

## Committee Substitute for Senate Bill No. 1272

An act relating to the determination and enforcement of obligations for child support; amending s. 61.046, F.S.; defining the term “national medical support notice”; amending s. 61.13, F.S.; requiring that the court issue an order for health care coverage for a minor child in a proceeding for dissolution of marriage rather than an order for health insurance; providing for enforcement of such an order through use of the national medical support notice; requiring the Department of Revenue to notify the obligor of withholding premium payments under the notice; providing a procedure under which the obligor may contest the withholding; providing procedures for enrolling a child in a group health plan; providing certain limitations on the amount of withholding allowed under a support order; amending s. 61.181, F.S.; continuing the increased fee charged to child support obligors by the depository; repealing s. 61.1826(5), F.S., relating to performance reviews; amending s. 61.1826, F.S.; conforming to repeal of s. 61.1826(5), F.S.; amending ss. 61.14, 61.30, F.S.; requiring that the Department of Revenue seek modification of certain awards of child support; requiring that such modification be made without proof or showing of a change in circumstances; amending s. 120.80, F.S.; providing for immediate judicial review of any such order; providing for enforcement; amending s. 409.2557, F.S.; authorizing the Department of Revenue to adopt rules for administrative proceedings to establish child-support obligations; amending s. 409.2563, F.S.; revising the pilot program for administrative establishment of child-support obligations; providing process for optional pursuit of judicial process; providing for the withholding of a specified portion of a noncustodial parent’s unemployment compensation; authorizing the Division of Administrative Hearings to render an income deduction order; providing for the use of a financial affidavit as prescribed by the department; amending s. 409.25656, F.S.; providing a procedure for liquidating securities that are levied to satisfy an obligation for past due or overdue support; amending s. 409.25658, F.S.; providing for the use of unclaimed property to satisfy an obligation for past due support; amending s. 409.2576, F.S.; requiring that the Department of Revenue transmit a national medical support notice to an employee’s employer under certain circumstances; amending s. 827.06, F.S.; providing for additional means of service of process; providing an effective date.

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

Section 1. Effective July 1, 2002, present subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19) of section 61.046, Florida Statutes, are redesignated as subsections (11), (12), (13), (14), (15), (16), (17), (18), (19), and (20), respectively, and a new subsection (10) is added to that section to read:

61.046 Definitions.—As used in this chapter:

(10) “National medical support notice” means the notice required under 42 U.S.C. s. 666(a)(19).

Section 2. Effective July 1, 2002, paragraph (b) of subsection (1) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(1)

(b) Each order for ~~child~~ support shall contain a provision for health care coverage insurance for the minor child when the coverage insurance is reasonably available. Coverage insurance is reasonably available if either the obligor or obligee has access at a reasonable rate to a group health plan group insurance. The court may require the obligor either to provide health care insurance coverage or to reimburse the obligee for the cost of health care insurance coverage for the minor child when coverage is provided by the obligee. In either event, the court shall apportion the cost of coverage, and any noncovered medical, dental, and prescription medication expenses of the child, to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). The court may order that payment of uncovered medical, dental, and prescription medication expenses of the minor child be made directly to the obligee payee on a percentage basis.

1. In a non-Title IV-D case, a copy of the court order for health care insurance coverage shall be served on the obligor’s payor or union or employer by the obligee or the IV-D agency when the following conditions are met:

a. The obligor fails to provide written proof to the obligee or the IV-D agency within 30 days after of receiving effective notice of the court order, that the health care coverage insurance has been obtained or that application for coverage insurability has been made;

b. The obligee or IV-D agency serves written notice of its intent to enforce an order for health care coverage medical support on the obligor by mail at the obligor’s last known address; and

c. The obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the IV-D agency that the health care insurance coverage existed as of the date of mailing.

2.a. A support order enforced under Title IV-D of the Social Security Act which requires that the obligor provide health care coverage is enforceable by the department through the use of the national medical support notice and an amendment to the support order is not required. The department shall transfer the national medical support notice to the obligor’s union or employer. The department shall notify the obligor in writing that the notice has been sent to the obligor’s union or employer and the written notification must include the obligor’s rights and duties under the national medical

support notice. The obligor may contest the withholding required by the national medical support notice based on a mistake of fact. To contest the withholding, the obligor must file a written notice of contest with the department within 15 business days after the date the obligor receives written notification of the national medical support notice from the department. Filing with the department is complete when the notice is received by the person designated by the department in the written notification. The notice of contest must be in the form prescribed by the department. Upon the timely filing of a notice of contest, the department shall, within 5 business days, schedule an informal conference with the obligor to discuss the obligor's factual dispute. If the informal conference resolves the dispute to the obligor's satisfaction or if the obligor fails to attend the informal conference, the notice of contest is deemed withdrawn. If the informal conference does not resolve the dispute, the obligor may request an administrative hearing under chapter 120 within 5 business days after the termination of the informal conference, in a form and manner prescribed by the department. However, the filing of a notice of contest by the obligor does not delay the withholding of premium payments by the union, employer, or health plan administrator. The union, employer, or health plan administrator must implement the withholding as directed by the national medical support notice unless notified by the department that the national medical support notice is terminated.

b. In a Title IV-D case, the department shall notify an obligor's union or employer if the obligation to provide health care coverage through that union or employer is terminated. In cases in which the noncustodial parent provides health care coverage and the noncustodial parent changes employment and the new employer provides health care coverage, the IV-D agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice. Notice to enforce medical coverage under this section shall be served by the IV-D agency upon the obligor by mail at the obligor's last known address. The obligor shall have 15 days from the date of mailing of the notice to contest the notice with the IV-D agency.

3. In a non-Title IV-D case, upon receipt of the order pursuant to subparagraph 1. or the notice pursuant to subparagraph 2., or upon application of the obligor pursuant to the order, the payor, union, or employer shall enroll the minor child as a beneficiary in the group health insurance plan regardless of any restrictions on the enrollment period and withhold any required premium from the obligor's income. If more than one plan is offered by the payor, union, or employer, the child shall be enrolled in the group health insurance plan in which the obligor is enrolled.

4.a. Upon receipt of the national medical support notice under subparagraph 2. in a Title IV-D case, the union or employer shall transfer the notice to the appropriate group health plan administrator within 20 business days after the date on the notice. The plan administrator must enroll the child as a beneficiary in the group health plan regardless of any restrictions on the enrollment period, and the union or employer must withhold any required premium from the obligor's income upon notification by the plan

administrator that the child is enrolled. The child shall be enrolled in the group health plan in which the obligor is enrolled. If the group health plan in which the obligor is enrolled is not available where the child resides or if the obligor is not enrolled in group coverage, the child shall be enrolled in the lowest cost group health plan that is available where the child resides.

b. If health care coverage or the obligor's employment is terminated in a Title IV-D case, the union or employer that is withholding premiums for health care coverage under a national medical support notice must notify the department within 20 days after the termination and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

5.a. The amount withheld by a union or employer in compliance with a support order may not exceed the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended. The union or employer shall withhold the maximum allowed by the Consumer Credit Protection Act in the following order:

- (I) Current support, as ordered.
- (II) Premium payments for health care coverage, as ordered.
- (III) Past due support, as ordered.
- (IV) Other medical support or coverage, as ordered.

b. If the combined amount to be withheld for current support plus the premium payment for health care coverage exceed the amount allowed under the Consumer Credit Protection Act, and the health care coverage cannot be obtained unless the full amount of the premium is paid, the union or employer may not withhold the premium payment. However, the union or employer shall withhold the maximum allowed in the following order:

- (I) Current support, as ordered.
- (II) Past due support, as ordered.
- (III) Other medical support or coverage, as ordered.

6.4. The Department of Revenue ~~may~~ shall have the authority to adopt rules to ~~administer~~ implement the child support enforcement provisions of this section which affect Title IV-D cases.

Section 3. Paragraph (b) of subsection (1) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(1)

(b) For each support order reviewed by the department as required by s. 409.2564(12), if the amount of the child support award under the order

differs by at least 10 percent but not less than \$25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances. In Title IV-D cases reviewed pursuant to the 3-year review and adjustment cycle, no substantial change of circumstance need be proven to warrant a modification.

Section 4. Paragraph (b) of subsection (2) of section 61.181, Florida Statutes, is amended to read:

61.181 Depository for alimony transactions, support, maintenance, and support payments; fees.—

(2)

(b)1. For the period of July 1, 1992, through June 30, ~~2003~~ 2002, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than \$5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of the Clerk of the Court Child Support Enforcement Collection System to be operated by the depositories, including the automation of civil case information necessary for the State Case Registry. The department shall contract with the Florida Association of Court Clerks and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund. Each depository created under this section shall fully participate in the Clerk of the Court Child Support Enforcement Collection System and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the department.

~~2. No later than December 31, 1996,~~ Moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

- a. For each support payment of less than \$33, 18.75 cents.
  - b. For each support payment between \$33 and \$140, an amount equal to 18.75 percent of the fee charged.
  - c. For each support payment in excess of \$140, 18.75 cents.
3. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

Section 5. Subsection (5) of section 61.1826, Florida Statutes, is repealed.

Section 6. Subsection (1) of section 61.1826, Florida Statutes, is amended to read:

61.1826 Procurement of services for State Disbursement Unit and the non-Title IV-D component of the State Case Registry; contracts and cooperative agreements; penalties; withholding payment.—

(1) **LEGISLATIVE FINDINGS.**—The Legislature finds that the clerks of court play a vital role, as essential participants in the establishment, modification, collection, and enforcement of child support, in securing the health, safety, and welfare of the children of this state. The Legislature further finds and declares that:

(a) It is in the state's best interest to preserve the essential role of the clerks of court in disbursing child support payments and maintaining official records of child support orders entered by the courts of this state.

(b) As official recordkeeper for matters relating to court-ordered child support, the clerks of court are necessary parties to obtaining, safeguarding, and providing child support payment and support order information.

(c) As provided by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state must establish and operate a State Case Registry in full compliance with federal law by October 1, 1998, and a State Disbursement Unit by October 1, 1999.

(d) Noncompliance with federal law could result in a substantial loss of federal funds for the state's child support enforcement program and the temporary assistance for needy families welfare block grant.

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and constitutes an emergency for purposes of s. 287.057(4)(a).

(f) The clerks of court maintain the official payment record of the court for amounts received, payments credited, arrearages owed, liens attached, and current mailing addresses of all parties, payor, obligor, and payee.

(g) The clerks of court have established a statewide Clerk of Court Child Support Enforcement Collection System for the automation of all payment processing using state and local government funds as provided under s. 61.181(2)(b)1.

(h) The Legislature acknowledges the improvements made by and the crucial role of the Clerk of the Court Child Support Enforcement Collection System in speeding payments to the children of Florida.

(i) There is no viable alternative to continuing the role of the clerks of court in collecting, safeguarding, and providing essential child support payment information.

For these reasons, the Legislature hereby directs the Department of Revenue, subject to the provisions of subsection (5) (6), to contract with the Florida Association of Court Clerks and each depository to perform duties with respect to the operation and maintenance of a State Disbursement Unit and the non-Title IV-D component of the State Case Registry as further provided by this section.

Section 7. Paragraph (c) of subsection (1) of section 61.30, Florida Statutes, is amended to read:

61.30 Child support guidelines; retroactive child support.—

(1)

(c) For each support order reviewed by the department as required by s. 409.2564(12), if the amount of the child support award under the order differs by at least 10 percent but not less than \$25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances. In Title IV-D cases reviewed pursuant to the 3-year review and adjustment cycle, no change of circumstance need be proven to warrant a modification.

Section 8. Paragraph (c) of subsection (14) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(14) DEPARTMENT OF REVENUE.—

(c) Proceedings for administrative child support orders.—Notwithstanding the provisions of s. 120.569 or s. 120.57 to the contrary, In proceedings for the establishment of administrative support orders pursuant to s. 409.2563, final orders in cases referred by the Department of Revenue to the Division of Administrative Hearings shall be entered by the division's administrative law judge and transmitted to the Department of Revenue for filing and rendering indexing. The Department of Revenue has the right to seek judicial review under s. 120.68 of a final order entered by an administrative law judge. Administrative support orders rendered pursuant to s. 409.2563 may be enforced pursuant to s. 120.69 or, alternatively, by any method prescribed by law for the enforcement of judicial support orders, except contempt.

Section 9. Subsection (3) of section 409.2557, Florida Statutes, is amended to read:

409.2557 State agency for administering child support enforcement program.—

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

- (a) Background screening of department employees and applicants, including criminal records checks;
- (b) Confidentiality and retention of department records; access to records; record requests;
- (c) Department trust funds;
- (d) Federal funding procedures;
- (e) Agreements with law enforcement and other state agencies; National Crime Information Center (NCIC) access; Parent Locator Service access;
- (f) Written agreements entered into between the department and support obligors in establishment, enforcement, and modification proceedings;
- (g) Procurement of services by the department, pilot programs, and demonstration projects;
- (h) Management of cases by the department involving any documentation or procedures required by federal or state law, including but not limited to, cooperation; review and adjustment; audits; interstate actions; diligent efforts for service of process;
- (i) Department procedures for orders for genetic testing; subpoenas to establish, enforce, or modify orders; increasing the amount of monthly obligations to secure delinquent support; suspending or denying driver's and professional licenses and certificates; fishing and hunting license suspensions; suspending vehicle and vessel registrations; screening applicants for new or renewal licenses, registrations, or certificates; income deduction; credit reporting and accessing; tax refund intercepts; passport denials; liens; financial institution data matches; expedited procedures; medical support; and all other responsibilities of the department as required by state or federal law;
- (j) Collection and disbursement of support and alimony payments by the department as required by federal law; collection of genetic testing costs and other costs awarded by the court;
- (k) Report information to and receive information from other agencies and entities;
- (l) Provide location services, including accessing from and reporting to federal and state agencies;
- (m) Privatizing location, establishment, enforcement, modification, and other functions;
- (n) State case registry;
- (o) State disbursement unit; and
- (p) Administrative proceedings to establish child-support obligations; and



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

Section 10. Subsections (1), (2), (4), (6), (7), (8), (11), and (12), paragraph (c) of subsection (5), paragraph (d) of subsection (9), paragraph (b) of subsection (10), and paragraph (a) of subsection (13) of section 409.2563, Florida Statutes, are amended to read:

409.2563 Pilot program for Administrative establishment of child support obligations.—

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

(a) “Administrative support order” means a final order rendered by or on behalf of the department pursuant to this section establishing or modifying the obligation of a noncustodial parent to contribute to the support and maintenance of his or her child or children, which may include provisions for monetary support, retroactive support, health care, and other elements of support pursuant to chapter 61.

(b) “Caretaker relative” has the same meaning ascribed in s. 414.0252(11).

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

(d) “Financial affidavit” means an affidavit or written declaration as provided by s. 92.525(2) which shows an individual’s income, allowable deductions, net income, and other information needed to calculate the child support guideline amount under s. 61.30

~~(e)(d)~~ “Rendered” means that a signed written order is filed with the clerk or any deputy clerk of the department and served on the respondent. The date of filing must be indicated on the face of the order at the time of rendition.

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

~~(g)(f)~~ “Retroactive support” means a child support obligation established pursuant to s. 61.30(17).

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

(2) PURPOSE AND SCOPE.—

(a) It is not the Legislature’s intent to limit the jurisdiction of the circuit courts to hear and determine issues regarding child support. This section is intended to provide the department with an alternative procedure for estab-

lishing child support obligations in Title IV-D cases in a fair and expeditious manner when there is no court order of support.

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

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

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

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

(e) Pursuant to paragraph (b), neither the department nor the Division of Administrative Hearings have jurisdiction to award or change child custody or rights of parental contact. Either parent may at any time file a civil action in a circuit having jurisdiction and proper venue for a determination of child custody and rights of parental contact.

(f) The department shall terminate the administrative proceeding and file an action in circuit court to determine support if within 20 days after receipt of the initial notice the noncustodial parent requests in writing that the department proceed in circuit court or states in writing the noncustodial parent's intention to address issues concerning custody or rights to parental contact in court and if within 10 days after receipt of the department's

petition and waiver of service the noncustodial parent signs and returns the waiver of service form to the department.

(g) The notices and orders issued by the department under this section shall be written clearly and plainly.

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) That, neither the department nor the Division of Administrative Hearings have jurisdiction to award or change child custody or rights of parental contact and these issues may only be addressed in circuit court. That if the noncustodial parent has issues regarding child custody or right of parental contact or requests to proceed in circuit court the noncustodial parent may request in writing that the department proceed in circuit court to determine support. That the noncustodial parent must make such request in writing within 20 days after receipt of the initial notice. That upon such request the department shall send the noncustodial parent by regular mail a copy of the department's petition and waiver of service form. That the noncustodial parent must sign and return the waiver of service form, within 10 days of receipt of the petition at which time the department shall terminate the administrative proceeding and file an action in circuit court to determine support;

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

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

The department may serve the notice of proceeding to establish administrative support order by certified mail, restricted delivery, return receipt requested. Alternatively, the department may serve the notice by any means permitted for service of process in a civil action. For purposes of this section, an authorized employee of the department may serve the notice and execute an affidavit of service. Service by certified mail is completed when the certified mail is received or refused by the addressee or by an authorized agent as designated by the addressee in writing. If a person other than the addressee signs the return receipt, the department shall attempt to reach the addressee by telephone to confirm whether the notice was received, and the department shall document any telephonic communications. If someone other than the addressee signs the return receipt, the addressee does not respond to the notice, and the department is unable to confirm that the addressee has received the notice, service is not completed and the department shall attempt to have the addressee served personally. The department shall provide the custodial parent or caretaker relative with a copy of

the notice by regular mail to the last known address of the custodial parent or caretaker.

(5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

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

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

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

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

5. The noncustodial parent may, within 10 days after the date of mailing or other service of the proposed administrative support order, contact a department representative, at the address or telephone number specified in the notice, to informally discuss the proposed administrative support order and, if informal discussions are requested timely and held within a reasonable time, the time for requesting a hearing will be extended until 10 days after the department notifies the noncustodial parent that the informal discussions have been concluded; and

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

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

(7) ADMINISTRATIVE SUPPORT ORDER.—

(a) If a hearing is held, ~~notwithstanding ss. 120.569 and 120.57~~, the administrative law judge of the Division of Administrative Hearings shall

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

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

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

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

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

1. The full name and date of birth of the child or children;
2. The name of the noncustodial parent and the custodial parent or caretaker relative;
3. The noncustodial parent's duty and ability to provide support;
4. The amount of the noncustodial parent's monthly support obligation ~~for each child;~~
5. Any obligation to pay retroactive support;
6. The noncustodial parent's obligation to provide for the health care needs of each child, whether through insurance coverage, contribution towards the cost of insurance coverage, payment or reimbursement of health care expenses for the child, or any combination thereof;
7. The beginning date of any required monthly payments and health care coverage;
8. That all support payments ordered must be paid to the Florida State Disbursement Unit as provided by s. 61.1824;
9. That the parents, or caretaker relative if applicable, must file with the department when the administrative support order is rendered, if they have not already done so, and update as appropriate the information required pursuant to paragraph (13)(b); ~~and~~

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

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

An income deduction order as provided by s. 61.1301 must be incorporated into the administrative support order or, if not incorporated into the administrative support order, the department or the Division of Administrative Hearings shall render a separate income deduction order.

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

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

(b) Establish and maintain the necessary payment accounts;

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

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

(9) COLLECTION ACTION; ENFORCEMENT.—

(d) An administrative support order rendered under this section has the same force and effect as a court order and, until modified by the department or superseded by a court order, may be enforced:

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

2. Pursuant to s. 120.69.

(10) JUDICIAL REVIEW, ENFORCEMENT, OR COURT ORDER SUPERSADING ADMINISTRATIVE SUPPORT ORDER.—

(b) An administrative support order rendered under this section has the same force and effect as a court order and may be enforced by any circuit court in the same manner as a support order issued by the court, except for contempt. If the circuit court issues its own order enforcing based on the administrative support order, the circuit court may enforce its own order by contempt. The presumption of ability to pay and purge contempt established in s. 61.14(5)(a) applies to an administrative support order that includes a

finding of present ability to pay. Enforcement by the court, without any change by the court in the support obligations established in the administrative support order, does not supersede the administrative support order or affect the department's authority to modify the administrative support order as provided by subsection (12). An order by the court that requires the noncustodial parent to make periodic payments on arrearages does not constitute a change in the support obligations established in the administrative support order and does not supersede the administrative order.

(11) **EFFECTIVENESS OF ADMINISTRATIVE SUPPORT ORDER.**—An administrative support order rendered under this section has the same force and effect as a court order and remains in effect until modified by the department, vacated on appeal, or superseded by a subsequent court order. If the department closes a Title IV-D case in which an administrative support order has been rendered:

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

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

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

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

(13) **REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT TO ADDRESS OF RECORD.**—In all proceedings pursuant to this section:

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

Section 11. Effective July 1, 2002, subsection (3) of section 409.25656, Florida Statutes, is amended to read:

409.25656 Garnishment.—

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his or her designee may levy upon such credits, personal property, or debts. The levy must be accomplished by delivery of



a notice of levy by registered mail, upon receipt of which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed by to the obligor. If the department levies upon securities and the value of the securities is less than the total amount of past due or overdue support, the person who possesses or controls the securities shall liquidate the securities in a commercially reasonable manner. After liquidation, the person shall transfer to the department the proceeds, less any applicable commissions or fees, or both, which are charged in the normal course of business. If the value of the securities exceeds the total amount of past due or overdue support, the obligor may, within 7 days after receipt of the department's notice of levy, instruct the person who possesses or controls the securities which securities are to be sold to satisfy the obligation for past due or overdue support. If the obligor does not provide instructions for liquidation, the person who possesses or controls the securities shall liquidate the securities in a commercially reasonable manner and in an amount sufficient to cover the obligation for past due or overdue support, less any applicable commissions or fees, or both, which are charged in the normal course of business, beginning with the securities purchased most recently. After liquidation, the person who possesses or controls the securities shall transfer to the department the total amount of past due or overdue support.

Section 12. Subsections (1) and (2) of section 409.25658, Florida Statutes, are amended to read:

409.25658 Use of unclaimed property for past due support.—

(1) In a joint effort to facilitate the collection and payment of past due support, the Department of Revenue, in cooperation with the Department of Banking and Finance, shall identify persons owing support collected through a court who are presumed to have unclaimed ~~abandoned~~ property held by the Department of Banking and Finance.

(2) The department shall periodically provide the Department of Banking and Finance with an electronic file of support obligors who owe past due support. The Department of Banking and Finance shall conduct a data match of the file against all apparent owners of unclaimed ~~abandoned~~ property under chapter 717 and provide the resulting match list to the department.

Section 13. Effective July 1, 2002, subsection (7) of section 409.2576, Florida Statutes, is amended to read:

409.2576 State Directory of New Hires.—

(7) WAGE WITHHOLDING NOTICE AND NATIONAL MEDICAL SUPPORT NOTICE.—~~The department Not later than October 1, 1998, the Title IV-D agency shall transmit a wage withholding notice consistent with s. 61.1301 and, when appropriate, a national medical support notice, as defined in s. 61.046, to the employee's employer within 2 business days after~~ of entry of the new hire information into the State Directory of New Hires' database, unless the court has determined that the employee's wages are not

subject to withholding or, for purposes of the national medical support notice, the support order does not contain a provision for the employee to provide health care coverage. The withholding notice shall direct the employer to withhold income in accordance with the income deduction order and the national medical support notice shall direct the employer to withhold premiums for health care coverage.

Section 14. Subsection (6) of section 827.06, Florida Statutes, is amended to read:

827.06 Nonsupport of dependents.—

(6) Prior to commencing prosecution under this section, the state attorney must notify the person responsible for support by certified mail, return receipt requested, or by using any other means permitted for service of process in a civil action, that a prosecution under this section will be commenced against him or her unless the person pays the total unpaid support obligation or provides a satisfactory explanation as to why he or she has not made such payments.

Section 15. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor April 24, 2002.

Filed in Office Secretary of State April 24, 2002.