

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to child support; amending s. 61.046,
7 F.S.; revising a definition; amending s. 61.13, F.S.;
8 eliminating the requirement that a minor child's social
9 security number be included in a support order; amending
10 s. 61.1301, F.S.; revising the statement of obligor's
11 rights and notice requirement to include a requirement of
12 continued support under certain circumstances; requiring
13 an obligor to petition for an administrative hearing under
14 certain circumstances; providing for the continuation of a
15 support obligation after emancipation of the minor under
16 certain circumstances; providing for application to
17 support orders or income deduction orders entered before,
18 on, or after July 1, 2004; amending s. 61.14, F.S.;
19 providing for continuation of a support obligation at the
20 same amount after emancipation until any arrearage is
21 satisfied; providing for application to support orders
22 entered before, on, or after July 1, 2004; amending s.
23 61.181, F.S.; requiring the state depository to establish

24 | an account for receipt and disbursement of certain
25 | payments upon request of the Department of Revenue;
26 | requiring the department to provide certain documentation
27 | with such request; amending s. 61.1814, F.S.; providing
28 | for types of moneys to be deposited into the Child Support
29 | Enforcement Application and Program Revenue Trust Fund;
30 | providing for use of such moneys; amending s. 120.80,
31 | F.S.; providing proper venue for certain administrative
32 | hearings; providing exceptions; amending ss. 382.013,
33 | 382.016, and 742.10, F.S.; authorizing use of an alternate
34 | voluntary acknowledgment of paternity; amending s.
35 | 409.2558, F.S.; requiring notice to the noncustodial
36 | parent before applying an undistributable support
37 | collection to another support order; amending s. 409.2561,
38 | F.S.; authorizing the department to establish the
39 | liability of an obligor; amending s. 409.2563, F.S.;
40 | revising the manner in which a noncustodial parent may
41 | request the department to bring proceedings in circuit
42 | court; providing requirements for such request; providing
43 | that the department shall only be a party to such an
44 | action to the extent there are Title IV-D issues;
45 | requiring the department to file a copy of the initial
46 | notice with the depository; requiring the depository to
47 | provide an account number; amending s. 409.25656, F.S.;
48 | revising provisions for coverage of the applicable
49 | commissions and fees for liquidation of an obligor's
50 | assets; amending s. 409.257, F.S.; authorizing alternative
51 | means for service of process; amending s. 409.2572, F.S.;

HB 1759

2004
CS

52 providing for cooperation in good faith; revising a
 53 definition; amending s. 409.259, F.S.; revising the manner
 54 of reimbursement to the clerk of court for court filing
 55 fees in certain cases; amending s. 409.2598, F.S.;
 56 providing definitions; revising provisions to conform with
 57 new definitions; removing authorization for Title IV-D
 58 agencies to screen applicants under certain circumstances;
 59 revising the computation of time for certain notices;
 60 providing for repayment agreements; providing for notice
 61 by regular mail; deleting the requirement for notice by
 62 certified mail; creating s. 409.25659, F.S.; providing
 63 definitions; requiring the department to develop a data
 64 match system; providing requirements for such system;
 65 authorizing an insurer to participate in such system;
 66 providing methods; requiring the department to establish a
 67 fee; providing immunity for certain insurers; authorizing
 68 the department to adopt rules; providing effective dates.

69

70 Be It Enacted by the Legislature of the State of Florida:

71

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

74 61.046 Definitions.--As used in this chapter:

75 (19) "Support order" means a judgment, decree, or order,
 76 whether temporary or final, issued by a court of competent
 77 jurisdiction or administrative agency for the support and
 78 maintenance of a child which provides for monetary support,
 79 health care, arrearages, or past support. When the child support

HB 1759

2004
CS

80 obligation is being enforced by the Department of Revenue, the
 81 term "support order" also means a judgment, decree, or order,
 82 whether temporary or final, issued by a court of competent
 83 jurisdiction for the support and maintenance of a child and the
 84 spouse or former spouse of the obligor with whom the child is
 85 living which provides for monetary support, health care,
 86 arrearages, or past support.

87 Section 2. Paragraph (d) of subsection (1) of section
 88 61.13, Florida Statutes, is amended to read:

89 61.13 Custody and support of children; visitation rights;
 90 power of court in making orders.--

91 (1)

92 (d)1. Unless the provisions of subparagraph 3. apply, all
 93 child support orders entered on or after January 1, 1985, shall
 94 direct that the payments of child support be made as provided in
 95 s. 61.181 through the depository in the county where the court
 96 is located. All child support orders shall provide the full name
 97 and, date of birth, ~~and social security number~~ of each minor
 98 child who is the subject of the child support order.

99 2. Unless the provisions of subparagraph 3. apply, all
 100 child support orders entered before January 1, 1985, shall be
 101 modified by the court to direct that payments of child support
 102 shall be made through the depository in the county where the
 103 court is located upon the subsequent appearance of either or
 104 both parents to modify or enforce the order, or in any related
 105 proceeding.

106 3. If both parties request and the court finds that it is
 107 in the best interest of the child, support payments need not be

HB 1759

2004
CS

108 | directed through the depository. The order of support shall
 109 | provide, or shall be deemed to provide, that either party may
 110 | subsequently apply to the depository to require direction of the
 111 | payments through the depository. The court shall provide a copy
 112 | of the order to the depository.

113 | 4. If the parties elect not to require that support
 114 | payments be made through the depository, any party may
 115 | subsequently file an affidavit with the depository alleging a
 116 | default in payment of child support and stating that the party
 117 | wishes to require that payments be made through the depository.
 118 | The party shall provide copies of the affidavit to the court and
 119 | to each other party. Fifteen days after receipt of the
 120 | affidavit, the depository shall notify both parties that future
 121 | payments shall be paid through the depository.

122 | 5. In IV-D cases, the IV-D agency shall have the same
 123 | rights as the obligee in requesting that payments be made
 124 | through the depository.

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

129 | 61.1301 Income deduction orders.--

130 | (1) ISSUANCE IN CONJUNCTION WITH AN ORDER ESTABLISHING,
 131 | ENFORCING, OR MODIFYING AN OBLIGATION FOR ALIMONY OR CHILD
 132 | SUPPORT.--

133 | (b) The income deduction order shall:

134 | 1. Direct a payor to deduct from all income due and
 135 | payable to an obligor the amount required by the court to meet

HB 1759

2004
CS

136 the obligor's support obligation including any attorney's fees
137 or costs owed and forward the deducted amount pursuant to the
138 order.

139 2. State the amount of arrearage owed, if any, and direct
140 a payor to withhold an additional 20 percent or more of the
141 periodic amount specified in the order establishing, enforcing,
142 or modifying the obligation, until full payment is made of any
143 arrearage, attorney's fees and costs owed, provided no deduction
144 shall be applied to attorney's fees and costs until the full
145 amount of any arrearage is paid;

146 3. Direct a payor not to deduct in excess of the amounts
147 allowed under s. 303(b) of the Consumer Credit Protection Act,
148 15 U.S.C. s. 1673(b), as amended;

149 4. Direct whether a payor shall deduct all, a specified
150 portion, or no income which is paid in the form of a bonus or
151 other similar one-time payment, up to the amount of arrearage
152 reported in the income deduction notice or the remaining balance
153 thereof, and forward the payment to the governmental depository.
154 For purposes of this subparagraph, "bonus" means a payment in
155 addition to an obligor's usual compensation and which is in
156 addition to any amounts contracted for or otherwise legally due
157 and shall not include any commission payments due an obligor;

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

160 6. In Title IV-D cases, if an obligation to pay current
161 support is reduced or terminated due to emancipation of a child
162 and the obligor owes an arrearage, retroactive support,
163 delinquency, or costs, direct the payor to continue the income

HB 1759

2004
CS

164 deduction at the rate in effect immediately prior to
 165 emancipation until all arrearages, retroactive support,
 166 delinquencies, and costs are paid in full or until the amount of
 167 withholding is modified; and

168 ~~7.6-~~ Direct that, at such time as the State Disbursement
 169 Unit becomes operational, all payments in those cases in which
 170 the obligee is receiving Title IV-D services and in those cases
 171 in which the obligee is not receiving Title IV-D services in
 172 which the initial support order was issued in this state on or
 173 after January 1, 1994, and in which the obligor's child support
 174 obligation is being paid through income deduction, be made
 175 payable to and delivered to the State Disbursement Unit.
 176 Notwithstanding any other statutory provision to the contrary,
 177 funds received by the State Disbursement Unit shall be held,
 178 administered, and disbursed by the State Disbursement Unit
 179 pursuant to the provisions of this chapter.

180 (e) Statement of obligor's rights. When the court orders
 181 the income deduction to be effective immediately, the court
 182 shall furnish to the obligor a statement of his or her rights,
 183 remedies, and duties in regard to the income deduction order.
 184 The statement shall state:

- 185 1. All fees or interest which shall be imposed.
- 186 2. The total amount of income to be deducted for each pay
 187 period until the arrearage, if any, is paid in full and shall
 188 state the total amount of income to be deducted for each pay
 189 period thereafter. The amounts deducted may not be in excess of
 190 that allowed under s. 303(b) of the Consumer Credit Protection
 191 Act, 15 U.S.C. s. 1673(b), as amended.

HB 1759

2004
CS

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

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

197 5. That enforcement of the income deduction order may only
198 be contested on the ground of mistake of fact regarding the
199 amount owed pursuant to the order establishing, enforcing, or
200 modifying the obligation, the arrearages, or the identity of the
201 obligor, the payor, or the obligee.

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

206 7. That, in Title IV-D cases, if an obligation to pay
207 current support is reduced or terminated due to the emancipation
208 of a child and the obligor owes an arrearage, retroactive
209 support, delinquency, or costs, income deduction continues at
210 the rate in effect immediately prior to emancipation until all
211 arrearages, retroactive support, delinquencies, and costs are
212 paid in full or until the amount of withholding is modified.

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

214 (e) Notice to payor and income deduction notice. The
215 notice to payor or, in Title IV-D cases, income deduction notice
216 shall contain only information necessary for the payor to comply
217 with the order providing for income deduction. The notice shall:

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

HB 1759

2004
CS

219 2. Require the payor to deduct from the obligor's income
220 the amount specified in the income deduction order, and in the
221 case of a delinquency the amount specified in the notice of
222 delinquency, and to pay that amount to the obligee or to the
223 depository, as appropriate. The amount actually deducted plus
224 all administrative charges shall not be in excess of the amount
225 allowed under s. 303(b) of the Consumer Credit Protection Act,
226 15 U.S.C. s. 1673(b);

227 3. Instruct the payor to implement income deduction no
228 later than the first payment date which occurs more than 14 days
229 after the date the income deduction notice was served on the
230 payor, and the payor shall conform the amount specified in the
231 income deduction order or, in Title IV-D cases, income deduction
232 notice to the obligor's pay cycle. The court should request at
233 the time of the order that the payment cycle reflect that of the
234 payor;

235 4. Instruct the payor to forward, within 2 days after each
236 date the obligor is entitled to payment from the payor, to the
237 obligee or to the depository the amount deducted from the
238 obligor's income, a statement as to whether the amount totally
239 or partially satisfies the periodic amount specified in the
240 income deduction order or, in Title IV-D cases, income deduction
241 notice, and the specific date each deduction is made. If the IV-
242 D agency is enforcing the order, the payor shall make these
243 notifications to the agency instead of the obligee;

244 5. Specify that if a payor fails to deduct the proper
245 amount from the obligor's income, the payor is liable for the

246 amount the payor should have deducted, plus costs, interest, and
 247 reasonable attorney's fees;

248 6. Provide that the payor may collect up to \$5 against the
 249 obligor's income to reimburse the payor for administrative costs
 250 for the first income deduction and up to \$2 for each deduction
 251 thereafter;

252 7. State that the notice to payor or, in Title IV-D cases,
 253 income deduction notice, and in the case of a delinquency the
 254 notice of delinquency, are binding on the payor until further
 255 notice by the obligee, IV-D agency, or the court or until the
 256 payor no longer provides income to the obligor;

257 8. Instruct the payor that, when he or she no longer
 258 provides income to the obligor, he or she shall notify the
 259 obligee and shall also provide the obligor's last known address
 260 and the name and address of the obligor's new payor, if known;
 261 and that, if the payor violates this provision, the payor is
 262 subject to a civil penalty not to exceed \$250 for the first
 263 violation or \$500 for any subsequent violation. If the IV-D
 264 agency is enforcing the order, the payor shall make these
 265 notifications to the agency instead of to the obligee. Penalties
 266 shall be paid to the obligee or the IV-D agency, whichever is
 267 enforcing the income deduction order;

268 9. State that the payor shall not discharge, refuse to
 269 employ, or take disciplinary action against an obligor because
 270 of the requirement for income deduction and shall state that a
 271 violation of this provision subjects the payor to a civil
 272 penalty not to exceed \$250 for the first violation or \$500 for
 273 any subsequent violation. Penalties shall be paid to the obligee

HB 1759

2004
CS

274 or the IV-D agency, whichever is enforcing the income deduction,
 275 if any alimony or child support obligation is owing. If no
 276 alimony or child support obligation is owing, the penalty shall
 277 be paid to the obligor;

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

284 11. Inform the payor that the requirement for income
 285 deduction has priority over all other legal processes under
 286 state law pertaining to the same income and that payment, as
 287 required by the notice to payor or income deduction notice, is a
 288 complete defense by the payor against any claims of the obligor
 289 or his or her creditors as to the sum paid;

290 12. Inform the payor that, when the payor receives notices
 291 to payor or income deduction notices requiring that the income
 292 of two or more obligors be deducted and sent to the same
 293 depository, the payor may combine the amounts that are to be
 294 paid to the depository in a single payment as long as the
 295 payments attributable to each obligor are clearly identified;
 296 ~~and~~

297 13. Inform the payor that if the payor receives more than
 298 one notice to payor or income deduction notice against the same
 299 obligor, the payor shall contact the court or, in Title IV-D
 300 cases, the Title IV-D agency for further instructions. Upon
 301 being so contacted, the court or, in Title IV-D cases when all

302 the cases upon which the notices are based are Title IV-D cases,
 303 the Title IV-D agency shall allocate amounts available for
 304 income deduction as provided in subsection (4); ~~and-~~

305 14. State that, in Title IV-D cases, if an obligation to
 306 pay current support is reduced or terminated due to the
 307 emancipation of a child and the obligor owes an arrearage,
 308 retroactive support, delinquency, or costs, income deduction
 309 continues at the rate in effect immediately prior to
 310 emancipation until all arrearages, retroactive support,
 311 delinquencies, and costs are paid in full or until the amount of
 312 withholding is modified.

313 (f) At any time an income deduction order is being
 314 enforced, the obligor may apply to the court for a hearing to
 315 contest the continued enforcement of the income deduction on the
 316 same grounds set out in paragraph (c), with a copy to the
 317 obligee and, in Title IV-D cases, to the Title IV-D agency. If
 318 the income deduction order being enforced was rendered by the
 319 Title IV-D agency pursuant to s. 409.2563 and the obligor
 320 contests withholding, the obligor shall file a petition for an
 321 administrative hearing with the Title IV-D agency. The
 322 application or petition does not affect the continued
 323 enforcement of the income deduction until the court, or Title
 324 IV-D agency, if applicable, enters an order granting relief to
 325 the obligor. The obligee or the Title IV-D agency is released
 326 from liability for improper receipt of moneys pursuant to an
 327 income deduction order upon return to the appropriate party of
 328 any moneys received.

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

333 (b) In Title IV-D cases, if an obligation to pay current
334 support is reduced or terminated due to the emancipation of a
335 child and the obligor owes an arrearage, retroactive support,
336 delinquency, or costs, income deduction continues at the rate in
337 effect immediately prior to emancipation until all arrearages,
338 retroactive support, delinquencies, and costs are paid in full
339 or until the amount of withholding is modified. Any income-
340 deducted amount that is in excess of the obligation to pay
341 current support shall be credited against the arrearages,
342 retroactive support, delinquency, and costs owed by the obligor.
343 The department shall send notice of this requirement by regular
344 mail to the payor and the depository operated pursuant to s.
345 61.181, and the notice shall state the amount of the obligation
346 to pay current support, if any, and the amount owed for
347 arrearages, retroactive support, delinquency, and costs. For
348 income deduction orders entered before July 1, 2004, that do not
349 include this requirement, the department shall send by certified
350 mail, restricted delivery, return receipt requested, to the
351 obligor at the most recent address provided by the obligor to
352 the tribunal that issued the order or a more recent address if
353 known, notice of this requirement, that the obligor may contest
354 the withholding as provided in paragraph (2)(f), and that the
355 obligor may request the tribunal that issued the income
356 deduction order to modify the amount of withholding. This

HB 1759

2004
CS

357 paragraph provides an additional remedy for collection of unpaid
 358 support and applies to cases in which a support order or income
 359 deduction order was entered before, on, or after July 1, 2004.

360 Section 4. Subsection (9) is added to section 61.14,
 361 Florida Statutes, to read:

362 61.14 Enforcement and modification of support, maintenance,
 363 or alimony agreements or orders.--

364 (9)(a) In a Title IV-D case, if an obligation to pay
 365 current support is terminated due to the emancipation of the
 366 child and the obligor owes an arrearage, retroactive support,
 367 delinquency, or costs, the obligor shall continue to pay at the
 368 same rate in effect immediately prior to emancipation until all
 369 arrearages, retroactive support, delinquencies, and costs are
 370 paid in full or until the amount of the order is modified. Any
 371 income-deducted amount or amount paid by the obligor that is in
 372 excess of the obligation to pay current support shall be
 373 credited against the arrearages, retroactive support,
 374 delinquency, and costs owed by the obligor.

375 (b) In a Title IV-D case, if an obligation to pay current
 376 child support for multiple children is reduced due to the
 377 emancipation of one child and the obligor owes an arrearage,
 378 retroactive support, delinquency, or costs, the obligor shall
 379 continue to pay at the same rate in effect immediately prior to
 380 emancipation until all arrearages, retroactive support,
 381 delinquencies, and costs are paid in full or until the amount of
 382 the order is modified. Any income-deducted amount or amount paid
 383 by the obligor that is in excess of the obligation to pay
 384 current support shall be credited against the arrearages,

385 retroactive support, delinquency, and costs owed by the obligor.
 386 If an obligation to pay current support for more than one child
 387 is not reduced when a child emancipates because the order does
 388 not allocate support per child, this paragraph does not apply.

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

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

394 61.181 Depository for alimony transactions, support,
 395 maintenance, and support payments; fees.--

396 (1)(a) The office of the clerk of the court shall operate
 397 a depository unless the depository is otherwise created by
 398 special act of the Legislature or unless, prior to June 1, 1985,
 399 a different entity was established to perform such functions.
 400 The department shall, no later than July 1, 1998, extend
 401 participation in the federal child support cost reimbursement
 402 program to the central depository in each county, to the maximum
 403 extent possible under existing federal law. The depository shall
 404 receive reimbursement for services provided under a cooperative
 405 agreement with the department pursuant to s. 61.1826. Each
 406 depository shall participate in the State Disbursement Unit and
 407 shall implement all statutory and contractual duties imposed on
 408 the State Disbursement Unit. Each depository shall receive from
 409 and transmit to the State Disbursement Unit required data
 410 through the Clerk of Court Child Support Enforcement Collection
 411 System. Payments on non-Title IV-D cases without income

HB 1759

2004
CS

412 deduction orders shall not be sent to the State Disbursement
413 Unit.

414 (b) Upon request of the department, the depository created
415 pursuant to paragraph (a) shall establish an account for the
416 receipt and disbursement of support payments for Title IV-D
417 interstate cases. The department shall provide a copy of the
418 other state's order with the request, and the depository shall
419 advise the department of the account number in writing within 4
420 business days after receipt of such request.

421 Section 6. Section 61.1814, Florida Statutes, is amended
422 to read:

423 61.1814 Child Support Enforcement Application and Program
424 Revenue Trust Fund.--

425 (1) The Child Support Enforcement Application and Program
426 Revenue Trust Fund is hereby created, to be administered by the
427 Department of Revenue. The purpose of the trust fund is to
428 account for Title IV-D program income and to support the
429 activities of the child support enforcement program under Title
430 IV-D of the Social Security Act. The department shall invest the
431 moneys in the trust fund pursuant to s. 17.61 and retain all
432 interest earnings in the trust fund. Notwithstanding the
433 provisions of s. 216.301 and pursuant to s. 216.351, any balance
434 in the trust fund at the end of any fiscal year shall remain in
435 the trust fund and shall be available for carrying out the
436 purposes of the trust fund. In accordance with federal
437 requirements, the federal share of program income shall be
438 credited to the Federal Government.

HB 1759

2004
CS

439 (2) With the exception of fees required to be deposited in
 440 the Clerk of the Court Child Support Enforcement Collection
 441 System Trust Fund under s. 61.181(2)(b) and collections
 442 determined to be undistributable or unidentifiable under s.
 443 409.2558, the fund shall be used for the deposit of Title IV-D
 444 program income received by the department. Each type of program
 445 income received shall be accounted for separately. Program
 446 income received by the department includes, but is not limited
 447 to:

448 (a) Application fees of nonpublic assistance applicants
 449 for child support enforcement services.

450 (b) Court-ordered costs recovered from child support
 451 obligors.

452 (c) Interest on child support collections.

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

456 (e) Fines imposed under ss. 409.2564(8) and 409.2578.
 457 ~~Moneys deposited from fines imposed under ss. 409.2564(8) and~~
 458 ~~409.2578 shall be maintained separately from moneys deposited~~
 459 ~~from application fees.~~

460 Section 7. Paragraph (c) of subsection (14) of section
 461 120.80, Florida Statutes, is amended to read:

462 120.80 Exceptions and special requirements; agencies.--

463 (14) DEPARTMENT OF REVENUE.--

464 (c) Proceedings for administrative support orders.--In
 465 proceedings for the establishment of administrative support
 466 orders pursuant to s. 409.2563, final orders in cases referred

HB 1759

2004
CS

467 by the Department of Revenue to the Division of Administrative
468 Hearings shall be entered by the division's administrative law
469 judge and transmitted to the Department of Revenue for filing
470 and rendering. The Department of Revenue has the right to seek
471 judicial review under s. 120.68 of a final order entered by an
472 administrative law judge. Administrative support orders rendered
473 pursuant to s. 409.2563 may be enforced pursuant to s. 120.69
474 or, alternatively, by any method prescribed by law for the
475 enforcement of judicial support orders, except contempt.
476 Hearings held by the Division of Administrative Hearings
477 pursuant to s. 409.2563 shall be held in the judicial circuit in
478 which the person receiving services under Title IV-D resides or,
479 if the person receiving services under Title IV-D does not
480 reside in this state, in the judicial circuit in which the
481 respondent resides. If the department and the respondent agree,
482 the hearing may be held in another location. If ordered by the
483 administrative law judge, the hearing may be conducted by
484 telephone or videoconference.

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

488 382.013 Birth registration.--A certificate for each live
489 birth that occurs in this state shall be filed within 5 days
490 after such birth with the local registrar of the district in
491 which the birth occurred and shall be registered by the local
492 registrar if the certificate has been completed and filed in
493 accordance with this chapter and adopted rules. The information
494 regarding registered births shall be used for comparison with

HB 1759

2004
CS

495 information in the state case registry, as defined in chapter
496 61.

497 (2) PATERNITY.--

498 (c) If the mother is not married at the time of the birth,
499 the name of the father may not be entered on the birth
500 certificate without the execution of an affidavit signed by both
501 the mother and the person to be named as the father. The
502 facility shall give notice orally or through the use of video or
503 audio equipment, and in writing, of the alternatives to, the
504 legal consequences of, and the rights, including, if one parent
505 is a minor, any rights afforded due to minority status, and
506 responsibilities that arise from signing an acknowledgment of
507 paternity, as well as information provided by the Title IV-D
508 agency established pursuant to s. 409.2557, regarding the
509 benefits of voluntary establishment of paternity. Upon request
510 of the mother and the person to be named as the father, the
511 facility shall assist in the execution of the affidavit or a
512 notarized voluntary acknowledgment of paternity, or a voluntary
513 acknowledgment of paternity that is witnessed by two individuals
514 and signed under penalty of perjury as specified in s.
515 92.525(2).

516 Section 9. Effective July 1, 2004, paragraph (b) of
517 subsection (1) of section 382.016, Florida Statutes, is amended
518 to read:

519 382.016 Amendment of records.--The department, upon
520 receipt of the fee prescribed in s. 382.0255; documentary
521 evidence, as specified by rule, of any misstatement, error, or
522 omission occurring in any birth, death, or fetal death record;

HB 1759

2004
CS

523 and an affidavit setting forth the changes to be made, shall
524 amend or replace the original certificate as necessary.

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

526 (b) Upon written request and receipt of an affidavit or
527 notarized voluntary acknowledgment of paternity signed by the
528 mother and father acknowledging the paternity of a registrant
529 born out of wedlock, or a voluntary acknowledgment of paternity
530 that is witnessed by two individuals and signed under penalty of
531 perjury as specified in s. 92.525(2), together with sufficient
532 information to identify the original certificate of live birth,
533 the department shall prepare a new birth certificate, which
534 shall bear the same file number as the original birth
535 certificate. The names and identifying information of the
536 parents shall be entered as of the date of the registrant's
537 birth. The surname of the registrant may be changed from that
538 shown on the original birth certificate at the request of the
539 mother and father of the registrant, or the registrant if of
540 legal age. If the mother and father marry each other at any time
541 after the registrant's birth, the department shall, upon the
542 request of the mother and father or registrant if of legal age
543 and proof of the marriage, amend the certificate with regard to
544 the parents' marital status as though the parents were married
545 at the time of birth. The department shall substitute the new
546 certificate of birth for the original certificate on file. All
547 copies of the original certificate of live birth in the custody
548 of a local registrar or other state custodian of vital records
549 shall be forwarded to the State Registrar. Thereafter, when a
550 certified copy of the certificate of birth or portion thereof is

HB 1759

2004
CS

551 | issued, it shall be a copy of the new certificate of birth or
 552 | portion thereof, except when a court order requires issuance of
 553 | a certified copy of the original certificate of birth. The
 554 | department shall place the original certificate of birth and all
 555 | papers pertaining thereto under seal, not to be broken except by
 556 | order of a court of competent jurisdiction or as otherwise
 557 | provided by law.

558 | Section 10. Paragraph (b) of subsection (2) of section
 559 | 409.2558, Florida Statutes, is amended to read:

560 | 409.2558 Support distribution and disbursement.--

561 | (2) UNDISTRIBUTABLE COLLECTIONS.--

562 | (b) Collections that are determined to be undistributable
 563 | shall be processed in the following order of priority:

564 | 1. Apply the payment to any assigned arrears on the
 565 | custodial parent's case; then

566 | 2. Apply the payment to any administrative costs ordered
 567 | by the court pursuant to s. 409.2567 associated with the
 568 | custodial parent's case; then

569 | 3. When the noncustodial parent is subject to a valid
 570 | order to support another child ~~other children~~ in a ~~another~~ case
 571 | with a different custodial parent and the obligation is being
 572 | enforced by the department, the department shall send by
 573 | certified mail, restricted delivery, return receipt requested,
 574 | to the noncustodial parent at the most recent address provided
 575 | by the noncustodial parent to the tribunal that issued the
 576 | order, a notice stating the department's intention to apply the
 577 | payment pursuant to this subparagraph and advising the
 578 | noncustodial parent of the right to contest the department's

HB 1759

2004
CS

579 proposed action in the circuit court by filing and serving a
 580 petition on the department within 30 days after the mailing of
 581 the notice. If the noncustodial parent does not file and serve a
 582 petition within 30 days after mailing of the notice, or upon
 583 disposition of the judicial action favorable to the department,
 584 the department shall,~~with the noncustodial parent's permission,~~
 585 apply the payment towards his or her other support obligation.
 586 If there is more than one such other case, the department shall
 587 allocate the remaining undistributable amount as specified in s.
 588 61.1301(4)(c); then

589 4. Return the payment to the noncustodial parent; then

590 5. If the noncustodial parent cannot be located after
 591 diligent efforts by the department, the federal share of the
 592 payment shall be credited to the Federal Government and the
 593 state share shall be transferred to the General Revenue Fund.

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

596 409.2561 Support obligations when public assistance is
 597 paid; assignment of rights; subrogation; medical and health
 598 insurance information.--

599 (1) Any payment of temporary cash or Title IV-E assistance
 600 made to, or for the benefit of, any dependent child creates an
 601 obligation in an amount determined pursuant to the child support
 602 guidelines. In accordance with 42 U.S.C. s. 657, the state shall
 603 retain amounts collected only to the extent necessary to
 604 reimburse amounts paid to the family as assistance by the state.
 605 Such amounts collected shall be deposited into the General
 606 Revenue Fund up to the level specified in s. 61.1812. If there

HB 1759

2004
CS

607 | has been a prior support ~~court~~ order or final judgment of
 608 | dissolution of marriage establishing an obligation of support,
 609 | the obligation is limited to the amount provided by such support
 610 | ~~court~~ order or decree. The extraordinary remedy of contempt is
 611 | applicable in child support enforcement cases because of the
 612 | public necessity for ensuring that dependent children be
 613 | maintained from the resources of their parents, thereby
 614 | relieving, at least in part, the burden presently borne by the
 615 | general citizenry through the public assistance program. If
 616 | there is no prior support ~~court~~ order ~~establishing an obligation~~
 617 | ~~of support~~, the court, or the department as provided by s.
 618 | 409.2563, shall establish the liability of the obligor, if any,
 619 | by applying the child support guidelines. The department may
 620 | apply for modification of a court order on the same grounds as
 621 | either party to the cause and shall have the right to settle and
 622 | compromise actions brought pursuant to law.

623 | Section 12. Paragraph (m) of subsection (4) and subsection
 624 | (8) of section 409.2563, Florida Statutes, are amended to read:

625 | 409.2563 Administrative establishment of child support
 626 | obligations.--

627 | (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
 628 | SUPPORT ORDER.--To commence a proceeding under this section, the
 629 | department shall provide to the custodial parent and serve the
 630 | noncustodial parent with a notice of proceeding to establish
 631 | administrative support order and a blank financial affidavit
 632 | form. The notice must state:

633 | (m) That, neither the department nor the Division of
 634 | Administrative Hearings has jurisdiction to award or change

HB 1759

2004
CS

635 child custody or rights of parental contact and these issues may
636 only be addressed in circuit court.

637 1. The noncustodial parent may request in writing that the
638 department proceed in circuit court to determine his or her
639 support obligations.

640 2. The noncustodial parent may state in writing to the
641 department his or her intention to address issues concerning
642 custody, or rights to parental contact, in circuit court.

643 3. If the noncustodial parent submits to the department
644 the request mentioned in subparagraph 1. or the statement
645 mentioned in subparagraph 2. within 20 days after the receipt of
646 the initial notice, the department shall file a petition in
647 circuit court for the determination of the noncustodial parent's
648 child support obligations and shall send to the noncustodial
649 parent a copy of its petition, a notice of commencement of
650 action, and a request for waiver of service of process as
651 provided in the Florida Rules of Civil Procedure.

652 4. If, within 10 days after receipt of the department's
653 petition and waiver of service, the noncustodial parent signs
654 and returns the waiver of service form to the department, the
655 department shall terminate the administrative proceeding without
656 prejudice and proceed in circuit court.

657 5. In any circuit court action filed by the department
658 pursuant to this subsection or filed by a noncustodial parent or
659 other person pursuant to paragraph (l) or paragraph (n), the
660 department shall be a party only with respect to those issues of
661 support allowed and reimbursable under Title IV-D of the Social
662 Security Act. It is the responsibility of the noncustodial

663 parent or other person to take the necessary steps to present
 664 other issues for the court to consider ~~That if the noncustodial~~
 665 ~~parent has issues regarding child custody or right of parental~~
 666 ~~contact or requests to proceed in circuit court, the~~
 667 ~~noncustodial parent may request in writing that the department~~
 668 ~~proceed in circuit court to determine support. That the~~
 669 ~~noncustodial parent must make such request in writing within 20~~
 670 ~~days after receipt of the initial notice. That upon such~~
 671 ~~request, the department shall send the noncustodial parent by~~
 672 ~~regular mail a copy of the department's petition and waiver of~~
 673 ~~service form. That the noncustodial parent must sign and return~~
 674 ~~the waiver of service form, within 10 days of receipt of the~~
 675 ~~petition, at which time the department shall terminate the~~
 676 ~~administrative proceeding and file an action in circuit court to~~
 677 ~~determine support;~~

678
 679 The department may serve the notice of proceeding to establish
 680 administrative support order by certified mail, restricted
 681 delivery, return receipt requested. Alternatively, the
 682 department may serve the notice by any means permitted for
 683 service of process in a civil action. For purposes of this
 684 section, an authorized employee of the department may serve the
 685 notice and execute an affidavit of service. Service by certified
 686 mail is completed when the certified mail is received or refused
 687 by the addressee or by an authorized agent as designated by the
 688 addressee in writing. If a person other than the addressee signs
 689 the return receipt, the department shall attempt to reach the
 690 addressee by telephone to confirm whether the notice was

HB 1759

2004
CS

691 received, and the department shall document any telephonic
 692 communications. If someone other than the addressee signs the
 693 return receipt, the addressee does not respond to the notice,
 694 and the department is unable to confirm that the addressee has
 695 received the notice, service is not completed and the department
 696 shall attempt to have the addressee served personally. The
 697 department shall provide the custodial parent or caretaker
 698 relative with a copy of the notice by regular mail to the last
 699 known address of the custodial parent or caretaker.

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

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

708 (b) Establish and maintain the necessary payment accounts;

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

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

713
 714 When a proceeding to establish an administrative support order
 715 is commenced under subsection (4), the department shall file a
 716 copy of the initial notice with the depository. The depository
 717 shall assign an account number and provide the account number to

HB 1759

2004
CS

718 the department within 4 business days after the initial notice
719 is filed.

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

722 409.25656 Garnishment.--

723 (3) During the last 30 days of the 60-day period set forth
724 in subsection (1), the executive director or his or her designee
725 may levy upon such credits, personal property, or debts. The
726 levy must be accomplished by delivery of a notice of levy by
727 registered mail, upon receipt of which the person possessing the
728 credits, other personal property, or debts shall transfer them
729 to the department or pay to the department the amount owed by
730 the obligor. If the department levies upon securities and the
731 value of the securities is less than the total amount of past
732 due or overdue support, the person who possesses or controls the
733 securities shall liquidate the securities in a commercially
734 reasonable manner. After liquidation, the person shall transfer
735 to the department the proceeds, less any applicable commissions
736 or fees, or both, which are charged in the normal course of
737 business. If the value of the securities exceeds the total
738 amount of past due or overdue support, the obligor may, within 7
739 days after receipt of the department's notice of levy, instruct
740 the person who possesses or controls the securities which
741 securities are to be sold to satisfy the obligation for past due
742 or overdue support. If the obligor does not provide instructions
743 for liquidation, the person who possesses or controls the
744 securities shall liquidate the securities in a commercially
745 reasonable manner ~~and~~ in an amount sufficient to cover the

HB 1759

2004
CS

746 obligation for past due or overdue support and,~~less~~ any
 747 applicable commissions or fees, or both, which are charged in
 748 the normal course of business, beginning with the securities
 749 purchased most recently. After liquidation, the person who
 750 possesses or controls the securities shall transfer to the
 751 department the total amount of past due or overdue support.

752 Section 14. Section 409.257, Florida Statutes, is amended
 753 to read:

754 409.257 Service of process.--The service of initial
 755 process and orders in lawsuits filed by the department, under
 756 this act, shall be served by the sheriff in the county where the
 757 person to be served may be found or, if determined more
 758 effective by the department, by any means permitted under
 759 chapter 48 for service of process in a civil action. The sheriff
 760 shall be reimbursed at the prevailing rate of federal financial
 761 participation for service of process and orders as allowed by
 762 law. The sheriff shall bill the department monthly as provided
 763 for in s. 30.51(2). In addition, process and orders may be
 764 served or executed by authorized agents of the department at the
 765 department's discretion; provided that the agent of the
 766 department does not take any action against personal property,
 767 real property, or persons. Notices and other intermediate
 768 process, except witness subpoenas, shall be served by the
 769 department as provided for in the Florida Rules of Civil
 770 Procedure. Witness subpoenas shall be served by the department
 771 by certified mail as provided for in s. 48.031(3).

772 Section 15. Subsections (1) and (2) of section 409.2572,
 773 Florida Statutes, are amended to read:

HB 1759

2004
CS

774 | 409.2572 Cooperation.--

775 | (1) An applicant for, or recipient of, public assistance
776 | for a dependent child shall cooperate in good faith with the
777 | department or a program attorney in:

778 | (a) Identifying and helping to locate the alleged parent
779 | or obligor.

780 | (b) Assisting in establishing the paternity of a child
781 | born out of wedlock.

782 | (c) Assisting in obtaining support payments from the
783 | obligor.

784 | (d) Assisting in obtaining any other payments or property
785 | due from the obligor.

786 | (e) Identifying another putative father when an earlier
787 | named putative father has been excluded by DNA, Human Leukocyte
788 | Antigen, or other scientific test.

789 | (f) Appearing at an office of the department, or another
790 | designated office, as necessary to provide verbal or written
791 | information, or documentary or physical evidence, known to,
792 | possessed by, or reasonably obtainable by the applicant or
793 | recipient.

794 | (g) Appearing as a witness at judicial or other hearings
795 | or proceedings.

796 | (h) Providing information under oath regarding the
797 | identity or location of the alleged father of the child or
798 | attesting to the lack of information.

799 | (i) Paying to the department any support received from the
800 | obligor after the assignment is effective.

HB 1759

2004
CS

801 (2) Noncooperation, or failure to cooperate in good faith,
802 is defined to include, but is not limited to, the following
803 conduct:

804 (a) ~~Failing or~~ Refusing to identify the father of the
805 child, or where more than one man could be the father of the
806 child, refusing to identify all such persons. ~~If the mother~~
807 ~~identifies one or more persons as the possible father of the~~
808 ~~child and asserts that there are no others who could be the~~
809 ~~father of the child, but the DNA test, Human Leukocyte Antigen~~
810 ~~test, or other scientific test indicates that none of the~~
811 ~~persons identified could in fact have been the father of the~~
812 ~~child, the mother shall be deemed noncooperative. If she~~
813 ~~subsequently identifies another person as the possible father of~~
814 ~~the child, she shall still be deemed noncooperative until that~~
815 ~~person has been given the DNA test, Human Leukocyte Antigen~~
816 ~~test, or other scientific test and is not excluded as the father~~
817 ~~by the test.~~

818 (b) Failing to appear for two appointments at the
819 department or other designated office without justification and
820 notice.

821 (c) Providing false information regarding the paternity of
822 the child or the obligation of the obligor.

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

826 (e) Failure to appear to submit a DNA sample ~~at the~~
827 ~~laboratory for drawing of blood samples~~, or leaving the location

HB 1759

2004
CS

828 ~~laboratory~~ prior to submitting a DNA sample ~~the drawing of blood~~
829 ~~samples~~ without compelling reasons.

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

832 Section 16. Subsection (1) of section 409.259, Florida
833 Statutes, is amended to read:

834 409.259 ~~Partial payment of Filing fees~~ in Title IV-D
835 cases.--

836 (1) Notwithstanding s. 28.241, each clerk of the circuit
837 court shall accept petitions, complaints, and motions filed by
838 the department in Title IV-D cases without billing the
839 department separately for each filing, since the clerk is being
840 reimbursed in a different manner for expenses incurred in such
841 filings under the cooperative agreement with the department
842 pursuant to ss. 61.181(1) and 61.1826(2) and (4) only be
843 ~~reimbursed at the prevailing rate of federal financial~~
844 ~~participation on the amount of \$40 for each civil action, suit,~~
845 ~~or proceeding for support instituted in the circuit court in~~
846 ~~which the parent is not receiving temporary cash assistance. The~~
847 ~~prevailing rate of the state match shall be paid by the local~~
848 ~~government in the form of a certified public expenditure. The~~
849 ~~clerk of the circuit court shall bill the department monthly.~~
850 ~~The clerk of the circuit court and the department shall maintain~~
851 ~~a monthly log of the number of civil actions, suits, or~~
852 ~~proceedings filed in which the parent does not receive temporary~~
853 ~~assistance. These monthly logs will be used to determine the~~
854 ~~number of \$40 filings the clerk of court may submit for~~

HB 1759

2004
CS

855 ~~reimbursement at the prevailing rate of federal financial~~
856 ~~participation.~~

857 Section 17. Effective, July 1, 2004, section 409.2598,
858 Florida Statutes, is amended to read:

859 409.2598 Suspension or denial of new or renewal licenses;
860 registrations; certifications.--

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

862 (a) "License" means a license, permit, certificate,
863 registration, franchise, or other form of written permission
864 issued by a licensing agency to an individual that authorizes
865 the individual to engage in an occupation, business, trade, or
866 profession or to engage in a recreational activity, including
867 hunting and fishing. Where the context permits, the term also
868 includes an application for a new or renewal license.

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

870 (c) "Licensing agency" means a department, commission,
871 agency, district, county, municipality, or other subdivision of
872 state or local government that issues licenses.

873 (2)~~(1)~~ The Title IV-D agency may petition the court that
874 entered the support order or the court that is enforcing the
875 support order to deny or suspend the license, ~~registration, or~~
876 ~~certificate issued under chapter 370, chapter 372, chapter 409,~~
877 ~~chapter 455, chapter 456, chapter 559, chapter 1012, s. 328.42,~~
878 ~~or s. 597.010~~ of any obligor with a delinquent support
879 obligation or who fails, after receiving appropriate notice, to
880 comply with subpoenas, orders to appear, orders to show cause,
881 or similar orders relating to paternity or support proceedings.
882 However, a petition may not be filed until the Title IV-D agency

HB 1759

2004
CS

883 has exhausted all other available remedies. The purpose of this
884 section is to promote the public policy of the state as
885 established in s. 409.2551.

886 ~~(2) The Title IV-D agency is authorized to screen all~~
887 ~~applicants for new or renewal licenses, registrations, or~~
888 ~~certificates and current licenses, registrations, or~~
889 ~~certificates and current licensees, registration holders, and~~
890 ~~certificateholders of all licenses, registrations, and~~
891 ~~certificates issued under chapter 370, chapter 409, chapter 455,~~
892 ~~chapter 456, chapter 559, chapter 1012, or s. 328.42 to ensure~~
893 ~~compliance with any support obligation and any subpoenas, orders~~
894 ~~to appear, orders to show cause, or similar orders relating to~~
895 ~~paternity or support proceedings. If the Title IV-D agency~~
896 ~~determines that an applicant, licensee, registration holder, or~~
897 ~~certificateholder is an obligor who is delinquent on a support~~
898 ~~obligation or who is not in compliance with a subpoena, order to~~
899 ~~appear, order to show cause, or similar order relating to~~
900 ~~paternity or support proceedings, the Title IV-D agency shall~~
901 ~~certify the delinquency pursuant to s. 61.14.~~

902 (3) The Title IV-D agency shall give notice to any obligor
903 who is an applicant for a new or renewal license ~~or certificate~~
904 or the holder of a current license ~~or certificate~~ when a
905 delinquency exists in the support obligation or when an obligor
906 has failed to comply with a subpoena, order to appear, order to
907 show cause, or similar order relating to paternity or support
908 proceeding. The notice shall specify that the obligor has 30
909 days from the date of mailing of the notice ~~on which service of~~
910 ~~the notice is complete~~ to pay the delinquency or to reach an

HB 1759

2004
CS

911 agreement to pay the delinquency with the Title IV-D agency or
 912 comply with the subpoena, order to appear, order to show cause,
 913 or similar order. The notice shall specify that, if payment is
 914 not made or an agreement cannot be reached, or if the subpoena,
 915 order to appear, order to show cause, or similar order is not
 916 complied with, the application may be denied or the license ~~or~~
 917 ~~certification~~ may be suspended pursuant to a court order.

918 (4) If the obligor fails to pay the delinquency or enter
 919 into a repayment agreement with the department ~~reach an~~
 920 ~~agreeable payment arrangement~~ or comply with the subpoena, order
 921 to appear, order to show cause, or similar order within 30 days
 922 following completion of service of the notice, the Title IV-D
 923 agency shall send a second notice to the obligor stating that
 924 the obligor has 30 days to pay the delinquency or reach an
 925 agreement to pay the delinquency with the Title IV-D agency or
 926 comply with the subpoena, order to appear, order to show cause,
 927 or similar order. If the obligor fails to respond to either
 928 notice from the Title IV-D agency or if the obligor fails to pay
 929 the delinquency or reach an agreement to pay the delinquency or
 930 comply with the subpoena, order to appear, order to show cause,
 931 or similar order after the second notice, the Title IV-D agency
 932 may petition the court which entered the support order or the
 933 court which is enforcing the support order to deny the
 934 application for the license ~~or certificate~~ or to suspend the
 935 license ~~or certificate~~ of the obligor. However, no petition may
 936 be filed until the Title IV-D agency has exhausted all other
 937 available remedies. The court may find that it would be

938 | inappropriate to deny a license or suspend a license ~~or~~
 939 | ~~certificate~~ if:

940 | (a) Denial or suspension would result in irreparable harm
 941 | to the obligor or employees of the obligor or would not
 942 | accomplish the objective of collecting the delinquency; or

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

946 |
 947 | The court may not deny or suspend a license ~~or certificate~~ if
 948 | the court determines that an alternative remedy is available to
 949 | the Title IV-D agency which is likely to accomplish the
 950 | objective of collecting the delinquency or obtaining compliance
 951 | with the subpoena, order to appear, order to show cause, or
 952 | similar order. If the obligor fails in the defense of a petition
 953 | for denial or suspension, the court which entered the support
 954 | order or the court which is enforcing the support order shall
 955 | enter an order to deny the application for the license ~~or~~
 956 | ~~certification~~ or to suspend the license ~~or certification~~ of the
 957 | obligor. The court shall order the obligor to surrender the
 958 | license ~~or certification~~ to the Title IV-D agency, which will
 959 | return the license ~~or certification~~ and a copy of the order of
 960 | suspension to the appropriate ~~department~~ licensing agency
 961 | ~~entity~~.

962 | (5) If the court denies or suspends a license ~~or~~
 963 | ~~certification~~ and the obligor subsequently pays the delinquency
 964 | or reaches an agreement with the Title IV-D agency to settle the
 965 | delinquency and makes the first payment required by the

HB 1759

2004
CS

966 agreement, or complies with the subpoena, order to appear, order
 967 to show cause, or similar order, the license ~~or certificate~~
 968 shall be issued or reinstated upon written proof to the court
 969 that the obligor has complied with the terms of the court order,
 970 subpoena, order to appear, order to show cause, or similar
 971 order. Proof of payment shall consist of a certified copy of the
 972 payment record issued by the depository. The court shall order
 973 the appropriate licensing agency ~~department or license board~~ to
 974 issue or reinstate the license ~~or certificate~~ without additional
 975 charge to the obligor.

976 (6) The licensing agency ~~department~~ shall, when directed
 977 by the court, suspend or deny the license ~~or certificate~~ of any
 978 licensee ~~or certificateholder~~ under its jurisdiction found to
 979 have a delinquent support obligation or not to be in compliance
 980 with a subpoena, order to appear, order to show cause, or
 981 similar order. The licensing agency ~~department~~ shall issue or
 982 reinstate the license ~~or certificate~~ without additional charge
 983 to the licensee ~~or certificateholder~~ when notified by the court
 984 that the licensee ~~or certificateholder~~ has complied with the
 985 terms of the court order, or subpoena, order to appear, order to
 986 show cause, or similar order.

987 (7) Notice shall be served under this section by regular
 988 mail ~~mailing it by certified mail, return receipt requested,~~ to
 989 the obligor at his or her last address of record with the local
 990 depository or a more recent address, if known. ~~If the obligor~~
 991 ~~has no address of record with the local depository, or if the~~
 992 ~~last address of record with the local depository is incorrect,~~
 993 ~~service shall be by publication as provided in chapter 49. When~~

HB 1759

2004
CS

994 ~~service of the notice is made by mail, service is complete upon~~
 995 ~~the receipt of the notice by the obligor.~~

996 Section 18. Effective October 1, 2004, section 409.25659,
 997 Florida Statutes, is created to read:

998 409.25659 Insurance claim data exchange.--

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

1000 (a) "Insurer" means an entity that is responsible for
 1001 paying a claim on liability coverage in an insurance contract
 1002 and which is:

1003 1. An insurer, as defined in s. 624.03, authorized to
 1004 transact insurance in this state;

1005 2. An eligible surplus lines insurer pursuant to part VIII
 1006 of chapter 626;

1007 3. A joint underwriter or joint reinsurer created by law
 1008 or otherwise operating pursuant to s. 627.311; or

1009 4. An insurance risk apportionment plan operating pursuant
 1010 to s. 627.351.

1011 (b) "Claim" means an open, unresolved bodily injury claim
 1012 on liability coverage in excess of \$3,000 in an insurance
 1013 contract payable to an individual, or to a third party for the
 1014 benefit of the individual, who is a resident of this state or
 1015 who had an accident or loss that occurred in this state or who
 1016 has an outstanding child support obligation in this state.

1017 (2) The department shall develop and operate a data match
 1018 system after consultation with one or more insurers, using
 1019 automated data exchanges to the maximum extent feasible, in
 1020 which an insurer may provide the department monthly with the
 1021 name, address, and, if known, date of birth and social security

HB 1759

2004
CS

1022 number or other taxpayer identification number for each
 1023 noncustodial parent who has a claim with the insurer and who
 1024 owes past due support, and the claim number, and any other
 1025 identifying information maintained by the insurer for each
 1026 claim. An insurer may provide such data by:

1027 (a) Authorizing an insurance claim data collection
 1028 organization, to which the insurer subscribes and to which the
 1029 insurer submits the required claim data on at least a monthly
 1030 basis, to:

1031 1. Receive or access a data file from the department and
 1032 conduct a data match of all noncustodial parents who have a
 1033 claim with the insurer and who owe past due support and submit
 1034 the required data for each noncustodial parent to the
 1035 department; or

1036 2. Submit a data file to the department that contains the
 1037 required data for each claim being maintained by the insurer for
 1038 the department to conduct a data match;

1039 (b) Providing the required data for each claim being
 1040 maintained by the insurer directly to the department in an
 1041 electronic medium; or

1042 (c) Receiving or accessing a data file from the department
 1043 and conducting a data match of all noncustodial parents who have
 1044 a claim with the insurer and who owe past due support and
 1045 submitting the required data for each noncustodial parent to the
 1046 department.

1047 (3) The department shall establish by rule a standard fee,
 1048 not to exceed actual costs, and pay the fee upon request to an

HB 1759

2004
CS

1049 insurer or the insurer's claim data collection organization for
 1050 conducting a data match as provided by subsection (2).

1051 (4) An insurer and its directors, agents, employees, and
 1052 insured, and any insurance claim data collection organization
 1053 and its agents and employees authorized by an insurer to act on
 1054 its behalf, that provides or attempts to provide data under this
 1055 section are immune from any liability under any law to any
 1056 person or entity for any alleged or actual damages that occur as
 1057 a result of providing or attempting to provide data under this
 1058 section.

1059 (5) Insurers may only use the data obtained pursuant to
 1060 subsection (2) for the purpose of identifying noncustodial
 1061 parents who owe past due support.

1062 (6) The department may adopt rules to implement and
 1063 administer this section.

1064 Section 19. Effective July 1, 2004, subsection (1) of
 1065 section 742.10, Florida Statutes, is amended to read:

1066 742.10 Establishment of paternity for children born out of
 1067 wedlock.--

1068 (1) This chapter provides the primary jurisdiction and
 1069 procedures for the determination of paternity for children born
 1070 out of wedlock. When the establishment of paternity has been
 1071 raised and determined within an adjudicatory hearing brought
 1072 under the statutes governing inheritance, or dependency under
 1073 workers' compensation or similar compensation programs, or when
 1074 an affidavit acknowledging paternity or a stipulation of
 1075 paternity is executed by both parties and filed with the clerk
 1076 of the court, or when an affidavit, a ~~or~~ notarized voluntary

HB 1759

2004
CS

1077 | acknowledgment of paternity, or a voluntary acknowledgment of
 1078 | paternity that is witnessed by two individuals and signed under
 1079 | penalty of perjury as provided for in s. 382.013 or s. 382.016
 1080 | is executed by both parties, it shall constitute the
 1081 | establishment of paternity for purposes of this chapter. If no
 1082 | adjudicatory proceeding was held, a notarized voluntary
 1083 | acknowledgment of paternity or voluntary acknowledgment of
 1084 | paternity that is witnessed by two individuals and signed under
 1085 | penalty of perjury as specified by s. 92.525(2) shall create a
 1086 | rebuttable presumption, as defined by s. 90.304, of paternity
 1087 | and is subject to the right of any signatory to rescind the
 1088 | acknowledgment within 60 days of the date the acknowledgment was
 1089 | signed or the date of an administrative or judicial proceeding
 1090 | relating to the child, including a proceeding to establish a
 1091 | support order, in which the signatory is a party, whichever is
 1092 | earlier. Both parents shall ~~are required to~~ provide their social
 1093 | security numbers on any acknowledgment of paternity, consent
 1094 | affidavit, or stipulation of paternity. Except for affidavits
 1095 | under seal pursuant to ss. 382.015 and 382.016, the Office of
 1096 | Vital Statistics shall provide certified copies of affidavits to
 1097 | the Title IV-D agency upon request.

1098 | Section 20. Except as otherwise provided herein, this act
 1099 | shall take effect upon becoming a law.