b) Confidentiality and retention of department
15 records; access to records; record requests;

16 (c) Department trust funds;

17 (d) Federal funding procedures;

18 (e) Agreements with law enforcement and other state
19 agencies; National Crime Information Center (NCIC) access;
20 Parent Locator Service access;

21 (f) Written agreements entered into between the
22 department and support obligors in establishment, enforcement,
23 and modification proceedings;

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

26 (h) Management of cases by the department involving
27 any documentation or procedures required by federal or state
28 law, including but not limited to, cooperation; review and
29 adjustment; audits; interstate actions; diligent efforts for
30 service of process;

31

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

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

18 (k) Report information to and receive information from
19 other agencies and entities;

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

22 (m) Privatizing location, establishment, enforcement,
23 modification, and other functions;

24 (n) State case registry;

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

26 (p) Administrative proceedings to establish
27 child-support obligations; and

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

30 Section 10. Subsections (1), (2), (4), (6), (7), (8),
31 (11), paragraph (c) of subsection (5), paragraph (d) of

1 subsection (9), paragraph (b) of subsection (10), and
2 paragraph (a) of subsection (13) of Section 409.2563, Florida
3 Statutes, are amended to read:

4 409.2563 Pilot program for Administrative
5 establishment of child support obligations.--

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

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

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

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

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

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

30 (f)(e) "Title IV-D case" means a case or proceeding in
31 which the department is providing child support services

1 within the scope of Title IV-D of the Social Security Act, 42
2 U.S.C. ss. 651 et seq.

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

5

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

8 (2) PURPOSE AND SCOPE.--

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

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

28 (c) If there is no support order for a child in a
29 Title IV-D case whose paternity has been established or is
30 presumed by law, the department may establish the ~~a~~
31 noncustodial parent's child support obligation pursuant to

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

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

9 2. A former recipient of public assistance, as
10 provided by s. 409.2569;

11 3. An individual who has applied for services as
12 provided by s. 409.2567;

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

14 5. A state or local government of another state, as
15 provided by chapter 88.

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

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

29 (f) The department shall terminate the administrative
30 proceeding and file an action in circuit court to determine
31 support if within 20 days after receipt of the initial notice

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

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

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

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

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

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

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

28 (e) That both parents, or parent and caretaker
29 relative if applicable, are required to promptly notify the
30 department of any change in their mailing addresses to ensure
31

1 receipt of all subsequent pleadings, notices, and orders, as
2 provided by paragraph (13)(c);

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

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

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

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

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

29 (k) That after an administrative support order is
30 rendered, the department may enforce the administrative
31 support order by any lawful means; ~~and~~

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

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

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

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

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

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.

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.

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

1 10. That both parents, or parent and caretaker
2 relative if applicable, are required to promptly notify the
3 department of any change in their mailing addresses pursuant
4 to paragraph (13)(c); ~~and~~

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

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

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

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

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

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

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

31 (9) COLLECTION ACTION; ENFORCEMENT.--

1 (d) An administrative support order rendered under
2 this section has the same force and effect as court order and,
3 until modified by the department or superseded by a court
4 order, may be enforced:

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

8 2. Pursuant to s. 120.69.

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

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

30 (11) EFFECTIVENESS OF ADMINISTRATIVE SUPPORT
31 ORDER.--An administrative support order rendered under this

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

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

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

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

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

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

23 (a) The noncustodial parent and custodial parent must
24 execute and furnish to the department, no later than 20 days
25 after receipt of the notice of proceeding to establish
26 administrative support order, a financial affidavit in the
27 form prescribed by the department ~~in the Florida Family Law~~
28 ~~Rules of Procedure~~. An updated financial affidavit must be
29 executed and furnished to the department at the inception of
30 each proceeding to modify an administrative support order.

31

1 Caretaker relatives are not required to furnish financial
2 affidavits.

3 Section 11. Effective July 1, 2002, subsection (3) of
4 section 409.25656, Florida Statutes, is amended to read:

5 409.25656 Garnishment.--

6 (3) During the last 30 days of the 60-day period set
7 forth in subsection (1), the executive director or his or her
8 designee may levy upon such credits, personal property, or
9 debts. The levy must be accomplished by delivery of a notice
10 of levy by registered mail, upon receipt of which the person
11 possessing the credits, other personal property, or debts
12 shall transfer them to the department or pay to the department
13 the amount owed by ~~to~~ the obligor. If the department levies
14 upon securities and the value of the securities is less than
15 the total amount of past due or overdue support, the person
16 who possesses or controls the securities shall liquidate the
17 securities in a commercially reasonable manner. After
18 liquidation, the person shall transfer to the department the
19 proceeds, less any applicable commissions or fees, or both,
20 which are charged in the normal course of business. If the
21 value of the securities exceeds the total amount of past due
22 or overdue support, the obligor may, within 7 days after
23 receipt of the department's notice of levy, instruct the
24 person who possesses or controls the securities which
25 securities are to be sold to satisfy the obligation for past
26 due or overdue support. If the obligor does not provide
27 instructions for liquidation, the person who possesses or
28 controls the securities shall liquidate the securities in a
29 commercially reasonable manner and in an amount sufficient to
30 cover the obligation for past due or overdue support, less any
31 applicable commissions or fees, or both, which are charged in

1 the normal course of business, beginning with the securities
2 purchased most recently. After liquidation, the person who
3 possesses or controls the securities shall transfer to the
4 department the total amount of past due or overdue support.

5 Section 12. Subsections (1) and (2) of section
6 409.25658, Florida Statutes, are amended to read:

7 409.25658 Use of unclaimed property for past due
8 support.--

9 (1) In a joint effort to facilitate the collection and
10 payment of past due support, the Department of Revenue, in
11 cooperation with the Department of Banking and Finance, shall
12 identify persons owing support collected through a court who
13 are presumed to have unclaimed ~~abandoned~~ property held by the
14 Department of Banking and Finance.

15 (2) The department shall periodically provide the
16 Department of Banking and Finance with an electronic file of
17 support obligors who owe past due support. The Department of
18 Banking and Finance shall conduct a data match of the file
19 against all apparent owners of unclaimed ~~abandoned~~ property
20 under chapter 717 and provide the resulting match list to the
21 department.

22 Section 13. Effective July 1, 2002, subsection (7) of
23 section 409.2576, Florida Statutes, is amended to read:

24 409.2576 State Directory of New Hires.--

25 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL
26 SUPPORT NOTICE.--~~The department Not later than October 1,~~
27 ~~1998, the Title IV-D agency~~ shall transmit a wage withholding
28 notice consistent with s. 61.1301 and, when appropriate, a
29 national medical support notice, as defined in s. 61.046, to
30 the employee's employer within 2 business days after ~~of~~ entry
31 of the new hire information into the State Directory of New

1 Hires' database, unless the court has determined that the
2 employee's wages are not subject to withholding or, for
3 purposes of the national medical support notice, the support
4 order does not contain a provision for the employee to provide
5 health care coverage. The withholding notice shall direct the
6 employer to withhold income in accordance with the income
7 deduction order and the national medical support notice shall
8 direct the employer to withhold premiums for health care
9 coverage.

10 Section 14. Except as otherwise expressly provided in
11 this act, this act shall take effect upon becoming a law.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31