

By the Committee on Banking and Insurance; and Senator Storms

597-03521A-12

20121342c1

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 or is receiving unemployment compensation,
16 social security disability payments, supplemental
17 security income, or temporary cash assistance;
18 amending s. 409.256, F.S.; adding a caregiver to the
19 list of persons who may provide a statement regarding
20 a putative father; amending s. 409.2563, F.S.;
21 providing for the filing of a written request to
22 informally discuss a proposed administrative support
23 order with the Department of Revenue; amending s.
24 409.25656, F.S.; providing that notice of a levy upon
25 property may be delivered by regular mail rather than
26 by registered mail; providing for notices to be sent
27 to a garnishee by e-mail or facsimile; requiring the
28 Chief Financial Officer to work cooperatively with the
29 department to establish an automated method for

597-03521A-12

20121342c1

30 periodically disclosing to the department an
31 electronic file of individuals to whom the state pays
32 money for goods or services or who lease real property
33 to the state; requiring the department to use the
34 collected data to identify individuals who owe past
35 due or overdue child support and to garnish payments
36 owed to such individuals by the state; amending s.
37 409.25658, F.S.; revising provisions relating to
38 unclaimed property to be transferred to the Department
39 of Revenue to pay for past due child support; amending
40 s. 409.2575, F.S.; providing that the Department of
41 Revenue rather than the director of the state IV-D
42 program may cause a lien to be placed on a motor
43 vehicle and vessel; reenacting s. 409.256(7), F.S.,
44 relating to administrative procedures to establish
45 paternity, to incorporate the amendments made to s.
46 322.058, F.S., in a reference thereto; providing
47 effective dates.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Paragraph (d) of subsection (1) of section
52 61.13, Florida Statutes, is amended to read:

53 61.13 Support of children; parenting and time-sharing;
54 powers of court.—

55 (1)

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

597-03521A-12

20121342c1

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

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

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

81 61.13016 Suspension of driver's licenses and motor vehicle
82 registrations.—

83 (1) The driver's license and motor vehicle registration of
84 a support obligor who is delinquent in payment or who has failed
85 to comply with subpoenas or a similar order to appear or show
86 cause relating to paternity or support proceedings may be
87 suspended. When an obligor is 15 days delinquent making a

597-03521A-12

20121342c1

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

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

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

108 (c) That notification must ~~will~~ be given to the Department
109 of Highway Safety and Motor Vehicles to suspend the obligor's
110 driver's license and motor vehicle registration unless, within
111 20 days after the date the notice is mailed, the obligor:

112 1.a. Pays the delinquency in full and any other costs and
113 fees accrued between the date of the notice and the date the
114 delinquency is paid;

115 b. Enters into a written agreement for payment with the
116 obligee in non-IV-D cases or with the Title IV-D agency in IV-D

597-03521A-12

20121342c1

117 cases; or in IV-D cases, complies with a subpoena or order to
118 appear, order to show cause, or a similar order; ~~or~~

119 c. Files a petition with the circuit court to contest the
120 delinquency action; or and

121 d. Begins paying by income deduction, or is receiving
122 unemployment compensation, social security disability payments,
123 supplemental security income, or temporary cash assistance; and

124 2. Pays any applicable delinquency fees.

125
126 If the obligor in non-IV-D cases enters into a written agreement
127 for payment before the expiration of the 20-day period, the
128 obligor must provide a copy of the signed written agreement to
129 the depository or the clerk of the court.

130 (3) If the obligor does not, within 20 days after the
131 mailing date on the notice, pay the delinquency; ~~or~~ enter into a
132 written payment agreement; ~~or~~ comply with the subpoena, order to
133 appear, order to show cause, or other similar order; begin
134 paying by income deduction, or is receiving unemployment
135 compensation, social security disability payments, supplemental
136 security income, or temporary cash assistance; ~~or~~ or file a motion
137 to contest, the Title IV-D agency in IV-D cases, or the
138 depository or clerk of the court in non-IV-D cases, shall file
139 the notice with the Department of Highway Safety and Motor
140 Vehicles and request the suspension of the obligor's driver's
141 license and motor vehicle registration in accordance with s.
142 322.058.

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

145 322.058 Suspension of driving privileges due to support

597-03521A-12

20121342c1

146 delinquency; reinstatement.-

147 (2) The department must reinstate the driving privilege and
148 allow registration of a motor vehicle when the Title IV-D agency
149 in IV-D cases or the depository or the clerk of the court in
150 non-IV-D cases provides to the department an affidavit stating
151 that:

152 (a) The person has paid the delinquency;

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

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

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

160 (e) The obligor is paying by income deduction or is
161 receiving unemployment compensation, social security disability
162 payments, supplemental security income, or temporary cash
163 assistance.

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

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

170 409.256 Administrative proceeding to establish paternity or
171 paternity and child support; order to appear for genetic
172 testing.-

173 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
174 THE COURTS.-

597-03521A-12

20121342c1

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

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

179 2. No one is named as the father on the child's birth
180 certificate or the person named as the father is the putative
181 father named in an affidavit or a written declaration as
182 provided in subparagraph 5.

183 3. The child's mother was unmarried when the child was
184 conceived and born.

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

186 5. The child's mother or caregiver or a putative father has
187 stated in an affidavit, or in a written declaration as provided
188 in s. 92.525(2), that the putative father is or may be the
189 child's biological father. The affidavit or written declaration
190 must set forth the factual basis for the allegation of paternity
191 as provided in s. 742.12(2).

192 Section 5. Effective July 1, 2012, paragraph (c) of
193 subsection (5) of section 409.2563, Florida Statutes, is amended
194 to read:

195 409.2563 Administrative establishment of child support
196 obligations.—

197 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

201 1. The parent from whom support is being sought may, within
202 20 days after the date of mailing or other service of the
203 proposed administrative support order, request a hearing by

597-03521A-12

20121342c1

204 filing a written request for hearing in a form and manner
205 specified by the department;

206 2. If the parent from whom support is being sought files a
207 timely request for a hearing, the case shall be transferred to
208 the Division of Administrative Hearings, which shall conduct
209 further proceedings and may enter an administrative support
210 order;

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

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

218 5. The parent from whom support is being sought may, within
219 15 ~~10~~ days after the date of mailing or other service of the
220 proposed administrative support order, request to informally
221 discuss the proposed administrative support order by filing a
222 written request to the department ~~contact a department~~
223 ~~representative,~~ at the address ~~or telephone number~~ specified in
224 the notice, ~~to informally discuss the proposed administrative~~
225 ~~support order~~ and, if informal discussions are requested timely,
226 the time for requesting a hearing will be extended until 10 days
227 after the department notifies the parent that the informal
228 discussions have been concluded; and

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

597-03521A-12

20121342c1

233 Section 6. Subsections (3), (4), and (5), paragraph (b) of
234 subsection (7), and subsections (10) and (11) of section
235 409.25656, Florida Statutes, are amended to read:

236 409.25656 Garnishment.—

237 (3) During the last 30 days of the 60-day period set forth
238 in subsection (1), the executive director or his or her designee
239 may levy upon such credits, personal property, or debts. The
240 levy must be accomplished by delivery of a notice of levy by
241 regular ~~registered~~ mail, upon receipt of which the person
242 possessing the credits, other personal property, or debts shall
243 transfer them to the department or pay to the department the
244 amount owed by the obligor. If the department levies upon
245 securities and the value of the securities is less than the
246 total amount of past due or overdue support, the person who
247 possesses or controls the securities shall liquidate the
248 securities in a commercially reasonable manner. After
249 liquidation, the person shall transfer to the department the
250 proceeds, less any applicable commissions or fees, or both,
251 which are charged in the normal course of business. If the value
252 of the securities exceeds the total amount of past due or
253 overdue support, the obligor may, within 7 days after receipt of
254 the department's notice of levy, instruct the person who
255 possesses or controls the securities which securities are to be
256 sold to satisfy the obligation for past due or overdue support.
257 If the obligor does not provide instructions for liquidation,
258 the person who possesses or controls the securities shall
259 liquidate the securities in a commercially reasonable manner in
260 an amount sufficient to cover the obligation for past due or
261 overdue support and any applicable commissions or fees, or both,

597-03521A-12

20121342c1

262 which are charged in the normal course of business, beginning
263 with the securities purchased most recently. After liquidation,
264 the person who possesses or controls the securities shall
265 transfer to the department the total amount of past due or
266 overdue support.

267 (4) A notice that is delivered under this section is
268 effective at the time of delivery against all credits, other
269 personal property, or debts of the obligor which are not at the
270 time of such notice subject to an attachment, garnishment, or
271 execution issued through a judicial process. Upon the
272 garnishee's written consent the department may send notices to
273 the garnishee by secure e-mail or facsimile.

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

277 (7)

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

282 (10) The Chief Financial Officer shall work cooperatively
283 with the department to establish an automated method for
284 periodically disclosing to the department an electronic file of
285 individuals to whom the state pays money for goods or services
286 or who lease real property to the state. The department shall
287 use the data provided to identify individuals who owe past due
288 or overdue support and may garnish payments owed to such
289 individuals by the state as provided in this section. ~~The~~
290 ~~department shall provide notice to the Chief Financial Officer,~~

597-03521A-12

20121342c1

291 ~~in electronic or other form specified by the Chief Financial~~
292 ~~Officer, listing the obligors for whom warrants are outstanding.~~
293 ~~Pursuant to subsection (1), the Chief Financial Officer shall,~~
294 ~~upon notice from the department, withhold all payments to any~~
295 ~~obligor who provides commodities or services to the state,~~
296 ~~leases real property to the state, or constructs a public~~
297 ~~building or public work for the state. The department may levy~~
298 ~~upon the withheld payments in accordance with subsection (3).~~
299 Section 215.422 does not apply from the date the notice is filed
300 with the Chief Financial Officer until the date the department
301 notifies the Chief Financial Officer of its consent to make
302 payment to the person or 60 days after receipt of the
303 department's notice in accordance with subsection (1), whichever
304 occurs earlier.

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

307 Section 7. Section 409.25658, Florida Statutes, is amended
308 to read:

309 409.25658 Use of unclaimed property for past due support.-

310 (1) In a joint effort to facilitate the collection and
311 payment of past due support, the Department of Revenue, in
312 cooperation with the Department of Financial Services, shall
313 identify persons owing support collected by the department
314 ~~through a court~~ who are presumed to have unclaimed property held
315 by the Department of Financial Services.

316 (2) The department shall periodically provide the
317 Department of Financial Services with an electronic file of
318 support obligors who owe past due support. The Department of
319 Financial Services shall conduct a data match of the file

597-03521A-12

20121342c1

320 against all apparent owners of unclaimed property under chapter
321 717 and provide the resulting match list to the department.

322 (3) Upon receipt of the data match list, the department
323 shall provide ~~to~~ the Department of Financial Services with the
324 obligor's last known address. The Department of Financial
325 Services shall follow the notification procedures under s.
326 717.118.

327 (4) Before ~~Prior to~~ paying an obligor's approved claim, the
328 Department of Financial Services shall notify the department
329 that the ~~such~~ claim has been approved. Upon confirmation that
330 the Department of Financial Services has approved the claim, the
331 department shall immediately send a notice by certified mail to
332 the obligor at the address provided by the obligor to the
333 Department of Financial Services, with a copy to the Department
334 of Financial Services, advising the obligor of the department's
335 intent to intercept the approved claim up to the amount of the
336 past due support, and informing the obligor of the obligor's
337 right to request a hearing under chapter 120. The Department of
338 Financial Services shall retain custody of the property until a
339 final order has been entered and any appeals thereon have been
340 concluded, or, if the intercept is uncontested, until notified
341 by the department. If the obligor fails to request a hearing,
342 the department shall notify ~~enter a final order instructing~~ the
343 Department of Financial Services, electronically or in writing,
344 to transfer to the department the property in the amount stated
345 in the notice or electronic file ~~final order~~. Upon ~~such~~
346 transfer, the Department of Financial Services shall be released
347 from further liability related to the transferred property.

348 (5) ~~The provisions of This section~~ provides ~~provide~~ a

597-03521A-12

20121342c1

349 supplemental remedy, and the department may use this remedy in
350 conjunction with any other method of collecting support.

351 Section 8. Section 409.2575, Florida Statutes, is amended
352 to read:

353 409.2575 Administrative liens ~~on motor vehicles and~~
354 ~~vessels.~~

355 (1) The department ~~director of the state IV-D program, or~~
356 ~~the director's designee,~~ may cause a lien for unpaid and
357 delinquent support to be placed upon motor vehicles, as defined
358 in chapter 320, and upon vessels, as defined in chapter 327,
359 which that are registered in the name of an obligor who is
360 delinquent in support payments, ~~if the title to the property is~~
361 ~~held by a lienholder,~~ in the manner provided in chapter 319 or
362 chapter 328, and upon a claim, settlement, or judgment that may
363 result in payment to the obligor. The department shall notify
364 the obligor of the intent to place a lien by regular mail sent
365 to the obligor's address of record on file with the depository.
366 The notice must state the amount of past due support owed and
367 inform the obligor of the right to contest the lien at an
368 administrative hearing as provided by chapter 120. Notice of
369 lien shall not be mailed unless the delinquency in support
370 exceeds \$600.

371 (2) If the first lienholder fails, neglects, or refuses to
372 forward the certificate of title to the appropriate department
373 as requested pursuant to s. 319.24 or s. 328.15, the department
374 ~~director of the IV-D program, or the director's designee,~~ may
375 apply to the circuit court for an order to enforce the
376 requirements of s. 319.24 or s. 328.15, whichever applies.

377 Section 9. For the purpose of incorporating the amendment

597-03521A-12

20121342c1

378 made by this act to section 322.058, Florida Statutes, in a
379 reference thereto, subsection (7) of section 409.256, Florida
380 Statutes, is reenacted to read:

381 409.256 Administrative proceeding to establish paternity or
382 paternity and child support; order to appear for genetic
383 testing.—

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

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

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

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

398
399 As provided in s. 322.058(2), a suspended driver's license and
400 motor vehicle registration may be reinstated when the person
401 ordered to appear complies with the order to appear for genetic
402 testing. The department may collect an administrative fine
403 imposed under this subsection by using civil remedies or other
404 statutory means available to the department for collecting
405 support.

406 Section 10. Except as otherwise expressly provided in this

597-03521A-12

20121342c1

407

act, this act shall take effect upon becoming a law.