

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; amending s. 827.06, F.S.;
26 providing for additional means of service of
27 process; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Effective July 1, 2002, present subsections
2 (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19)
3 of section 61.046, Florida Statutes, are redesignated as
4 subsections (11), (12), (13), (14), (15), (16), (17), (18),
5 (19), and (20), respectively, and a new subsection (10) is
6 added to that section to read:

7 61.046 Definitions.--As used in this chapter:

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

10 Section 2. Effective July 1, 2002, paragraph (b) of
11 subsection (1) of section 61.13, Florida Statutes, is amended
12 to read:

13 61.13 Custody and support of children; visitation
14 rights; power of court in making orders.--

15 (1)

16 (b) Each order for ~~child~~ support shall contain a
17 provision for health care coverage ~~insurance~~ for the minor
18 child when the coverage ~~insurance~~ is reasonably available.
19 Coverage ~~insurance~~ is reasonably available if either the
20 obligor or obligee has access at a reasonable rate to a group
21 health plan ~~group insurance~~. The court may require the
22 obligor either to provide health care ~~insurance~~ coverage or to
23 reimburse the obligee for the cost of health care ~~insurance~~
24 coverage for the minor child when coverage is provided by the
25 obligee. In either event, the court shall apportion the cost
26 of coverage, and any noncovered medical, dental, and
27 prescription medication expenses of the child, to both parties
28 by adding the cost to the basic obligation determined pursuant
29 to s. 61.30(6). The court may order that payment of uncovered
30 medical, dental, and prescription medication expenses of the
31

1 minor child be made directly to the obligee ~~payee~~ on a
2 percentage basis.

3 1. In a non-Title IV-D case, a copy of the court order
4 for health care insurance coverage shall be served on the
5 obligor's ~~payor or union or employer~~ by the obligee ~~or the~~
6 ~~IV-D agency~~ when the following conditions are met:

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

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

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

20 2.a. A support order enforced under Title IV-D of the
21 Social Security Act which requires that the obligor provide
22 health care coverage is enforceable by the department through
23 the use of the national medical support notice and an
24 amendment to the support order is not required. The department
25 shall transfer the national medical support notice to the
26 obligor's union or employer. The department shall notify the
27 obligor in writing that the notice has been sent to the
28 obligor's union or employer and the written notification must
29 include the obligor's rights and duties under the national
30 medical support notice. The obligor may contest the
31 withholding required by the national medical support notice

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

26 b. In a Title IV-D case, the department shall notify
27 an obligor's union or employer if the obligation to provide
28 health care coverage through that union or employer is
29 terminated.~~In cases in which the noncustodial parent provides~~
30 ~~health care coverage and the noncustodial parent changes~~
31 ~~employment and the new employer provides health care coverage,~~

1 ~~the IV-D agency shall transfer notice of the provision to the~~
2 ~~employer, which notice shall operate to enroll the child in~~
3 ~~the noncustodial parent's health plan, unless the noncustodial~~
4 ~~parent contests the notice. Notice to enforce medical~~
5 ~~coverage under this section shall be served by the IV-D agency~~
6 ~~upon the obligor by mail at the obligor's last known address.~~
7 ~~The obligor shall have 15 days from the date of mailing of the~~
8 ~~notice to contest the notice with the IV-D agency.~~

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

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

1 group coverage, the child shall be enrolled in the lowest cost
2 group health plan that is available where the child resides.

3 b. If health care coverage or the obligor's employment
4 is terminated in a Title IV-D case, the union or employer that
5 is withholding premiums for health care coverage under a
6 national medical support notice must notify the department
7 within 20 days after the termination and provide the obligor's
8 last known address and the name and address of the obligor's
9 new employer, if known.

10 5.a. The amount withheld by a union or employer in
11 compliance with a support order may not exceed the amount
12 allowed under s. 303(b) of the Consumer Credit Protection Act,
13 15 U.S.C. s. 1673(b), as amended. The union or employer shall
14 withhold the maximum allowed by the Consumer Credit Protection
15 Act in the following order:

16 (I) Current support, as ordered.

17 (II) Premium payments for health care coverage, as
18 ordered.

19 (III) Past due support, as ordered.

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

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

29 (I) Current support, as ordered.

30 (II) Past due support, as ordered.

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

1 ~~6.4.~~ The Department of Revenue ~~may shall have the~~
2 ~~authority to~~ adopt rules to administer ~~implement~~ the child
3 support enforcement provisions of this section which affect
4 Title IV-D cases.

5 Section 3. Paragraph (b) of subsection (1) of section
6 61.14, Florida Statutes, is amended to read:

7 61.14 Enforcement and modification of support,
8 maintenance, or alimony agreements or orders.--

9 (1)

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

20 Section 4. Paragraph (b) of subsection (2) of section
21 61.181, Florida Statutes, is amended to read:

22 61.181 Depository for alimony transactions, support,
23 maintenance, and support payments; fees.--

24 (2)

25 (b)1. For the period of July 1, 1992, through June 30,
26 2003 ~~2002~~, the fee imposed in paragraph (a) shall be increased
27 to 4 percent of the support payments which the party is
28 obligated to pay, except that no fee shall be more than \$5.25.
29 The fee shall be considered by the court in determining the
30 amount of support that the obligor is, or may be, required to
31 pay. Notwithstanding the provisions of s. 145.022, 75 percent

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

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

27 a. For each support payment of less than \$33, 18.75
28 cents.

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

31

1 c. For each support payment in excess of \$140, 18.75
2 cents.

3 3. The fees established by this section shall be set
4 forth and included in every order of support entered by a
5 court of this state which requires payment to be made into the
6 depository.

7 Section 5. Subsection (5) of section 61.1826, Florida
8 Statutes, is repealed.

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

11 61.1826 Procurement of services for State Disbursement
12 Unit and the non-Title IV-D component of the State Case
13 Registry; contracts and cooperative agreements; penalties;
14 withholding payment.--

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

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

25 (b) As official recordkeeper for matters relating to
26 court-ordered child support, the clerks of court are necessary
27 parties to obtaining, safeguarding, and providing child
28 support payment and support order information.

29 (c) As provided by the federal Personal Responsibility
30 and Work Opportunity Reconciliation Act of 1996, the state
31 must establish and operate a State Case Registry in full

1 compliance with federal law by October 1, 1998, and a State
2 Disbursement Unit by October 1, 1999.

3 (d) Noncompliance with federal law could result in a
4 substantial loss of federal funds for the state's child
5 support enforcement program and the temporary assistance for
6 needy families welfare block grant.

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

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

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

19 (h) The Legislature acknowledges the improvements made
20 by and the crucial role of the Clerk of the Court Child
21 Support Enforcement Collection System in speeding payments to
22 the children of Florida.

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

26
27 For these reasons, the Legislature hereby directs the
28 Department of Revenue, subject to the provisions of subsection
29 (5)~~(6)~~, to contract with the Florida Association of Court
30 Clerks and each depository to perform duties with respect to
31 the operation and maintenance of a State Disbursement Unit and

1 the non-Title IV-D component of the State Case Registry as
2 further provided by this section.

3 Section 7. Paragraph (c) of subsection (1) of section
4 61.30, Florida Statutes, is amended to read:

5 61.30 Child support guidelines; retroactive child
6 support.--

7 (1)

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

18 Section 8. Paragraph (c) of subsection (14) of section
19 120.80, Florida Statutes, is amended to read:

20 120.80 Exceptions and special requirements;
21 agencies.--

22 (14) DEPARTMENT OF REVENUE.--

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

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 9. 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

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.

1 Section 10. 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.

1 (f)~~(e)~~ "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 (g)~~(f)~~ "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

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

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

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

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

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

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

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

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

31

1 (e) 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 to ensure
4 receipt of all subsequent pleadings, notices, and orders, as
5 provided by paragraph (13)(c);

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

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

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

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

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

1 (k) That after an administrative support order is
2 rendered, the department may enforce the administrative
3 support order by any lawful means; ~~and~~

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

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

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

1 (o) Information provided by the Office of State Courts
2 Administrator concerning the availability and location of
3 self-help programs for those who wish to file an action in
4 circuit court but who cannot afford an attorney.

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

28 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

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

1 1. The noncustodial parent may, within 20 days after
2 the date of mailing or other service of the proposed
3 administrative support order, request a hearing by filing a
4 written request for hearing in a form and manner specified by
5 the department;

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

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

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

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

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

31

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

12 (7) ADMINISTRATIVE SUPPORT ORDER.--

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

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

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

28 (d) The department shall send by regular mail a copy
29 of the administrative support order, or the final order
30 denying an administrative support order, to both parents, or a
31 parent and caretaker relative if applicable. The noncustodial

1 parent shall be notified of the right to seek judicial review
2 of the administrative support order in accordance with s.
3 120.68.

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

11 1. The full name and date of birth of the child or
12 children;

13 2. The name of the noncustodial parent and the
14 custodial parent or caretaker relative;

15 3. The noncustodial parent's duty and ability to
16 provide support;

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

19 5. Any obligation to pay retroactive support;

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

25 7. The beginning date of any required monthly payments
26 and health care coverage;

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

29 9. That the parents, or caretaker relative if
30 applicable, must file with the department when the
31 administrative support order is rendered, if they have not

1 already done so, and update as appropriate the information
2 required pursuant to paragraph (13)(b); ~~and~~

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

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

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

17 (8) FILING WITH THE CLERK OF THE CIRCUIT COURT;
18 OFFICIAL PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.--The
19 department shall file with the clerk of the circuit court a
20 certified copy of an administrative support order rendered
21 under this section. The depository operated pursuant to s.
22 61.181 for the county where the administrative support order
23 has been filed shall:

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

26 (b) Establish and maintain the necessary payment
27 accounts;

28 (c) Upon a delinquency, initiate the judgment by
29 operation of law procedure as provided by s. 61.14(6); and
30
31

1 (d) Perform all other duties required of a depository
2 with respect to a support order entered by a court of this
3 state.

4 (9) COLLECTION ACTION; ENFORCEMENT.--

5 (d) An administrative support order rendered under
6 this section has the same force and effect as court order and,
7 until modified by the department or superseded by a court
8 order, may be enforced:

9 1. In any manner permitted for enforcement of a
10 support order issued by a court of this state, except for
11 contempt; or

12 2. Pursuant to s. 120.69.

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

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

1 obligations established in the administrative support order
2 and does not supersede the administrative order.

3 (11) EFFECTIVENESS OF ADMINISTRATIVE SUPPORT
4 ORDER.--An administrative support order rendered under this
5 section has the same force and effect as a court order and
6 remains in effect until modified by the department, vacated on
7 appeal, or superseded by a subsequent court order. If the
8 department closes a Title IV-D case in which an administrative
9 support order has been rendered:

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

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

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

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

24 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT
25 TO ADDRESS OF RECORD.--In all proceedings pursuant to this
26 section:

27 (a) The noncustodial parent and custodial parent must
28 execute and furnish to the department, no later than 20 days
29 after receipt of the notice of proceeding to establish
30 administrative support order, a financial affidavit in the
31 form prescribed by the department ~~in the Florida Family Law~~

1 ~~Rules of Procedure.~~ An updated financial affidavit must be
2 executed and furnished to the department at the inception of
3 each proceeding to modify an administrative support order.
4 Caretaker relatives are not required to furnish financial
5 affidavits.

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

8 409.25656 Garnishment.--

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

1 commercially reasonable manner and in an amount sufficient to
2 cover the obligation for past due or overdue support, less any
3 applicable commissions or fees, or both, which are charged in
4 the normal course of business, beginning with the securities
5 purchased most recently. After liquidation, the person who
6 possesses or controls the securities shall transfer to the
7 department the total amount of past due or overdue support.

8 Section 12. Subsections (1) and (2) of section
9 409.25658, Florida Statutes, are amended to read:

10 409.25658 Use of unclaimed property for past due
11 support.--

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

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

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

27 409.2576 State Directory of New Hires.--

28 (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL
29 SUPPORT NOTICE.--~~The department Not later than October 1,~~
30 ~~1998, the Title IV-D agency~~ shall transmit a wage withholding
31 notice consistent with s. 61.1301 and, when appropriate, a

1 national medical support notice, as defined in s. 61.046, to
2 the employee's employer within 2 business days ~~after~~ of entry
3 of the new hire information into the State Directory of New
4 Hires' database, unless the court has determined that the
5 employee's wages are not subject to withholding ~~or, for~~
6 purposes of the national medical support notice, the support
7 order does not contain a provision for the employee to provide
8 health care coverage. The withholding notice shall direct the
9 employer to withhold income in accordance with the income
10 deduction order and the national medical support notice shall
11 direct the employer to withhold premiums for health care
12 coverage.

13 Section 14. Subsection (6) of section 827.06, Florida
14 Statutes, is amended to read:

15 827.06 Nonsupport of dependents.--

16 (6) Prior to commencing prosecution under this
17 section, the state attorney must notify the person responsible
18 for support by certified mail, return receipt requested, or by
19 using any other means permitted for service of process in a
20 civil action, that a prosecution under this section will be
21 commenced against him or her unless the person pays the total
22 unpaid support obligation or provides a satisfactory
23 explanation as to why he or she has not made such payments.

24 Section 15. Except as otherwise expressly provided in
25 this act, this act shall take effect upon becoming a law.
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