

1                                   A bill to be entitled  
2           An act relating to child support enforcement;  
3           amending s. 61.046, F.S.; defining "national  
4           medical support notice"; amending s. 61.13,  
5           F.S.; revising procedures for enforcement of  
6           the health care coverage requirements of child  
7           support orders; providing for use of the  
8           national medical support notice; providing  
9           responsibilities of the obligor's union,  
10          employer, or health plan administrator upon  
11          receipt of such notice; providing limitations  
12          on withholding in compliance with a support  
13          order; amending ss. 61.14 and 61.30, F.S.;  
14          providing procedures for modification of child  
15          support orders after Department of Revenue  
16          review finds certain deviation from the child  
17          support guidelines; amending s. 61.181, F.S.;  
18          continuing the increased fee charged to child  
19          support obligors by the State Disbursement  
20          Unit; amending s. 61.1826, F.S.; correcting a  
21          cross reference; amending s. 120.80, F.S.;  
22          providing for immediate judicial review of any  
23          such order; providing for enforcement; amending  
24          s. 409.2557, F.S.; authorizing the Department  
25          of Revenue to adopt rules for administrative  
26          proceedings to establish child-support  
27          obligations; amending s. 409.2563, F.S.;  
28          revising the pilot program for administrative  
29          establishment of child-support obligations;  
30          providing process for optional pursuit of  
31          judicial process; providing for the withholding

1 of a specified portion of a noncustodial  
2 parent's unemployment compensation; authorizing  
3 the Division of Administrative Hearings to  
4 render an income deduction order; providing for  
5 the use of a financial affidavit as prescribed  
6 by the department; amending s. 409.25656, F.S.;  
7 providing for liquidation of securities to  
8 satisfy past due or overdue child support;  
9 amending s. 409.25658, F.S., relating to use of  
10 unclaimed property for past due child support;  
11 amending s. 409.2576, F.S.; providing for  
12 notice to an obligor's employer to withhold  
13 premiums for health care coverage pursuant to  
14 the national medical support notice; amending  
15 s. 827.06, F.S., providing for additional means  
16 of service of process; repealing s. 61.1826(5),  
17 F.S., relating to performance reviews of the  
18 State Disbursement Unit and the State Case  
19 Registry; providing effective dates.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

23 Section 1. Subsections (10) through (19) of section  
24 61.046, Florida Statutes, are renumbered as subsections (11)  
25 through (20), respectively, and a new subsection (10) is added  
26 to said section to read:

27 61.046 Definitions.--As used in this chapter:  
28 (10) "National medical support notice" means the  
29 notice required by 42 U.S.C. s. 666(a)(19).

30 Section 2. Paragraph (b) of subsection (1) of section  
31 61.13, Florida Statutes, is amended to read:

1           61.13 Custody and support of children; visitation  
2 rights; power of court in making orders.--

3           (1)

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

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

25           a. The obligor fails to provide written proof to the  
26 obligee ~~or the IV-D agency~~ within 30 days after ~~of~~ receiving  
27 effective notice of the court order, that the health care  
28 coverage insurance has been obtained or that application for  
29 coverage insurability has been made.†

1           b. The obligee ~~or IV-D agency~~ serves written notice of  
2 ~~its~~ intent to enforce health care coverage ~~medical support~~ on  
3 the obligor by mail at the obligor's last known address. ~~and~~

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

8           2.a. Support orders being enforced under Title IV-D of  
9 the Social Security Act that require the obligor to provide  
10 health care coverage are enforceable by the department through  
11 the use of the national medical support notice without the  
12 need for any amendment to the support order. The department  
13 shall transfer the national medical support notice to the  
14 obligor's union or employer. The department shall notify the  
15 obligor in writing that the national medical support notice  
16 has been sent to the obligor's union or employer, and the  
17 written notification shall include the obligor's rights and  
18 duties under the national medical support notice. The obligor  
19 has the right to contest the withholding required by the  
20 national medical support notice based on a mistake of fact.  
21 To contest, the obligor must file a written notice of contest  
22 with the department within 15 business days after the date of  
23 the national medical support notice. Filing with the  
24 department shall be deemed complete when the notice is  
25 received by the person designated by the department in the  
26 written notification. The notice of contest must be in the  
27 form prescribed by the department. Upon the timely filing of a  
28 notice of contest, the department shall, within 5 business  
29 days, schedule an informal conference with the obligor to  
30 discuss the obligor's factual dispute. If the informal  
31 conference resolves the dispute to the obligor's satisfaction,

1 or if the obligor fails to attend the informal conference, the  
 2 notice of contest shall be deemed withdrawn. If the informal  
 3 conference does not resolve the dispute, the obligor has the  
 4 right to request an administrative hearing pursuant to chapter  
 5 120 within 5 business days after the termination of the  
 6 informal conference in a form and manner prescribed by the  
 7 department. However, the filing of a notice of contest by the  
 8 obligor does not delay the withholding of premium payments by  
 9 the union, employer, or health plan administrator. The union,  
 10 employer, or health plan administrator must implement the  
 11 withholding as directed by the national medical support notice  
 12 unless notified by the department that the national medical  
 13 support notice is terminated.~~In cases in which the~~  
 14 ~~noncustodial parent provides health care coverage and the~~  
 15 ~~noncustodial parent changes employment and the new employer~~  
 16 ~~provides health care coverage, the IV-D agency shall transfer~~  
 17 ~~notice of the provision to the employer, which notice shall~~  
 18 ~~operate to enroll the child in the noncustodial parent's~~  
 19 ~~health plan, unless the noncustodial parent contests the~~  
 20 ~~notice. Notice to enforce medical coverage under this section~~  
 21 ~~shall be served by the IV-D agency upon the obligor by mail at~~  
 22 ~~the obligor's last known address. The obligor shall have 15~~  
 23 ~~days from the date of mailing of the notice to contest the~~  
 24 ~~notice with the IV-D agency.~~

25 b. In a Title IV-D case, the department shall notify  
 26 the union or employer if the obligation to provide health care  
 27 coverage through that union or employer is terminated.

28 3. In a non-Title IV-D case, upon receipt of the order  
 29 pursuant to subparagraph 1. ~~or the notice pursuant to~~  
 30 ~~subparagraph 2., or upon application of the obligor pursuant~~  
 31 ~~to the order, the payer, union, or employer shall enroll the~~

1 minor child as a beneficiary in the group health insurance  
 2 plan without regard to any enrollment season restrictions and  
 3 withhold any required premium from the obligor's income. If  
 4 more than one plan is offered by the ~~payor, union, or~~  
 5 employer, the child shall be enrolled in the group health  
 6 insurance plan in which the obligor is enrolled.

7 4.a. In a Title IV-D case, upon receipt of the  
 8 national medical support notice pursuant to subparagraph 2.,  
 9 the union or employer shall transfer the notice to the  
 10 appropriate group health plan administrator within 20 business  
 11 days after the date of the notice. The plan administrator  
 12 must enroll the child as a beneficiary in the group health  
 13 plan without regard to any enrollment season restriction, and  
 14 the employer must withhold any required premium from the  
 15 obligor's income upon notification by the plan administrator  
 16 that the child is enrolled. The child shall be enrolled in  
 17 the group health plan in which the obligor is enrolled. If  
 18 the group health plan in which the obligor is enrolled is not  
 19 available where the child resides, or if the obligor is not  
 20 enrolled in group coverage, the child shall be enrolled in the  
 21 lowest cost group health plan that is available where the  
 22 child resides.

23 b. In a Title IV-D case, when health care coverage or  
 24 the obligor's employment is terminated, the union or employer  
 25 who is withholding premiums for health care coverage due to a  
 26 national medical support notice shall notify the department  
 27 within 20 days after the termination and provide the obligor's  
 28 last known address and the name and address of the obligor's  
 29 new employer, if known.

30 5.a. Amounts withheld by unions or employers in  
 31 compliance with support orders shall not exceed the amount

1 allowed under s. 303(b) of the Consumer Credit Protection Act,  
2 15 U.S.C. s. 1673(b), as amended. The union or employer shall  
3 withhold the maximum amount allowed by the Consumer Credit  
4 Protection Act in the following order:

5 (I) Current support, as ordered.

6 (II) Premium payments for health care coverage, as  
7 ordered.

8 (III) Past due support, as ordered.

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

10 b. If the combined amount to be withheld for current  
11 support plus the premium payment for health care coverage  
12 exceeds the amount allowed under the Consumer Credit  
13 Protection Act, and the health care coverage cannot be  
14 obtained unless the full amount of the premium is paid, the  
15 union or employer shall not withhold the premium payment.  
16 However, the union or employer shall withhold the maximum  
17 amount allowed in the following order:

18 (I) Current support, as ordered.

19 (II) Past due support, as ordered.

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

21 ~~6.4.~~ The Department of Revenue shall have the  
22 authority to adopt rules to implement the child support  
23 enforcement provisions of this section that affect Title IV-D  
24 cases.

25 Section 3. Effective upon this act becoming a law,  
26 paragraph (b) of subsection (1) of section 61.14, Florida  
27 Statutes, is amended to read:

28 61.14 Enforcement and modification of support,  
29 maintenance, or alimony agreements or orders.--

30 (1)

31

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

11           Section 4. Paragraph (b) of subsection (2) of section  
12 61.181, Florida Statutes, is amended to read:

13           61.181 Depository for alimony transactions, support,  
14 maintenance, and support payments; fees.--

15           (b)1. For the period of July 1, 1992, through June 30,  
16 2003 ~~2002~~, the fee imposed in paragraph (a) shall be increased  
17 to 4 percent of the support payments which the party is  
18 obligated to pay, except that no fee shall be more than \$5.25.  
19 The fee shall be considered by the court in determining the  
20 amount of support that the obligor is, or may be, required to  
21 pay. Notwithstanding the provisions of s. 145.022, 75 percent  
22 of the additional revenues generated by this paragraph shall  
23 be remitted monthly to the Clerk of the Court Child Support  
24 Enforcement Collection System Trust Fund administered by the  
25 department as provided in subparagraph 2. These funds shall  
26 be used exclusively for the development, implementation, and  
27 operation of the Clerk of the Court Child Support Enforcement  
28 Collection System to be operated by the depositories,  
29 including the automation of civil case information necessary  
30 for the State Case Registry. The department shall contract  
31 with the Florida Association of Court Clerks and the



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

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

17           a. For each support payment of less than \$33, 18.75  
18 cents.

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

21           c. For each support payment in excess of \$140, 18.75  
22 cents.

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

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

29           61.1826 Procurement of services for State Disbursement  
30 Unit and the non-Title IV-D component of the State Case

31

1 Registry; contracts and cooperative agreements; penalties;  
2 withholding payment.--

3 (1) LEGISLATIVE FINDINGS.--The Legislature finds that  
4 the clerks of court play a vital role, as essential  
5 participants in the establishment, modification, collection,  
6 and enforcement of child support, in securing the health,  
7 safety, and welfare of the children of this state. The  
8 Legislature further finds and declares that:

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

13 (b) As official recordkeeper for matters relating to  
14 court-ordered child support, the clerks of court are necessary  
15 parties to obtaining, safeguarding, and providing child  
16 support payment and support order information.

17 (c) As provided by the federal Personal Responsibility  
18 and Work Opportunity Reconciliation Act of 1996, the state  
19 must establish and operate a State Case Registry in full  
20 compliance with federal law by October 1, 1998, and a State  
21 Disbursement Unit by October 1, 1999.

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

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

30 (f) The clerks of court maintain the official payment  
31 record of the court for amounts received, payments credited,

1 arrearages owed, liens attached, and current mailing addresses  
2 of all parties, payor, obligor, and payee.

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

7 (h) The Legislature acknowledges the improvements made  
8 by and the crucial role of the Clerk of the Court Child  
9 Support Enforcement Collection System in speeding payments to  
10 the children of Florida.

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

14

15 For these reasons, the Legislature hereby directs the  
16 Department of Revenue, subject to the provisions of subsection  
17 ~~(5)(6)~~, to contract with the Florida Association of Court  
18 Clerks and each depository to perform duties with respect to  
19 the operation and maintenance of a State Disbursement Unit and  
20 the non-Title IV-D component of the State Case Registry as  
21 further provided by this section.

22 Section 6. Effective upon this act becoming a law,  
23 paragraph (c) of subsection (1) of section 61.30, Florida  
24 Statutes, is amended to read:

25 61.30 Child support guidelines; retroactive child  
26 support.--

27 (1)

28 (c) For support orders reviewed by the department as  
29 required by s. 409.2564(12), if the amount of the child  
30 support award under the order differs by at least 10 percent  
31 but not less than \$25 from the amount that would be awarded

1 under this section, the department shall seek to have the  
2 order modified and any modification shall be made without a  
3 requirement for proof or showing of a change in circumstances.  
4 ~~In Title IV-D cases reviewed pursuant to the 3-year review and~~  
5 ~~adjustment cycle, no change of circumstance need be proven to~~  
6 ~~warrant a modification.~~

7 Section 7. Paragraph (c) of subsection (14) of section  
8 120.80, Florida Statutes, is amended to read:

9 120.80 Exceptions and special requirements;  
10 agencies.--

11 (14) DEPARTMENT OF REVENUE.--

12 (c) Proceedings for administrative child support  
13 orders.--~~Notwithstanding the provisions of s. 120.569 or s.~~  
14 ~~120.57 to the contrary,~~In proceedings for the establishment  
15 of administrative support orders pursuant to s. 409.2563,  
16 final orders in cases referred by the Department of Revenue to  
17 the Division of Administrative Hearings shall be entered by  
18 the division's administrative law judge and transmitted to the  
19 Department of Revenue for filing and rendering ~~indexing~~. The  
20 Department of Revenue has the right to seek judicial review  
21 under s. 120.68 of a final order entered by an administrative  
22 law judge. Administrative support orders rendered pursuant to  
23 s. 409.2563 may be enforced pursuant to s. 120.69 or,  
24 alternatively, by any method prescribed by law for the  
25 enforcement of judicial support orders, except contempt.

26 Section 8. Subsection (3) of section 409.2557, Florida  
27 Statutes, is amended to read:

28 409.2557 State agency for administering child support  
29 enforcement program.--

30 (3) SPECIFIC RULEMAKING AUTHORITY.--The department has  
31 the authority to adopt rules pursuant to ss. 120.536(1) and

1 120.54 to implement all laws administered by the department in  
2 its capacity as the Title IV-D agency for this state  
3 including, but not limited to, the following:  
4 (a) Background screening of department employees and  
5 applicants, including criminal records checks;  
6 (b) Confidentiality and retention of department  
7 records; access to records; record requests;  
8 (c) Department trust funds;  
9 (d) Federal funding procedures;  
10 (e) Agreements with law enforcement and other state  
11 agencies; National Crime Information Center (NCIC) access;  
12 Parent Locator Service access;  
13 (f) Written agreements entered into between the  
14 department and support obligors in establishment, enforcement,  
15 and modification proceedings;  
16 (g) Procurement of services by the department, pilot  
17 programs, and demonstration projects;  
18 (h) Management of cases by the department involving  
19 any documentation or procedures required by federal or state  
20 law, including but not limited to, cooperation; review and  
21 adjustment; audits; interstate actions; diligent efforts for  
22 service of process;  
23 (i) Department procedures for orders for genetic  
24 testing; subpoenas to establish, enforce, or modify orders;  
25 increasing the amount of monthly obligations to secure  
26 delinquent support; suspending or denying driver's and  
27 professional licenses and certificates; fishing and hunting  
28 license suspensions; suspending vehicle and vessel  
29 registrations; screening applicants for new or renewal  
30 licenses, registrations, or certificates; income deduction;  
31 credit reporting and accessing; tax refund intercepts;

1 passport denials; liens; financial institution data matches;  
2 expedited procedures; medical support; and all other  
3 responsibilities of the department as required by state or  
4 federal law;

5 (j) Collection and disbursement of support and alimony  
6 payments by the department as required by federal law;  
7 collection of genetic testing costs and other costs awarded by  
8 the court;

9 (k) Report information to and receive information from  
10 other agencies and entities;

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

13 (m) Privatizing location, establishment, enforcement,  
14 modification, and other functions;

15 (n) State case registry;

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

17 (p) Administrative proceedings to establish  
18 child-support obligations; and

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

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

26 409.2563 Pilot program for Administrative  
27 establishment of child support obligations.--

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

29 (a) "Administrative support order" means a final order  
30 rendered by or on behalf of the department pursuant to this  
31 section establishing or modifying the obligation of a

1 noncustodial parent to contribute to the support and  
2 maintenance of his or her child or children, which may include  
3 provisions for monetary support, retroactive support, health  
4 care, and other elements of support pursuant to chapter 61.

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

7 (c) "Filed" means a document has been received and  
8 accepted for filing at the offices of the department by the  
9 clerk or any authorized deputy clerk of the department. The  
10 date of filing must be indicated on the face of the document  
11 by the clerk or deputy clerk.

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

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

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

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

27  
28 Other terms used in this section have the meanings ascribed in  
29 ss. 61.046 and 409.2554.

30 (2) PURPOSE AND SCOPE.--

1 (a) It is not the Legislature's intent to limit the  
2 jurisdiction of the circuit courts to hear and determine  
3 issues regarding child support. This section is intended to  
4 provide the department with an alternative procedure for  
5 establishing child support obligations in Title IV-D cases in  
6 a fair and expeditious manner when there is no court order of  
7 support.

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

20 (c) If there is no support order for a child in a  
21 Title IV-D case whose paternity has been established or is  
22 presumed by law, the department may establish the ~~a~~  
23 noncustodial parent's child support obligation pursuant to  
24 this section, s. 61.30, and other relevant provisions of state  
25 law. The noncustodial parent's obligation determined by the  
26 department may include any obligation to pay retroactive  
27 support and any obligation to provide for health care for a  
28 child, whether through insurance coverage, reimbursement of  
29 expenses, or both. The department may proceed on behalf of:

- 30 1. An applicant or recipient of public assistance, as  
31 provided by ss. 409.2561 and 409.2567;



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

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

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

6           5. A state or local government of another state, as  
7 provided by chapter 88.

8           (d) Either parent, or a caretaker relative if  
9 applicable, may at any time file a civil action in a circuit  
10 court having jurisdiction and proper venue to determine the  
11 noncustodial parent's child support obligations, if any. A  
12 support order issued by a circuit court prospectively  
13 supersedes an administrative support order rendered by the  
14 department.

15           (e) Pursuant to paragraph (b), neither the department  
16 nor the Division of Administrative Hearings have jurisdiction  
17 to award or change child custody or rights of parental  
18 contact. Either parent may at any time file a civil action in  
19 a circuit having jurisdiction and proper venue for a  
20 determination of child custody and rights of parental contact.

21           (f) The department shall terminate the administrative  
22 proceeding and file an action in circuit court to determine  
23 support if within 20 days after receipt of the initial notice  
24 the noncustodial parent requests in writing that the  
25 department proceed in circuit court or states in writing the  
26 noncustodial parent's intention to address issues concerning  
27 custody or rights to parental contact in court and if within  
28 10 days after receipt of the department's petition and waiver  
29 of service the noncustodial parent signs and returns the  
30 waiver of service form to the department.

31

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

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

9           (a) The names of both parents, the name of the  
10 caretaker relative, if any, and the name and date of birth of  
11 the child or children;

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

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

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

21           (e) That both parents, or parent and caretaker  
22 relative if applicable, are required to promptly notify the  
23 department of any change in their mailing addresses to ensure  
24 receipt of all subsequent pleadings, notices, and orders, as  
25 provided by paragraph (13)(c);

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

31

1           (g) That the department will send by regular mail to  
2 both parents, or parent and caretaker relative if applicable,  
3 a copy of the proposed administrative support order, the  
4 department's child support worksheet, and any financial  
5 affidavits submitted by a parent or prepared by the  
6 department;

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

12           (i) That if the noncustodial parent does not file a  
13 timely request for hearing after service of the proposed  
14 administrative support order, the department will issue an  
15 administrative support order that incorporates the findings of  
16 the proposed administrative support order, and will send by  
17 regular mail a copy of the administrative support order to  
18 both parents, or parent and caretaker relative if applicable;

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

22           (k) That after an administrative support order is  
23 rendered, the department may enforce the administrative  
24 support order by any lawful means; ~~and~~

25           (l) That either parent, or caretaker relative if  
26 applicable, may file at any time a civil action in a circuit  
27 court having jurisdiction and proper venue to determine the  
28 noncustodial parent's child support obligations, if any, and  
29 that a support order issued by a circuit court supersedes an  
30 administrative support order rendered by the department;-

31

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

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

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

27  
28 The department may serve the notice of proceeding to establish  
29 administrative support order by certified mail, restricted  
30 delivery, return receipt requested. Alternatively, the  
31 department may serve the notice by any means permitted for

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

19 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

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

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

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

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

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

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

17           6. If an administrative support order that establishes  
18 a noncustodial parent's support obligation is rendered,  
19 whether after a hearing or without a hearing, the department  
20 may enforce the administrative support order by any lawful  
21 means.

22           (6) HEARING.--If the noncustodial parent files a  
23 timely request for hearing, the department shall refer the  
24 hearing request to the Division of Administrative Hearings.  
25 Unless otherwise provided by this section, chapter 120 and the  
26 ~~division's~~ Uniform Rules of Procedure shall govern the conduct  
27 of the proceedings. The administrative law judge shall  
28 consider all available and admissible information and any  
29 presumptions that apply as provided by paragraph (5)(a). ~~A~~  
30 ~~designated employee or other representative of the department,~~

31

1 ~~who need not be an attorney, may represent the department as a~~  
2 ~~qualified representative at the hearing.~~

3 (7) ADMINISTRATIVE SUPPORT ORDER.--

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

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

15 (c) If the noncustodial parent waives the right to a  
16 hearing, or consents in writing to the entry of an order  
17 without a hearing, the department may render an administrative  
18 support order.

19 (d) The department shall send by regular mail a copy  
20 of the administrative support order, or the final order  
21 denying an administrative support order, to both parents, or a  
22 parent and caretaker relative if applicable. The noncustodial  
23 parent shall be notified of the right to seek judicial review  
24 of the administrative support order in accordance with s.  
25 120.68.

26 (e) An administrative support order must comply with  
27 s. 61.30. The department, ~~after consultation with the Division~~  
28 ~~of Administrative Hearings and the chief judge of the circuit~~  
29 ~~in which the pilot program is located,~~shall develop a  
30 standard form or forms for administrative support orders. An  
31

- 1 administrative support order must provide and state findings,  
2 if applicable, concerning:
- 3 1. The full name and date of birth of the child or  
4 children;
  - 5 2. The name of the noncustodial parent and the  
6 custodial parent or caretaker relative;
  - 7 3. The noncustodial parent's duty and ability to  
8 provide support;
  - 9 4. The amount of the noncustodial parent's monthly  
10 support obligation ~~for each child~~;
  - 11 5. Any obligation to pay retroactive support;
  - 12 6. The noncustodial parent's obligation to provide for  
13 the health care needs of each child, whether through insurance  
14 coverage, contribution towards the cost of insurance coverage,  
15 payment or reimbursement of health care expenses for the  
16 child, or any combination thereof;
  - 17 7. The beginning date of any required monthly payments  
18 and health care coverage;
  - 19 8. That all support payments ordered must be paid to  
20 the Florida State Disbursement Unit as provided by s. 61.1824;
  - 21 9. That the parents, or caretaker relative if  
22 applicable, must file with the department when the  
23 administrative support order is rendered, if they have not  
24 already done so, and update as appropriate the information  
25 required pursuant to paragraph (13)(b); ~~and~~
  - 26 10. That both parents, or parent and caretaker  
27 relative if applicable, are required to promptly notify the  
28 department of any change in their mailing addresses pursuant  
29 to paragraph (13)(c); ~~and~~
  - 30 11. That if the noncustodial parent receives  
31 unemployment compensation benefits, the payor shall withhold,



1 and transmit to the department, 40 percent of the benefits for  
2 payment of support, not to exceed the amount owed.

3  
4 An income deduction order as provided by s. 61.1301 must be  
5 incorporated into the administrative support order or, if not  
6 incorporated into the administrative support order, the  
7 department or the Division of Administrative Hearings shall  
8 render a separate income deduction order.

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

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

18 (b) Establish and maintain the necessary payment  
19 accounts;

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

22 (d) Perform all other duties required of a depository  
23 with respect to a support order entered by a court of this  
24 state.

25 (9) COLLECTION ACTION; ENFORCEMENT.--

26 (d) An administrative support order rendered under  
27 this section has the same force and effect as court order and,  
28 until modified by the department or superseded by a court  
29 order, may be enforced:

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

4           2. Pursuant to s. 120.69.

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

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

26           (11) EFFECTIVENESS OF ADMINISTRATIVE SUPPORT  
27 ORDER.--An administrative support order rendered under this  
28 section has the same force and effect as a court order and  
29 remains in effect until modified by the department, vacated on  
30 appeal, or superseded by a subsequent court order. If the  
31

1 department closes a Title IV-D case in which an administrative  
2 support order has been rendered:

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

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

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

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

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

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

30 Section 10. Subsection (3) of section 409.25656,  
31 Florida Statutes, is amended to read:

1           409.25656 Garnishment.--  
 2           (3) During the last 30 days of the 60-day period set  
 3 forth in subsection (1), the executive director or his or her  
 4 designee may levy upon such credits, personal property, or  
 5 debts. The levy must be accomplished by delivery of a notice  
 6 of levy by registered mail, upon receipt of which the person  
 7 possessing the credits, other personal property, or debts  
 8 shall transfer them to the department or pay to the department  
 9 the amount owed by ~~to~~ the obligor. If the department levies  
 10 upon securities and their value is less than the total amount  
 11 of the past due or overdue support, the person who has the  
 12 securities in his or her possession or under his or her  
 13 control shall liquidate the securities in a commercially  
 14 reasonable manner. After liquidation, the person shall  
 15 transfer to the department the proceeds, less any applicable  
 16 commissions, fees, or both, that are charged in the normal  
 17 course of business. If the value of the securities levied  
 18 upon exceeds the total amount of past due or overdue support,  
 19 the obligor may, within 7 days after receipt of the  
 20 department's notice of levy, instruct the person as to which  
 21 securities are to be sold in satisfaction of the past due or  
 22 overdue support. If the obligor does not provide instructions  
 23 for liquidation, the person shall liquidate sufficient  
 24 property to net the amount of past due or overdue support,  
 25 after applicable commissions, fees, or both, that are charged  
 26 in the normal course of business, in a commercially reasonable  
 27 manner starting with the securities purchased most recently.  
 28 After liquidation, the person shall transfer to the department  
 29 the total amount of past due or overdue support.  
 30  
 31

1           Section 11. Effective upon this act becoming a law,  
2 subsections (1) and (2) of section 409.25658, Florida  
3 Statutes, are amended to read:

4           409.25658 Use of unclaimed property for past due  
5 support.--

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

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

19           Section 12. Subsection (7) of section 409.2576,  
20 Florida Statutes, is amended to read:

21           409.2576 State Directory of New Hires.--

22           (7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL  
23 SUPPORT NOTICE.--~~The department--Not later than October 1,~~  
24 ~~1998, the Title IV-D agency~~ shall transmit a wage withholding  
25 notice consistent with s. 61.1301 and a national medical  
26 support notice, as defined in s. 61.046, when appropriate,to  
27 the employee's employer within 2 business days of entry of the  
28 new hire information into the State Directory of New Hires'  
29 database, unless the court has determined that the employee's  
30 wages are not subject to withholding or, for purposes of the  
31 national medical support notice, the support order does not

1 contain a provision for the employee to provide health care  
2 coverage. The withholding notice shall direct the employer to  
3 withhold income in accordance with the income deduction order  
4 and the national medical support notice shall direct the  
5 employer to withhold premiums for health care coverage.

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

8 827.06 Nonsupport of dependents.--

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

17 Section 14. Subsection (5) of section 61.1826, Florida  
18 Statutes, is repealed.

19 Section 15. Except as otherwise provided herein, this  
20 act shall take effect July 1, 2002.