

## CHAPTER 2010-187

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 694

An act relating to child support; amending s. 61.13, F.S.; deleting a reference to health insurance in the process for determining a parent's share of an obligation to pay medical support only; providing that an obligor may make child support payments directly to the obligee under certain circumstances; clarifying when income deduction payments are required to be paid to the State Disbursement Unit; amending s. 61.30, F.S.; authorizing the Department of Revenue to submit to the court a written declaration signed under penalty of perjury for the purpose of establishing an obligation for child support; amending s. 382.013, F.S.; providing that if the mother and father of a child marry each other at any time after the child's birth, the Department of Health shall amend the certificate with regard to the parents' marital status as though the parents were married at the time of birth; amending s. 382.015, F.S.; requiring the Office of Vital Statistics in the Department of Health to prepare and file a new birth certificate that includes the name of the legal father when a final judgment of dissolution of marriage requires the former husband to pay child support for the child; amending s. 382.016, F.S.; requiring the Office of Vital Statistics to amend a child's birth certificate to include the name of the legal father upon receipt of a marriage license that identifies the child as a child of the marriage; amending s. 409.2558, F.S.; requiring the Department of Revenue to process collected funds that are determined to be undistributable in a specified manner; requiring the department to retain as program income de minimis child support collections under \$1; amending s. 409.256, F.S.; changing the term "custodian" to "caregiver" and defining the role of the caregiver; amending s. 409.2563, F.S.; replacing "caretaker relative" with "caregiver" and defining the term; authorizing the Department of Revenue to refer a proceeding to the Division of Administrative Hearings for an evidentiary hearing to determine the support obligation; replacing the term "hearing request" with "proceeding"; amending s. 409.25635, F.S.; authorizing the Department of Revenue to collect noncovered medical expenses in installments by issuing an income deduction notice; amending s. 409.2564, F.S.; removing a provision that encouraged parties to enter into a settlement agreement; conforming cross-references; requiring the department to review child support orders in IV-D cases at least once every 3 years; requiring that the department file a petition to modify support if the review of a support order indicates that the order should be modified; amending s. 409.2567, F.S.; authorizing the Department of Revenue to seek a specified waiver from the United States Department of Health and Human Services if the estimated increase in federal funding to the state derived from the waiver would exceed any additional cost to the state; amending s. 409.259, F.S.; extending the deadline for implementing electronic filing of pleadings and other documents with the clerks of court in Title IV-D cases until

completion of the Child Support Automated Management System II; amending s. 409.910, F.S.; requiring the Agency for Health Care Administration to obtain health insurance information from insurers and provide it to the Department of Revenue for use in Title IV-D child support cases; requiring both agencies to enter into a cooperative agreement to implement the requirement; amending s. 414.095, F.S.; conforming a provision to a change made by the act; amending s. 741.01, F.S.; requiring an application for a marriage license to allow both parties to the marriage to state under oath in writing if they are the parents of a child born in this state and to identify any such child they have in common; reenacting ss. 61.14(1)(c) and 61.30(1)(c), F.S., relating to the enforcement and modification of support, maintenance, or alimony agreements or orders and the child support guidelines, respectively, to incorporate the amendments made to s. 409.2564, F.S., in references thereto; providing effective dates.

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

Section 1. Paragraphs (b) and (d) of subsection (1) of section 61.13, Florida Statutes, are amended to read:

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

(1)

(b) Each order for support shall contain a provision for health insurance for the minor child when health insurance is reasonable in cost and accessible to the child. Health insurance is presumed to be reasonable in cost if the incremental cost of adding health insurance for the child or children does not exceed 5 percent of the gross income, as defined in s. 61.30, of the parent responsible for providing health insurance. Health insurance is accessible to the child if the health insurance is available to be used in the county of the child's primary residence or in another county if the parent who has the most time under the time-sharing plan agrees. If the time-sharing plan provides for equal time-sharing, health insurance is accessible to the child if the health insurance is available to be used in either county where the child resides or in another county if both parents agree. The court may require the obligor to provide health insurance or to reimburse the obligee for the cost of health insurance for the minor child when insurance is provided by the obligee. The presumption of reasonable cost may be rebutted by evidence of any of the factors in s. 61.30(11)(a). The court may deviate from what is presumed reasonable in cost only upon a written finding explaining its determination why ordering or not ordering the provision of health insurance or the reimbursement of the obligee's cost for providing health insurance for the minor child would be unjust or inappropriate. In any event, the court shall apportion the cost of health insurance, 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 noncovered medical, dental, and prescription medication expenses of the minor child be made directly to the obligee on a percentage basis. In a proceeding for medical support only, each

parent's share of the child's health insurance and noncovered medical expenses shall equal the parent's percentage share of the combined net income of the parents. The percentage share shall be calculated by dividing each parent's net monthly income by the combined monthly net income of both parents. Net income is calculated as specified by s. 61.30(3) and (4).

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

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

b. The obligee serves written notice of intent to enforce an order for health insurance 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 that the health insurance 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 insurance 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 insurance through that union or employer is terminated.

3. In a non-Title IV-D case, upon receipt of the order pursuant to subparagraph 1., or upon application of the obligor pursuant to the order, the union or employer shall enroll the minor child as a beneficiary in the group health 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 union or employer, the child shall be enrolled in the group health 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 accessible to the child.

b. If health insurance or the obligor’s employment is terminated in a Title IV-D case, the union or employer that is withholding premiums for health insurance 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 insurance, as ordered.
- (III) Past due support, as ordered.
- (IV) Other medical support or insurance, as ordered.

b. If the combined amount to be withheld for current support plus the premium payment for health insurance exceed the amount allowed under the

Consumer Credit Protection Act, and the health insurance 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 insurance, as ordered.

6. An employer, union, or plan administrator who does not comply with the requirements in sub-subparagraph 4.a. is subject to a civil penalty not to exceed \$250 for the first violation and \$500 for subsequent violations, plus attorney’s fees and costs. The department may file a petition in circuit court to enforce the requirements of this subparagraph.

7. The department may adopt rules to administer the child support enforcement provisions of this section that affect Title IV-D cases.

(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 for all support orders that provide for 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 that do not provide for immediate income deduction, any party, or the ~~department IV-D agency~~ in a IV-D case, may subsequently file an affidavit with the depository State Disbursement Unit alleging a default in payment of child support and stating that the party wishes to require that payments be made through the depository State Disbursement Unit. 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 State Disbursement Unit shall notify all parties that future payments shall be paid through the depository, except that income deduction payments shall be made to the State Disbursement Unit.

Section 2. Effective July 1, 2010, subsection (15) of section 61.30, Florida Statutes, is amended to read:

61.30 Child support guidelines; retroactive child support.—

(15) For purposes of establishing an obligation for support in accordance with this section, if a person who is receiving public assistance is found to be noncooperative as defined in s. 409.2572, the department may IV-D agency is

~~authorized to submit to the court an affidavit or written declaration signed under penalty of perjury as specified in s. 92.525(2) attesting to the income of that parent based upon information available to the department IV-D agency.~~

Section 3. Subsection (2) of section 382.013, Florida Statutes, is amended to read:

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

(2) PATERNITY.—

(a) If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(b) Notwithstanding paragraph (a), if the husband of the mother dies while the mother is pregnant but before the birth of the child, the name of the deceased husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

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

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015 or there is a final judgment of dissolution of marriage which requires the former husband to pay child support for the child, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of

the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

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

(f) If the mother and father marry each other at any time after the child's birth, upon receipt of a marriage license that identifies any such child, the department shall amend the certificate with regard to the parents' marital status as though the parents were married at the time of birth.

(g)(f) If the father is not named on the certificate, no other information about the father shall be entered on the certificate.

Section 4. Subsection (2) of section 382.015, Florida Statutes, is amended to read:

382.015 New certificates of live birth; duty of clerks of court and department.—The clerk of the court in which any proceeding for adoption, annulment of an adoption, affirmation of parental status, or determination of paternity is to be registered, shall within 30 days after the final disposition, forward to the department a certified copy of the court order, or a report of the proceedings upon a form to be furnished by the department, together with sufficient information to identify the original birth certificate and to enable the preparation of a new birth certificate. The clerk of the court shall implement a monitoring and quality control plan to ensure that all judicial determinations of paternity are reported to the department in compliance with this section. The department shall track paternity determinations reported monthly by county, monitor compliance with the 30-day timeframe, and report the data to the clerks of the court quarterly.

(2) DETERMINATION OF PATERNITY.—Upon receipt of the report, ~~or~~ a certified copy of a final decree of determination of paternity, or a certified copy of a final judgment of dissolution of marriage which requires the former husband to pay child support for the child, together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate, which shall bear the same file number as the original birth certificate. The registrant's name shall be entered as decreed by the court or as reflected in the final judgment or support order. The names and identifying information of the parents shall be entered as of the date of the registrant's birth.

Section 5. Paragraph (b) of subsection (1) of section 382.016, Florida Statutes, is amended to read:

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

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

(1) CERTIFICATE OF LIVE BIRTH AMENDMENT.—

(b) Upon written request and receipt of an affidavit, a notarized voluntary acknowledgment of paternity signed by the mother and father acknowledging the paternity of a registrant born out of wedlock, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as specified by s. 92.525(2), together with sufficient information to identify the original certificate of live birth, the department shall prepare a new birth certificate, which shall bear the same file number as the original birth certificate. The names and identifying information of the parents shall be entered as of the date of the registrant's birth. The surname of the registrant may be changed from that shown on the original birth certificate at the request of the mother and father of the registrant, or the registrant if of legal age. If the mother and father marry each other at any time after the registrant's birth, the department shall, upon receipt of a marriage license that identifies the registrant, or upon the request of the mother and father or registrant if of legal age and proof of the marriage, amend the certificate with regard to the parents' marital status as though the parents were married at the time of birth. The department shall substitute the new certificate of birth for the original certificate on file. All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar. Thereafter, when a certified copy of the certificate of birth or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when a court order requires issuance of a certified copy of the original certificate of birth. Except for a birth certificate on which a father is listed pursuant to an affidavit, a notarized voluntary acknowledgment of paternity signed by the mother and father acknowledging the paternity of a registrant born out of wedlock, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as specified by s. 92.525(2), the department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken except by order of a court of competent jurisdiction or as otherwise provided by law.

Section 6. Effective July 1, 2010, subsection (3) of section 409.2558, Florida Statutes, is amended to read:

409.2558 Support distribution and disbursement.—

(3) UNDISTRIBUTABLE COLLECTIONS.—

(a) The department shall establish by rule the method for determining a collection or refund to be undistributable to the final intended recipient. Before determining a collection or refund to be undistributable, the department shall make reasonable efforts to locate persons to whom collections or refunds are owed so that payment can be made. Location



efforts may include disclosure through a searchable database of the names of obligees, obligors, and depository account numbers on the Internet in compliance with the requirements of s. 119.01(2)(a).

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

1. Apply the payment to any financial liability incurred by the obligor as a result of a previous payment returned to the department for insufficient funds; then

2. Apply the payment to any financial liability incurred by the obligor as a result of an overpayment to the obligor which the obligor has failed to return to the department after notice; then

3. Apply the payment to any financial liability incurred by the obligee as a result of an overpayment to the obligee which the obligee has failed to return to the department after notice; then

4.1. Apply the payment to any assigned arrears on the obligee's case; then

5.2. Apply the payment to any administrative costs ordered by the court pursuant to s. 409.2567 associated with the obligee's case; then

6.3. When the obligor is subject to a valid order to support another child in a case with a different obligee and the obligation is being enforced by the department, the department shall send by certified mail, restricted delivery, return receipt requested, to the obligor at the most recent address provided by the obligor to the tribunal that issued the order, a notice stating the department's intention to apply the payment pursuant to this subparagraph, and advising the obligor of the right to contest the department's proposed action in the circuit court by filing and serving a petition on the department within 30 days after the mailing of the notice. If the obligor does not file and serve a petition within the 30 days after mailing of the notice, or upon a disposition of the judicial action favorable to the department, the department shall apply the payment toward his or her other support obligation. If there is more than one such other case, the department shall allocate the remaining undistributable amount as specified by s. 61.1301(4)(c); then

7.4. Return the payment to the obligor; then

8.5. If the obligor cannot be located after diligent efforts by the department, the federal share of the payment shall be credited to the Federal Government and the state share shall be transferred to the General Revenue Fund.

(c) Refunds to obligors that are determined to be undistributable shall be processed in the following manner:

1. The federal share of the refund shall be sent to the Federal Government.

2. The state share shall be credited to the General Revenue Fund.

(d) If a payment of less than \$1 is made by a paper check on an open Title IV-D case and the payment is not cashed after 180 days, or if less than \$1 is owed on a closed Title IV-D case, the department shall declare the payment as program income, crediting the federal share of the payment to the Federal Government and the state share of the payment to the General Revenue Fund, without attempting to locate either party.

Section 7. Section 409.256, Florida Statutes, is amended to read:

409.256 Administrative proceeding to establish paternity or paternity and child support; order to appear for genetic testing.—

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

(a) “Another state” or “other state” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

1. An Indian tribe.

2. A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, as determined by the Attorney General.

(b) “Caregiver” “Custodian” means a person, other than the mother, ~~father~~, or a putative father, who has physical custody of a child or with whom the child primarily resides. References in this section to the obligation of a ~~caregiver eustodian~~ to submit to genetic testing mean that the ~~caregiver eustodian~~ is obligated to submit the child for genetic testing, not that the ~~caregiver eustodian~~ must submit to genetic testing.

(c) “Filed” means a document has been received and accepted for filing at the offices of the Department of Revenue by the clerk or an authorized deputy clerk designated by the department.

(d) “Genetic testing” means a scientific analysis of genetic markers which ~~that~~ is performed by a qualified technical laboratory only to exclude an individual as the parent of a child or to show a probability of paternity.

(e) “Paternity and child support proceeding” means an administrative action commenced by the Department of Revenue to order genetic testing, establish paternity, and establish an administrative support order pursuant to this section.

(f) “Paternity proceeding” means an administrative action commenced by the Department of Revenue to order genetic testing and establish paternity pursuant to this section.

(g) “Putative father” means an individual who is or may be the biological father of a child whose paternity has not been established and whose mother was unmarried when the child was conceived and born.

(h) “Qualified technical laboratory” means a genetic-testing laboratory that may be under contract with the Department of Revenue, that uses tests and methods of a type generally acknowledged as reliable by accreditation organizations recognized by the United States Department of Health and Human Services, and that is approved by such an accreditation organization. The term includes a genetic-testing laboratory used by another state, if the laboratory has comparable qualifications.

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

(j) “Respondent” means the person or persons served by the Department of Revenue with a notice of proceeding pursuant to subsection (4). The term includes the putative father and may include the mother or the caregiver custodian of the child.

(k) “This state” or “the state” means the State of Florida.

(2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO THE COURTS.—

(a) The department of Revenue may commence a paternity proceeding or a paternity and child support proceeding as provided in subsection (4) if:

1. The child’s paternity has not been established.
2. No one is named as the father on the child’s birth certificate or the person named as the father is the putative father named in an affidavit or a written declaration as provided in subparagraph 5.
3. The child’s mother was unmarried when the child was conceived and born.
4. The department of Revenue is providing services under Title IV-D.
5. The child’s mother or a putative father has stated in an affidavit, or in a written declaration as provided in s. 92.525(2), that the putative father is or may be the child’s biological father. The affidavit or written declaration must set forth the factual basis for the allegation of paternity as provided in s. 742.12(2).

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

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

(d) If a putative father, mother, or caregiver custodian in a Title IV-D case voluntarily submits to genetic testing, the department of Revenue may schedule that individual or the child for genetic testing without serving that individual with an order to appear for genetic testing. A respondent or other person who is subject to an order to appear for genetic testing may waive, in writing or on the record at an administrative hearing, formal service of notices or orders or waive any other rights or time periods prescribed by this section.

(e) Whenever practicable, hearings held by the Division of Administrative Hearings pursuant to this section shall be held in the judicial circuit where the person receiving services under Title IV-D resides or, if the person receiving services under Title IV-D does not reside in this state, in the judicial circuit where the respondent resides. If the department of Revenue and the respondent agree, the hearing may be held in another location. If ordered by the administrative law judge, the hearing may be conducted telephonically or by videoconference.

(f) The Legislature does not intend to limit the jurisdiction of the circuit courts to hear and determine issues regarding establishment of paternity. This section is intended to provide the department of Revenue with an alternative procedure for establishing paternity and child support obligations in Title IV-D cases. This section does not prohibit a person who has standing from filing a civil action in circuit court for a determination of paternity or of child support obligations.

(g) Section 409.2563(2)(e), (f), and (g) apply to a proceeding under this section.

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

(4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC TESTING; MANNER OF SERVICE; CONTENTS.—The Department of

Revenue shall commence a proceeding to determine paternity, or a proceeding to determine both paternity and child support, by serving the respondent with a notice as provided in this section. An order to appear for genetic testing may be served at the same time as a notice of the proceeding or may be served separately. A copy of the affidavit or written declaration upon which the proceeding is based shall be provided to the respondent when notice is served. A notice or order to appear for genetic testing shall be served by certified mail, restricted delivery, return receipt requested, or in accordance with the requirements for service of process in a civil action. 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. For purposes of this section, an employee or an authorized agent of the department may serve the notice or order to appear for genetic testing and execute an affidavit of service. The department may serve an order to appear for genetic testing on a caregiver eustodian. The department shall provide a copy of the notice or order to appear by regular mail to the mother and caregiver eustodian, if they are not respondents.

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

1. That the department has commenced an administrative proceeding to establish whether the putative father is the biological father of the child named in the notice.
2. The name and date of birth of the child and the name of the child's mother.
3. That the putative father has been named in an affidavit or written declaration that states the putative father is or may be the child's biological father.
4. That the respondent is required to submit to genetic testing.
5. That genetic testing will establish either a high degree of probability that the putative father is the biological father of the child or that the putative father cannot be the biological father of the child.
6. That if the results of the genetic test do not indicate a statistical probability of paternity that equals or exceeds 99 percent, the paternity proceeding in connection with that child shall cease unless a second or subsequent test is required.

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

a. Issue a proposed order of paternity that the respondent may consent to or contest at an administrative hearing; or

b. Commence a proceeding, as provided in s. 409.2563, to establish an administrative support order for the child. Notice of the proceeding shall be provided to the respondent by regular mail.

8. That, if the genetic test results indicate a statistical probability of paternity that equals or exceeds 99 percent and a proceeding to establish an administrative support order is commenced, the department shall issue a proposed order that addresses paternity and child support. The respondent may consent to or contest the proposed order at an administrative hearing.

9. That if a proposed order of paternity or proposed order of both paternity and child support is not contested, the department shall adopt the proposed order and render a final order that establishes paternity and, if appropriate, an administrative support order for the child.

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

11. That the respondent may file an action in circuit court for a determination of paternity, child support obligations, or both.

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

13. That, if paternity is established, the putative father may file a petition in circuit court for a determination of matters relating to custody and rights of parental contact.

A notice under this paragraph must also notify the respondent of the provisions in s. 409.2563(4)(m) and (o).

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

(c) The order to appear for genetic testing shall inform the person ordered to appear:

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

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

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

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

5. That if the person has custody of the child whose paternity is the subject of the proceeding, the person must submit the child for genetic testing.

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

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

8. That if the person ordered to appear does not appear as ordered or refuses to submit to genetic testing without good cause, the department may take one or more of the following actions:

a. Commence proceedings to suspend the driver's license and motor vehicle registration of the person ordered to appear, as provided in s. 61.13016;

b. Impose an administrative fine against the person ordered to appear in the amount of \$500; or

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

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

(d) If the putative father is incarcerated, the correctional facility shall assist the putative father in complying with an administrative order to appear for genetic testing issued under this section.

(e) An administrative order to appear for genetic testing has the same force and effect as a court order.

(5) RIGHT TO CONTEST ORDER TO APPEAR FOR GENETIC TESTING.—

(a) The person ordered to appear may contest an order to appear for genetic testing by filing a written request for informal review with the department of Revenue within 15 days after the date of service of the order. The purpose of the informal review is to provide the person ordered to appear with an opportunity to discuss the proceedings and the basis of the order. At the conclusion of the informal review, the department shall notify the person ordered to appear, in writing, whether it intends to proceed with the order to appear. If the department notifies the person ordered to appear of its intent to proceed, the notice must inform the person ordered to appear of the right to contest the order at an administrative hearing.

(b) Following an informal review, within 15 days after the mailing date of the department's Department of Revenue's notification that the department shall proceed with an order to appear for genetic testing, the person ordered to appear may file a request for an administrative hearing to contest whether the person should be required to submit to genetic testing. A request for an administrative hearing must state the specific reasons why the person ordered to appear believes he or she should not be required to submit to genetic testing as ordered. If the person ordered to appear files a timely request for a hearing, the department shall refer the hearing request to the Division of Administrative Hearings. Unless otherwise provided in this section, administrative hearings are governed by chapter 120 and the uniform rules of procedure. The administrative law judge assigned to the case shall issue an order as to whether the person must submit to genetic testing in accordance with the order to appear. The department or the person ordered to appear may seek immediate judicial review under s. 120.68 of an order issued by an administrative law judge pursuant to this paragraph.

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

1. The department has notified the person of its intent to proceed after informal review, and a timely request for hearing is not filed;
2. The person ordered to appear withdraws the request for hearing or informal review; or



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

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

(6) SCHEDULING OF GENETIC TESTING.—

(a) The department of ~~Revenue~~ shall notify, in writing, the person ordered to appear of the date, time, and location of the appointment for genetic testing and of the requirement to verify his or her identity and the identity of the child, if applicable, when the samples are provided by presenting a form of identification as prescribed in s. 117.05(5)(b)2. which that bears the photograph of the person who is providing the sample or other form of verification approved by the department. If the person ordered to appear is the putative father or the mother, that person shall appear and submit to genetic testing. If the person ordered to appear is a caregiver eustodian, or if the putative father or the mother has custody of the child, that person must submit the child for genetic testing.

(b) The department shall reschedule genetic testing:

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

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

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

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

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

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

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

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

(a) Commence a proceeding to suspend the driver's license and motor vehicle registration of the person ordered to appear, as provided in s. 61.13016;

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

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

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

(8) **GENETIC-TESTING RESULTS.**—The department shall send a copy of the genetic-testing results to the putative father, to the mother, to the ~~caregiver~~ ~~eustodian~~, and to the other state, if applicable. If the genetic-testing results, including second or subsequent genetic-testing results, do not indicate a statistical probability of paternity that equals or exceeds 99 percent, the paternity proceeding in connection with that child shall cease.

(9) **PROPOSED ORDER OF PATERNITY; COMMENCEMENT OF PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT ORDER; PROPOSED ORDER OF PATERNITY AND CHILD SUPPORT.**—

(a) If a paternity proceeding has been commenced under this section and the results of genetic testing indicate a statistical probability of paternity that equals or exceeds 99 percent, the department of ~~Revenue~~ may:

1. Issue a proposed order of paternity as provided in paragraph (b); or
2. If appropriate, delay issuing a proposed order of paternity and commence, by regular mail, an administrative proceeding to establish a support order for the child pursuant to s. 409.2563 and issue a single proposed order that addresses paternity and child support.

(b) A proposed order of paternity must:

1. State proposed findings of fact and conclusions of law.

2. Include a copy of the results of genetic testing.

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

(c) If a paternity and child support proceeding has been commenced under this section and the results of genetic testing indicate a statistical probability of paternity that equals or exceeds 99 percent, the department of Revenue may issue a single proposed order that addresses paternity as provided in this section and child support as provided in s. 409.2563.

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

(10) INFORMAL REVIEW; ADMINISTRATIVE HEARING; PRESUMPTION OF PATERNITY.—

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

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

(c) If the respondent files a timely request for a hearing, the department of Revenue shall refer the hearing request to the Division of Administrative Hearings. Unless otherwise provided in this section or in s. 409.2563, chapter 120 and the uniform rules of procedure govern the conduct of the proceedings.

(d) The genetic-testing results shall be admitted into evidence and made a part of the hearing record. For purposes of this section, a statistical probability of paternity that equals or exceeds 99 percent creates a presumption, as defined in s. 90.304, that the putative father is the biological father of the child. The presumption may be overcome only by clear and convincing evidence. The respondent or the department of Revenue may call an expert witness to refute or support the testing procedure or results or the mathematical theory on which they are based. Verified documentation of the

chain of custody of the samples tested is competent evidence to establish the chain of custody.

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

(a) If a hearing is held, the administrative law judge of the Division of Administrative Hearings shall issue a final order that adjudicates paternity or, if appropriate, paternity and child support. A final order of the administrative law judge constitutes final agency action by the Department of Revenue. The Division of Administrative Hearings shall transmit any such order to the department for filing and rendering.

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

(c) The department of Revenue shall mail a copy of the final order to the putative father, the mother, and the caregiver ~~eustodian~~, if any. The department shall notify the respondent of the right to seek judicial review of a final order in accordance with s. 120.68.

(d) Upon rendering a final order of paternity or a final order of paternity and child support, the department of Revenue shall notify the Division of Vital Statistics of the Department of Health that the paternity of the child has been established.

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

(f) The provisions of s. 409.2563 which ~~that~~ apply to a final administrative support order rendered under that section apply to a final order rendered under this section when a child support obligation is established.

(12) RIGHT TO JUDICIAL REVIEW.—A respondent has the right to seek judicial review, in accordance with s. 120.68, of a final order rendered under subsection (11) and an order issued under paragraph (5)(b). The department of Revenue has the right to seek judicial review, in accordance with s. 120.68, of a final order issued by an administrative law judge under subsection (11) and an order issued by an administrative law judge under paragraph (5)(b).

(13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING ADDRESS.—Until a proceeding that has been commenced under this section has ended, a respondent who is served with a notice of proceeding must inform the department of Revenue in writing of any change in the respondent's mailing address and is deemed to have received any subsequent order, notice, or other paper mailed to that address, or the address at which

the respondent was served, if the respondent has not provided a more recent address.

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

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

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

(17) RULEMAKING AUTHORITY.—The department may adopt rules to implement this section.

Section 8. Paragraph (b) of subsection (1), paragraph (d) of subsection (2), subsection (4), paragraphs (a) and (b) of subsection (5), and subsections (6), (7), and (13) of section 409.2563, Florida Statutes, are amended to read:

409.2563 Administrative establishment of child support obligations.—

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

(b) “Caregiver” means a person, other than the mother, father, or putative father, who has physical custody of the child or with whom the child primarily resides. ~~“Caretaker relative” has the same meaning ascribed in s. 414.0252(11).~~

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

(2) PURPOSE AND SCOPE.—

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

(4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT ORDER.—To commence a proceeding under this section, the department shall provide to the parent from whom support is not being sought and serve the parent from whom support is being sought 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 caregiver 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 caregiver 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 caregiver 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 schedule 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 caregiver 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 parent from whom support is being sought 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 parent from whom support is being sought 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 caregiver 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;

(l) That either parent, or caregiver caretaker relative if applicable, may file at any time a civil action in a circuit court having jurisdiction and proper venue to determine parental 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 has jurisdiction to award or change child custody or rights of parental contact or time-sharing, and these issues may only be addressed only in circuit court.

1. The parent from whom support is being sought may request in writing that the department proceed in circuit court to determine his or her support obligations.

2. The parent from whom support is being sought may state in writing to the department his or her intention to address issues concerning custody or rights to parental contact in circuit court.

3. If the parent from whom support is being sought submits the request authorized in subparagraph 1., or the statement authorized in subparagraph 2. to the department within 20 days after the receipt of the initial notice, the department shall file a petition in circuit court for the determination of the parent's child support obligations, and shall send to the parent from whom support is being sought a copy of its petition, a notice of commencement of action, and a request for waiver of service of process as provided in the Florida Rules of Civil Procedure.

4. If, within 10 days after receipt of the department's petition and waiver of service, the parent from whom support is being sought signs and returns the waiver of service form to the department, the department shall terminate the administrative proceeding without prejudice and proceed in circuit court.

5. In any circuit court action filed by the department pursuant to this paragraph or filed by a parent from whom support is being sought or other person pursuant to paragraph (l) or paragraph (n), the department shall be a party only with respect to those issues of support allowed and reimbursable under Title IV-D of the Social Security Act. It is the responsibility of the parent from whom support is being sought or other person to take the necessary steps to present other issues for the court to consider.

(n) That if the parent from whom support is being sought 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 parent from whom support is not being sought or ~~the caregiver caretaker relative~~ with a copy of the notice by regular mail to the last known address of the parent from whom support is not being sought or ~~caregiver caretaker~~.

(5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

(b) The department shall send by regular mail to both parents, or to a parent and ~~caregiver caretaker relative~~ if applicable, copies of the proposed administrative support order, its completed child support worksheet, and any financial affidavits submitted by a parent or prepared by the department. The proposed administrative support order must contain the same elements as required for an administrative support order under paragraph (7)(e).

(6) HEARING.—If the parent from whom support is being sought files a timely request for hearing or the department determines that an evidentiary hearing is appropriate, the department shall refer the proceeding hearing request to the Division of Administrative Hearings. Unless otherwise provided by this section, chapter 120 and the 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).



(7) ADMINISTRATIVE SUPPORT ORDER.—

(a) If a hearing is held, 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.

(b) If the parent from whom support is being sought does not file a timely request for a hearing, the parent will be deemed to have waived the right to request a hearing.

(c) If the parent from whom support is being sought 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 caregiver ~~caretaker~~ relative if applicable. The parent from whom support is being sought 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 ss. 61.13(1) and 61.30. The department 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 parent from whom support is being sought and the other parent or caregiver ~~caretaker~~ relative;
3. The parent’s duty and ability to provide support;
4. The amount of the parent’s monthly support obligation;
5. Any obligation to pay retroactive support;
6. The parent’s obligation to provide for the health care needs of each child, whether through health insurance, contribution toward ~~towards~~ the cost of health insurance, 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 insurance;
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 caregiver ~~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);

10. That both parents, or parent and caregiver ~~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 parent ordered to pay support 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.

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

(a) Each 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. An updated financial affidavit must be executed and furnished to the department at the inception of each proceeding to modify an administrative support order. A caregiver is ~~caretaker~~ ~~relatives~~ are not required to furnish a financial affidavit ~~affidavits~~.

(b) Each parent and caregiver, ~~caretaker~~ relative if applicable, shall disclose to the department, no later than 20 days after receipt of the notice of proceeding to establish administrative support order, and update as appropriate, information regarding his or her identity and location, including names he or she is known by; social security number; residential and mailing addresses; telephone numbers; driver's license numbers; and names, addresses, and telephone numbers of employers. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each person must provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(c) Each parent and caregiver ~~caretaker~~ relative, if applicable, has a continuing obligation to promptly inform the department in writing of any change in his or her mailing address to ensure receipt of all subsequent pleadings, notices, payments, statements, and orders, and receipt is presumed if sent by regular mail to the most recent address furnished by the person.

Section 9. Effective October 1, 2010, subsection (7) of section 409.25635, Florida Statutes, is amended to read:

409.25635 Determination and collection of noncovered medical expenses.

(7) COLLECTION ACTION; ADMINISTRATIVE REMEDIES.—Any administrative remedy available for collection of support may be used to collect noncovered medical expenses that are determined or established under this section. The department may collect noncovered medical expenses in installments by adding a periodic payment to an income deduction notice issued by the department.

Section 10. Effective November 1, 2010, subsections (4), (5), (7), (8), (9), and (11) of section 409.2564, Florida Statutes, are amended to read:

409.2564 Actions for support.—

(4) Whenever the Department of Revenue has undertaken an action for enforcement of support, the Department of Revenue may enter into an agreement with the obligor for the entry of a judgment determining paternity, if applicable, and for periodic child support payments based on the child support guidelines schedule in s. 61.30. ~~Before~~ ~~Prior to~~ entering into this agreement, the obligor shall be informed that a judgment will be entered based on the agreement. The clerk of the court shall file the agreement without the payment of any fees or charges, and the court, upon entry of the judgment, shall forward a copy of the judgment to the parties to the action. ~~To encourage out-of-court settlement and promote support order compliance, if the obligor and the Department of Revenue agree on entry of a support order and its terms, the guideline amount owed for retroactive support that is permanently assigned to the state shall be reduced by 25 percent.~~

(5) Whenever the ~~department~~ IV-D agency has undertaken an action to determine paternity, to establish an obligation of support, or to enforce or modify an obligation of support, the ~~department~~ IV-D agency shall be a party to the action only for those purposes allowed under Title IV-D of the Social Security Act. The program attorney shall be the attorney of record solely for the purposes of support enforcement as authorized under Title IV-D and may prosecute only those activities which are eligible for federal financial participation under Title IV-D. An attorney-client relationship exists only between the department and the legal services providers in all Title IV-D cases. The attorney shall advise the obligee in Title IV-D cases that the attorney represents the agency and not the obligee.

(7) The director of the ~~department~~ Title IV-D agency, or the director's designee, is authorized to subpoena from any person financial and other information necessary to establish, modify, or enforce a child support order.

(a) For the purpose of establishing or modifying a child support order, or enforcing a support order, the director of ~~the department~~ this or another state's Title IV-D agency, or any employee designated by the director of ~~the department~~ this state's Title IV-D agency or authorized under another state's law, may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence and require the production of any

matter which is relevant to the support action, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(b) Subpoenas issued by ~~the department~~ this or ~~another any other~~ state's Title IV-D agency may be challenged in accordance with s. 120.569(2)(k)1. While a subpoena is being challenged, the ~~department~~ Title IV-D agency may not impose a fine as provided for under paragraph (c) until the challenge is complete and the subpoena has been found to be valid.

(c) The ~~department~~ Title IV-D agency is authorized to impose a fine for failure to comply with a subpoena. Failure to comply with the subpoena, or to challenge the subpoena as provided in paragraph (b), within 15 days after service of the subpoena may result in the agency taking the following actions:

1. Imposition of an administrative fine of not more than \$500.
2. Enforcement of the subpoena as provided in s. 120.569(2)(k)2. When the subpoena is enforced pursuant to s. 120.569(2)(k)2., the court may award costs and fees to the prevailing party in accordance with that section.

(d) The ~~department~~ Title IV-D agency may seek to collect administrative fines imposed pursuant to paragraph (c) by filing a petition in the circuit court of the judicial circuit in which the person against whom the fine was imposed resides. All fines collected pursuant to this subsection shall be deposited into the Child Support Enforcement Application and Program Revenue Trust Fund.

(8) In cases in which support is subject to an assignment as provided under 45 C.F.R. s. 301.1, the ~~department~~ Title IV-D agency shall, upon providing notice to the obligor and obligee, direct the obligor or other payor to change the payee to the appropriate depository.

(9)(a) For the purpose of securing delinquent support, the ~~department~~ Title IV-D agency may increase the amount of the monthly support obligation to include amounts for delinquencies, subject to such conditions or limitations as set forth in paragraph (b).

(b) In support obligations not subject to income deduction, the ~~department~~ Title IV-D agency shall notify the obligor of his or her delinquency and of the department's intent to require an additional 20 percent of the monthly obligation amount to allow for collection of the delinquency unless, within 20 days, the obligor:

1. Pays the delinquency in full; or
2. Files a petition with the circuit court to contest the delinquency action.

(11)(a) ~~The Department of Revenue Title IV-D agency shall review child support orders in IV-D cases at least once every 3 years when requested upon request by either party, or when support rights are assigned the agency in cases where there is an assignment of support to the state under s. 414.095(7), and may seek modification adjustment of the order if appropriate under the child support guidelines schedule established in s. 61.30. Not less than once every 3 years the department IV-D agency shall provide notice to the parties subject to the order informing them of their right to request a review and, if appropriate, a modification an adjustment of the child support order. The Said notice requirement may be met by including appropriate language in the initial support order or any subsequent orders.~~

(b) If the department's review of a support order entered by the circuit court indicates that the order should be modified, the department, through counsel, shall file a petition to modify the order with the court. Along with the petition, the department shall file a child support guideline worksheet, any financial affidavits or written declarations, pursuant to s. 61.30(15), received from the parties or completed by the department as part of the support order review, a proposed modified order that includes findings as to the source and amount of income, and a notice that informs the parties of the requirement to file an objection or a request for hearing with the court if the party wants a court hearing on the petition to modify. A copy of the petition, proposed order, and other documents shall be served by regular mail on a party who requested the support order review. A party that did not request the support order review shall be served personally in any manner authorized under chapter 48.

(c) To obtain a court hearing on a petition to modify a support order, a party who is served by regular mail must file an objection to the proposed order or a request for hearing with the court within 30 days after the date on which the petition, proposed order, and other documents were mailed. If a party is served personally, to obtain a court hearing on a petition to modify the party must file an objection to the proposed order or a request for hearing with the court within 30 days after the date of receipt of the petition, proposed order, and other documents.

(d) If a timely objection or request for hearing is not filed with the court, the court may modify the support order without a hearing in accordance with the terms of the proposed order.

(e) If a support order does not provide for payment of noncovered medical expenses or require health insurance for the minor child and health insurance is accessible to the child and available at a reasonable cost, 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.

Section 11. Subsection (5) of section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—

(5) The Department of Revenue ~~may shall~~ seek a waiver from the Secretary of the United States Department of Health and Human Services to authorize the Department of Revenue to provide services in accordance with Title IV-D of the Social Security Act to individuals who are owed support without need of an application. The department may seek a waiver if it determines that the estimated increase in federal funding to the state derived from the waiver would exceed any additional cost to the state if the waiver is granted. If the waiver is granted, the Department of Revenue shall adopt rules to implement the waiver and begin providing Title IV-D services if support payments are not being paid as ordered, except that the individual first must be given written notice of the right to refuse Title IV-D services and a reasonable opportunity to respond.

Section 12. Subsection (3) of section 409.259, Florida Statutes, is amended to read:

409.259 Filing fees in Title IV-D cases; electronic filing of pleadings, returns of service, and other papers.—

(3) The clerks of the circuit court, chief judges through the Office of the State Courts Administrator, sheriffs, Office of the Attorney General, and Department of Revenue shall ~~work cooperatively to~~ implement electronic filing of pleadings, returns of service, and other papers ~~with the clerks of the circuit court~~ in Title IV-D cases upon completion of the Child Support Automated Management System II by October 1, 2009.

Section 13. Paragraph (a) of subsection (20) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(20) Entities providing health insurance as defined in s. 624.603, health maintenance organizations and prepaid health clinics as defined in chapter 641, and, on behalf of their clients, third-party administrators and pharmacy benefits managers as defined in s. 409.901(27) shall provide such records and information as are necessary to accomplish the purpose of this section, unless such requirement results in an unreasonable burden.

(a) The director of the agency and the Director of the Office of Insurance Regulation of the Financial Services Commission shall enter into a cooperative agreement for requesting and obtaining information necessary to effect the purpose and objective of this section.

1. The agency shall request only that information necessary to determine whether health insurance as defined pursuant to s. 624.603, or those health services provided pursuant to chapter 641, could be, should be, or have been claimed and paid with respect to items of medical care and services furnished to any person eligible for services under this section.

2. All information obtained pursuant to subparagraph 1. is confidential and exempt from s. 119.07(1). The agency shall provide the information obtained pursuant to subparagraph 1. to the Department of Revenue for purposes of administering the state Title IV-D program. The agency and the Department of Revenue shall enter into a cooperative agreement for purposes of implementing this requirement.

3. The cooperative agreement or rules adopted under this subsection may include financial arrangements to reimburse the reporting entities for reasonable costs or a portion thereof incurred in furnishing the requested information. Neither the cooperative agreement nor the rules shall require the automation of manual processes to provide the requested information.

Section 14. Subsection (7) of section 414.095, Florida Statutes, is amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(7) ASSIGNMENT OF RIGHTS TO SUPPORT.—As a condition of receiving temporary cash assistance, the family must assign to the Department of Revenue any rights a member of a family may have to support from any other person. This applies to any family member; however, the assigned amounts must not exceed the total amount of temporary cash assistance provided to the family. The assignment of support does not apply if the family leaves the program.

Section 15. Subsection (1) of section 741.01, Florida Statutes, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(1) Every marriage license shall be issued by a county court judge or clerk of the circuit court under his or her hand and seal. The county court judge or clerk of the circuit court shall issue such license, upon application for the license, if there appears to be no impediment to the marriage. An application for a marriage license must allow both parties to the marriage to state under oath in writing if they are the parents of a child born in this state and to identify any such child they have in common by name, date of birth, place of birth, and, if available, birth certificate number. The name of any child recorded by both parties must be transmitted to the Department of Health along with the original marriage license and endorsements. The county court judge or clerk of the circuit court shall collect and receive a fee of \$2 for receiving the application for the issuance of a marriage license.

Section 16. Effective November 1, 2010, for the purpose of incorporating the amendment made by this act to section 409.2564, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 61.14, Florida Statutes, is reenacted to read:

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

(1)

(c) For each support order reviewed by the department as required by s. 409.2564(11), 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.

Section 17. Effective November 1, 2010, for the purpose of incorporating the amendment made by this act to section 409.2564, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 61.30, Florida Statutes, is reenacted 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(11), 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.

Section 18. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 3, 2010.

Filed in Office Secretary of State June 3, 2010.