

Amendment No. 02 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Crow offered the following:

13 **Amendment (with title amendment)**

14 On page 11, line 27, through page 17, line 30,  
15 remove: all of said lines

17 and insert:

18 Section 6. 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

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

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

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

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

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

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

19 (c) Department trust funds;

20 (d) Federal funding procedures;

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

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

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

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

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1 adjustment; audits; interstate actions; diligent efforts for  
2 service of process;  
3 (i) Department procedures for orders for genetic  
4 testing; subpoenas to establish, enforce, or modify orders;  
5 increasing the amount of monthly obligations to secure  
6 delinquent support; suspending or denying driver's and  
7 professional licenses and certificates; fishing and hunting  
8 license suspensions; suspending vehicle and vessel  
9 registrations; screening applicants for new or renewal  
10 licenses, registrations, or certificates; income deduction;  
11 credit reporting and accessing; tax refund intercepts;  
12 passport denials; liens; financial institution data matches;  
13 expedited procedures; medical support; and all other  
14 responsibilities of the department as required by state or  
15 federal law;  
16 (j) Collection and disbursement of support and alimony  
17 payments by the department as required by federal law;  
18 collection of genetic testing costs and other costs awarded by  
19 the court;  
20 (k) Report information to and receive information from  
21 other agencies and entities;  
22 (l) Provide location services, including accessing  
23 from and reporting to federal and state agencies;  
24 (m) Privatizing location, establishment, enforcement,  
25 modification, and other functions;  
26 (n) State case registry;  
27 (o) State disbursement unit; ~~and~~  
28 (p) Administrative proceedings to establish  
29 child-support obligations; and  
30 (q)~~(p)~~ All other responsibilities of the department as  
31 required by state or federal law.

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

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

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

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

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

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

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

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

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1            (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

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

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

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

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

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

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

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

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

31 (f) The department shall terminate the administrative

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

26 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

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

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

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

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

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

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

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

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

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

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

9 (7) ADMINISTRATIVE SUPPORT ORDER.--

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

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

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

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

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

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

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

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

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

16           5. Any obligation to pay retroactive support;

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

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

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

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

31           10. That both parents, or parent and caretaker

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

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

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

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

- 21 (a) Act as the official recordkeeper for payments  
22 required under the administrative support order;
- 23 (b) Establish and maintain the necessary payment  
24 accounts;
- 25 (c) Upon a delinquency, initiate the judgment by  
26 operation of law procedure as provided by s. 61.14(6); and
- 27 (d) Perform all other duties required of a depository  
28 with respect to a support order entered by a court of this  
29 state.

30 (9) COLLECTION ACTION; ENFORCEMENT.--

31 (d) An administrative support order rendered under

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

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

7 2. Pursuant to s. 120.69.

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

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

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

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

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

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

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

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

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

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



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1 ===== T I T L E   A M E N D M E N T =====  
2 And the title is amended as follows:  
3       On page 1, lines 21-31,  
4 remove: all of said lines  
5  
6 and insert:  
7       cross reference; amending s. 120.80, F.S.;  
8       providing for immediate judicial review of any  
9       such order; providing for enforcement; amending  
10      s. 409.2557, F.S.; authorizing the Department  
11      of Revenue to adopt rules for administrative  
12      proceedings to establish child-support  
13      obligations; amending s. 409.2563, F.S.;  
14      revising the pilot program for administrative  
15      establishment of child-support obligations;  
16      providing process for optional pursuit of  
17      judicial process; providing for the withholding  
18      of a specified portion of a noncustodial  
19      parent's unemployment compensation; authorizing  
20      the Division of Administrative Hearings to  
21      render an income deduction order; providing for  
22      the use of a financial affidavit as prescribed  
23      by the department; amending s.  
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