

**405.430 Genetic testing to establish paternity -- Cabinet may determine child support or child care obligation -- Adjustment of child support or child support obligation -- Order requiring parent to work or continue educational or training activities -- Disclosure of financial records -- Voluntary acknowledgment of paternity as basis -- Administrative subpoenas to enforce child support obligation -- Prohibition -- Employment assistance.**

- (1) When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.
- (2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.
- (3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed. The request shall be supported by a sworn statement of the party, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii).
- (4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.
- (5) The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.
- (6) When in the best interest of the child, the cabinet may review and adjust a parent's child support obligation or child care obligation as established by the cabinet, upon a request of the cabinet when an assignment has been made, or upon either parent's petition if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with KRS 403.212. The cabinet shall notify parents at least once every three (3) years of the right to a review.
- (7) In establishing or modifying a parent's monthly child support obligation, the cabinet may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with KRS 403.212. The cabinet shall utilize information, including financial records, about the parent and child which it has good reason to

believe is reliable and may require the parents to provide income verification.

- (8) In cases in which past-due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, or educational or vocational training activities for at least twenty (20) hours per week, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.
- (9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.
- (10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.
- (12) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, document, or financial record used in determining child support or child care obligations.
- (13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal District Court or appropriate state court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:
  - (a) The sum of the greater of one thousand dollars (\$1,000) for each act of unauthorized disclosure of financial records; or
  - (b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus
  - (c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.
- (14) The cabinet shall issue an administrative order or seek a judicial order requiring a parent with a delinquent child support obligation, as defined by administrative regulation promulgated under KRS 15.055, to participate in the program described in KRS 205.732 to help low-income, noncustodial parents find and keep employment unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 430, sec. 13, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 255, sec. 22, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 365, sec. 7, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 330, sec. 13, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 418, sec. 9, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 411, sec. 20, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 144, sec. 5, effective July 13, 1984.