

By the Committee on Judicial Oversight and Representative
Crow

1 A bill to be entitled
2 An act relating to child support enforcement;
3 amending s. 61.13016, F.S.; authorizing the
4 Department of Highway Safety and Motor Vehicles
5 to suspend driver's licenses and motor vehicle
6 registrations to enforce compliance with an
7 order to appear for genetic testing to
8 establish paternity or paternity and child
9 support; amending s. 61.1814, F.S.; providing
10 for deposit of fines imposed for failure or
11 refusal to submit to genetic testing; amending
12 s. 120.80, F.S.; providing administrative
13 procedures for proceedings to establish
14 paternity or paternity and child support;
15 amending s. 382.013, F.S.; providing for birth
16 certificate information when the paternity of
17 the child is determined pursuant to an
18 administrative proceeding; amending s.
19 409.2557, F.S.; providing rulemaking authority;
20 creating s. 409.2560, F.S., relating to
21 administrative proceedings to establish
22 paternity, or paternity and child support, and
23 orders to appear for genetic testing; providing
24 definitions; providing for jurisdiction and
25 location of hearings; providing for service of
26 notice of proceedings to establish paternity,
27 or paternity and child support, and orders to
28 appear for genetic testing; specifying contents
29 of notice; providing right to contest an order
30 to appear for genetic testing; providing for
31 scheduling of genetic testing; providing for

1 suspension of driver's license and motor
2 vehicle registration, imposition of an
3 administrative fine, and orders for child
4 support and for payment of court and testing
5 costs for failure or refusal to submit to
6 genetic testing; providing for disposition of
7 genetic testing results; providing for a
8 proposed order of paternity; providing for a
9 proceeding to establish an administrative
10 support order or for a proposed order of
11 paternity and child support; providing for
12 informal review of a proposed order; providing
13 for an administrative hearing on the proposed
14 order; providing for a final order establishing
15 paternity or paternity and child support;
16 providing for a consent order; providing for
17 notification to the Office of Vital Statistics;
18 providing the right to seek judicial review;
19 providing for the admissibility of genetic
20 testing as evidence; providing applicability of
21 statutes to the mother of a child whose
22 paternity has not been established; providing
23 that the remedies provided are in addition to
24 other remedies available for establishment of
25 paternity and child support obligations;
26 providing rulemaking authority; amending s.
27 409.2563, F.S.; revising and conforming
28 provisions relating to the administrative
29 establishment of child support obligations;
30 authorizing the Department of Revenue to
31 suspend or terminate an administrative support

1 order prospectively; providing for evaluation
2 of the administrative process; providing for
3 statewide application of administrative support
4 order procedures and administrative proceedings
5 under s. 409.2560, F.S.; requiring a report;
6 amending s. 742.10, F.S.; providing for
7 establishment of paternity pursuant to s.
8 409.2560, F.S., for children born out of
9 wedlock; amending s. 760.40, F.S.; providing an
10 exception from informed consent and
11 confidentiality requirements for genetic
12 testing pursuant to an administrative
13 proceeding to establish paternity; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsection (4) is added to section
19 61.13016, Florida Statutes, to read:

20 61.13016 Suspension of driver's licenses and motor
21 vehicle registrations.--

22 (4) The procedures in this section may be used to
23 enforce compliance with an order to appear for genetic testing
24 to establish paternity or paternity and child support.

25 Section 2. Section 61.1814, Florida Statutes, is
26 amended to read:

27 61.1814 Child Support Enforcement Application and
28 Program Revenue Trust Fund.--The Child Support Enforcement
29 Application and Program Revenue Trust Fund is hereby created,
30 to be administered by the Department of Revenue. The fund
31 shall be used for the deposit of application fees of nonpublic

1 assistance applicants for child support enforcement services
2 and fines imposed under ss. 409.2560(7)(b), 409.2564(8), and
3 409.2578. Moneys deposited from fines imposed under ss.
4 409.2560(7)(b), 409.2564(8), and 409.2578 shall be maintained
5 separately from moneys deposited from application fees.

6 Section 3. Paragraph (c) of subsection (14) of section
7 120.80, Florida Statutes, is amended to read:

8 120.80 Exceptions and special requirements;
9 agencies.--

10 (14) DEPARTMENT OF REVENUE.--

11 (c) Proceedings to establish paternity or paternity
12 and child support; orders to appear for genetic testing;
13 proceedings for administrative ~~child~~ support
14 orders.--Notwithstanding the provisions of s. 120.569 or s.
15 120.57 to the contrary, in proceedings to establish paternity
16 or paternity and child support pursuant to s. 409.2560 and
17 proceedings for the establishment of administrative support
18 orders pursuant to s. 409.2563, final orders in cases referred
19 by the Department of Revenue to the Division of Administrative
20 Hearings shall be entered by the division's administrative law
21 judge and transmitted to the Department of Revenue for filing
22 and rendering indexing. The Department of Revenue has the
23 right to seek judicial review of a final order entered by an
24 administrative law judge under s. 120.68. The Department of
25 Revenue and the person ordered to appear for genetic testing
26 may seek immediate judicial review under s. 120.68 of an order
27 issued by an administrative law judge pursuant to s.
28 409.2560(5)(b). Final orders that adjudicate paternity or
29 paternity and child support pursuant to s. 409.2560 and
30 administrative support orders rendered pursuant to s. 409.2563
31 may be enforced pursuant to s. 120.69 or, alternatively, by

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

3 Section 4. Paragraph (e) of subsection (2) of section
4 382.013, Florida Statutes, is redesignated as paragraph (f),
5 and a new paragraph (e) is added to said subsection to read:

6 382.013 Birth registration.--A certificate for each
7 live birth that occurs in this state shall be filed within 5
8 days after such birth with the local registrar of the district
9 in which the birth occurred and shall be registered by the
10 local registrar if the certificate has been completed and
11 filed in accordance with this chapter and adopted rules. The
12 information regarding registered births shall be used for
13 comparison with information in the state case registry, as
14 defined in chapter 61.

15 (2) PATERNITY.--

16 (e) If the paternity of the child is determined
17 pursuant to s. 409.2560, the name of the father and the
18 surname of the child shall be entered on the certificate in
19 accordance with the finding and order of the Department of
20 Revenue.

21 Section 5. Paragraph (o) of subsection (3) of section
22 409.2557, Florida Statutes, is amended, paragraph (p) is
23 redesignated as paragraph (q), and a new paragraph (p) is
24 added to said subsection, to read:

25 409.2557 State agency for administering child support
26 enforcement program.--

27 (3) SPECIFIC RULEMAKING AUTHORITY.--The department has
28 the authority to adopt rules pursuant to ss. 120.536(1) and
29 120.54 to implement all laws administered by the department in
30 its capacity as the Title IV-D agency for this state
31 including, but not limited to, the following:

1 (o) State disbursement unit; ~~and~~
2

(p) Administrative proceedings to establish paternity
3 or paternity and child support, orders to appear for genetic
4 testing, and administrative establishment of child support
5 obligations; and

6 Section 6. Section 409.2560, Florida Statutes, is
7 created to read:

8 409.2560 Administrative proceeding to establish
9 paternity or paternity and child support; order to appear for
10 genetic testing.--

11 (1) DEFINITIONS.--Unless the context indicates
12 otherwise, as used in this section, the term:

13 (a) "Custodian" means a person, other than the mother
14 or a putative father, who has physical custody of a child or
15 with whom the child primarily resides. References in this
16 section to the obligation of a custodian to submit to genetic
17 testing shall be construed to mean that the custodian is
18 obligated to submit the child for genetic testing, not that
19 the custodian must submit to genetic testing.

20 (b) "Filed" means a document has been received and
21 accepted for filing at the offices of the department by the
22 clerk or an authorized deputy clerk as designated by the
23 department.

24 (c) "Genetic testing" means a scientific analysis of
25 genetic markers that is performed by a qualified technical
26 laboratory only to exclude an individual as the parent of a
27 child or to show a probability of paternity.

28 (d) "Paternity and child support proceeding" means an
29 administrative action commenced by the department to order
30 genetic testing, to establish paternity, and to establish an
31 administrative support order pursuant to this section.

1 (e) "Paternity proceeding" means an administrative
2 action commenced by the department to order genetic testing
3 and establish paternity pursuant to this section.

4 (f) "Putative father" means an individual who is or
5 may be the biological father of a child whose paternity has
6 not been established and whose mother was unmarried when the
7 child was conceived and born.

8 (g) "Qualified technical laboratory" means a genetic
9 testing laboratory which may be under contract with the
10 department, which uses tests and methods of a type generally
11 acknowledged as reliable by accreditation bodies designated by
12 the United States Department of Health and Human Services,
13 which laboratory is approved by such an accreditation body.
14 The term also includes a genetic testing laboratory used by
15 another state, if the laboratory has comparable
16 qualifications.

17 (h) "Rendered" means that a signed written order is
18 filed with the clerk or a 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 (i) "Respondent" means the person or persons served by
22 the department with a notice of proceeding pursuant to
23 subsection (4), which includes the putative father and which
24 may include the mother or the custodian of the child.

25 (j) "State" or "other state" has the meaning
26 prescribed in s. 88.1011(19).

27 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF
28 ACCESS TO THE COURTS.--

29 (a) The department may commence a paternity proceeding
30 or a paternity and child support proceeding as provided by
31 subsection (4) if:

- 1 1. The child's paternity has not been established;
2 2. The child's mother was unmarried when the child was
3 conceived and born;
4 3. The department is providing Title IV-D services;
5 and
6 4. The child's mother or a putative father has stated
7 in an affidavit or written declaration as provided by s.
8 92.525(2) that the putative father is or may be the child's
9 biological father. The affidavit or written declaration must
10 set forth the factual basis for the allegation of paternity as
11 provided by s. 742.12(2).
- 12 (b) If the department receives a request from another
13 state to assist in the establishment of paternity, the
14 department may serve an order to appear for genetic testing on
15 a person who resides in Florida and transmit the test results
16 to the other state without commencing a paternity proceeding
17 in this state.
- 18 (c) The department may use the procedures authorized
19 by this section against a nonresident over whom this state may
20 assert personal jurisdiction under chapter 48 or chapter 88.
- 21 (d) If a putative father, mother, or custodian in a
22 Title IV-D case voluntarily submits, the department may
23 schedule that individual or the child for genetic testing
24 without serving that individual with an order to appear for
25 genetic testing. A respondent or other person who is subject
26 to an order to appear for genetic testing may, in writing or
27 on the record at an administrative hearing, waive formal
28 service of notices or orders or waive any other rights or time
29 periods prescribed by this section.
- 30 (e) Whenever practicable, hearings held by the
31 Division of Administrative Hearings pursuant to this section

1 shall be held in the judicial circuit where the person
2 receiving Title IV-D services resides or, if the person
3 receiving Title IV-D services does not reside in the state, in
4 the judicial circuit where the respondent resides. If the
5 department and the respondent agree, the hearing may be held
6 in another location.

7 (f) The Legislature does not intend to limit the
8 jurisdiction of the circuit courts to hear and determine
9 issues regarding establishment of paternity. This section is
10 intended to provide the department with an alternative
11 procedure for establishing paternity and child support
12 obligations in Title IV-D cases. Nothing in this section shall
13 be construed to prohibit a person who has standing from filing
14 a civil action in circuit court for a determination of
15 paternity or of child support obligations.

16 (3) MULTIPLE PUTATIVE FATHERS; MULTIPLE CHILDREN.--If
17 more than one putative father has been named, the department
18 may proceed under this section against a single putative
19 father or may proceed simultaneously against more than one
20 putative father. If a putative father has been named as a
21 possible father of more than one child born to the same
22 mother, the department may proceed to establish the paternity
23 of each child in the same proceeding.

24 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR
25 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC
26 TESTING; MANNER OF SERVICE; CONTENTS.--The department shall
27 commence a paternity or paternity and child support proceeding
28 by serving the respondent with a notice as provided by this
29 section. An order to appear for genetic testing may be served
30 at the same time as a notice of proceeding or may be served
31 separately. A copy of the affidavit or written declaration

1 upon which the proceeding is based shall be provided to the
2 respondent when notice is served. A notice or order to appear
3 for genetic testing shall be served by certified mail,
4 restricted delivery, return receipt requested, or in
5 accordance with the requirements for service of process in a
6 civil action. Service by certified mail is completed when the
7 certified mail is received or refused. For purposes of this
8 section, an employee or an authorized agent of the department
9 may serve the notice or order to appear for genetic testing
10 and execute an affidavit of service. The department may serve
11 an order to appear for genetic testing on a custodian. The
12 department shall provide a copy of the notice or order to
13 appear by regular mail to the mother and custodian, if they
14 are not respondents.

15 (a) A notice of proceeding to establish paternity must
16 state:

17 1. That the department has commenced an administrative
18 proceeding to establish whether the putative father is the
19 biological father of the child named in the notice.

20 2. The name and date of birth of the child and the
21 name of the child's mother.

22 3. That the putative father has been named in an
23 affidavit or written declaration which states the putative
24 father is or may be the child's biological father.

25 4. That the respondent is required to submit to
26 genetic testing.

27 5. That genetic testing will establish either a high
28 degree of probability that the putative father is the
29 biological father of the child or that the putative father
30 cannot be the biological father of the child.

31

1 6. That if the genetic test results do not indicate a
2 statistical probability of paternity that equals or exceeds 99
3 percent, the paternity proceeding ends as to that child unless
4 a second or subsequent test is required.

5 7. That if the genetic test results indicate a
6 statistical probability of paternity that equals or exceeds 99
7 percent, the department may:

8 a. Issue a proposed order of paternity that the
9 respondent may consent to or contest at an administrative
10 hearing; or

11 b. Commence a proceeding, as provided by s. 409.2563,
12 to establish an administrative support order for the child,
13 and that notice of that proceeding will be provided to the
14 respondent by regular mail.

15 8. That if the genetic test results indicate a
16 statistical probability of paternity that equals or exceeds 99
17 percent and a proceeding to establish an administrative
18 support order is commenced, the department will issue a
19 proposed order that addresses paternity and child support that
20 the respondent may consent to or contest at an administrative
21 hearing.

22 9. That if a proposed order of paternity or paternity
23 and child support is not contested, the department will adopt
24 the proposed order and render a final order that establishes
25 paternity and, if appropriate, an administrative support order
26 for the child.

27 10. That until the paternity or paternity and child
28 support proceeding is ended, the respondent shall notify the
29 department in writing of any change in the respondent's
30 mailing address; that the respondent shall be deemed to have
31 received any subsequent order, notice, or other paper mailed

1 to the most recent address provided or, if a more recent
2 address is not provided, to the address at which the
3 respondent was served; and that this requirement continues if
4 the department renders a final order that establishes
5 paternity and a support order for the child.

6 11. That the respondent may file an action in circuit
7 court for a determination of paternity or child support
8 obligations, or both.

9 12. That if the respondent files an action in circuit
10 court and serves the department with a copy of the petition or
11 complaint within 20 days after being served notice under this
12 subsection, the administrative process ends without prejudice
13 and the action must proceed in circuit court.

14 (b) A notice of proceeding to establish paternity and
15 child support must state the matters required by paragraph
16 (a), except for subparagraph (a)7., and must state the matters
17 required by s. 409.2563(4) to the extent that the matters
18 required by s. 409.2563(4) are not already required by and do
19 not conflict with this subsection. This section and s.
20 409.2563 apply to a proceeding commenced under this paragraph.

21 (c) The order to appear for genetic testing must
22 inform the person ordered to appear:

23 1. That the department has commenced an administrative
24 proceeding to establish whether the putative father is the
25 biological father of the child.

26 2. Of the name and date of birth of the child and the
27 name of the child's mother.

28 3. That the putative father has been named in an
29 affidavit or written declaration which states the putative
30 father is or may be the child's biological father.

31

1 4. Of the date, time, and place at which the person
2 ordered to appear must appear to provide a sample for genetic
3 testing.

4 5. That if the person has custody of the child whose
5 paternity is the subject of the proceeding, the person must
6 submit the child to genetic testing.

7 6. That when the samples are provided, the person
8 ordered to appear must verify his or her identity, and the
9 identity of the child, if applicable, by presenting a form of
10 identification as prescribed by s. 117.05(5)(b)2. which bears
11 the photograph of the person who is providing the sample, or
12 other form of verification approved by the department.

13 7. That if the person ordered to appear submits to
14 genetic testing, the department will pay the cost of the
15 genetic testing and will provide the person with a copy of any
16 test results obtained.

17 8. That if the person ordered to appear does not
18 appear as ordered or refuses to submit to genetic testing
19 without good cause, the department may take one or more of the
20 following actions:

21 a. Commence proceedings to suspend the driver's
22 license and motor vehicle registration of the person ordered
23 to appear, as provided by s. 61.13016.

24 b. Impose an administrative fine against the person
25 ordered to appear in the amount of \$500.

26 c. File a petition in circuit court to establish
27 paternity and obtain a support order for the child and an
28 order for costs against the person ordered to appear,
29 including costs for genetic testing.

30 9. That the person ordered to appear may contest the
31 order by filing a written request for informal review within

1 15 days after the date of service of the order, with further
2 rights to an administrative hearing following the informal
3 review.

4 (5) RIGHT TO CONTEST ORDER TO APPEAR FOR GENETIC
5 TESTING.--

6 (a) The person ordered to appear for genetic testing
7 may contest an order to appear by filing a written request for
8 informal review with the department within 15 days after the
9 date of service of the order. The purpose of the informal
10 review is to provide the person ordered to appear with an
11 opportunity to discuss the proceedings and the basis of the
12 order. At the conclusion of the informal review, the
13 department shall notify the person, in writing, as to whether
14 it will proceed with the order to appear. If the department
15 notifies the person ordered to appear of its intent to
16 proceed, the notice must inform the person of the right to
17 contest the order at an administrative hearing.

18 (b) Within 15 days after the mailing date of the
19 department's notification, following an informal review, that
20 the department will proceed with an order to appear for
21 genetic testing, the person ordered to appear may file a
22 request for an administrative hearing to contest whether the
23 person should be required to submit to genetic testing. A
24 request for an administrative hearing must state the specific
25 reasons the person ordered to appear believes he or she should
26 not be required to submit to genetic testing as ordered. If
27 the person ordered to appear files a timely request for a
28 hearing, the department shall refer the hearing request to the
29 Division of Administrative Hearings. Unless otherwise provided
30 by this section, administrative hearings are governed by
31 chapter 120 and the uniform rules of procedure. The

1 administrative law judge assigned to the case shall issue an
2 order as to whether the person must submit to genetic testing
3 in accordance with the order to appear. The department and the
4 person ordered to appear may seek immediate judicial review
5 under s. 120.68 of an order issued by an administrative law
6 judge pursuant to this paragraph.

7 (c) If a timely request for an informal review or an
8 administrative hearing is filed, the department may not
9 proceed under the order to appear for genetic testing and may
10 not impose sanctions for failure or refusal to submit to
11 genetic testing until:

12 1. The department has notified the person of its
13 intent to proceed after informal review and a timely request
14 for hearing is not filed;

15 2. The person ordered to appear withdraws the request
16 for hearing or informal review; or

17 3. The Division of Administrative Hearings issues an
18 order that the person must submit to genetic testing, or an
19 order closing the division's file, and that order has become
20 final.

21 (d) If a request for an informal review or
22 administrative hearing is not timely filed, the person ordered
23 to appear is deemed to have waived the right to a hearing, and
24 the department may proceed under the order to appear for
25 genetic testing.

26 (6) SCHEDULING OF GENETIC TESTING.--

27 (a) The department shall notify the person ordered to
28 appear, in writing, of the date, time, and place at which the
29 person is required to appear for genetic testing and of the
30 requirement to verify his or her identity, and the identity of
31 the child, if applicable, when the samples are provided, by

1 presenting a form of identification as prescribed by s.
2 117.05(5)(b)2. which bears the photograph of the person who is
3 providing the sample, or other form of verification approved
4 by the department. If the person ordered to appear is the
5 putative father or the mother, that person shall appear and
6 submit to genetic testing. If the person ordered to appear is
7 a custodian, or if the putative father or the mother has
8 custody of the child, then that person must submit the child
9 to genetic testing.

10 (b) The department shall reschedule a genetic test:

11 1. One time without cause if, in advance of the
12 initial test date, the person ordered to appear requests the
13 department to reschedule the test.

14 2. One time if the person ordered to appear shows good
15 cause for failure to appear for a scheduled test.

16 3. One time upon request of a person ordered to appear
17 against whom sanctions have been imposed as provided by
18 subsection (7).

19
20 A claim of good cause for failure to appear must be filed with
21 the department within 10 days after the scheduled test date
22 and must state the facts and circumstances supporting the
23 claim. The department shall notify the person ordered to
24 appear, in writing, as to whether it accepts or rejects the
25 person's claim of good cause. There is no separate right to a
26 hearing on the department's decision to accept or reject the
27 claim of good cause because the person ordered to appear may
28 raise good cause as a defense to any proceeding initiated by
29 the department under subsection (7).

30 (c) A person ordered to appear may obtain a second
31 genetic test by filing a written request for a second test

1 with the department within 15 days after the date of mailing
2 of the initial genetic testing results and by paying the
3 department in advance for the full cost of the second test.

4 (d) The department may schedule and require a
5 subsequent genetic test if it has reason to believe the
6 results of the preceding genetic test may not be reliable.

7 (e) Except as provided by paragraph (c) and subsection
8 (7), the department shall pay for the cost of genetic testing
9 ordered under this section.

10 (7) FAILURE OR REFUSAL TO SUBMIT TO GENETIC
11 TESTING.--If a person who is served with an order to appear
12 for genetic testing fails to appear without good cause, or
13 refuses to submit to testing without good cause, the
14 department may take one or more of the following actions:

15 (a) Commence proceedings to suspend the driver's
16 license and motor vehicle registration of the person ordered
17 to appear, as provided by s. 61.13016.

18 (b) Impose an administrative fine against the person
19 ordered to appear in the amount of \$500.

20 (c) File a petition in circuit court to establish
21 paternity, obtain a support order for the child, and seek
22 reimbursement from the person ordered to appear for the full
23 cost of genetic testing incurred by the department.

24
25 As provided by s. 322.058(2), a suspended driver's license and
26 motor vehicle registration may be reinstated when the person
27 ordered to appear complies with the order to appear for
28 genetic testing. The department may collect an administrative
29 fine imposed under this subsection by using civil remedies or
30 other statutory means available to the department for
31 collection of support.

1 (8) GENETIC TESTING RESULTS.--The department shall
2 send a copy of the genetic testing results to the putative
3 father, and to the mother, to the custodian, and to the other
4 state, if applicable. If the genetic testing results,
5 including second or subsequent genetic testing results, do not
6 indicate a statistical probability of paternity that equals or
7 exceeds 99 percent, the paternity proceeding ends as to that
8 child.

9 (9) PROPOSED ORDER OF PATERNITY; COMMENCEMENT OF
10 PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT ORDER; PROPOSED
11 ORDER OF PATERNITY AND CHILD SUPPORT.--

12 (a) If a paternity proceeding has been commenced under
13 this section and the results of genetic testing indicate a
14 statistical probability of paternity that equals or exceeds 99
15 percent, the department may:

16 1. Issue a proposed order of paternity as provided by
17 paragraph (b); or

18 2. If appropriate, delay issuing a proposed order of
19 paternity, commence, by regular mail, an administrative
20 proceeding to establish a support order for the child pursuant
21 to s. 409.2563, and issue a single proposed order that
22 addresses paternity and child support.

23 (b) A proposed order of paternity shall:

24 1. State proposed findings of fact and conclusions of
25 law.

26 2. Include a copy of the results of genetic testing.

27 3. Include notice of the respondent's right to
28 informal review and to contest the proposed order of paternity
29 at an administrative hearing.

30 (c) If a paternity and child support proceeding has
31 been commenced under this section and the results of genetic

1 testing indicate a statistical probability of paternity that
2 equals or exceeds 99 percent, the department may issue a
3 single proposed order that addresses paternity and child
4 support.

5 (d) The department shall serve a proposed order issued
6 under this section on the respondent by regular mail and shall
7 provide a copy by regular mail to the mother or custodian if
8 the mother or custodian is not a respondent.

9 (10) INFORMAL REVIEW; ADMINISTRATIVE HEARING;
10 PRESUMPTION OF PATERNITY.--

11 (a) Within 10 days after the date of mailing or other
12 service of a proposed order, the respondent may contact a
13 department representative at the address or telephone number
14 provided to request an informal review of the proposed order.
15 If an informal review is timely requested, the time for
16 requesting a hearing shall be extended until 10 days after the
17 department mails notice to the respondent that the informal
18 review has been concluded.

19 (b) Within 20 days after the mailing date of the
20 proposed order, or within 10 days after the mailing date of
21 notice that an informal review has been concluded, whichever
22 is later, the respondent may request an administrative hearing
23 by filing a written request for a hearing with the department.
24 A request for a hearing must state the specific objections to
25 the proposed order, the specific objections to the genetic
26 testing results, or both. A respondent who fails to file a
27 timely request for a hearing is deemed to have waived the
28 right to a hearing.

29 (c) If the respondent files a timely request for a
30 hearing, the department shall refer the request to the
31 Division of Administrative Hearings. Unless otherwise provided

1 by this section or by s. 409.2563, chapter 120 and the uniform
2 rules of procedure govern the conduct of the proceedings. A
3 designated employee or other representative of the department,
4 who need not be an attorney, may represent the department as a
5 qualified representative at the hearing.

6 (d) The genetic testing results shall be admitted into
7 evidence and made a part of the hearing record. For purposes
8 of this section, a statistical probability of paternity that
9 equals or exceeds 99 percent creates a presumption, as defined
10 by s. 90.304, that the putative father is the biological
11 father of the child. The presumption may be overcome only by
12 clear and convincing evidence. The respondent or the
13 department may call an expert witness to refute or support the
14 testing procedure or results or the mathematical theory on
15 which the results are based. Verified documentation of the
16 chain of custody of the samples tested is competent evidence
17 to establish the chain of custody.

18 (11) FINAL ORDER ESTABLISHING PATERNITY OR PATERNITY
19 AND CHILD SUPPORT; CONSENT ORDER; NOTICE TO OFFICE OF VITAL
20 STATISTICS.--

21 (a) If a hearing is held, notwithstanding ss. 120.569
22 and 120.57, the administrative law judge of the Division of
23 Administrative Hearings shall issue a final order that
24 adjudicates paternity or, if appropriate, paternity and child
25 support. A final order of the administrative law judge
26 constitutes final agency action by the department. The
27 Division of Administrative Hearings shall transmit any such
28 order to the department for filing and rendering.

29 (b) If the respondent does not file a timely request
30 for a hearing or consents in writing to entry of a final order
31 without a hearing, the department may render a final order of

1 paternity or a final order of paternity and child support, as
2 appropriate.

3 (c) The department shall mail a copy of the final
4 order to the putative father, the mother, and the custodian,
5 if any. The department shall notify the respondent of the
6 right to seek judicial review of a final order in accordance
7 with s. 120.68.

8 (d) Upon rendering a final order of paternity or a
9 final order of paternity and child support, the department
10 shall notify the Office of Vital Statistics that the paternity
11 of the child has been established.

12 (e) A final order rendered pursuant to this section
13 has the same binding effect as a judgment entered by the court
14 pursuant to chapter 742.

15 (f) The provisions of s. 409.2563 that apply to a
16 final administrative support order rendered under that section
17 apply to a final order rendered under this section when a
18 child support obligation is established.

19 (g) The department, or the administrative law judge if
20 appropriate, may issue a corrected final order to correct
21 typographical or clerical errors contained in the original
22 final order.

23 (12) RIGHT TO JUDICIAL REVIEW.--A respondent has the
24 right to seek judicial review, in accordance with s. 120.68,
25 of a final order rendered under subsection (11) and an order
26 issued under paragraph (5)(b). The department has the right to
27 seek judicial review, in accordance with s. 120.68, of a final
28 order issued by an administrative law judge under subsection
29 (11) and an order issued by an administrative law judge under
30 paragraph (5)(b).

31

1 (13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING
2 ADDRESS.--Until a proceeding that has been commenced under
3 this section has ended, a respondent who is served with a
4 notice of proceeding shall inform the department in writing of
5 any change in the respondent's mailing address and shall be
6 deemed to have received any subsequent order, notice, or other
7 paper mailed to that address or the address at which the
8 respondent was served if the respondent has not provided a
9 more recent address.

10 (14) PROCEEDINGS IN CIRCUIT COURT.--The results of
11 genetic testing performed pursuant to this section are
12 admissible as evidence to the same extent as scientific
13 testing ordered by the court pursuant to chapter 742.

14 (15) GENDER NEUTRAL.--This section shall be construed
15 in a way that is gender neutral and applies with equal force
16 to the mother of a child whose paternity has not been
17 established and is not presumed by law.

18 (16) REMEDIES SUPPLEMENTAL.--The remedies provided by
19 this section are supplemental and in addition to other
20 remedies available to the department for the establishment of
21 paternity and child support obligations.

22 (17) RULEMAKING AUTHORITY.--The department may adopt
23 rules to implement, interpret, and enforce the provisions of
24 this section.

25 Section 7. Paragraph (c) of subsection (1) of section
26 409.2563, Florida Statutes, is amended, paragraphs (d), (e),
27 and (f) of subsection (1) are redesignated as paragraphs (e),
28 (f), and (g), a new paragraph (d) is added to said subsection,
29 and paragraphs (b) and (c) of subsection (2), subsection (4),
30 paragraph (c) of subsection (5), subsection (6), paragraphs
31 (a) and (e) of subsection (7), paragraph (d) of subsection

1 (8), subsection (12), paragraph (a) of subsection (13), and
2 subsection (17) of said section are amended, to read:

3 409.2563 ~~Pilot program for~~ Administrative
4 establishment of child support obligations.--

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

6 (c) "Filed" means a document has been received and
7 accepted for filing at the offices of the department by the
8 clerk or any authorized deputy clerk of the department, as
9 designated by the department. The date of filing must be
10 indicated on the face of the document by the clerk or deputy
11 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
18 Other terms used in this section have the meanings ascribed in
19 ss. 61.046 and 409.2554.

20 (2) PURPOSE AND SCOPE.--

21 (b) The administrative procedure set forth in this
22 section concerns only the establishment of child support
23 obligations. This section does not grant jurisdiction to the
24 department or the Division of Administrative Hearings to hear
25 or determine issues of dissolution of marriage, separation,
26 alimony or spousal support, termination of parental rights,
27 dependency, disputed paternity except for a determination of
28 paternity as provided by s. 409.2560, award of or change of
29 custody, or visitation. This paragraph notwithstanding, the
30 department and the Division of Administrative Hearings may
31 make findings of fact which are necessary for a proper

1 determination of a noncustodial parent's support obligation as
2 authorized by this section.

3 (c) If there is no support order for a child in a
4 Title IV-D case whose paternity has been established or is
5 presumed by law or whose paternity is the subject of a
6 proceeding under s. 409.2560, the department may establish the
7 a noncustodial parent's child support obligation pursuant to
8 this section, s. 61.30, and other relevant provisions of state
9 law. The noncustodial parent's obligation determined by the
10 department may include any obligation to pay retroactive
11 support and any obligation to provide for health care for a
12 child, whether through insurance coverage, reimbursement of
13 expenses, or both. The department may proceed on behalf of:

- 14 1. An applicant or recipient of public assistance, as
15 provided by ss. 409.2561 and 409.2567;
- 16 2. A former recipient of public assistance, as
17 provided by s. 409.2569;
- 18 3. An individual who has applied for services as
19 provided by s. 409.2567;
- 20 4. Itself or the child, as provided by s. 409.2561; or
- 21 5. A state or local government of another state, as
22 provided by chapter 88.

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

29 (a) The names of both parents, the name of the
30 caretaker relative, if any, and the name and date of birth of
31 the child or children;

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

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

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

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

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

20 (g) That the department will send by regular mail to
21 both parents, or parent and caretaker relative if applicable,
22 a copy of the proposed administrative support order, the
23 department's child support worksheet, and any financial
24 affidavits submitted by a parent or prepared by the
25 department;

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

31

1 (i) That if the noncustodial parent does not file a
2 timely request for hearing after service of the proposed
3 administrative support order, the department will issue an
4 administrative support order that incorporates the findings of
5 the proposed administrative support order, and will send by
6 regular mail a copy of the administrative support order to
7 both parents, or parent and caretaker relative if applicable;

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

11 (k) That after an administrative support order is
12 rendered, the department may enforce the administrative
13 support order by any lawful means; ~~and~~

14 (l) That either parent, or caretaker relative if
15 applicable, may file at any time a civil action in a circuit
16 court having jurisdiction and proper venue to determine the
17 noncustodial parent's child support obligations, if any, and
18 that a support order issued by a circuit court supersedes an
19 administrative support order rendered by the department;

20 (m) That the respondent may file an action in circuit
21 court for a determination of paternity or child support
22 obligations, or both; and

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

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

1 department may serve the notice by any means permitted for
2 service of process in a civil action. For purposes of this
3 section, an authorized employee of the department may serve
4 the notice and execute an affidavit of service. Service by
5 certified mail is completed when the certified mail is
6 received or refused. The department shall provide the
7 custodial parent or caretaker relative with a copy of the
8 notice by regular mail to the last known address of the
9 custodial parent or caretaker.

10 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

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

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

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

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

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

29 5. The noncustodial parent may, within 10 days after
30 the date of mailing or other service of the proposed
31 administrative support order, contact a department

1 representative, at the address or telephone number specified
2 in the notice, to informally discuss the proposed
3 administrative support order and, if informal discussions are
4 timely requested ~~and held within a reasonable time~~, the time
5 for requesting a hearing will be extended until 10 days after
6 the department notifies the noncustodial parent that the
7 informal discussions have been concluded; and

8 6. If an administrative support order that establishes
9 a noncustodial parent's support obligation is rendered,
10 whether after a hearing or without a hearing, the department
11 may enforce the administrative support order by any lawful
12 means.

13 (6) HEARING.--If the noncustodial parent files a
14 timely request for hearing, the department shall refer the
15 hearing request to the Division of Administrative Hearings.
16 Unless otherwise provided by this section, chapter 120 and the
17 ~~division's~~ uniform rules of procedure ~~shall~~ govern the conduct
18 of the proceedings. The administrative law judge shall
19 consider all available and admissible information and any
20 presumptions that apply as provided by paragraph (5)(a). A
21 designated employee or other representative of the department,
22 who need not be an attorney, may represent the department as a
23 qualified representative at the hearing.

24 (7) ADMINISTRATIVE SUPPORT ORDER.--

25 (a) If a hearing is held, notwithstanding ss. 120.569
26 and 120.57, the administrative law judge of the Division of
27 Administrative Hearings shall issue an administrative support
28 order, or a final order denying an administrative support
29 order, which constitutes final agency action by the
30 department. The Division of Administrative Hearings shall
31

1 transmit any such order to the department for filing and
2 rendering indexing.

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

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

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

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

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

18 5. Any obligation to pay retroactive support;

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

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

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

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

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

27 (12) MODIFICATION OF ADMINISTRATIVE SUPPORT ORDER.--If
28 it has not been superseded by a subsequent court order, the
29 department may modify, suspend, or terminate an administrative
30 support order in a Title IV-D case prospectively, subject to
31 the requirements for modifications of judicial support orders

1 established in chapters 61 and 409, by following the same
2 procedures set forth in this section for establishing an
3 administrative support order, as applicable.

4 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT
5 TO ADDRESS OF RECORD.--In all proceedings pursuant to this
6 section:

7 (a) The noncustodial parent and custodial parent must
8 execute and furnish to the department, no later than 20 days
9 after receipt of the notice of proceeding to establish
10 administrative support order, a financial affidavit in the
11 form prescribed by the department ~~in the Florida Family Law~~
12 ~~Rules of Procedure~~. An updated financial affidavit must be
13 executed and furnished to the department at the inception of
14 each proceeding to modify an administrative support order.
15 Caretaker relatives are not required to furnish financial
16 affidavits.

17 (17) STATEWIDE EFFECT; EVALUATION PILOT PROGRAM.--The
18 procedures in this section and s. 409.2560 shall be
19 implemented statewide.For the purpose of identifying
20 measurable outcomes and evaluating the administrative process
21 created by this section, a study area ~~the pilot program~~ shall
22 be established. The study area shall be located in a county
23 selected by the Department of Revenue having a population of
24 fewer than 500,000, in which the Title IV-D caseload did not
25 exceed 20,000 cases, and the obligation rate was approximately
26 65 percent at the end of the 1999-2000 fiscal year. The
27 Department of Revenue shall develop measurable outcomes that
28 at a minimum consist of the department's support order
29 establishment performance measures that are applicable to the
30 administrative process ~~this pilot program~~, a measure of the
31 effectiveness of the administrative process ~~pilot program~~ in

1 establishing support orders as compared to the judicial
2 process, and a measure of the cost efficiency of the
3 administrative process ~~pilot program~~ as compared to the
4 judicial process. ~~The Department of Revenue and the Division~~
5 ~~of Administrative Hearings shall implement the pilot program~~
6 ~~established by this section on July 1, 2001, or as soon~~
7 ~~thereafter as practicable.~~The department shall use the
8 procedures of this section to establish support obligations in
9 Title IV-D cases on behalf of custodial parents or caretaker
10 relatives residing in the county selected for the study area
11 ~~pilot program~~. By June 30, 2002, the Department of Revenue
12 shall submit a report on the implementation of the
13 administrative process in the study area ~~pilot program~~ to the
14 Governor and Cabinet, the President of the Senate, and the
15 Speaker of the House of Representatives. The Office of Program
16 Policy Analysis and Government Accountability shall conduct an
17 evaluation of the operation and impact of the administrative
18 process in the study area ~~pilot program~~. In evaluating the
19 administrative process ~~pilot program~~, achievement of the
20 measurable outcomes must be considered. The Office of Program
21 Policy Analysis and Government Accountability shall submit an
22 evaluation report on the administrative process in the study
23 area ~~pilot program~~ by June 30, 2003, which must include the
24 findings of the evaluation, ~~the feasibility of a statewide~~
25 ~~program, and any recommendations to improve the administrative~~
26 ~~process established by this section, if any, for establishing~~
27 ~~a statewide program. The pilot program expires June 30, 2004,~~
28 ~~unless continued by action of the Legislature. The department~~
29 ~~shall report to the Governor and Cabinet, the President of the~~
30 ~~Senate, and the Speaker of the House of Representatives by~~
31

1 June 30, 2004, on the implementation and results of the
2 procedures established by this section and s. 409.2560.

3 Section 8. Subsection (1) of section 742.10, Florida
4 Statutes, is amended to read:

5 742.10 Establishment of paternity for children born
6 out of wedlock.--

7 (1) This chapter provides the primary jurisdiction and
8 procedures for the determination of paternity for children
9 born out of wedlock. When the establishment of paternity has
10 been raised and determined within an adjudicatory hearing
11 brought under the statutes governing inheritance, or
12 dependency under workers' compensation or similar compensation
13 programs, or when an affidavit acknowledging paternity or a
14 stipulation of paternity is executed by both parties and filed
15 with the clerk of the court, or when an affidavit or notarized
16 voluntary acknowledgment of paternity as provided for in s.
17 382.013 or s. 382.016 is executed by both parties, or when
18 paternity is adjudicated by the Department of Revenue as
19 provided by s. 409.2560, it shall constitute the establishment
20 of paternity for purposes of this chapter. If no adjudicatory
21 proceeding was held, a notarized voluntary acknowledgment of
22 paternity shall create a rebuttable presumption, as defined by
23 s. 90.304, of paternity and is subject to the right of any
24 signatory to rescind the acknowledgment within 60 days of the
25 date the acknowledgment was signed or the date of an
26 administrative or judicial proceeding relating to the child,
27 including a proceeding to establish a support order, in which
28 the signatory is a party, whichever is earlier. Both parents
29 are required to provide their social security numbers on any
30 acknowledgment of paternity, consent affidavit, or stipulation
31 of paternity. Except for affidavits under seal pursuant to ss.

1 382.015 and 382.016, the Office of Vital Statistics shall
2 provide certified copies of affidavits to the Title IV-D
3 agency upon request.

4 Section 9. Paragraph (a) of subsection (2) of section
5 760.40, Florida Statutes, is amended to read:

6 760.40 Genetic testing; informed consent;
7 confidentiality.--

8 (2)(a) Except for purposes of criminal prosecution,
9 except for purposes of determining paternity as provided in
10 ss. 409.2560 and ~~s.~~742.12(1), and except for purposes of
11 acquiring specimens from persons convicted of certain offenses
12 or as otherwise provided in s. 943.325, DNA analysis may be
13 performed only with the informed consent of the person to be
14 tested, and the results of such DNA analysis, whether held by
15 a public or private entity, are the exclusive property of the
16 person tested, are confidential, and may not be disclosed
17 without the consent of the person tested. Such information
18 held by a public entity is exempt from the provisions of s.
19 119.07(1) and s. 24(a), Art. I of the State Constitution.

20 Section 10. This act shall take effect upon becoming a
21 law.

22 *****

23 HOUSE SUMMARY

24 Provides for administrative proceedings to establish
25 paternity, or paternity and child support, and to enforce
26 compliance with orders to appear for genetic testing.
27 Revises provisions relating to administrative procedures
28 to establish child support obligations and provides for
statewide application. See bill for details.