

By Senator Storms

10-00704B-11

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1 A bill to be entitled
2 An act relating to child support; amending s. 61.13,
3 F.S.; providing that certain affidavits in Title IV-D
4 child support cases need not allege default in
5 payments; amending s. 61.13016, F.S.; providing for
6 the payment of paternity or support obligations by
7 income deduction to avoid the suspension of the
8 obligor's driver's license and motor vehicle
9 registration; amending s. 322.058, F.S.; providing for
10 the reinstatement of such privileges; amending s.
11 409.256, F.S.; permitting a caregiver to state in an
12 affidavit or written declaration information regarding
13 a child's putative father in order to enable the
14 Department of Revenue to commence an administrative
15 proceeding to establish paternity or paternity and
16 child support; amending s. 409.2563, F.S.; extending
17 the time within which a parent from whom support is
18 being sought pursuant to a proposed administrative
19 support order may request an informal conference to
20 discuss the proposed order; requiring that such
21 request be in writing only; providing effective dates.

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

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25 Section 1. Effective upon this act becoming a law,
26 paragraph (d) of subsection (1) of section 61.13, Florida
27 Statutes, is amended to read:

28 61.13 Support of children; parenting and time-sharing;
29 powers of court.—

10-00704B-11

20111364

(1)

(d)1. All child support orders shall provide the full name and date of birth of each minor child who is the subject of the child support order.

2. If both parties request and the court finds that it is in the best interest of the child, support payments need not be subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181 or made payable directly to the obligee. Payments made by immediate income deduction shall be made to the State Disbursement Unit. The court shall provide a copy of the order to the depository.

3. For support orders payable directly to the obligee, any party, or the department in a IV-D case, may subsequently file an affidavit with the depository alleging a default in payment of child support and stating that the party wishes to require that payments be made through the depository. For IV-D cases the affidavit need not allege a default in support payments and default is not required. The party shall provide copies of the affidavit to the court and to each other party. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be paid through the depository, except that payments in Title IV-D cases and income deduction payments shall be made to the State Disbursement Unit.

Section 2. Effective upon this act becoming a law, subsections (1) and (3) of section 61.13016, Florida Statutes, are amended to read:

61.13016 Suspension of driver's licenses and motor vehicle registrations.—

10-00704B-11

20111364

59 (1) The driver's license and motor vehicle registration of
60 a support obligor who is delinquent in payment or who has failed
61 to comply with subpoenas or a similar order to appear or show
62 cause relating to paternity or support proceedings may be
63 suspended. When an obligor is 15 days delinquent making a
64 payment in support or failure to comply with a subpoena, order
65 to appear, order to show cause, or similar order in IV-D cases,
66 the Title IV-D agency may provide notice to the obligor of the
67 delinquency or failure to comply with a subpoena, order to
68 appear, order to show cause, or similar order and the intent to
69 suspend by regular United States mail that is posted to the
70 obligor's last address of record with the Department of Highway
71 Safety and Motor Vehicles. When an obligor is 15 days delinquent
72 in making a payment in support in non-IV-D cases, and upon the
73 request of the obligee, the depository or the clerk of the court
74 must provide notice to the obligor of the delinquency and the
75 intent to suspend by regular United States mail that is posted
76 to the obligor's last address of record with the Department of
77 Highway Safety and Motor Vehicles. In either case, the notice
78 must state:

79 (a) The terms of the order creating the support obligation;

80 (b) The period of the delinquency and the total amount of
81 the delinquency as of the date of the notice or describe the
82 subpoena, order to appear, order to show cause, or other similar
83 order that ~~which~~ has not been complied with;

84 (c) That notification may ~~will~~ be given to the Department
85 of Highway Safety and Motor Vehicles to suspend the obligor's
86 driver's license and motor vehicle registration unless, within
87 20 days after the date the notice is mailed, the obligor:

10-00704B-11

20111364

88 1.a. Pays the delinquency in full and any other costs and
89 fees accrued between the date of the notice and the date the
90 delinquency is paid;

91 b. Enters into a written agreement for payment with the
92 obligee in non-IV-D cases or with the Title IV-D agency in IV-D
93 cases; or in IV-D cases, complies with a subpoena or order to
94 appear, order to show cause, or a similar order; ~~or~~

95 c. Files a petition with the circuit court to contest the
96 delinquency action; or ~~and~~

97 d. Begins paying by income deduction; and

98 2. Pays any applicable delinquency fees.

99 If the obligor in non-IV-D cases enters into a written agreement
100 for payment before the expiration of the 20-day period, the
101 obligor must provide a copy of the signed written agreement to
102 the depository or the clerk of the court.

103 (3) If the obligor does not, within 20 days after the
104 mailing date on the notice, pay the delinquency, enter into a
105 written payment agreement, comply with the subpoena, order to
106 appear, order to show cause, or other similar order, begin
107 paying by income deduction, or file a motion to contest, the
108 Title IV-D agency in IV-D cases, or the depository or clerk of
109 the court in non-IV-D cases, may ~~shall~~ file the notice with the
110 Department of Highway Safety and Motor Vehicles and request the
111 suspension of the obligor's driver's license and motor vehicle
112 registration in accordance with s. 322.058.

113 Section 3. Effective upon this act becoming a law,
114 subsection (2) of section 322.058, Florida Statutes, is amended
115 to read:

116 322.058 Suspension of driving privileges due to support

10-00704B-11

20111364__

117 delinquency; reinstatement.-

118 (2) The department must reinstate the driving privilege and
119 allow registration of a motor vehicle when the Title IV-D agency
120 in IV-D cases or the depository or the clerk of the court in
121 non-IV-D cases provides to the department an affidavit stating
122 that:

123 (a) The person has paid the delinquency;

124 (b) The person has reached a written agreement for payment
125 with the Title IV-D agency or the obligee in non-IV-D cases;

126 (c) A court has entered an order granting relief to the
127 obligor ordering the reinstatement of the license and motor
128 vehicle registration; ~~or~~

129 (d) The person has complied with the subpoena, order to
130 appear, order to show cause, or similar order; or

131 (e) The obligor is paying by income deduction.

132 Section 4. Paragraph (a) of subsection (2) of section
133 409.256, Florida Statutes, is amended to read:

134 409.256 Administrative proceeding to establish paternity or
135 paternity and child support; order to appear for genetic
136 testing.-

137 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
138 THE COURTS.-

139 (a) The department may commence a paternity proceeding or a
140 paternity and child support proceeding as provided in subsection

141 (4) if:

142 1. The child's paternity has not been established.

143 2. No one is named as the father on the child's birth
144 certificate or the person named as the father is the putative
145 father named in an affidavit or a written declaration as

10-00704B-11

20111364

146 provided in subparagraph 5.

147 3. The child's mother was unmarried when the child was
148 conceived and born.

149 4. The department is providing services under Title IV-D.

150 5. The child's mother, a caregiver, or a putative father
151 has stated in an affidavit, or in a written declaration as
152 provided in s. 92.525(2), that the putative father is or may be
153 the child's biological father. The affidavit or written
154 declaration must set forth the factual basis for the allegation
155 of paternity as provided in s. 742.12(2).

156 Section 5. Paragraph (c) of subsection (5) of section
157 409.2563, Florida Statutes, is amended to read:

158 409.2563 Administrative establishment of child support
159 obligations.—

160 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

161 (c) The department shall provide a notice of rights with
162 the proposed administrative support order, which notice must
163 inform the parent from whom support is being sought that:

164 1. The parent from whom support is being sought may, within
165 20 days after the date of mailing or other service of the
166 proposed administrative support order, request a hearing by
167 filing a written request for hearing in a form and manner
168 specified by the department;

169 2. If the parent from whom support is being sought files a
170 timely request for a hearing, the case shall be transferred to
171 the Division of Administrative Hearings, which shall conduct
172 further proceedings and may enter an administrative support
173 order;

174 3. A parent from whom support is being sought who fails to

10-00704B-11

20111364

175 file a timely request for a hearing shall be deemed to have
176 waived the right to a hearing, and the department may render an
177 administrative support order pursuant to paragraph (7) (b);

178 4. The parent from whom support is being sought may consent
179 in writing to entry of an administrative support order without a
180 hearing;

181 5. The parent from whom support is being sought may, within
182 15 ~~10~~ days after the date of mailing or other service of the
183 proposed administrative support order, request to informally
184 discuss the proposed administrative support order by filing a
185 written request with the department ~~contact a department~~
186 ~~representative,~~ at the address ~~or telephone number~~ specified in
187 the notice, ~~to informally discuss the proposed administrative~~
188 ~~support order~~ and, if informal discussions are requested timely,
189 the time for requesting a hearing will be extended until 10 days
190 after the department notifies the parent that the informal
191 discussions have been concluded; and

192 6. If an administrative support order that establishes a
193 parent's support obligation is rendered, whether after a hearing
194 or without a hearing, the department may enforce the
195 administrative support order by any lawful means.

196 Section 6. Except as otherwise expressly provided in this
197 act and except for this section, which shall take effect upon
198 this act becoming a law, this act shall take effect July 1,
199 2011.