

By Senator Storms

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1 A bill to be entitled
2 An act relating to child support enforcement; amending
3 s. 61.13, F.S.; providing that, for IV-D cases, an
4 affidavit filed with a child support depository
5 requesting that child support payments be made through
6 the depository need not allege a default in support
7 payments; amending s. 61.13016, F.S.; requiring the
8 Department of Highway Safety and Motor Vehicles to
9 suspend an obligor's driver license unless the obligor
10 begins paying child support by income deduction;
11 amending s. 322.058, F.S.; requiring the Department of
12 Highway Safety and Motor Vehicles to reinstate an
13 obligor's driving privileges if the obligor is paying
14 his or her support obligation by income deduction
15 order; amending s. 409.256, F.S.; adding a caregiver
16 to the list of persons who may provide a statement
17 regarding a putative father; amending s. 409.2563,
18 F.S.; providing for the filing of a written request to
19 informally discuss a proposed administrative support
20 order with the Department of Revenue; amending s.
21 409.25656, F.S.; providing that notice of a levy upon
22 property may be delivered by regular mail rather than
23 by registered mail; providing for notices to be sent
24 to a garnishee by e-mail or facsimile; requiring the
25 Chief Financial Officer to work cooperatively with the
26 department to establish an automated method for
27 periodically disclosing to the department an
28 electronic file of individuals to whom the state pays
29 money for goods or services or who lease real property

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30 to the state; requiring the department to use the
31 collected data to identify individuals who owe past
32 due or overdue child support and to garnish payments
33 owed to such individuals by the state; amending s.
34 409.25658, F.S.; revising provisions relating to
35 unclaimed property to be transferred to the Department
36 of Revenue to pay for past due child support; amending
37 s. 409.2575, F.S.; providing that the Department of
38 Revenue rather than the director of the state IV-D
39 program may cause a lien to be placed on a motor
40 vehicle and vessel; reenacting s. 409.256(7), F.S.,
41 relating to administrative procedures to establish
42 paternity, to incorporate the amendments made to s.
43 322.058, F.S., in a reference thereto; providing
44 effective dates.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Paragraph (d) of subsection (1) of section
49 61.13, Florida Statutes, is amended to read:

50 61.13 Support of children; parenting and time-sharing;
51 powers of court.—

52 (1)

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

56 2. If both parties request and the court finds that it is
57 in the best interest of the child, support payments need not be
58 subject to immediate income deduction. Support orders that are

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59 not subject to immediate income deduction may be directed
60 through the depository under s. 61.181 or made payable directly
61 to the obligee. Payments made by immediate income deduction
62 shall be made to the State Disbursement Unit. The court shall
63 provide a copy of the order to the depository.

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

76 Section 2. Subsections (1) and (3) of section 61.13016,
77 Florida Statutes, are amended to read:

78 61.13016 Suspension of driver's licenses and motor vehicle
79 registrations.—

80 (1) The driver's license and motor vehicle registration of
81 a support obligor who is delinquent in payment or who has failed
82 to comply with subpoenas or a similar order to appear or show
83 cause relating to paternity or support proceedings may be
84 suspended. When an obligor is 15 days delinquent making a
85 payment in support or failure to comply with a subpoena, order
86 to appear, order to show cause, or similar order in IV-D cases,
87 the Title IV-D agency may provide notice to the obligor of the

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88 delinquency or failure to comply with a subpoena, order to
89 appear, order to show cause, or similar order and the intent to
90 suspend by regular United States mail that is posted to the
91 obligor's last address of record with the Department of Highway
92 Safety and Motor Vehicles. When an obligor is 15 days delinquent
93 in making a payment in support in non-IV-D cases, and upon the
94 request of the obligee, the depository or the clerk of the court
95 must provide notice to the obligor of the delinquency and the
96 intent to suspend by regular United States mail that is posted
97 to the obligor's last address of record with the Department of
98 Highway Safety and Motor Vehicles. In either case, the notice
99 must state:

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

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

105 (c) That notification must ~~will~~ be given to the Department
106 of Highway Safety and Motor Vehicles to suspend the obligor's
107 driver's license and motor vehicle registration unless, within
108 20 days after the date the notice is mailed, the obligor:

109 1.a. Pays the delinquency in full and any other costs and
110 fees accrued between the date of the notice and the date the
111 delinquency is paid;

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

116 c. Files a petition with the circuit court to contest the

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117 delinquency action; or ~~and~~

118 d. Begins paying by income deduction; and

119 2. Pays any applicable delinquency fees.

120

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

125 (3) If the obligor does not, within 20 days after the
126 mailing date on the notice, pay the delinquency; ~~enter into a~~
127 written payment agreement; ~~comply with the subpoena, order to~~
128 appear, order to show cause, or other similar order; begin
129 paying by income deduction; ~~or file a motion to contest, the~~
130 Title IV-D agency in IV-D cases, or the depository or clerk of
131 the court in non-IV-D cases, may ~~shall~~ file the notice with the
132 Department of Highway Safety and Motor Vehicles and request the
133 suspension of the obligor's driver's license and motor vehicle
134 registration in accordance with s. 322.058.

135 Section 3. Subsections (2) and (3) of section 322.058,
136 Florida Statutes, are amended to read:

137 322.058 Suspension of driving privileges due to support
138 delinquency; reinstatement.-

139 (2) The department must reinstate the driving privilege and
140 allow registration of a motor vehicle when the Title IV-D agency
141 in IV-D cases or the depository or the clerk of the court in
142 non-IV-D cases provides to the department an affidavit stating
143 that:

144 (a) The person has paid the delinquency;

145 (b) The person has reached a written agreement for payment

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146 with the Title IV-D agency or the obligee in non-IV-D cases;

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

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

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

153 (3) The department is ~~shall~~ not ~~be held~~ liable for any
154 license or vehicle registration suspension resulting from the
155 discharge of its duties under this section.

156 Section 4. Effective July 1, 2012, paragraph (a) of
157 subsection (2) of section 409.256, Florida Statutes, is amended
158 to read:

159 409.256 Administrative proceeding to establish paternity or
160 paternity and child support; order to appear for genetic
161 testing.—

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

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

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

168 2. No one is named as the father on the child's birth
169 certificate or the person named as the father is the putative
170 father named in an affidavit or a written declaration as
171 provided in subparagraph 5.

172 3. The child's mother was unmarried when the child was
173 conceived and born.

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

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175 5. The child's mother or caregiver or a putative father has
176 stated in an affidavit, or in a written declaration as provided
177 in s. 92.525(2), that the putative father is or may be the
178 child's biological father. The affidavit or written declaration
179 must set forth the factual basis for the allegation of paternity
180 as provided in s. 742.12(2).

181 Section 5. Effective July 1, 2012, paragraph (c) of
182 subsection (5) of section 409.2563, Florida Statutes, is amended
183 to read:

184 409.2563 Administrative establishment of child support
185 obligations.—

186 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

190 1. The parent from whom support is being sought may, within
191 20 days after the date of mailing or other service of the
192 proposed administrative support order, request a hearing by
193 filing a written request for hearing in a form and manner
194 specified by the department;

195 2. If the parent from whom support is being sought files a
196 timely request for a hearing, the case shall be transferred to
197 the Division of Administrative Hearings, which shall conduct
198 further proceedings and may enter an administrative support
199 order;

200 3. A parent from whom support is being sought who fails to
201 file a timely request for a hearing shall be deemed to have
202 waived the right to a hearing, and the department may render an
203 administrative support order pursuant to paragraph (7) (b);

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

207 5. The parent from whom support is being sought may, within
208 15 ~~10~~ days after the date of mailing or other service of the
209 proposed administrative support order, request to informally
210 discuss the proposed administrative support order by filing a
211 written request to the department ~~contact a department~~
212 ~~representative,~~ at the address ~~or telephone number~~ specified in
213 the notice, ~~to informally discuss the proposed administrative~~
214 ~~support order~~ and, if informal discussions are requested timely,
215 the time for requesting a hearing will be extended until 10 days
216 after the department notifies the parent that the informal
217 discussions have been concluded; and

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

222 Section 6. Subsections (3), (4), and (5), paragraph (b) of
223 subsection (7), and subsections (10) and (11) of section
224 409.25656, Florida Statutes, are amended to read:

225 409.25656 Garnishment.—

226 (3) During the last 30 days of the 60-day period set forth
227 in subsection (1), the executive director or his or her designee
228 may levy upon such credits, personal property, or debts. The
229 levy must be accomplished by delivery of a notice of levy by
230 regular ~~registered~~ mail, upon receipt of which the person
231 possessing the credits, other personal property, or debts shall
232 transfer them to the department or pay to the department the

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233 amount owed by the obligor. If the department levies upon
234 securities and the value of the securities is less than the
235 total amount of past due or overdue support, the person who
236 possesses or controls the securities shall liquidate the
237 securities in a commercially reasonable manner. After
238 liquidation, the person shall transfer to the department the
239 proceeds, less any applicable commissions or fees, or both,
240 which are charged in the normal course of business. If the value
241 of the securities exceeds the total amount of past due or
242 overdue support, the obligor may, within 7 days after receipt of
243 the department's notice of levy, instruct the person who
244 possesses or controls the securities which securities are to be
245 sold to satisfy the obligation for past due or overdue support.
246 If the obligor does not provide instructions for liquidation,
247 the person who possesses or controls the securities shall
248 liquidate the securities in a commercially reasonable manner in
249 an amount sufficient to cover the obligation for past due or
250 overdue support and any applicable commissions or fees, or both,
251 which are charged in the normal course of business, beginning
252 with the securities purchased most recently. After liquidation,
253 the person who possesses or controls the securities shall
254 transfer to the department the total amount of past due or
255 overdue support.

256 (4) A notice that is delivered under this section is
257 effective at the time of delivery against all credits, other
258 personal property, or debts of the obligor which are not at the
259 time of such notice subject to an attachment, garnishment, or
260 execution issued through a judicial process. Upon the
261 garnishee's written consent the department may send notices to

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262 the garnishee by secure e-mail or facsimile.

263 (5) The department may ~~is authorized to~~ bring an action in
264 circuit court for an order compelling compliance with any notice
265 issued under this section.

266 (7)

267 (b) Not less than 30 days before the day of the levy, the
268 notice of intent to levy required under paragraph (a) must be
269 given in person or sent by regular ~~certified or registered~~ mail
270 to the person's last known address.

271 (10) The Chief Financial Officer shall work cooperatively
272 with the department to establish an automated method for
273 periodically disclosing to the department an electronic file of
274 individuals to whom the state pays money for goods or services
275 or who lease real property to the state. The department shall
276 use the data provided to identify individuals who owe past due
277 or overdue support and may garnish payments owed to such
278 individuals by the state as provided in this section. The
279 ~~department shall provide notice to the Chief Financial Officer,~~
280 ~~in electronic or other form specified by the Chief Financial~~
281 ~~Officer, listing the obligors for whom warrants are outstanding.~~
282 ~~Pursuant to subsection (1), the Chief Financial Officer shall,~~
283 ~~upon notice from the department, withhold all payments to any~~
284 ~~obligor who provides commodities or services to the state,~~
285 ~~leases real property to the state, or constructs a public~~
286 ~~building or public work for the state. The department may levy~~
287 ~~upon the withheld payments in accordance with subsection (3).~~
288 Section 215.422 does not apply from the date the notice is filed
289 with the Chief Financial Officer until the date the department
290 notifies the Chief Financial Officer of its consent to make

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291 payment to the person or 60 days after receipt of the
292 department's notice in accordance with subsection (1), whichever
293 occurs earlier.

294 (11) The Department of Revenue may ~~has the authority to~~
295 adopt rules to administer ~~implement~~ this section.

296 Section 7. Section 409.25658, Florida Statutes, is amended
297 to read:

298 409.25658 Use of unclaimed property for past due support.-

299 (1) In a joint effort to facilitate the collection and
300 payment of past due support, the Department of Revenue, in
301 cooperation with the Department of Financial Services, shall
302 identify persons owing support collected by the department
303 ~~through a court~~ who are presumed to have unclaimed property held
304 by the Department of Financial Services.

305 (2) The department shall periodically provide the
306 Department of Financial Services with an electronic file of
307 support obligors who owe past due support. The Department of
308 Financial Services shall conduct a data match of the file
309 against all apparent owners of unclaimed property under chapter
310 717 and provide the resulting match list to the department.

311 (3) Upon receipt of the data match list, the department
312 shall provide ~~to~~ the Department of Financial Services with the
313 obligor's last known address. The Department of Financial
314 Services shall follow the notification procedures under s.
315 717.118.

316 (4) Before ~~Prior to~~ paying an obligor's approved claim, the
317 Department of Financial Services shall notify the department
318 that the ~~such~~ claim has been approved. Upon confirmation that
319 the Department of Financial Services has approved the claim, the

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320 department shall immediately send a notice by certified mail to
321 the obligor at the address provided by the obligor to the
322 Department of Financial Services, with a copy to the Department
323 of Financial Services, advising the obligor of the department's
324 intent to intercept the approved claim up to the amount of the
325 past due support, and informing the obligor of the obligor's
326 right to request a hearing under chapter 120. The Department of
327 Financial Services shall retain custody of the property until a
328 final order has been entered and any appeals thereon have been
329 concluded, or, if the intercept is uncontested, until notified
330 by the department. If the obligor fails to request a hearing,
331 the department shall notify ~~enter a final order instructing~~ the
332 Department of Financial Services, electronically or in writing,
333 to transfer to the department the property in the amount stated
334 in the notice or electronic file ~~final order~~. Upon such
335 transfer, the Department of Financial Services shall be released
336 from further liability related to the transferred property.

337 (5) ~~The provisions of~~ This section provides ~~provide~~ a
338 supplemental remedy, and the department may use this remedy in
339 conjunction with any other method of collecting support.

340 Section 8. Section 409.2575, Florida Statutes, is amended
341 to read:

342 409.2575 Administrative liens ~~on motor vehicles and~~
343 ~~vessels.~~

344 (1) The department ~~director of the state IV-D program, or~~
345 ~~the director's designee~~, may cause a lien for unpaid and
346 delinquent support to be placed upon motor vehicles, as defined
347 in chapter 320, and upon vessels, as defined in chapter 327,
348 which ~~that~~ are registered in the name of an obligor who is

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349 delinquent in support payments, ~~if the title to the property is~~
350 ~~held by a lienholder,~~ in the manner provided in chapter 319 or
351 chapter 328, and upon a claim, settlement, or judgment that may
352 result in payment to the obligor. The department shall notify
353 the obligor of the intent to place a lien by regular mail sent
354 to the obligor's address of record on file with the depository.
355 The notice must state the amount of past due support owed and
356 inform the obligor of the right to contest the lien at an
357 administrative hearing as provided by chapter 120. Notice of
358 lien shall not be mailed unless the delinquency in support
359 exceeds \$600.

360 (2) If the first lienholder fails, neglects, or refuses to
361 forward the certificate of title to the appropriate department
362 as requested pursuant to s. 319.24 or s. 328.15, the department
363 ~~director of the IV-D program, or the director's designee,~~ may
364 apply to the circuit court for an order to enforce the
365 requirements of s. 319.24 or s. 328.15, whichever applies.

366 Section 9. For the purpose of incorporating the amendment
367 made by this act to section 322.058, Florida Statutes, in a
368 reference thereto, subsection (7) of section 409.256, Florida
369 Statutes, is reenacted to read:

370 409.256 Administrative proceeding to establish paternity or
371 paternity and child support; order to appear for genetic
372 testing.—

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

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

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

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

387

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

395 Section 10. Except as otherwise expressly provided in this
396 act, this act shall take effect upon becoming a law.