

By Senator Peaden

1-1283A-02

1                                   A bill to be entitled  
 2           An act relating to the establishment of  
 3           paternity and child support; amending s.  
 4           61.13016, F.S.; authorizing the suspension of a  
 5           person's driver's license and motor vehicle  
 6           registration to enforce compliance with an  
 7           order to appear for genetic testing; amending  
 8           s. 61.1814, F.S.; providing for the deposit of  
 9           administration fines imposed under s. 409.256,  
 10          F.S., in the Child Support Enforcement  
 11          Application and Program Revenue Trust Fund;  
 12          amending s. 120.80, F.S.; providing procedures  
 13          for the Division of Administrative Hearings  
 14          with respect to entering orders under a  
 15          proceeding to establish paternity, to establish  
 16          paternity and child support, or to appear for  
 17          genetic testing; providing for immediate  
 18          judicial review of any such order; providing  
 19          for enforcement; amending s. 382.013, F.S.;  
 20          requiring that the paternity of a child  
 21          determined under s. 409.256, F.S., be entered  
 22          on the child's birth certificate; amending s.  
 23          409.2557, F.S.; authorizing the Department of  
 24          Revenue to adopt rules for administrative  
 25          proceedings to establish paternity, to  
 26          establish paternity and child support, to  
 27          appear for genetic testing, and to establish  
 28          child-support obligations; creating s. 409.256,  
 29          F.S.; providing definitions; authorizing the  
 30          Department of Revenue to commence a proceeding  
 31          to determine paternity or determine paternity

1 and child support under specified  
2 circumstances; authorizing the department to  
3 proceed against more than one putative father;  
4 providing requirements for the notice of a  
5 proceeding to establish paternity or paternity  
6 and child support; providing for an order to  
7 appear for genetic testing; providing  
8 procedures under which a person ordered to  
9 appear for genetic testing may contest the  
10 order; providing requirements for the  
11 department in scheduling genetic testing;  
12 providing procedures for the department if a  
13 person refuses to submit to genetic testing;  
14 specifying those persons to whom the department  
15 must send genetic test results; authorizing the  
16 department to issue a proposed order of  
17 paternity and a proposed order of paternity and  
18 child support; providing for review and an  
19 administrative hearing on the proposed order;  
20 providing for an administrative law judge to  
21 issue a final order establishing paternity or  
22 paternity and child support; requiring the  
23 department to notify the Office of Vital  
24 Statistics that a child's paternity has been  
25 established; providing for judicial review of a  
26 final administrative order; providing that a  
27 respondent has a duty to provide and maintain a  
28 current mailing address; providing for  
29 proceedings in circuit court; providing for  
30 interpretation of the act regardless of a  
31 person's gender; providing that the act is

1 supplemental and in addition to other remedies;  
2 authorizing the Department of Revenue to adopt  
3 rules; amending s. 409.2563, F.S.; revising the  
4 pilot program for administrative establishment  
5 of child-support obligations; providing for  
6 statewide application of the procedures  
7 established under the pilot program; providing  
8 for the withholding of a specified portion of a  
9 noncustodial parent's unemployment  
10 compensation; authorizing the Division of  
11 Administrative Hearings to render an income  
12 deduction order; providing for the use of a  
13 financial affidavit as prescribed by the  
14 department; requiring an evaluation of the  
15 administrative process for establishing  
16 child-support obligations; amending s. 742.10,  
17 F.S.; providing that an establishment of  
18 paternity by the Department of Revenue applies  
19 to ch. 742, F.S., relating to determination of  
20 parentage; amending s. 760.40, F.S.; providing  
21 that the procedures under s. 409.256, F.S., are  
22 an exception to a prohibition against  
23 performing a DNA analysis without a person's  
24 informed consent; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Subsection (4) is added to section  
29 61.13016, Florida Statutes, to read:  
30 61.13016 Suspension of driver's licenses and motor  
31 vehicle registrations.--

1           (4) The procedures prescribed in this section may be  
2 used to enforce compliance with an order to appear for genetic  
3 testing.

4           Section 2. Section 61.1814, Florida Statutes, is  
5 amended to read:

6           61.1814 Child Support Enforcement Application and  
7 Program Revenue Trust Fund.--The Child Support Enforcement  
8 Application and Program Revenue Trust Fund is ~~hereby~~ created,  
9 to be administered by the Department of Revenue. The fund  
10 shall be used for the deposit of application fees of nonpublic  
11 assistance applicants for child support enforcement services  
12 and fines imposed under ss. 409.256(7)(b), 409.2564(8), and  
13 409.2578. Moneys deposited from fines imposed under ss.  
14 409.256(7)(b), 409.2564(8), and 409.2578 shall be maintained  
15 separately from moneys deposited from application fees.

16           Section 3. Paragraph (c) of subsection (14) of section  
17 120.80, Florida Statutes, is amended to read:

18           120.80 Exceptions and special requirements;  
19 agencies.--

20           (14) DEPARTMENT OF REVENUE.--

21           (c) Proceedings to establish paternity or paternity  
22 and child support; orders to appear for genetic testing;  
23 proceedings for administrative ~~child~~ support  
24 orders.--Notwithstanding the provisions of s. 120.569 or s.  
25 120.57 to the contrary, in proceedings to establish paternity  
26 or paternity and child support pursuant to s. 409.256 and  
27 proceedings for the establishment of administrative support  
28 orders pursuant to s. 409.2563, final orders in cases referred  
29 by the Department of Revenue to the Division of Administrative  
30 Hearings shall be entered by the division's administrative law  
31 judge and transmitted to the Department of Revenue for filing

1 and rendering ~~indexing~~. The Department of Revenue has the  
2 right to seek judicial review under s. 120.68 of a final order  
3 entered by an administrative law judge. The Department of  
4 Revenue and the person ordered to appear for genetic testing  
5 may seek immediate judicial review under s. 120.68 of an order  
6 issued by an administrative law judge pursuant to s.  
7 409.256(5)(b). Final orders that adjudicate paternity or  
8 paternity and child support pursuant to s. 409.256 and  
9 administrative support orders rendered pursuant to s. 409.2563  
10 may be enforced pursuant to s. 120.69 or, alternatively, by  
11 any method prescribed by law for the enforcement of judicial  
12 support orders, except contempt.

13 Section 4. Present paragraph (e) of subsection (2) of  
14 section 382.013, Florida Statutes, is redesignated as  
15 paragraph (f), and a new paragraph (e) is added to that  
16 section to read:

17 382.013 Birth registration.--A certificate for each  
18 live birth that occurs in this state shall be filed within 5  
19 days after such birth with the local registrar of the district  
20 in which the birth occurred and shall be registered by the  
21 local registrar if the certificate has been completed and  
22 filed in accordance with this chapter and adopted rules. The  
23 information regarding registered births shall be used for  
24 comparison with information in the state case registry, as  
25 defined in chapter 61.

26 (2) PATERNITY.--

27 (e) If the paternity of the child is determined  
28 pursuant to s. 409.256, the name of the father and the surname  
29 of the child shall be entered on the certificate in accordance  
30 with the finding and order of the Department of Revenue.

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1           Section 5. Subsection (3) of section 409.2557, Florida  
2 Statutes, is amended to read:

3           409.2557 State agency for administering child support  
4 enforcement program.--

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

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

12           (b) Confidentiality and retention of department  
13 records; access to records; record requests;

14           (c) Department trust funds;

15           (d) Federal funding procedures;

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

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

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

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

29           (i) Department procedures for orders for genetic  
30 testing; subpoenas to establish, enforce, or modify orders;  
31 increasing the amount of monthly obligations to secure

1 delinquent support; suspending or denying driver's and  
2 professional licenses and certificates; fishing and hunting  
3 license suspensions; suspending vehicle and vessel  
4 registrations; screening applicants for new or renewal  
5 licenses, registrations, or certificates; income deduction;  
6 credit reporting and accessing; tax refund intercepts;  
7 passport denials; liens; financial institution data matches;  
8 expedited procedures; medical support; and all other  
9 responsibilities of the department as required by state or  
10 federal law;

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

15 (k) Report information to and receive information from  
16 other agencies and entities;

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

19 (m) Privatizing location, establishment, enforcement,  
20 modification, and other functions;

21 (n) State case registry;

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

23 (p) Administrative proceedings to establish paternity  
24 or establish paternity and child support, orders to appear for  
25 genetic testing, and administrative proceedings to establish  
26 child-support obligations; and

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

29 Section 6. Section 409.256, Florida Statutes, is  
30 created to read:

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1           409.256 Administrative proceeding to establish  
2 paternity or paternity and child support; order to appear for  
3 genetic testing.--

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

5           (a) "Custodian" means a person, other than the mother  
6 or a putative father, who has physical custody of a child, or  
7 with whom the child primarily resides. References in this  
8 section to the obligation of a custodian to submit to genetic  
9 testing mean that the custodian is obligated to submit the  
10 child for genetic testing, not that the custodian must submit  
11 to genetic testing.

12           (b) "Filed" means a document has been received and  
13 accepted for filing at the offices of the department by the  
14 clerk or an authorized deputy clerk designated by the  
15 department.

16           (c) "Genetic testing" means a scientific analysis of  
17 genetic markers which is performed by a qualified technical  
18 laboratory only to exclude an individual as the parent of a  
19 child or to show a probability of paternity.

20           (d) "Paternity proceeding" means an administrative  
21 action commenced by the department to order genetic testing  
22 and establish paternity pursuant to this section.

23           (e) "Paternity and child-support proceeding" means an  
24 administrative action commenced by the department to order  
25 genetic testing, to establish paternity, and to establish an  
26 administrative support order pursuant to this section.

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

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1           (g) "Qualified technical laboratory" means a  
2 genetic-testing laboratory that may be under contract with the  
3 department, that uses tests and methods of a type generally  
4 acknowledged as reliable by accreditation bodies designated by  
5 the United States Department of Health and Human Services, and  
6 that is approved by such an accreditation body. The term also  
7 includes a genetic-testing laboratory used by another state,  
8 if the laboratory has comparable qualifications.

9           (h) "Rendered" means that a signed written order is  
10 filed with the clerk or a deputy clerk of the department. The  
11 date of filing must be indicated on the face of the order at  
12 the time of rendition.

13           (i) "Respondent" means the person or persons served by  
14 the department with a notice of proceeding pursuant to  
15 subsection (4), which includes the putative father and which  
16 may include the mother or the custodian of the child.

17           (j) "State" or "other state" has the meaning ascribed  
18 in s. 88.1011(19).

19           (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF  
20 ACCESS TO THE COURTS.--

21           (a) The department may commence a paternity proceeding  
22 or a paternity and child-support proceeding as provided by  
23 subsection (4) if:

24           1. The child's paternity has not been established;

25           2. The child's mother was unmarried when the child was  
26 conceived and born;

27           3. The department is providing services under Title  
28 IV-D; and

29           4. The child's mother or a putative father has stated  
30 in an affidavit or written declaration as provided by s.  
31 92.525(2) that the putative father is or may be the child's

1 biological father. The affidavit or written declaration must  
2 set forth the factual basis for the allegation of paternity as  
3 provided by s. 742.12(2).

4 (b) If the department receives a request from another  
5 state to assist in the establishment of paternity, the  
6 department may serve an order to appear for genetic testing on  
7 a person who resides in Florida and transmit the test results  
8 to the other state without commencing a paternity proceeding  
9 in this state.

10 (c) The department may use the procedures authorized  
11 by this section against a nonresident over whom this state may  
12 assert personal jurisdiction under chapter 48 or chapter 88.

13 (d) If a putative father, mother, or custodian in a  
14 Title IV-D case voluntarily submits, the department may  
15 schedule that individual or the child for genetic testing  
16 without serving that individual with an order to appear for  
17 genetic testing. A respondent, or other person who is subject  
18 to an order to appear for genetic testing, may waive formal  
19 service of notices or orders, or waive any other rights or  
20 time periods prescribed by this section.

21 (e) Whenever practicable, hearings held by the  
22 Division of Administrative Hearings pursuant to this section  
23 shall be held in the judicial circuit where the person  
24 receiving services under Title IV-D resides or, if the person  
25 receiving services under Title IV-D does not reside in this  
26 state, in the judicial circuit where the respondent resides.  
27 If the department and the respondent agree, the hearing may be  
28 held in another location.

29 (f) The Legislature does not intend to limit the  
30 jurisdiction of the circuit courts to hear and determine  
31 issues regarding establishment of paternity. This section is

1 intended to provide the department with an alternative  
2 procedure for establishing paternity and child-support  
3 obligations in Title IV-D cases. This section does not  
4 prohibit a person who has standing from filing a civil action  
5 in circuit court for a determination of paternity or of  
6 child-support obligations.

7 (3) MULTIPLE PUTATIVE FATHERS; MULTIPLE CHILDREN.--If  
8 more than one putative father has been named, the department  
9 may proceed under this section against a single putative  
10 father or may proceed simultaneously against more than one  
11 putative father. If a putative father has been named as a  
12 possible father of more than one child born to the same  
13 mother, the department may proceed to establish the paternity  
14 of each child in the same proceeding.

15 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR  
16 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC  
17 TESTING; MANNER OF SERVICE; CONTENTS.--The department shall  
18 commence a proceeding to determine paternity, or a proceeding  
19 to determine both paternity and child-support, by serving the  
20 respondent with a notice as provided by this section. An order  
21 to appear for genetic testing may be served at the same time  
22 as a notice of the proceeding or may be served separately. A  
23 copy of the affidavit or written declaration upon which the  
24 proceeding is based shall be provided to the respondent when  
25 notice is served. A notice or order to appear for genetic  
26 testing shall be served by certified mail, restricted  
27 delivery, return receipt requested, or in accordance with the  
28 requirements for service of process in a civil action. Service  
29 by certified mail is completed when the certified mail is  
30 received or refused. For purposes of this section, an employee  
31 or an authorized agent of the department may serve the notice

1 or order to appear for genetic testing and execute an  
2 affidavit of service. The department may serve an order to  
3 appear for genetic testing on a custodian. The department  
4 shall provide a copy of the notice or order to appear by  
5 regular mail to the mother and custodian, if they are not  
6 respondents.

7 (a) A notice of proceeding to establish paternity must  
8 state:

9 1. That the department has commenced an administrative  
10 proceeding to establish whether the putative father is the  
11 biological father of the child named in the notice;

12 2. The name and date of birth of the child and the  
13 name of the child's mother;

14 3. That the putative father has been named in an  
15 affidavit or written declaration that states the putative  
16 father is or may be the child's biological father;

17 4. That the respondent is required to submit to  
18 genetic testing;

19 5. That genetic testing will establish either a high  
20 degree of probability that the putative father is the  
21 biological father of the child or that the putative father  
22 cannot be the biological father of the child;

23 6. That if the results of the genetic test do not  
24 indicate a statistical probability of paternity which equals  
25 or exceeds 99 percent, the paternity proceeding ends as to  
26 that child unless a second or subsequent test is required;

27 7. That if the results of the genetic test indicate a  
28 statistical probability of paternity which equals or exceeds  
29 99 percent, the department may:

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1           a. Issue a proposed order of paternity which the  
2 respondent may consent to or contest at an administrative  
3 hearing; or

4           b. Commence a proceeding, as provided by s. 409.2563,  
5 to establish an administrative support order for the child, in  
6 which notice of that proceeding will be provided to the  
7 respondent by regular mail;

8           8. That, if the genetic test results indicate a  
9 statistical probability of paternity which equals or exceeds  
10 99 percent and a proceeding to establish an administrative  
11 support order is commenced, the department will issue a  
12 proposed order that addresses paternity and child support  
13 which the respondent may consent to or contest at an  
14 administrative hearing;

15           9. That if a proposed order of paternity or proposed  
16 order of both paternity and child support is not contested,  
17 the department will adopt the proposed order and render a  
18 final order that establishes paternity and, if appropriate, an  
19 administrative support order for the child;

20           10. That, until the proceeding is ended, the  
21 respondent shall notify the department in writing of any  
22 change in the respondent's mailing address and that the  
23 respondent will be deemed to have received any subsequent  
24 order, notice, or other paper mailed to the most recent  
25 address provided or, if a more recent address is not provided,  
26 to the address at which the respondent was served, and that  
27 this requirement continues if the department renders a final  
28 order that establishes paternity and a support order for the  
29 child;

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1           11. That the respondent may file an action in circuit  
2 court for a determination of paternity, child-support  
3 obligations, or both; and

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

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

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

18           1. That the department has commenced an administrative  
19 proceeding to establish whether the putative father is the  
20 biological father of the child;

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

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

26           4. The date, time, and place that the person ordered  
27 to appear must appear to provide a sample for genetic testing;

28           5. That if the person has custody of the child whose  
29 paternity is the subject of the proceeding, the person must  
30 submit the child to genetic testing;

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

7           7. That if the person ordered to appear submits to  
8 genetic testing, the department will pay the cost of the  
9 genetic testing and will provide the person ordered to appear  
10 with a copy of any test results obtained;

11           8. That if the person ordered to appear does not  
12 appear as ordered or refuses to submit to genetic testing  
13 without good cause, the department may take one or more of  
14 these 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; or

20           c. File a petition in circuit court to establish  
21 paternity and obtain a support order for the child and an  
22 order for costs against the person ordered to appear,  
23 including costs for genetic testing; and

24           9. That the person ordered to appear may contest the  
25 order by filing a written request for informal review within  
26 15 days after the date of service of the order, with further  
27 rights to an administrative hearing following the informal  
28 review.

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

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

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



1 review under s. 120.68 of an order issued by an administrative  
2 law judge pursuant to this paragraph.

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

8 1. The department has notified the person of its  
9 intent to proceed after informal review, and a timely request  
10 for hearing is not filed;

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

13 3. The Division of Administrative Hearings issues an  
14 order that the person must submit to genetic testing, or  
15 issues an order closing the division's file, and that order  
16 has become final.

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

22 (6) SCHEDULING OF GENETIC TESTING.--

23 (a) The department shall notify the person ordered to  
24 appear in writing of the date, time, and place at which the  
25 person is required to appear for genetic testing, and of the  
26 requirement to verify his or her identity, and the identity of  
27 the child, if applicable, when the samples are provided by  
28 presenting a form of identification as prescribed by s.  
29 117.05(5)(b)2., which bears the photograph of the person who  
30 is providing the sample or other form of verification approved  
31 by the department. If the person ordered to appear is the

1 putative father or the mother, that person shall appear and  
2 submit to genetic testing. If the person ordered to appear is  
3 a custodian, or if the putative father or the mother has  
4 custody of the child, that person must submit the child for  
5 genetic testing.

6 (b) The department shall reschedule a genetic testing:

7 1. One time without cause if, in advance of the  
8 initial test date, the person ordered to appear requests the  
9 department to reschedule the test;

10 2. One time if the person ordered to appear shows good  
11 cause for failure to appear for a scheduled test; and

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

15  
16 A claim of good cause for failure to appear must be filed with  
17 the department within 10 days after the scheduled test date  
18 and must state the facts and circumstances supporting the  
19 claim. The department shall notify the person ordered to  
20 appear, in writing, whether it accepts or rejects the person's  
21 claim of good cause. There is not a separate right to a  
22 hearing on the department's decision to accept or reject the  
23 claim of good cause because the person ordered to appear may  
24 raise good cause as a defense to any proceeding initiated by  
25 the department under subsection (7).

26 (c) A person ordered to appear may obtain a second  
27 genetic test by filing a written request for a second test  
28 with the department within 15 days after the date of mailing  
29 of the initial genetic testing results and by paying the  
30 department in advance for the full cost of the second test.

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

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

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

12           (a) Commence proceedings to suspend the driver's  
13 license and motor vehicle registration of the person ordered  
14 to appear, as provided by s. 61.13016;

15           (b) Impose an administrative fine against the person  
16 ordered to appear in the amount of \$500; or

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

21  
22 As provided by s. 322.058(2), a suspended driver's license and  
23 motor vehicle registration may be reinstated when the person  
24 ordered to appear complies with the order to appear for  
25 genetic testing. The department may collect an administrative  
26 fine imposed under this subsection by using civil remedies or  
27 other statutory means available to the department for  
28 collecting support.

29           (8) GENETIC-TESTING RESULTS.--The department shall  
30 send a copy of the genetic-testing results to the putative  
31 father, to the mother, to the custodian, and to the other

1 state, if applicable. If the genetic-testing results,  
2 including second or subsequent genetic-testing results, do not  
3 indicate a statistical probability of paternity which equals  
4 or exceeds 99 percent, the paternity proceeding ends as to  
5 that child.

6 (9) PROPOSED ORDER OF PATERNITY; COMMENCEMENT OF  
7 PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT ORDER; PROPOSED  
8 ORDER OF PATERNITY AND CHILD SUPPORT.--

9 (a) If a paternity proceeding has been commenced under  
10 this section and the results of genetic testing indicate a  
11 statistical probability of paternity which equals or exceeds  
12 99 percent, the department may:

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

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

20 (b) A proposed order of paternity must:

21 1. State proposed findings of fact and conclusions of  
22 law;

23 2. Include a copy of the results of genetic testing;  
24 and

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

28 (c) If a paternity and child support proceeding has  
29 been commenced under this section and the results of genetic  
30 testing indicate a statistical probability of paternity which  
31 equals or exceeds 99 percent, the department may issue a

1 single proposed order that addresses paternity and child  
2 support.

3 (d) The department shall serve a proposed order issued  
4 under this section on the respondent by regular mail and shall  
5 provide a copy by regular mail to the mother or custodian, if  
6 they are not respondents.

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

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

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

27 (c) If the respondent 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 or by s. 409.2563, chapter 120 and the Uniform  
31 Rules of Procedure govern the conduct of the proceedings. A

1 designated employee or other representative of the department,  
2 who need not be an attorney, may represent the department as a  
3 qualified representative at the hearing.

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

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

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

27 (b) If the respondent does not file a timely request  
28 for a hearing or consents in writing to entry of a final order  
29 without a hearing, the department may render a final order of  
30 paternity or a final order of paternity and child support, as  
31 appropriate.

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

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

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

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

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

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

29           (13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING  
30 ADDRESS.--Until a proceeding that has been commenced under  
31 this section has ended, a respondent who is served with a

1 notice of proceeding must inform the department in writing of  
2 any change in the respondent's mailing address and is deemed  
3 to have received any subsequent order, notice, or other paper  
4 mailed to that address, or the address at which the respondent  
5 was served, if the respondent has not provided a more recent  
6 address.

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

11 (15) GENDER NEUTRAL.--This section shall be construed  
12 impartially, regardless of a person's gender, and applies with  
13 equal force to the mother of a child whose paternity has not  
14 been established and is not presumed by law.

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

19 (17) RULEMAKING AUTHORITY.--The department may adopt  
20 rules necessary to administer this section.

21 Section 7. Section 409.2563, Florida Statutes, is  
22 amended to read:

23 409.2563 ~~Pilot program for~~ Administrative  
24 establishment of child support obligations.--

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

26 (a) "Administrative support order" means a final order  
27 rendered by or on behalf of the department pursuant to this  
28 section establishing or modifying the obligation of a  
29 noncustodial parent to contribute to the support and  
30 maintenance of his or her child or children, which may include

31



1 provisions for monetary support, retroactive support, health  
2 care, and other elements of support pursuant to chapter 61.

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

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

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

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

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

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

25  
26 Other terms used in this section have the meanings ascribed in  
27 ss. 61.046 and 409.2554.

28 (2) PURPOSE AND SCOPE.--

29 (a) It is not the Legislature's intent to limit the  
30 jurisdiction of the circuit courts to hear and determine  
31 issues regarding child support. This section is intended to

1 provide the department with an alternative procedure for  
2 establishing child support obligations in Title IV-D cases in  
3 a fair and expeditious manner when there is no court order of  
4 support. The procedures in this section and in s. 409.256 are  
5 effective throughout the state and shall be implemented  
6 statewide.

7 (b) The administrative procedure set forth in this  
8 section concerns only the establishment of child support  
9 obligations. This section does not grant jurisdiction to the  
10 department or the Division of Administrative Hearings to hear  
11 or determine issues of dissolution of marriage, separation,  
12 alimony or spousal support, termination of parental rights,  
13 dependency, disputed paternity, award of or change of custody,  
14 or visitation. This paragraph notwithstanding, the department  
15 and the Division of Administrative Hearings may make findings  
16 of fact that ~~which~~ are necessary for a proper determination of  
17 a noncustodial parent's support obligation as authorized by  
18 this section and may determine paternity as provided by s.  
19 409.256.

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, or whose paternity is the subject of a  
23 proceeding under s. 409.256, the department may establish the  
24 ~~a~~ noncustodial parent's child support obligation pursuant to  
25 this section, s. 61.30, and other relevant provisions of state  
26 law. The noncustodial parent's obligation determined by the  
27 department may include any obligation to pay retroactive  
28 support and any obligation to provide for health care for a  
29 child, whether through insurance coverage, reimbursement of  
30 expenses, or both. The department may proceed on behalf of:  
31

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

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

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

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

8           5. A state or local government of another state, as  
9 provided by chapter 88.

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

17           (3) JURISDICTION OVER NONRESIDENTS.--The department  
18 may use the procedures authorized by this section to establish  
19 a child support obligation against a nonresident over whom the  
20 state may assert personal jurisdiction under chapter 48 or  
21 chapter 88.

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

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

31

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, 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 (a) After serving notice upon the noncustodial parent  
12 in accordance with subsection (4), the department shall  
13 calculate the noncustodial parent's child support obligation  
14 under the child support guidelines as provided by s. 61.30,  
15 based on any timely financial affidavits received and other  
16 information available to the department. If either parent  
17 fails to comply with the requirement to furnish a financial  
18 affidavit, the department may proceed on the basis of  
19 information available from any source, if such information is  
20 sufficiently reliable and detailed to allow calculation of  
21 guideline amounts under s. 61.30. If the custodial parent  
22 receives public assistance and fails to submit a financial  
23 affidavit, the department may submit a financial affidavit for  
24 the custodial parent pursuant to s. 61.30(15). If there is a  
25 lack of sufficient reliable information concerning a parent's  
26 actual earnings for a current or past period, it shall be  
27 presumed for the purpose of establishing a support obligation  
28 that the parent had an earning capacity equal to the federal  
29 minimum wage during the applicable period.

30 (b) The department shall send by regular mail to both  
31 parents, or to a parent and caretaker relative if applicable,

1 copies of the proposed administrative support order, its  
2 completed child support worksheet, and any financial  
3 affidavits submitted by a parent or prepared by the  
4 department. The proposed administrative support order must  
5 contain the same elements as required for an administrative  
6 support order under paragraph (7)(e).

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

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

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

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

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

25 5. The noncustodial parent may, within 10 days after  
26 the date of mailing or other service of the proposed  
27 administrative support order, contact a department  
28 representative, at the address or telephone number specified  
29 in the notice, to informally discuss the proposed  
30 administrative support order and, if informal discussions are  
31 requested timely ~~and held within a reasonable time~~, the time

1 for requesting a hearing will be extended until 10 days after  
2 the department notifies the noncustodial parent that the  
3 informal discussions have been concluded; and

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

9         (d) If, after serving the proposed administrative  
10 support order but before a final administrative support order  
11 is rendered, the department receives additional information  
12 that makes it necessary to amend the proposed administrative  
13 support order, it shall prepare an amended proposed  
14 administrative support order, with accompanying amended child  
15 support worksheets and other material necessary to explain the  
16 changes, and follow the same procedures set forth in  
17 paragraphs (b) and (c).

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

29         (7) ADMINISTRATIVE SUPPORT ORDER.--

30         (a) If a hearing is held, notwithstanding ss. 120.569  
31 and 120.57, the administrative law judge of the Division of



1 Administrative Hearings shall issue an administrative support  
2 order, or a final order denying an administrative support  
3 order, which constitutes final agency action by the  
4 department. The Division of Administrative Hearings shall  
5 transmit any such order to the department for filing and  
6 rendering indexing.

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

10 (c) If the noncustodial parent waives the right to a  
11 hearing, or consents in writing to the entry of an order  
12 without a hearing, the department may render an administrative  
13 support order.

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

21 (e) An administrative support order must comply with  
22 s. 61.30. The department, after consultation with the Division  
23 of Administrative Hearings and the chief judge of the circuit  
24 in which the pilot program is located, shall develop a  
25 standard form or forms for administrative support orders. An  
26 administrative support order must provide and state findings,  
27 if applicable, concerning:

28 1. The full name and date of birth of the child or  
29 children;

30 2. The name of the noncustodial parent and the  
31 custodial parent or caretaker relative;

1           3. The noncustodial parent's duty and ability to  
2 provide support;

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

5           5. Any obligation to pay retroactive support;

6           6. The noncustodial parent's obligation to provide for  
7 the health care needs of each child, whether through insurance  
8 coverage, contribution towards the cost of insurance coverage,  
9 payment or reimbursement of health care expenses for the  
10 child, or any combination thereof;

11          7. The beginning date of any required monthly payments  
12 and health care coverage;

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

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

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

24          11. That if the noncustodial parent receives  
25 unemployment compensation benefits, the payor shall withhold,  
26 and transmit to the department, 40 percent of the benefits for  
27 payment of support, not to exceed the amount owed.

28  
29 An income deduction order as provided by s. 61.1301 must be  
30 incorporated into the administrative support order or, if not  
31 incorporated into the administrative support order, the

1 department or the Division of Administrative Hearings shall  
2 render a separate income deduction order.

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

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

12 (b) Establish and maintain the necessary payment  
13 accounts;

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

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

19 (9) COLLECTION ACTION; ENFORCEMENT.--

20 (a) The department may implement an income deduction  
21 notice immediately upon rendition of an income deduction  
22 order, whether it is incorporated in the administrative  
23 support order or rendered separately.

24 (b) The department may initiate other collection  
25 action 15 days after the date an administrative support order  
26 is rendered under this section.

27 (c) In a subsequent proceeding to enforce an  
28 administrative support order, notice of the proceeding that is  
29 sent by regular mail to the person's address of record  
30 furnished to the department constitutes adequate notice of the  
31 proceeding pursuant to paragraph (13)(c).

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

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

7 2. Pursuant to s. 120.69.

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

10 (a) A noncustodial parent has the right to seek  
11 judicial review of an administrative support order or a final  
12 order denying an administrative support order in accordance  
13 with s. 120.68. The department has the right to seek judicial  
14 review, in accordance with s. 120.68, of an administrative  
15 support order or a final order denying an administrative  
16 support order entered by an administrative law judge of the  
17 Division of Administrative Hearings.

18 (b) An administrative support order rendered under  
19 this section may be enforced by any circuit court in the same  
20 manner as a support order issued by the court, except for  
21 contempt. If the circuit court issues its own order based on  
22 the administrative support order, the circuit court may  
23 enforce its own order by contempt. Enforcement by the court,  
24 without any change by the court in the support obligations  
25 established in the administrative support order, does not  
26 supersede the administrative support order or affect the  
27 department's authority to modify the administrative support  
28 order as provided by subsection (12).

29 (c) A circuit court of this state, where venue is  
30 proper and the court has jurisdiction of the parties, may  
31 enter an order prospectively changing the support obligations

1 established in an administrative support order, in which case  
2 the administrative support order is superseded and the court's  
3 order shall govern future proceedings in the case. Any unpaid  
4 support owed under the superseded administrative support order  
5 may not be retroactively modified by the circuit court, except  
6 as provided by s. 61.14(1)(a), and remains enforceable by the  
7 department, by the obligee, or by the court. In all cases in  
8 which an administrative support order is superseded, the court  
9 shall determine the amount of any unpaid support owed under  
10 the administrative support order and shall include the amount  
11 as arrearage in its superseding order.

12 (11) EFFECTIVENESS OF ADMINISTRATIVE SUPPORT  
13 ORDER.--An administrative support order rendered under this  
14 section remains in effect until modified by the department,  
15 vacated on appeal, or superseded by a subsequent court order.  
16 If the department closes a Title IV-D case in which an  
17 administrative support order has been rendered:

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

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

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

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

1           (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT  
2 TO ADDRESS OF RECORD.--In all proceedings pursuant to this  
3 section:

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

14           (b) The noncustodial parent, custodial parent, and  
15 caretaker relative if applicable, shall disclose to the  
16 department, no later than 20 days after receipt of the notice  
17 of proceeding to establish administrative support order, and  
18 update as appropriate, information regarding their identity  
19 and location, including names they are known by; social  
20 security numbers; residential and mailing addresses; telephone  
21 numbers; driver's license numbers; and names, addresses, and  
22 telephone numbers of employers. Pursuant to the federal  
23 Personal Responsibility and Work Opportunity Reconciliation  
24 Act of 1996, each person must provide his or her social  
25 security number in accordance with this section. Disclosure of  
26 social security numbers obtained through this requirement  
27 shall be limited to the purpose of administration of the Title  
28 IV-D program for child support enforcement.

29           (c) The noncustodial parent, custodial parent, and  
30 caretaker relative, if applicable, have a continuing  
31 obligation to promptly inform the department in writing of any

1 change in their mailing addresses to ensure receipt of all  
2 subsequent pleadings, notices, payments, statements, and  
3 orders, and receipt is presumed if sent by regular mail to the  
4 most recent address furnished by the person.

5 (14) JUDICIAL PLEADINGS AND MOTIONS.--A party to any  
6 subsequent judicial proceeding concerning the support of the  
7 same child or children shall affirmatively plead the existence  
8 of, and furnish the court with a correct copy of, an  
9 administrative support order rendered under this section, and  
10 shall provide the department with a copy of the initial  
11 pleading. The department may intervene as a matter of right in  
12 any such judicial proceeding involving issues within the scope  
13 of the Title IV-D case.

14 (15) PROVISIONS SUPPLEMENTAL TO EXISTING LAW.--This  
15 section does not limit or negate the department's authority to  
16 seek establishment of child support obligations under any  
17 other applicable law.

18 (16) RULEMAKING AUTHORITY.--The department may adopt  
19 rules to administer this section.

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

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



1 June 30, 2004, on the implementation and results of the  
2 procedures established by this section and s. 409.256.

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. 409.256, such adjudication, affidavit, or  
20 acknowledgment constitutes ~~it shall constitute~~ the  
21 establishment of paternity for purposes of this chapter. If no  
22 adjudicatory proceeding was held, a notarized voluntary  
23 acknowledgment of paternity shall create a rebuttable  
24 presumption, as defined by s. 90.304, of paternity and is  
25 subject to the right of any signatory to rescind the  
26 acknowledgment within 60 days after ~~of~~ the date the  
27 acknowledgment was signed or the date of an administrative or  
28 judicial proceeding relating to the child, including a  
29 proceeding to establish a support order, in which the  
30 signatory is a party, whichever is earlier. Both parents are  
31 required to provide their social security numbers on any

1 acknowledgment of paternity, consent affidavit, or stipulation  
2 of paternity. Except for affidavits under seal pursuant to ss.  
3 382.015 and 382.016, the Office of Vital Statistics shall  
4 provide certified copies of affidavits to the Title IV-D  
5 agency upon request.

6 Section 9. Paragraph (a) of subsection (2) of section  
7 760.40, Florida Statutes, is amended to read:

8 760.40 Genetic testing; informed consent;  
9 confidentiality.--

10 (2)(a) Except for purposes of criminal prosecution,  
11 except for purposes of determining paternity as provided in s.  
12 409.256 or s. 742.12(1), and except for purposes of acquiring  
13 specimens from persons convicted of certain offenses or as  
14 otherwise provided in s. 943.325, DNA analysis may be  
15 performed only with the informed consent of the person to be  
16 tested, and the results of such DNA analysis, whether held by  
17 a public or private entity, are the exclusive property of the  
18 person tested, are confidential, and may not be disclosed  
19 without the consent of the person tested. Such information  
20 held by a public entity is exempt from the provisions of s.  
21 119.07(1) and s. 24(a), Art. I of the State Constitution.

22 Section 10. This act shall take effect upon becoming a  
23 law.

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SENATE SUMMARY

Provides for a person's driver's license and motor vehicle registration to be suspended for purposes of enforcing compliance with an order to appear for genetic testing. Provides a procedure for the Department of Revenue to commence an administrative proceeding to determine paternity or determine paternity and child support. Provides for the department to obtain an order for a person to appear for genetic testing. Provides for an administrative hearing to establish paternity or paternity and child support. Provides a right to judicial review of such an administrative order. Revises the pilot program for the administrative establishment of child-support obligations to provide for application of the program statewide. (See bill for details.)