

By the Committees on Judiciary; Children and Families; and
Senator Lynn

308-2414-04

1 A bill to be entitled
2 An act relating to child support; amending s.
3 61.046, F.S.; redefining the term "support
4 order" for purposes of ch. 61, F.S., to include
5 an order of an administrative agency; amending
6 s. 61.13, F.S.; deleting the requirement that a
7 child support order include the minor's social
8 security number; amending s. 61.1301, F.S.;
9 providing for continuation of a support
10 obligation at the same amount after
11 emancipation until any arrearage is satisfied;
12 providing for application to support orders or
13 income or income deduction orders entered
14 before, on, or after July 1, 2004; requiring an
15 obligor contesting an income deduction order
16 rendered by the Title IV-D agency to file the
17 petition with the Title IV-D agency; amending
18 s. 61.14, F.S.; providing for the termination
19 of the current child support obligation when
20 the child emancipates unless certain conditions
21 occur; providing for continuation of a support
22 obligation at the same amount after
23 emancipation until any arrearage is satisfied;
24 providing for application to support orders
25 entered before, on, or after July 1, 2004;
26 amending s. 61.181, F.S.; requiring the clerk
27 of the court to establish an account for
28 interstate cases; amending s. 61.1814, F.S.;
29 providing for types of moneys to be deposited
30 into the Child Support Enforcement Trust Fund;
31 providing for the use of moneys deposited into

1 the Child Support Enforcement Trust Fund;
2 amending s. 120.80, F.S.; providing for the
3 location of an administrative hearing; amending
4 ss. 382.013 and 382.016, F.S.; permitting
5 voluntary acknowledgments of paternity which
6 are witnessed; amending s. 409.2558, F.S.;
7 providing for a notice to the noncustodial
8 parent in applying an undistributable support
9 collection to another support order; amending
10 s. 409.2561, F.S.; providing for the Department
11 of Revenue to establish the obligation of
12 support; amending s. 409.2563, F.S.; providing
13 for the noncustodial parent to request that the
14 Department of Revenue proceed in circuit court
15 to determine the support obligation; revising
16 the requirements under which a noncustodial
17 parent may petition the circuit court to
18 determine the support obligation; providing
19 that the Department of Revenue is a party to
20 court action only with respect to issues of
21 support; providing for the assignment of an
22 account number with the depository upon
23 initiating establishment of an administrative
24 support order; revising the due date for an
25 evaluation by the Office of Program Policy
26 Analysis and Government Accountability;
27 amending s. 409.25656, F.S.; providing for the
28 recovery of fees in liquidating securities for
29 the support owed; creating s. 409.25659, F.S.;
30 providing for insurance claim data exchange;
31 providing definitions; authorizing an insurer

1 to participate in the data match system;
2 providing for the payment of a fee to the
3 insurer; providing limited immunity to the
4 insurer; limiting the use of the data obtained
5 by insurers from the department; providing
6 rulemaking authority; amending s. 409.257,
7 F.S.; permitting the use of any means of
8 service of process under ch. 48, F.S.; amending
9 s. 409.2572, F.S.; revising the definition of
10 noncooperation or failure to cooperate as
11 applied to an applicant for or a recipient of
12 public assistance; substituting the use of DNA
13 sample for drawing a blood sample to confirm
14 paternity; amending s. 409.259, F.S.; revising
15 the manner of reimbursement to the clerk of the
16 court for court filings in Title IV-D cases;
17 amending s. 409.2598, F.S.; providing
18 definitions; providing for the suspension of
19 licenses under specified circumstances;
20 amending s. 742.10, F.S.; permitting voluntary
21 acknowledgments of paternity which are
22 witnessed; providing legislative intent to
23 address the child support issues of
24 incarcerated noncustodial parents to improve
25 their ability to meet child support
26 obligations; requiring the Department of
27 Revenue, with the assistance of the Department
28 of Corrections, to identify inmates with child
29 support obligations; requiring the Department
30 of Corrections and Department of Revenue to
31 jointly develop a plan to facilitate child

1 support payment from incarcerated noncustodial
2 parents upon release; providing for the minimum
3 requirements of the plan; requires reports to
4 the Governor and Legislature; providing
5 effective dates.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Subsection (19) of section 61.046, Florida
10 Statutes, is amended to read:

11 61.046 Definitions.--As used in this chapter:

12 (19) "Support order" means a judgment, decree, or
13 order, whether temporary or final, issued by a court of
14 competent jurisdiction or administrative agency for the
15 support and maintenance of a child which provides for monetary
16 support, health care, arrearages, or past support. When the
17 child support obligation is being enforced by the Department
18 of Revenue, the term "support order" also means a judgment,
19 decree, or order, whether temporary or final, issued by a
20 court of competent jurisdiction for the support and
21 maintenance of a child and the spouse or former spouse of the
22 obligor with whom the child is living which provides for
23 monetary support, health care, arrearages, or past support.

24 Section 2. Paragraph (d) of subsection (1) of section
25 61.13, Florida Statutes, is amended to read:

26 61.13 Custody and support of children; visitation
27 rights; power of court in making orders.--

28 (1)

29 (d)1. Unless the provisions of subparagraph 3. apply,
30 all child support orders entered on or after January 1, 1985,
31 shall direct that the payments of child support be made as

1 provided in s. 61.181 through the depository in the county
2 where the court is located. All child support orders shall
3 provide the full name and date of birth, ~~and social security~~
4 ~~number~~ of each minor child who is the subject of the child
5 support order.

6 2. Unless the provisions of subparagraph 3. apply, all
7 child support orders entered before January 1, 1985, shall be
8 modified by the court to direct that payments of child support
9 shall be made through the depository in the county where the
10 court is located upon the subsequent appearance of either or
11 both parents to modify or enforce the order, or in any related
12 proceeding.

13 3. If both parties request and the court finds that it
14 is in the best interest of the child, support payments need
15 not be directed through the depository. The order of support
16 shall provide, or shall be deemed to provide, that either
17 party may subsequently apply to the depository to require
18 direction of the payments through the depository. The court
19 shall provide a copy of the order to the depository.

20 4. If the parties elect not to require that support
21 payments be made through the depository, any party may
22 subsequently file an affidavit with the depository alleging a
23 default in payment of child support and stating that the party
24 wishes to require that payments be made through the
25 depository. The party shall provide copies of the affidavit to
26 the court and to each other party. Fifteen days after receipt
27 of the affidavit, the depository shall notify both parties
28 that future payments shall be paid through the depository.

29 5. In IV-D cases, the IV-D agency shall have the same
30 rights as the obligee in requesting that payments be made
31 through the depository.

1 Section 3. Effective July 1, 2004, paragraphs (b) and
2 (e) of subsection (1), paragraphs (e) and (f) of subsection
3 (2) and subsection (3) of section 61.1301, Florida Statutes,
4 are amended to read:

5 61.1301 Income deduction orders.--

6 (1) ISSUANCE IN CONJUNCTION WITH AN ORDER
7 ESTABLISHING, ENFORCING, OR MODIFYING AN OBLIGATION FOR
8 ALIMONY OR CHILD SUPPORT.--

9 (b) The income deduction order shall:

10 1. Direct a payor to deduct from all income due and
11 payable to an obligor the amount required by the court to meet
12 the obligor's support obligation including any attorney's fees
13 or costs owed and forward the deducted amount pursuant to the
14 order.

15 2. State the amount of arrearage owed, if any, and
16 direct a payor to withhold an additional 20 percent or more of
17 the periodic amount specified in the order establishing,
18 enforcing, or modifying the obligation, until full payment is
19 made of any arrearage, attorney's fees and costs owed,
20 provided no deduction shall be applied to attorney's fees and
21 costs until the full amount of any arrearage is paid;

22 3. Direct a payor not to deduct in excess of the
23 amounts allowed under s. 303(b) of the Consumer Credit
24 Protection Act, 15 U.S.C. s. 1673(b), as amended;

25 4. Direct whether a payor shall deduct all, a
26 specified portion, or no income which is paid in the form of a
27 bonus or other similar one-time payment, up to the amount of
28 arrearage reported in the income deduction notice or the
29 remaining balance thereof, and forward the payment to the
30 governmental depository. For purposes of this subparagraph,
31 "bonus" means a payment in addition to an obligor's usual

1 compensation and which is in addition to any amounts
2 contracted for or otherwise legally due and shall not include
3 any commission payments due an obligor;

4 5. In Title IV-D cases, direct a payor to provide to
5 the court depository the date on which each deduction is made;
6 ~~and~~

7 6. In Title IV-D cases, if an obligation to pay
8 current support is reduced or terminated due to emancipation
9 of a child and the obligor owes an arrearage, retroactive
10 support, delinquency, or costs, direct the payor to continue
11 the income deduction at the rate in effect immediately prior
12 to emancipation until all arrearages, retroactive support,
13 delinquencies, and costs are paid in full or until the amount
14 of withholding is modified; and

15 ~~7.6.~~ Direct that, at such time as the State
16 Disbursement Unit becomes operational, all payments in those
17 cases in which the obligee is receiving Title IV-D services
18 and in those cases in which the obligee is not receiving Title
19 IV-D services in which the initial support order was issued in
20 this state on or after January 1, 1994, and in which the
21 obligor's child support obligation is being paid through
22 income deduction, be made payable to and delivered to the
23 State Disbursement Unit. Notwithstanding any other statutory
24 provision to the contrary, funds received by the State
25 Disbursement Unit shall be held, administered, and disbursed
26 by the State Disbursement Unit pursuant to the provisions of
27 this chapter.

28 (e) Statement of obligor's rights. When the court
29 orders the income deduction to be effective immediately, the
30 court shall furnish to the obligor a statement of his or her
31

1 rights, remedies, and duties in regard to the income deduction
2 order. The statement shall state:

3 1. All fees or interest which shall be imposed.

4 2. The total amount of income to be deducted for each
5 pay period until the arrearage, if any, is paid in full and
6 shall state the total amount of income to be deducted for each
7 pay period thereafter. The amounts deducted may not be in
8 excess of that allowed under s. 303(b) of the Consumer Credit
9 Protection Act, 15 U.S.C. s. 1673(b), as amended.

10 3. That the income deduction order applies to current
11 and subsequent payors and periods of employment.

12 4. That a copy of the income deduction order or, in
13 Title IV-D cases, the income deduction notice will be served
14 on the obligor's payor or payors.

15 5. That enforcement of the income deduction order may
16 only be contested on the ground of mistake of fact regarding
17 the amount owed pursuant to the order establishing, enforcing,
18 or modifying the obligation, the arrearages, or the identity
19 of the obligor, the payor, or the obligee.

20 6. That the obligor is required to notify the obligee
21 and, when the obligee is receiving IV-D services, the IV-D
22 agency within 7 days of changes in the obligor's address,
23 payors, and the addresses of his or her payors.

24 7. That in a Title IV-D case, if an obligation to pay
25 current support is reduced or terminated due to emancipation
26 of a child and the obligor owes an arrearage, retroactive
27 support, delinquency, or costs, income deduction continues at
28 the rate in effect immediately prior to emancipation until all
29 arrearages, retroactive support, delinquencies, and costs are
30 paid in full or until the amount of withholding is modified.

31 (2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.--

1 (e) Notice to payor and income deduction notice. The
2 notice to payor or, in Title IV-D cases, income deduction
3 notice shall contain only information necessary for the payor
4 to comply with the order providing for income deduction. The
5 notice shall:

6 1. Provide the obligor's social security number.

7 2. Require the payor to deduct from the obligor's
8 income the amount specified in the income deduction order, and
9 in the case of a delinquency the amount specified in the
10 notice of delinquency, and to pay that amount to the obligee
11 or to the depository, as appropriate. The amount actually
12 deducted plus all administrative charges shall not be in
13 excess of the amount allowed under s. 303(b) of the Consumer
14 Credit Protection Act, 15 U.S.C. s. 1673(b);

15 3. Instruct the payor to implement income deduction no
16 later than the first payment date which occurs more than 14
17 days after the date the income deduction notice was served on
18 the payor, and the payor shall conform the amount specified in
19 the income deduction order or, in Title IV-D cases, income
20 deduction notice to the obligor's pay cycle. The court should
21 request at the time of the order that the payment cycle
22 reflect that of the payor;

23 4. Instruct the payor to forward, within 2 days after
24 each date the obligor is entitled to payment from the payor,
25 to the obligee or to the depository the amount deducted from
26 the obligor's income, a statement as to whether the amount
27 totally or partially satisfies the periodic amount specified
28 in the income deduction order or, in Title IV-D cases, income
29 deduction notice, and the specific date each deduction is
30 made. If the IV-D agency is enforcing the order, the payor
31

1 shall make these notifications to the agency instead of the
2 obligee;

3 5. Specify that if a payor fails to deduct the proper
4 amount from the obligor's income, the payor is liable for the
5 amount the payor should have deducted, plus costs, interest,
6 and reasonable attorney's fees;

7 6. Provide that the payor may collect up to \$5 against
8 the obligor's income to reimburse the payor for administrative
9 costs for the first income deduction and up to \$2 for each
10 deduction thereafter;

11 7. State that the notice to payor or, in Title IV-D
12 cases, income deduction notice, and in the case of a
13 delinquency the notice of delinquency, are binding on the
14 payor until further notice by the obligee, IV-D agency, or the
15 court or until the payor no longer provides income to the
16 obligor;

17 8. Instruct the payor that, when he or she no longer
18 provides income to the obligor, he or she shall notify the
19 obligee and shall also provide the obligor's last known
20 address and the name and address of the obligor's new payor,
21 if known; and that, if the payor violates this provision, the
22 payor is subject to a civil penalty not to exceed \$250 for the
23 first violation or \$500 for any subsequent violation. If the
24 IV-D agency is enforcing the order, the payor shall make these
25 notifications to the agency instead of to the obligee.
26 Penalties shall be paid to the obligee or the IV-D agency,
27 whichever is enforcing the income deduction order;

28 9. State that the payor shall not discharge, refuse to
29 employ, or take disciplinary action against an obligor because
30 of the requirement for income deduction and shall state that a
31 violation of this provision subjects the payor to a civil

1 penalty not to exceed \$250 for the first violation or \$500 for
2 any subsequent violation. Penalties shall be paid to the
3 obligee or the IV-D agency, whichever is enforcing the income
4 deduction, if any alimony or child support obligation is
5 owing. If no alimony or child support obligation is owing, the
6 penalty shall be paid to the obligor;

7 10. State that an obligor may bring a civil action in
8 the courts of this state against a payor who refuses to
9 employ, discharges, or otherwise disciplines an obligor
10 because of income deduction. The obligor is entitled to
11 reinstatement and all wages and benefits lost, plus reasonable
12 attorney's fees and costs incurred;

13 11. Inform the payor that the requirement for income
14 deduction has priority over all other legal processes under
15 state law pertaining to the same income and that payment, as
16 required by the notice to payor or income deduction notice, is
17 a complete defense by the payor against any claims of the
18 obligor or his or her creditors as to the sum paid;

19 12. Inform the payor that, when the payor receives
20 notices to payor or income deduction notices requiring that
21 the income of two or more obligors be deducted and sent to the
22 same depository, the payor may combine the amounts that are to
23 be paid to the depository in a single payment as long as the
24 payments attributable to each obligor are clearly identified;
25 ~~and~~

26 13. Inform the payor that if the payor receives more
27 than one notice to payor or income deduction notice against
28 the same obligor, the payor shall contact the court or, in
29 Title IV-D cases, the Title IV-D agency for further
30 instructions. Upon being so contacted, the court or, in Title
31 IV-D cases when all the cases upon which the notices are based

1 are Title IV-D cases, the Title IV-D agency shall allocate
2 amounts available for income deduction as provided in
3 subsection (4); and-

4 14. State that in a Title IV-D case, if an obligation
5 to pay current support is reduced or terminated due to the
6 emancipation of a child and the obligor owes an arrearage,
7 retroactive support, delinquency, or costs, income deduction
8 continues at the rate in effect immediately prior to
9 emancipation until all arrearages, retroactive support,
10 delinquencies, and costs are paid in full or until the amount
11 of withholding is modified.

12 (f) At any time an income deduction order is being
13 enforced, the obligor may apply to the court for a hearing to
14 contest the continued enforcement of the income deduction on
15 the same grounds set out in paragraph (c), with a copy to the
16 obligee and, in IV-D cases, to the IV-D agency. If the income
17 deduction order being enforced was rendered by the IV-D agency
18 pursuant to s. 409.2563 and the obligor contests the
19 withholding, the obligor shall file a petition for an
20 administrative hearing with the IV-D agency.The application
21 or petition does not affect the continued enforcement of the
22 income deduction until the court or IV-D agency, if
23 applicable, enters an order granting relief to the obligor.
24 The obligee or the IV-D agency is released from liability for
25 improper receipt of moneys pursuant to an income deduction
26 order upon return to the appropriate party of any moneys
27 received.

28 (3)(a) It is the intent of the Legislature that this
29 section may be used to collect arrearages in child support
30 ~~payments~~ or in alimony payments ~~which have been accrued~~
31 ~~against an obligor.~~

1 (b) In a Title IV-D case, if an obligation to pay
2 current support is reduced or terminated due to the
3 emancipation of a child and the obligor owes an arrearage,
4 retroactive support, delinquency, or costs, income deduction
5 continues at the rate in effect immediately prior to
6 emancipation until all arrearages, retroactive support,
7 delinquencies, and costs are paid in full or until the amount
8 of withholding is modified. Any income-deducted amount that is
9 in excess of the obligation to pay current support shall be
10 credited against the arrearages, retroactive support,
11 delinquency, and costs owed by the obligor. The department
12 shall send notice of this requirement by regular mail to the
13 payor and the depository operated pursuant to s. 61.181, and
14 the notice shall state the amount of the obligation to pay
15 current support, if any, and the amount owed for arrearages,
16 retroactive support, delinquency, and costs. For income
17 deduction orders entered before July 1, 2004, which do not
18 include this requirement, the department shall send by
19 certified mail, restricted delivery, return receipt requested,
20 to the obligor at the most recent address provided by the
21 obligor to the tribunal that issued the order or a more recent
22 address if known, notice of this requirement, that the obligor
23 may contest the withholding as provided by paragraph (2)(f),
24 and that the obligor may request the tribunal that issued the
25 income deduction to modify the amount of the withholding. This
26 paragraph provides an additional remedy for collection of
27 unpaid support and applies to cases in which a support order
28 or income deduction order was entered before, on, or after
29 July 1, 2004.

30
31

1 Section 4. Subsections (9) and (10) are added to
2 section 61.14, Florida Statutes, as amended by section 73 of
3 chapter 2003-402, Laws of Florida, to read:

4 61.14 Enforcement and modification of support,
5 maintenance, or alimony agreements or orders.--

6 (9) Unless otherwise ordered by the court or agreed to
7 by the parties, the obligation to pay the current child
8 support for that child is terminated when the child reaches 18
9 years of age or the disability of nonage is removed. The
10 termination of the current child support obligation does not
11 otherwise terminate the obligation to pay any arrearage,
12 retroactive support, delinquency, or costs owed by the
13 obligor.

14 (10)(a) In a Title IV-D case, if an obligation to pay
15 current child support is terminated due to the emancipation of
16 the child and the obligor owes an arrearage, retroactive
17 support, delinquency, or costs, the obligor shall continue to
18 pay at the same rate in effect immediately prior to
19 emancipation until all arrearages, retroactive support,
20 delinquencies, and costs are paid in full or until the amount
21 of the order is modified. Any income-deducted amount or amount
22 paid by the obligor which is in excess of the obligation to
23 pay current support shall be credited against the arrearages,
24 retroactive support, delinquency, and costs owed by the
25 obligor.

26 (b) In a Title IV-D case, if an obligation to pay
27 current child support for multiple children is reduced due to
28 the emancipation of one child and the obligor owes an
29 arrearage, retroactive support, delinquency, or costs, the
30 obligor shall continue to pay at the same rate in effect
31 immediately prior to emancipation until all arrearages,

1 retroactive support, delinquencies, and costs are paid in full
2 or until the amount of the order is modified. Any
3 income-deducted amount or amount paid by the obligor which is
4 in excess of the obligation to pay current support shall be
5 credited against the arrearages, retroactive support,
6 delinquency, and costs owed by the obligor. If an obligation
7 to pay current support for more than one child is not reduced
8 when a child is emancipated because the order does not
9 allocate support per child, this paragraph does not apply.

10 (c) Paragraphs (a) and (b) provide an additional
11 remedy for collection of unpaid support and apply to cases in
12 which a support order was entered before, on, or after July 1,
13 2004.

14 Section 5. Effective July 1, 2004, subsection (1) of
15 section 61.181, Florida Statutes, is amended to read:

16 61.181 Depository for alimony transactions, support,
17 maintenance, and support payments; fees.--

18 (1)(a) The office of the clerk of the court shall
19 operate a depository unless the depository is otherwise
20 created by special act of the Legislature or unless, prior to
21 June 1, 1985, a different entity was established to perform
22 such functions. The department shall, no later than July 1,
23 1998, extend participation in the federal child support cost
24 reimbursement program to the central depository in each
25 county, to the maximum extent possible under existing federal
26 law. The depository shall receive reimbursement for services
27 provided under a cooperative agreement with the department
28 pursuant to s. 61.1826. Each depository shall participate in
29 the State Disbursement Unit and shall implement all statutory
30 and contractual duties imposed on the State Disbursement Unit.
31 Each depository shall receive from and transmit to the State

1 Disbursement Unit required data through the Clerk of Court
2 Child Support Enforcement Collection System. Payments on
3 non-Title IV-D cases without income deduction orders shall not
4 be sent to the State Disbursement Unit.

5 (b) Upon request by the department, the depository
6 created pursuant to paragraph (a) shall establish an account
7 for the receipt and disbursement of support payments for Title
8 IV-D interstate cases. The department shall provide a copy of
9 the other state's order with the request, and the depository
10 shall advise the department of the account number in writing
11 within 4 business days after receipt of the request.

12 Section 6. Section 61.1814, Florida Statutes, is
13 amended to read:

14 61.1814 Child Support Enforcement Application and
15 Program Revenue Trust Fund.--

16 (1) The Child Support Enforcement Application and
17 Program Revenue Trust Fund is hereby created, to be
18 administered by the Department of Revenue. The purpose of the
19 trust fund is to account for Title IV-D program income and to
20 support the activities of the child support enforcement
21 program under Title IV-D of the Social Security Act. The
22 department shall invest the money in the trust fund pursuant
23 to s. 17.61 and retain all interest earnings in the trust
24 fund. Notwithstanding the provisions of s. 216.301, and
25 pursuant to s. 216.351, any balance in the trust fund at the
26 end of any fiscal year shall remain in the trust fund and
27 shall be available for carrying out the purposes of the trust
28 fund. In accordance with federal requirements, the federal
29 share of program income shall be credited to the Federal
30 Government.

31

1 (2) With the exception of fees required to be
2 deposited in the Clerk of the Court Child Support Enforcement
3 System Trust Fund under s. 61.181(2)(b) and collections
4 determined to be undistributable or unidentifiable under s.
5 409.2558, the fund shall be used for the deposit of Title IV-D
6 program income received by the department. Each type of
7 program income received shall be accounted for separately.
8 Program income received by the department includes, but is not
9 limited to:

10 (a) Application fees of nonpublic assistance
11 applicants for child support enforcement services;

12 (b) Court ordered costs recovered from child support
13 obligors;

14 (c) Interest on child support collections;

15 (d) The balance of fees received under s. 61.181(2)(a)
16 on non-Title IV-D cases required to be processed through the
17 State Disbursement Unit after the clerk's share is paid; and

18 (e) Fines imposed under ss. 409.2564(8) and 409.2578.

19 ~~Moneys deposited from fines imposed under ss. 409.2564(8) and~~
20 ~~409.2578 shall be maintained separately from moneys deposited~~
21 ~~from application fees.~~

22 Section 7. Paragraph (c) of subsection (14) of section
23 120.80, Florida Statutes, is amended to read:

24 120.80 Exceptions and special requirements;
25 agencies.--

26 (14) DEPARTMENT OF REVENUE.--

27 (c) Proceedings for administrative support orders.--In
28 proceedings for the establishment of administrative support
29 orders pursuant to s. 409.2563, final orders in cases referred
30 by the Department of Revenue to the Division of Administrative
31 Hearings shall be entered by the division's administrative law

1 judge and transmitted to the Department of Revenue for filing
2 and rendering. The Department of Revenue has the right to seek
3 judicial review under s. 120.68 of a final order entered by an
4 administrative law judge. Administrative support orders
5 rendered pursuant to s. 409.2563 may be enforced pursuant to
6 s. 120.69 or, alternatively, by any method prescribed by law
7 for the enforcement of judicial support orders, except
8 contempt. Hearings held by the Division of Administrative
9 Hearings pursuant to s. 409.2563 shall be held in the judicial
10 circuit where the person receiving services under Title IV-D
11 resides or, if the person receiving services under Title IV-D
12 does not reside in this state, in the judicial circuit where
13 the respondent resides. If the department and the respondent
14 agree, the hearing may be held in another location. If ordered
15 by the administrative law judge, the hearing may be conducted
16 telephonically or by videoconference.

17 Section 8. Effective July 1, 2004, paragraph (c) of
18 subsection (2) of section 382.013, Florida Statutes, is
19 amended to read:

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

29 (2) PATERNITY.--

30 (c) If the mother is not married at the time of the
31 birth, the name of the father may not be entered on the birth

1 certificate without the execution of an affidavit signed by
2 both the mother and the person to be named as the father. The
3 facility shall give notice orally or through the use of video
4 or audio equipment, and in writing, of the alternatives to,
5 the legal consequences of, and the rights, including, if one
6 parent is a minor, any rights afforded due to minority status,
7 and responsibilities that arise from signing an acknowledgment
8 of paternity, as well as information provided by the Title
9 IV-D agency established pursuant to s. 409.2557, regarding the
10 benefits of voluntary establishment of paternity. Upon request
11 of the mother and the person to be named as the father, the
12 facility shall assist in the execution of the affidavit, ~~or a~~
13 notarized voluntary acknowledgment of paternity, or a
14 voluntary acknowledgement of paternity that is witnessed by
15 two individuals and signed under penalty of perjury as
16 specified by s. 92.525(2).

17 Section 9. Effective July 1, 2004, paragraph (b) of
18 subsection (1) of section 382.016, Florida Statutes, is
19 amended to read:

20 382.016 Amendment of records.--The department, upon
21 receipt of the fee prescribed in s. 382.0255; documentary
22 evidence, as specified by rule, of any misstatement, error, or
23 omission occurring in any birth, death, or fetal death record;
24 and an affidavit setting forth the changes to be made, shall
25 amend or replace the original certificate as necessary.

26 (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.--

27 (b) Upon written request and receipt of an affidavit,
28 a ~~or~~ notarized voluntary acknowledgment of paternity signed by
29 the mother and father acknowledging the paternity of a
30 registrant born out of wedlock, or a voluntary acknowledgement
31 of paternity that is witnessed by two individuals and signed

1 under penalty of perjury as specified by s. 92.525(2),
2 together with sufficient information to identify the original
3 certificate of live birth, the department shall prepare a new
4 birth certificate, which shall bear the same file number as
5 the original birth certificate. The names and identifying
6 information of the parents shall be entered as of the date of
7 the registrant's birth. The surname of the registrant may be
8 changed from that shown on the original birth certificate at
9 the request of the mother and father of the registrant, or the
10 registrant if of legal age. If the mother and father marry
11 each other at any time after the registrant's birth, the
12 department shall, upon the request of the mother and father or
13 registrant if of legal age and proof of the marriage, amend
14 the certificate with regard to the parents' marital status as
15 though the parents were married at the time of birth. The
16 department shall substitute the new certificate of birth for
17 the original certificate on file. All copies of the original
18 certificate of live birth in the custody of a local registrar
19 or other state custodian of vital records shall be forwarded
20 to the State Registrar. Thereafter, when a certified copy of
21 the certificate of birth or portion thereof is issued, it
22 shall be a copy of the new certificate of birth or portion
23 thereof, except when a court order requires issuance of a
24 certified copy of the original certificate of birth. The
25 department shall place the original certificate of birth and
26 all papers pertaining thereto under seal, not to be broken
27 except by order of a court of competent jurisdiction or as
28 otherwise provided by law.

29 Section 10. Paragraph (b) of subsection (2) of section
30 409.2558, Florida Statutes, is amended to read:

31 409.2558 Support distribution and disbursement.--

- 1 (2) UNDISTRIBUTABLE COLLECTIONS.--
- 2 (b) Collections that are determined to be
- 3 undistributable shall be processed in the following order of
- 4 priority:
- 5 1. Apply the payment to any assigned arrears on the
- 6 custodial parent's case; then
- 7 2. Apply the payment to any administrative costs
- 8 ordered by the court pursuant to s. 409.2567 associated with
- 9 the custodial parent's case; then
- 10 3. When the noncustodial parent is subject to a valid
- 11 order to support another child ~~other children~~ in a another
- 12 case with a different custodial parent and the obligation is
- 13 being enforced by the department, the department shall send by
- 14 certified mail, restricted delivery, return receipt requested,
- 15 to the noncustodial parent at the most recent address provided
- 16 by the noncustodial parent to the tribunal that issued the
- 17 order, a notice stating the department's intention to apply
- 18 the payment pursuant to this subparagraph, and advising the
- 19 noncustodial parent of the right to contest the department's
- 20 proposed action in the circuit court by filing and serving a
- 21 petition on the department within 30 days after the mailing of
- 22 the notice. If the noncustodial parent does not file and serve
- 23 a petition within the 30 days after mailing of the notice, or
- 24 upon a disposition of the judicial action favorable to the
- 25 department, the department shall, ~~with the noncustodial~~
- 26 parent's permission, apply the payment towards his or her
- 27 other support obligation. If there is more than one such other
- 28 case, the department shall allocate the remaining
- 29 undistributable amount as specified by s. 61.1301(4)(c); then
- 30 4. Return the payment to the noncustodial parent; then
- 31

1 5. If the noncustodial parent cannot be located after
2 diligent efforts by the department, the federal share of the
3 payment shall be credited to the Federal Government and the
4 state share shall be transferred to the General Revenue Fund.

5 Section 11. Subsection (1) of section 409.2561,
6 Florida Statutes, is amended to read:

7 409.2561 Support obligations when public assistance is
8 paid; assignment of rights; subrogation; medical and health
9 insurance information.--

10 (1) Any payment of temporary cash or Title IV-E
11 assistance made to, or for the benefit of, any dependent child
12 creates an obligation in an amount determined pursuant to the
13 child support guidelines. In accordance with 42 U.S.C. s. 657,
14 the state shall retain amounts collected only to the extent
15 necessary to reimburse amounts paid to the family as
16 assistance by the state. Such amounts collected shall be
17 deposited into the General Revenue Fund up to the level
18 specified in s. 61.1812. If there has been a prior support
19 ~~court~~ order or final judgment of dissolution of marriage
20 establishing an obligation of support, the obligation is
21 limited to the amount provided by such support court order or
22 decree. The extraordinary remedy of contempt is applicable in
23 child support enforcement cases because of the public
24 necessity for ensuring that dependent children be maintained
25 from the resources of their parents, thereby relieving, at
26 least in part, the burden presently borne by the general
27 citizenry through the public assistance program. If there is
28 no prior support court order ~~establishing an obligation of~~
29 ~~support~~, the court, or the department as provided by s.
30 409.2563, shall establish the liability of the obligor, if
31 any, by applying the child support guidelines. The department

1 may apply for modification of a support ~~court~~ order on the
2 same grounds as either party to the cause and shall have the
3 right to settle and compromise actions brought pursuant to
4 law.

5 Section 12. Subsections (4), (8), and paragraph (b) of
6 subsection (17) of section 409.2563, Florida Statutes, are
7 amended to read:

8 409.2563 Administrative establishment of child support
9 obligations.--

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

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

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

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

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

28 (e) That both parents, or parent and caretaker
29 relative if applicable, are required to promptly notify the
30 department of any change in their mailing addresses to ensure
31

1 receipt of all subsequent pleadings, notices, and orders, as
2 provided by paragraph (13)(c);

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

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

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

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

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

29 (k) That after an administrative support order is
30 rendered, the department may enforce the administrative
31 support order by any lawful means;

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

7 (m) That, neither the department nor the Division of
8 Administrative Hearings has jurisdiction to award or change
9 child custody or rights of parental contact and these issues
10 may only be addressed in circuit court.

11 1. The noncustodial parent may request in writing that
12 the department proceed in circuit court to determine his or
13 her support obligations.

14 2. The noncustodial parent may state in writing to the
15 department his or her intention to address issues concerning
16 custody or rights to parental contact in circuit court.

17 3. If the noncustodial parent submits the request
18 authorized in subparagraph 1., or the statement authorized in
19 subparagraph 2. to the department within 20 days after the
20 receipt of the initial notice, the department shall file a
21 petition in circuit court for the determination of the
22 noncustodial parent's child support obligations, and shall
23 send to the noncustodial parent a copy of its petition, a
24 notice of commencement of action, and a request for waiver of
25 service of process as provided in the Rules of Civil
26 Procedure.

27 4. If, within 10 days after receipt of the
28 department's petition and waiver of service, the noncustodial
29 parent signs and returns the waiver of service form to the
30 department, the department shall terminate the administrative
31 proceeding without prejudice and proceed in circuit court.

1 5. In any circuit court action filed by the department
2 pursuant to this paragraph or filed by a noncustodial parent
3 or other person pursuant to paragraph (l) or paragraph (n),
4 the department shall be a party only with respect to those
5 issues of support allowed and reimbursable under Title IV-D of
6 the Social Security Act. It is the responsibility of the
7 noncustodial parent or other person to take the necessary
8 steps to present other issues for the court to consider. ~~That~~
9 ~~if the noncustodial parent has issues regarding child custody~~
10 ~~or right of parental contact or requests to proceed in circuit~~
11 ~~court, the noncustodial parent may request in writing that the~~
12 ~~department proceed in circuit court to determine support. That~~
13 ~~the noncustodial parent must make such request in writing~~
14 ~~within 20 days after receipt of the initial notice. That upon~~
15 ~~such request, the department shall send the noncustodial~~
16 ~~parent by regular mail a copy of the department's petition and~~
17 ~~waiver of service form. That the noncustodial parent must sign~~
18 ~~and return the waiver of service form, within 10 days of~~
19 ~~receipt of the petition, at which time the department shall~~
20 ~~terminate the administrative proceeding and file an action in~~
21 ~~circuit court to determine support;~~

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

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

31

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

23 (8) FILING WITH THE CLERK OF THE CIRCUIT COURT;
24 OFFICIAL PAYMENT RECORD; JUDGMENT BY OPERATION OF LAW.--The
25 department shall file with the clerk of the circuit court a
26 certified copy of an administrative support order rendered
27 under this section. The depository operated pursuant to s.
28 61.181 for the county where the administrative support order
29 has been filed shall:

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

1 (b) Establish and maintain the necessary payment
2 accounts;

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

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

8
9 When a proceeding to establish an administrative support order
10 is commenced under subsection (4), the department shall file a
11 copy of the initial notice with the depository. The depository
12 shall assign an account number and provide the account number
13 to the department within 4 business days after the initial
14 notice is filed.

15 (17) EVALUATION.--

16 (b) The Office of Program Policy Analysis and
17 Government Accountability shall conduct an evaluation of the
18 statewide implementation of the administrative process for
19 establishing child support provided for in this section. This
20 evaluation shall examine whether these processes have been
21 effectively implemented and administered statewide and are
22 operating to the benefit of the children, including, but not
23 limited to the ability of Title IV-D parents to easily access
24 the court system for necessary court action. The Office of
25 Program Policy Analysis and Government Accountability shall
26 submit an evaluation report on the statewide implementation of
27 the administrative processes for establishing child support by
28 June 30, 2006 ~~January 31, 2005~~.

29 Section 13. Subsection (3) of section 409.25656,
30 Florida Statutes, is amended to read:

31 409.25656 Garnishment.--

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

1 Section 14. Effective October 1, 2004, section
2 409.25659, Florida Statutes, is created to read:

3 409.25659 Insurance claim data exchange.--

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

5 (a) "Insurer" means an entity that is responsible for
6 paying a claim on liability coverage in an insurance contract
7 and is:

8 1. An insurer, as defined in s. 624.03, authorized to
9 transact insurance in this state;

10 2. An eligible surplus lines insurer pursuant to part
11 VIII of chapter 626;

12 3. A joint underwriter or joint reinsurer created by
13 law or otherwise operating pursuant to s. 627.311; or

14 4. An insurance risk apportionment plan operating
15 pursuant to s. 627.351.

16 (b) "Claim" means an open, unresolved bodily injury
17 claim on liability coverage in excess of \$3,000 in an
18 insurance contract payable to an individual, or to a third
19 party for the benefit of the individual, who is a resident of
20 this state or who had an accident or loss that occurred in
21 this state or who has an outstanding child support obligation
22 in this state.

23 (2) The department shall develop and operate a data
24 match system after consultation with one or more insurers,
25 using automated data exchanges to the maximum extent feasible,
26 in which an insurer may provide the department monthly with
27 the name, address, and, if known, date of birth and social
28 security number or other taxpayer identification number for
29 each noncustodial parent who has a claim with the insurer and
30 who owes past due support, and the claim number, and any other

31

1 identifying information maintained by the insurer for each
2 claim. An insurer may provide such data by:
3 (a) Authorizing an insurance claim data collection
4 organization, to which the insurer subscribes and to which the
5 insurer submits the required claim data on at least a monthly
6 basis, to:
7 1. Receive or access a data file from the department
8 and conduct a data match of all noncustodial parents who have
9 a claim with the insurer and who owe past due support and
10 submit the required data for each noncustodial parent to the
11 department; or
12 2. Submit a data file to the department which contains
13 the required data for each claim being maintained by the
14 insurer for the department to conduct a data match;
15 (b) Providing the required data for each claim being
16 maintained by the insurer directly to the department in an
17 electronic medium; or
18 (c) Receiving or accessing a data file from the
19 department and conducting a data match of all noncustodial
20 parents who have a claim with the insurer and who owe past due
21 support and submitting the required data for each noncustodial
22 parent to the department.
23 (3) The department shall establish by rule a standard
24 fee, not to exceed actual costs, and pay the fee upon request
25 to an insurer or the insurer's claim data collection
26 organization for conducting a data match as provided by
27 subsection (2).
28 (4) An insurer and its directors, agents, employees,
29 and insureds, and any insurance claim data collection
30 organization and its agents and employees authorized by an
31 insurer to act on its behalf, which provides or attempts to

1 provide data under this section are immune from any civil
2 liability under any law to any person or entity for any
3 alleged or actual damages that occur as a result of providing
4 or attempting to provide data under this section.

5 (5) Insurers may only use the data obtained pursuant
6 to subsection (2) for the purpose of identifying noncustodial
7 parents who owe past due support.

8 (6) The department may adopt rules to implement and
9 administer this section.

10 Section 15. Effective July 1, 2004, section 409.257,
11 Florida Statutes, is amended to read:

12 409.257 Service of process.--The service of initial
13 process and orders in lawsuits filed by the department, under
14 this act, shall be served by the sheriff in the county where
15 the person to be served may be found or, if determined more
16 effective by the department, by any means permitted under
17 chapter 48 for service of process in a civil action. The
18 sheriff shall be reimbursed at the prevailing rate of federal
19 financial participation for service of process and orders as
20 allowed by law. The sheriff shall bill the department monthly
21 as provided for in s. 30.51(2). In addition, process and
22 orders may be served or executed by authorized agents of the
23 department at the department's discretion; provided that the
24 agent of the department does not take any action against
25 personal property, real property, or persons. Notices and
26 other intermediate process, except witness subpoenas, shall be
27 served by the department as provided for in the Florida Rules
28 of Civil Procedure. Witness subpoenas shall be served by the
29 department by certified mail as provided for in s. 48.031(3).

30 Section 16. Subsections (1) and (2) of section
31 409.2572, Florida Statutes, are amended to read:

1 409.2572 Cooperation.--
2 (1) An applicant for, or recipient of, public
3 assistance for a dependent child shall cooperate in good faith
4 with the department or a program attorney in:
5 (a) Identifying and helping to locate the alleged
6 parent or obligor.
7 (b) Assisting in establishing the paternity of a child
8 born out of wedlock.
9 (c) Assisting in obtaining support payments from the
10 obligor.
11 (d) Assisting in obtaining any other payments or
12 property due from the obligor.
13 (e) Identifying another putative father when an
14 earlier named putative father has been excluded by DNA, Human
15 Leukocyte Antigen, or other scientific test.
16 (f) Appearing at an office of the department, or
17 another designated office, as necessary to provide verbal or
18 written information, or documentary or physical evidence,
19 known to, possessed by, or reasonably obtainable by the
20 applicant or recipient.
21 (g) Appearing as a witness at judicial or other
22 hearings or proceedings.
23 (h) Providing information under oath regarding the
24 identity or location of the alleged father of the child or
25 attesting to the lack of information.
26 (i) Paying to the department any support received from
27 the obligor after the assignment is effective.
28 (2) Noncooperation, or failure to cooperate in good
29 faith, is defined to include, but is not limited to, the
30 following conduct:
31

1 (a) ~~Failing or~~ Refusing to identify the father of the
2 child, or where more than one man could be the father of the
3 child, refusing to identify all such persons. ~~If the mother~~
4 ~~identifies one or more persons as the possible father of the~~
5 ~~child and asserts that there are no others who could be the~~
6 ~~father of the child, but the DNA test, Human Leukocyte Antigen~~
7 ~~test, or other scientific test indicates that none of the~~
8 ~~persons identified could in fact have been the father of the~~
9 ~~child, the mother shall be deemed noncooperative. If she~~
10 ~~subsequently identifies another person as the possible father~~
11 ~~of the child, she shall still be deemed noncooperative until~~
12 ~~that person has been given the DNA test, Human Leukocyte~~
13 ~~Antigen test, or other scientific test and is not excluded as~~
14 ~~the father by the test.~~

15 (b) Failing to appear for two appointments at the
16 department or other designated office without justification
17 and notice.

18 (c) Providing false information regarding the
19 paternity of the child or the obligation of the obligor.

20 (d) All actions of the obligee which interfere with
21 the state's efforts to proceed to establish paternity, the
22 obligation of support, or to enforce or collect support.

23 (e) Failure to appear to submit a DNA sample ~~at the~~
24 ~~laboratory for drawing of blood samples,~~ or leaving the
25 location ~~laboratory~~ prior to submitting a DNA sample ~~the~~
26 ~~drawing of blood samples~~ without compelling reasons.

27 (f) Failure to assist in the recovery of third-party
28 payment for medical services.

29 Section 17. Section 409.259, Florida Statutes, is
30 amended to read:

31

1 409.259 ~~Partial payment of~~ Filing fees in Title IV-D
2 cases.--

3 (1) Notwithstanding s. 28.241, each clerk of the
4 circuit court shall accept petitions, complaints, and motions
5 filed by the department in Title IV-D cases without billing
6 the department separately for each filing, since the clerk is
7 being reimbursed in a different manner for expenses incurred
8 in such filings under the cooperative agreement with the
9 department pursuant to ss. 61.181(1) and 61.1826(2) and (4).
10 ~~only be reimbursed at the prevailing rate of federal financial~~
11 ~~participation on the amount of \$40 for each civil action,~~
12 ~~suit, or proceeding for support instituted in the circuit~~
13 ~~court in which the parent is not receiving temporary cash~~
14 ~~assistance. The prevailing rate of the state match shall be~~
15 ~~paid by the local government in the form of a certified public~~
16 ~~expenditure. The clerk of the circuit court shall bill the~~
17 ~~department monthly. The clerk of the circuit court and the~~
18 ~~department shall maintain a monthly log of the number of civil~~
19 ~~actions, suits, or proceedings filed in which the parent does~~
20 ~~not receive temporary assistance. These monthly logs will be~~
21 ~~used to determine the number of \$40 filings the clerk of court~~
22 ~~may submit for reimbursement at the prevailing rate of federal~~
23 ~~financial participation.~~

24 (2) Notwithstanding subsection (1), the department
25 shall continue to be entitled to the other necessary services
26 of the clerk of court in any proceedings under the IV-D
27 program as authorized under s. 409.2571.

28 Section 18. Section 409.2598, Florida Statutes, is
29 amended to read:

30 409.2598 Suspension or denial of new or renewal
31 licenses; registrations; certifications.--

1 (1) As used in this section, the term:

2 (a) "License" means a license, permit, certificate,
3 registration, franchise, or other form of written permission
4 issued by a licensing agency to an individual which authorizes
5 the individual to engage in an occupation, business, trade, or
6 profession or to engage in a recreational activity, including
7 hunting or fishing. Where the context permits, the term also
8 includes an application for a new or renewal license.

9 (b) "Licensee" means an individual who has a license.

10 (c) "Licensing agency" means a department, commission,
11 agency, district, county, municipality, or other subdivision
12 of state or local government which issues licenses.

13 (2)(1) The Title IV-D agency may petition the court
14 that entered the support order or the court that is enforcing
15 the support order to deny or suspend the license,
16 registration, or certificate issued under chapter 370, chapter
17 372, chapter 409, chapter 455, chapter 456, chapter 559,
18 chapter 1012, s. 328.42, or s. 597.010 of any obligor with a
19 delinquent support obligation or who fails, after receiving
20 appropriate notice, to comply with subpoenas, orders to
21 appear, orders to show cause, or similar orders relating to
22 paternity or support proceedings. However, a petition may not
23 be filed until the Title IV-D agency has exhausted all other
24 available remedies. The purpose of this section is to promote
25 the public policy of the state as established in s. 409.2551.

26 ~~(2) The Title IV-D agency is authorized to screen all~~
27 ~~applicants for new or renewal licenses, registrations, or~~
28 ~~certificates and current licenses, registrations, or~~
29 ~~certificates and current licensees, registration holders, and~~
30 ~~certificateholders of all licenses, registrations, and~~
31 ~~certificates issued under chapter 370, chapter 409, chapter~~

1 ~~455, chapter 456, chapter 559, chapter 1012, or s. 328.42 to~~
2 ~~ensure compliance with any support obligation and any~~
3 ~~subpoenas, orders to appear, orders to show cause, or similar~~
4 ~~orders relating to paternity or support proceedings. If the~~
5 ~~Title IV-D agency determines that an applicant, licensee,~~
6 ~~registration holder, or certificateholder is an obligor who is~~
7 ~~delinquent on a support obligation or who is not in compliance~~
8 ~~with a subpoena, order to appear, order to show cause, or~~
9 ~~similar order relating to paternity or support proceedings,~~
10 ~~the Title IV-D agency shall certify the delinquency pursuant~~
11 ~~to s. 61.14.~~

12 (3) The Title IV-D agency shall give notice to any
13 obligor who is an applicant for a new or renewal license ~~or~~
14 ~~certificate~~ or the holder of a current license ~~or certificate~~
15 when a delinquency exists in the support obligation or when an
16 obligor has failed to comply with a subpoena, order to appear,
17 order to show cause, or similar order relating to paternity or
18 support proceeding. The notice shall specify that the obligor
19 has 30 days from the date of mailing of the notice ~~on which~~
20 ~~service of the notice is complete~~ to pay the delinquency or to
21 reach an agreement to pay the delinquency with the Title IV-D
22 agency or comply with the subpoena, order to appear, order to
23 show cause, or similar order. The notice shall specify that,
24 if payment is not made or an agreement cannot be reached, or
25 if the subpoena, order to appear, order to show cause, or
26 similar order is not complied with, the application may be
27 denied or the license ~~or certification~~ may be suspended
28 pursuant to a court order.

29 (4) If the obligor fails to pay the delinquency or
30 enter into a repayment agreement with the department ~~reach an~~
31 ~~agreeable payment arrangement~~ or comply with the subpoena,

1 order to appear, order to show cause, or similar order within
2 30 days following completion of service of the notice, the
3 Title IV-D agency shall send a second notice to the obligor
4 stating that the obligor has 30 days to pay the delinquency or
5 reach an agreement to pay the delinquency with the Title IV-D
6 agency or comply with the subpoena, order to appear, order to
7 show cause, or similar order. If the obligor fails to respond
8 to either notice from the Title IV-D agency or if the obligor
9 fails to pay the delinquency or reach an agreement to pay the
10 delinquency or comply with the subpoena, order to appear,
11 order to show cause, or similar order after the second notice,
12 the Title IV-D agency may petition the court which entered the
13 support order or the court which is enforcing the support
14 order to deny the application for the license ~~or certificate~~
15 or to suspend the license ~~or certificate~~ of the obligor.
16 However, no petition may be filed until the Title IV-D agency
17 has exhausted all other available remedies. The court may
18 find that it would be inappropriate to deny a license or
19 suspend a license ~~or certificate~~ if:

20 (a) Denial or suspension would result in irreparable
21 harm to the obligor or employees of the obligor or would not
22 accomplish the objective of collecting the delinquency; or

23 (b) The obligor demonstrates that he or she has made a
24 good faith effort to reach an agreement with the Title IV-D
25 agency.

26

27 The court may not deny or suspend a license ~~or certificate~~ if
28 the court determines that an alternative remedy is available
29 to the Title IV-D agency which is likely to accomplish the
30 objective of collecting the delinquency or obtaining
31 compliance with the subpoena, order to appear, order to show

1 cause, or similar order. If the obligor fails in the defense
2 of a petition for denial or suspension, the court which
3 entered the support order or the court which is enforcing the
4 support order shall enter an order to deny the application for
5 the license ~~or certification~~ or to suspend the license ~~or~~
6 ~~certification~~ of the obligor. The court shall order the
7 obligor to surrender the license ~~or certification~~ to the Title
8 IV-D agency, which will return the license ~~or certification~~
9 and a copy of the order of suspension to the appropriate
10 ~~department or licensing agency~~ entity.

11 (5) If the court denies or suspends a license ~~or~~
12 ~~certification~~ and the obligor subsequently pays the
13 delinquency or reaches an agreement with the Title IV-D agency
14 to settle the delinquency and makes the first payment required
15 by the agreement, or complies with the subpoena, order to
16 appear, order to show cause, or similar order, the license ~~or~~
17 ~~certificate~~ shall be issued or reinstated upon written proof
18 to the court that the obligor has complied with the terms of
19 the court order, subpoena, order to appear, order to show
20 cause, or similar order. Proof of payment shall consist of a
21 certified copy of the payment record issued by the depository.
22 The court shall order the appropriate licensing agency
23 ~~department or license board~~ to issue or reinstate the license
24 ~~or certificate~~ without additional charge to the obligor.

25 (6) The licensing agency ~~department~~ shall, when
26 directed by the court, suspend or deny the license ~~or~~
27 ~~certificate~~ of any licensee ~~or certificateholder~~ under its
28 jurisdiction found to have a delinquent support obligation or
29 not to be in compliance with a subpoena, order to appear,
30 order to show cause, or similar order. The licensing agency
31 ~~department~~ shall issue or reinstate the license ~~or certificate~~

1 without additional charge to the licensee ~~or certificateholder~~
2 when notified by the court that the licensee ~~or~~
3 ~~certificateholder~~ has complied with the terms of the court
4 order, or subpoena, order to appear, order to show cause, or
5 similar order.

6 (7) Notice shall be served under this section by
7 regular mail ~~mailing it by certified mail, return receipt~~
8 ~~requested,~~ to the obligor at his or her last address of record
9 with the local depository or a more recent address if known.
10 ~~if the obligor has no address of record with the local~~
11 ~~depository, or if the last address of record with the local~~
12 ~~depository is incorrect, service shall be by publication as~~
13 ~~provided in chapter 49. When service of the notice is made by~~
14 ~~mail, service is complete upon the receipt of the notice by~~
15 ~~the obligor.~~

16 Section 19. Effective July 1, 2004, subsection (1) of
17 section 742.10, Florida Statutes, is amended to read:

18 742.10 Establishment of paternity for children born
19 out of wedlock.--

20 (1) This chapter provides the primary jurisdiction and
21 procedures for the determination of paternity for children
22 born out of wedlock. When the establishment of paternity has
23 been raised and determined within an adjudicatory hearing
24 brought under the statutes governing inheritance, or
25 dependency under workers' compensation or similar compensation
26 programs, or when an affidavit acknowledging paternity or a
27 stipulation of paternity is executed by both parties and filed
28 with the clerk of the court, or when an affidavit, a ~~or~~
29 notarized voluntary acknowledgment of paternity, or a
30 voluntary acknowledgement of paternity that is witnessed by
31 two individuals and signed under penalty of perjury as

1 provided for in s. 382.013 or s. 382.016 is executed by both
2 parties, it shall constitute the establishment of paternity
3 for purposes of this chapter. If no adjudicatory proceeding
4 was held, a notarized voluntary acknowledgment of paternity or
5 voluntary acknowledgement of paternity that is witnessed by
6 two individuals and signed under penalty of perjury as
7 specified by s. 92.525(2) shall create a rebuttable
8 presumption, as defined by s. 90.304, of paternity and is
9 subject to the right of any signatory to rescind the
10 acknowledgment within 60 days after ~~of~~ the date the
11 acknowledgment was signed or the date of an administrative or
12 judicial proceeding relating to the child, including a
13 proceeding to establish a support order, in which the
14 signatory is a party, whichever is earlier. Both parents must
15 ~~are required to~~ provide their social security numbers on any
16 acknowledgment of paternity, consent affidavit, or stipulation
17 of paternity. Except for affidavits under seal pursuant to ss.
18 382.015 and 382.016, the Office of Vital Statistics shall
19 provide certified copies of affidavits to the Title IV-D
20 agency upon request.

21 Section 20. (1) The Legislature finds that many of
22 the children who are not receiving the child support ordered
23 to support their basic needs are children of noncustodial
24 parents who are obligors in Title IV-D cases and who are or
25 have been incarcerated in the state correctional system.
26 Incarcerated noncustodial parents are child support obligors
27 whose locations are known and who, in turn, can be easily
28 identified to improve payments of the child support upon
29 release. The Legislature finds that efforts to address the
30 child support issues of incarcerated noncustodial parents who
31 are obligors in Title IV-D cases have the potential to better

1 enable these parents to leave their incarceration prepared and
2 capable of meeting their child support obligations. Such
3 efforts are also recognized as having the potential to develop
4 the familial connections and sense of parental obligation
5 which have been found to contribute to reducing recidivism.

6 (2) By November 1, 2004, the Department of Revenue,
7 with the assistance of the Department of Corrections, shall
8 identify all inmates in the custody of the Department of
9 Corrections who are noncustodial parents with ordered child
10 support obligations.

11 (3) The Department of Corrections and the Department
12 of Revenue shall jointly develop a data integration plan and
13 jointly develop a plan of recommendations to facilitate
14 improved payment of child support from noncustodial parents
15 who are obligors in Title IV-D cases and who are incarcerated
16 in Florida's prison system upon their release or upon their
17 placement on community work release. This joint plan shall be
18 based on an examination of the population of incarcerated
19 noncustodial parents who are obligors in the Title IV-D cases,
20 the child support issues facing incarcerated noncustodial
21 parents which create barriers to payment, and the strategies
22 that would enable and strengthen the willingness and
23 capability of noncustodial parents to leave their
24 incarceration prepared and capable of paying their child
25 support obligation. For the purpose of this section, Florida's
26 prison system is the system of prisons and correctional
27 institutions under the jurisdiction of the Department of
28 Corrections.

29 (4) At a minimum, the plan must link and develop
30 information systems and collaborations to determine:

31 (a) The total amount owed by the inmate;

1 (b) The monthly child support amount ordered to be
2 paid by the inmate;

3 (c) The legal status of the support order;

4 (d) The projected and actual release date for the
5 inmate;

6 (e) The potential, if any, for the inmate to pay a
7 portion of the child support obligation during the period of
8 incarceration, particularly if the inmate is placed on
9 community work release or other programs that allow the inmate
10 to receive wages;

11 (f) The methodology for the ongoing collection of data
12 on incarcerated noncustodial parents;

13 (g) Recommendations for actions that can be taken to
14 educate and prepare the noncustodial parents for their child
15 support obligation, including the identification of the
16 entities responsible for each action;

17 (h) Recommendations for actions that can be taken to
18 build collaboration and data-sharing between the Department of
19 Revenue and the Department of Corrections relative to this
20 initiative at both the local and state level;

21 (i) Recommendations for any legislative action that
22 would facilitate payment of child support by this population
23 during and after incarceration; and

24 (j) Issues found to need attention which are outside
25 the scope of authority of the Department of Revenue and
26 Department of Corrections.

27 (5) The Department of Revenue and the Department of
28 Corrections shall submit a report that presents the jointly
29 developed plan and information collected by December 31, 2004,
30 to the Governor, the President of the Senate, and the Speaker
31 of the House of Representatives. A follow-up report that

1 presents the actions taken to implement the plan, barriers
2 encountered, and any legislative actions identified to address
3 emerging issues shall be prepared by the Department of Revenue
4 and the Department of Corrections and submitted by December
5 31, 2005, to the Governor, the President of the Senate, and
6 the Speaker of the House of Representatives.

7 Section 21. Except as otherwise expressly provided in
8 this act, this act shall take effect upon becoming a law.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS Senate Bill 160
4

5 Clarifies that any child support and income deduction
6 order in excess of the obligation to pay current support
7 applies against arrearages, retroactive support,
8 delinquency and costs owed. Requires the Department to
9 provide notice of continued full income deduction by
10 regular mail to the payor and the depository, containing
11 certain amounts owed, and by certified mail, restricted
12 delivery, or return receipt requested for income
13 deduction orders prior to July 1, 2004.

14 Corrects a cross-reference regarding the authority of the
15 Department of Revenue to invest income into the Child
16 Support Enforcement Application and Program Revenue Trust
17 Fund.

18 Requires that the Department also send notice to the
19 noncustodial parent by restricted delivery.

20 Extends OPPAGA's deadline for submission of an evaluation
21 report on the statewide implementation of the
22 administrative processes for establishing child support
23 to June 30, 2006.

24 Removes authority for pari-mutuel garnishment of
25 winnings.

26 Amends section relating to garnishment of liability claim
27 to those cases where bodily injury exceeds \$3,000 and
28 makes requirement to participate voluntary on the part of
29 an insurance entity. Requires the Department to develop
30 and operate a data match system pursuant to consultation
31 with insurers, which will provide the Department with
name, contact, and identification information for
noncustodial parents with claims with the insurer.
Requires the Department to establish by rule, and pay, a
standard fee, not to exceed actual costs for the insurer,
for conducting a data match. Grants liability immunity to
insurers who provide data. Restricts use of data by
insurers.