



Health & Family Services Policy Council

**Tuesday, April 6, 2010
9:00 AM - 11:00 AM
Webster Hall (212 Knott)**

**Larry Cretul
Speaker**

**Ed Homan
Chair**

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Family Services Policy Council

Start Date and Time: Tuesday, April 06, 2010 09:00 am
End Date and Time: Tuesday, April 06, 2010 11:00 am
Location: Webster Hall (212 Knott)
Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 91 Adult Protective Services by Elder & Family Services Policy Committee, Wood
CS/HB 911 Electronic Health Information by Health Care Regulation Policy Committee, Hudson
HB 923 Homelessness by Reed
CS/CS/HB 1143 Reduction and Simplification of Health Care Provider Regulation by Health Care
Appropriations Committee, Health Care Regulation Policy Committee, Hudson
HB 1293 Public Assistance by Coley
HB 7083 Child Support Enforcement by Health Care Services Policy Committee, Kreegel

Pursuant to rule 7.13, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Monday, April 5, 2010.

By request of the Chair, all council members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, April 5, 2010.

NOTICE FINALIZED on 04/02/2010 16:21 by Alison.Cindy



The Florida House of Representatives

Health & Family Services Policy Council

A G E N D A

April 6, 2010
9:00 AM – 11:00 AM
Webster Hall (212 Knott)

- I. Opening Remarks by Chair Homan

- II. Consideration of the following Bill(s):
 - CS/HB 91 – Adult Protective Services by Elder & Family Services Policy Committee, Rep. Wood

 - CS/HB 911 – Electronic Health Information by Health Care Regulation Policy Committee, Rep. Hudson

 - HB 923 – Homelessness by Rep. Reed

 - CS/CS/HB 1143 – Reduction and Simplification of Health Care Provider Regulation by Health Care Appropriations Committee, Health Care Regulation Policy Committee, Rep. Hudson

 - HB 1293 – Public Assistance by Rep. Coley

 - HB 7083 – Child Support Enforcement by Health Care Services Policy Committee, Rep. Kreegel

- III. Closing Remarks

- IV. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 91

Adult Protective Services

SPONSOR(S): Wood

TIED BILLS:

IDEN./SIM. BILLS: SB 336

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Elder & Family Services Policy Committee	12 Y, 0 N, As CS	Guy	Shaw
2)	Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
3)	Health Care Appropriations Committee	9 Y, 0 N	Massengale	Massengale
4)	Health & Family Services Policy Council		Guy	Gormley
5)				

SUMMARY ANALYSIS

Committee Substitute for House Bill 91 amends several provisions in chapter 415, Florida Statutes, relating to adult protective services. The bill replaces the terms "disabled adults" and "elderly persons" with "vulnerable adult." The bill also amends the definition of "vulnerable adult" by including the term "sensory."

The bill creates a definition for "activities of daily living" that conforms the phrase to the definition of "activities of daily living," relating to adult family-care homes.

The bill provides that the central abuse hotline must transfer to the appropriate county sheriff's office reports of known or suspected abuse of a vulnerable adult involving a person other than a relative, caregiver, or household member.

The bill specifies that the Department of Children and Family ("the DCF" or "department") may file a petition to determine incapacity in adult protective proceedings. Upon filing the petition, the department is prohibited from being appointed guardian or providing legal counsel to the guardian.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Section 415.101, Florida Statutes, relating to the Adult Protective Services Act, provides legislative intent for comprehensive protective services for Florida's elderly and abused adults. The Department of Children and Families ("the DCF" or "the department") has identified several methods to improve these services.

Adult Protective Services Program¹

The Adult Protective Services Program, authorized by chapter 415, Florida Statutes, and managed by the DCF, is a system of social services that protects disabled or elderly persons from occurrences of abuse, neglect or exploitation. Upon report of alleged abuse, neglect, or exploitation, an assessment of an individual's need for protective services is initiated.

The program consists of four components:

- The on-site investigation;
- Emergency services, if determined necessary;
- Referral to the local law enforcement, if appropriate; and
- Referral to local social service agencies for any identified needs.

Central Abuse Hotline

When the Florida Abuse Hotline began in the early 1970s, abuse reports were received in 181 state offices throughout Florida.² In 1988, the Legislature created the Adult Protective Services Act and centralized the abuse hotline at the DCF, where it currently operates and receives abuse, neglect, or exploitation reports—in writing or through a statewide toll-free telephone number.^{3 4} Reports received by the hotline alleging child abuse, abandonment, or neglect by a person who is not a family member,

¹ Department of Children and Families, CF Operating Procedure 140-2, see <http://www.dcf.state.fl.us/publications/policies.shtml#adult> (last visited March 4, 2010).

² Department of Children and Families, see <http://www.dcf.state.fl.us/dclash/apr07/hotline.shtml> (last visited March 4, 2010).

³ *Id.*

⁴ Section 415.103(1), F.S.

household member, or caregiver⁵ must be immediately transferred to the appropriate county Sheriff's office.⁶ There is no such requirement for reports of adult abuse, neglect, or exploitation.

The hotline has 160 staff members, including 3 managers, 17 supervisors and 140 counselors.⁷ From 2007-2008, Florida's Abuse Hotline received approximately 367,000 calls, which resulted in approximately 230,000 filed reports. Specifically relating to adult abuse, the hotline received 77,641 calls, which resulted in 42,919 filed reports.⁸ The hotline also maintains a secure web-based reporting system that allows individuals to report suspicions of adult/child abuse, neglect and abandonment, or neglect and exploitation of vulnerable adults.

The Florida Abuse Hotline accepts reports related to vulnerable adults who are residents of Florida or currently located in Florida, and are:⁹

- Believed to have been neglected or abused by a caregiver in Florida;
- Suffering from the ill effects of neglect and in need of services; or
- Being exploited by any person who stands in a position of trust or confidence, or any person who knows or should know that a vulnerable adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use their funds, assets or property.

When a report is determined by a hotline counselor to require an immediate onsite protective investigation, the hotline counselor must immediately notify the DCF's designated district staff responsible for protective investigations. A non-emergency report that is received by the hotline counselor is forwarded to the appropriate district staff in sufficient time so that an investigation occurs within 24 hours.¹⁰

Protective Service Interventions

When a report is called into the Florida Abuse hotline, it is then referred to the Protective Investigations Unit closest to the victim's location. A protective investigation is initiated that includes observation, interviews with the victim and witnesses, evidence gathering and collateral contacts.¹¹ Sometimes during an investigation, abused, neglected, or exploited adults are identified, but lack the capacity to consent to protective services. Therefore, the DCF, under reasonable cause, is directed to petition the court for an order authorizing the provision of protective services.¹²

There are also instances when vulnerable adults are identified and lack capacity to consent to emergency protective services. Emergency protective services are warranted when a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury. The DCF, under reasonable cause, may petition the court for an emergency protective services order.¹³

⁵ Section 415.102(4), F.S., defines "caregiver" as "a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a vulnerable adult on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. 'Caregiver' includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (8). For the purpose of departmental investigative jurisdiction, the term 'caregiver' does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in any official capacity."

⁶ Section 39.201(2)(b), F.S.

⁷ Department of Children and Families, see <http://www.dcf.state.fl.us/dclash/apr07/hotline.shtml> (last visited March 4, 2010).

⁸ Department of Children and Families, *Florida Abuse Hotline – Call Report Activity Fiscal Year 2008-2009* (on file with the Committee).

⁹ Department of Children and Families, *Reporting Abuse of Children and Vulnerable Adults*, see www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf (2007) (last visited March 4, 2010).

¹⁰ Section 415.103(2), F.S.

¹¹ Department of Children and Families, *Adult Abuse, Neglect, and Exploitation*, see <http://www.dcf.state.fl.us/as/> (last visited March 4, 2010).

¹² Section 415.1051(1), F.S.

¹³ Section 415.1051(2), F.S.

Emergency and non-emergency protective service orders are restricted to 60 days. At the conclusion of 60 days, the department must petition the court to determine whether:¹⁴

- Protective services will be continued with the consent of the vulnerable adult;
- Protective services will be continued for the vulnerable adult who lacks capacity;
- Protective services will be discontinued; or
- A petition for guardianship should be filed pursuant to chapter 744, Florida Statutes, regarding Florida guardianship.

Access to Driver's License Images and Signatures

The DCF reports that during some adult services investigations, the subject of the investigation denies his or her identity, eluding the investigators. Section 322.142(4), Florida Statutes, authorizes the Department of Highway Safety and Motor Vehicles, pursuant to interagency agreements, to share its database information, including digital images and signatures, in response to:

- Law enforcement agency requests;
- The Department of State to determine voter registration eligibility;
- The Department of Revenue to establish paternity and establish, modify, or enforce support obligations;
- The Department of Financial Services relating to unclaimed property; and
- The Department of Children and Families relating to protective investigations regarding children.¹⁵

Current law does not allow the DCF to access the database system relating to protective investigations regarding vulnerable adults.

Effects of Bill

Committee Substitute for House Bill 91 amends several provisions in chapter 415, Florida Statutes, relating to adult protective services. The bill changes several definitions used in this chapter. Specifically, the bill deletes terms "disabled adults" and "elderly persons" provided in section 415.101(2), Florida Statutes, and replaces with the term "vulnerable adult." The bill amends the definition of "vulnerable adult" by adding the term "sensory," and creates a definition for "activities of daily living" that conforms the phrase to the definition of "activities of daily living," relating to adult family-care homes.¹⁶ The effect of these changes provides more consistent use of commonly used terms.

The bill amends section 415.103(2), Florida Statutes, and requires the central abuse hotline to transfer reports of known or suspected abuse of a vulnerable adult, where the alleged responsible party is someone other than the caregiver, household member, or family member, to the appropriate county sheriff's office. This provision aligns abuse of vulnerable adult reporting requirements with those for abuse of children and should ensure increased law enforcement notification.

The bill amends section 415.1051, Florida Statutes, and authorizes the DCF, upon a good faith belief that a vulnerable adult lacks capacity, to file a petition to determine capacity in emergency and nonemergency adult protective proceedings, under section 744.3201, Florida Statutes. A copy of a petition for appointment of guardian or emergency temporary guardian can be filed along with a petition to determine capacity. The bill prohibits the DCF from serving as a guardian or providing legal counsel to the guardian once such petition has been filed. The effect of these changes will allow the DCF to initiate guardianship petitions to protect vulnerable adults and should allow for ongoing protection once the department's involvement has ended. Additionally, the effect of prohibiting the DCF from being named as guardian to the vulnerable adult will avoid conflicts of interest for the department.

¹⁴ *Id.*

¹⁵ Section 322.142(4), F.S.

¹⁶ Section 429.65(1), F.S.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations. Access to this system should assist investigators in the positive identification of victims and responsible persons who are subjects in investigations of abuse, neglect, or exploitation and provide quick access to the location of such persons, including vulnerable adults.

Three sections of statute are amended to correct cross-references to section changes made by the bill.

The bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2010.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 415.101, F.S., relating to the Adult Protective Services Acts; legislative intent.
- Section 2.** Amends s. 415.102, F.S., relating to definitions.
- Section 3.** Amends s. 415.103, F.S., relating to the central abuse hotline.
- Section 4.** Amends s. 415.1051, F.S., relating to protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.
- Section 5.** Amends s. 322.142, F.S., relating to color photographic or digital imaged licenses.
- Section 6.** Amends s. 435.04, F.S., relating to level 2 screening standards.
- Section 7.** Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.
- Section 8.** Amends s. 943.059, F.S., relating to court-ordered sealing of criminal history records.
- Section 9.** Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Department of Children and Families, section 4 of the bill, which authorizes the department to file a petition for guardianship, will have no fiscal impact on the department since the petition filing fees will be waived per section 28.345, Florida Statutes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On January 21, 2009, the Elder and Family Services Policy Committee adopted two amendments to House Bill 91. The first amendment provides a definition of "activities of daily living" that conforms the phrase to the same definition provided in chapter 429, Florida Statutes, for adult family-care homes. The second amendment is technical and corrects a cross-reference in the bill.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.

1 A bill to be entitled
 2 An act relating to adult protective services; amending s.
 3 415.101, F.S.; revising legislative intent with respect to
 4 adult protective services; providing for care and
 5 protection of all vulnerable adults; amending s. 415.102,
 6 F.S.; defining the term "activities of daily living";
 7 revising the definition of the term "vulnerable adult";
 8 conforming a cross-reference; amending s. 415.103, F.S.;
 9 providing for certain suspected abuse cases to be
 10 transferred to the local county sheriff's office; amending
 11 s. 415.1051, F.S.; providing for the Department of
 12 Children and Family Services to file a petition to
 13 determine incapacity and guardianship under certain
 14 circumstances; amending s. 322.142, F.S.; authorizing the
 15 Department of Highway Safety and Motor Vehicles to provide
 16 copies of drivers' license files to the Department of
 17 Children and Family Services to conduct protective
 18 investigations; amending ss. 435.04, 943.0585, and
 19 943.059, F.S.; conforming cross-references; providing an
 20 effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsection (2) of section 415.101, Florida
 25 Statutes, is amended to read:
 26 415.101 Adult Protective Services Act; legislative
 27 intent.-

28 (2) The Legislature recognizes that there are many persons
 29 in this state who, because of age or disability, are in need of
 30 protective services. Such services should allow such an
 31 individual the same rights as other citizens and, at the same
 32 time, protect the individual from abuse, neglect, and
 33 exploitation. It is the intent of the Legislature to provide for
 34 the detection and correction of abuse, neglect, and exploitation
 35 through social services and criminal investigations and to
 36 establish a program of protective services for all vulnerable
 37 ~~disabled~~ adults ~~or elderly persons~~ in need of them. It is
 38 intended that the mandatory reporting of such cases will cause
 39 the protective services of the state to be brought to bear in an
 40 effort to prevent further abuse, neglect, and exploitation of
 41 vulnerable ~~disabled~~ adults ~~or elderly persons~~. In taking this
 42 action, the Legislature intends to place the fewest possible
 43 restrictions on personal liberty and the exercise of
 44 constitutional rights, consistent with due process and
 45 protection from abuse, neglect, and exploitation. Further, the
 46 Legislature intends to encourage the constructive involvement of
 47 families in the care and protection of vulnerable ~~disabled~~
 48 adults ~~or elderly persons~~.

49 Section 2. Subsections (2) through (27) of section
 50 415.102, Florida Statutes, are renumbered as subsections (3)
 51 through (28), respectively, current subsections (4) and (26) are
 52 amended, and a new subsection (2) is added to that section, to
 53 read:

54 415.102 Definitions of terms used in ss. 415.101-415.113.—
 55 As used in ss. 415.101-415.113, the term:

56 (2) "Activities of daily living" means functions and tasks
 57 for self-care, including ambulation, bathing, dressing, eating,
 58 grooming, toileting, and other similar tasks.

59 (5)~~(4)~~ "Caregiver" means a person who has been entrusted
 60 with or has assumed the responsibility for frequent and regular
 61 care of or services to a vulnerable adult on a temporary or
 62 permanent basis and who has a commitment, agreement, or
 63 understanding with that person or that person's guardian that a
 64 caregiver role exists. "Caregiver" includes, but is not limited
 65 to, relatives, household members, guardians, neighbors, and
 66 employees and volunteers of facilities as defined in subsection
 67 (9) ~~(8)~~. For the purpose of departmental investigative
 68 jurisdiction, the term "caregiver" does not include law
 69 enforcement officers or employees of municipal or county
 70 detention facilities or the Department of Corrections while
 71 acting in an official capacity.

72 (27)~~(26)~~ "Vulnerable adult" means a person 18 years of age
 73 or older whose ability to perform the normal activities of daily
 74 living or to provide for his or her own care or protection is
 75 impaired due to a mental, emotional, sensory, long-term
 76 physical, or developmental disability or dysfunction
 77 ~~dysfunctioning~~, or brain damage, or the infirmities of aging.

78 Section 3. Subsection (2) of section 415.103, Florida
 79 Statutes, is amended to read:

80 415.103 Central abuse hotline.—

81 (2) Upon receiving an oral or written report of known or
 82 suspected abuse, neglect, or exploitation of a vulnerable adult,
 83 the central abuse hotline must determine if the report requires

84 | an immediate onsite protective investigation. For reports
 85 | requiring an immediate onsite protective investigation, the
 86 | central abuse hotline must immediately notify the department's
 87 | designated protective investigative district staff responsible
 88 | for protective investigations to ensure prompt initiation of an
 89 | onsite investigation. For reports not requiring an immediate
 90 | onsite protective investigation, the central abuse hotline must
 91 | notify the department's designated protective investigative
 92 | district staff responsible for protective investigations in
 93 | sufficient time to allow for an investigation to be commenced
 94 | within 24 hours. At the time of notification of district staff
 95 | with respect to the report, the central abuse hotline must also
 96 | provide any known information on any previous report concerning
 97 | a subject of the present report or any pertinent information
 98 | relative to the present report or any noted earlier reports. If
 99 | the report is of known or suspected abuse of a vulnerable adult
 100 | by someone other than a relative, caregiver, or household
 101 | member, the report shall be immediately transferred to the
 102 | appropriate county sheriff's office.

103 | Section 4. Paragraph (e) of subsection (1) and paragraph
 104 | (g) of subsection (2) of section 415.1051, Florida Statutes, are
 105 | amended to read:

106 | 415.1051 Protective services interventions when capacity
 107 | to consent is lacking; nonemergencies; emergencies; orders;
 108 | limitations.—

109 | (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.—If the
 110 | department has reasonable cause to believe that a vulnerable
 111 | adult or a vulnerable adult in need of services is being abused,

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112 neglected, or exploited and is in need of protective services
113 but lacks the capacity to consent to protective services, the
114 department shall petition the court for an order authorizing the
115 provision of protective services.

116 (e) Continued protective services.—

117 1. No more than 60 days after the date of the order
118 authorizing the provision of protective services, the department
119 shall petition the court to determine whether:

120 a. Protective services will be continued with the consent
121 of the vulnerable adult pursuant to this subsection;

122 b. Protective services will be continued for the
123 vulnerable adult who lacks capacity;

124 c. Protective services will be discontinued; or

125 d. A petition for guardianship should be filed pursuant to
126 chapter 744.

127 2. If the court determines that a petition for
128 guardianship should be filed pursuant to chapter 744, the court,
129 for good cause shown, may order continued protective services
130 until it makes a determination regarding capacity.

131 3. If the department has a good faith belief that the
132 vulnerable adult lacks the capacity to consent to protective
133 services, the petition to determine incapacity under s. 744.3201
134 may be filed by the department. Once the petition is filed, the
135 department may not be appointed guardian and may not provide
136 legal counsel for the guardian.

137 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the
138 department has reasonable cause to believe that a vulnerable
139 adult is suffering from abuse or neglect that presents a risk of

140 death or serious physical injury to the vulnerable adult and
 141 that the vulnerable adult lacks the capacity to consent to
 142 emergency protective services, the department may take action
 143 under this subsection. If the vulnerable adult has the capacity
 144 to consent and refuses consent to emergency protective services,
 145 emergency protective services may not be provided.

146 (g) Continued emergency protective services.—

147 1. Not more than 60 days after the date of the order
 148 authorizing the provision of emergency protective services, the
 149 department shall petition the court to determine whether:

150 a. Emergency protective services will be continued with
 151 the consent of the vulnerable adult;

152 b. Emergency protective services will be continued for the
 153 vulnerable adult who lacks capacity;

154 c. Emergency protective services will be discontinued; or

155 d. A petition should be filed under chapter 744.

156 2. If it is decided to file a petition under chapter 744,
 157 for good cause shown, the court may order continued emergency
 158 protective services until a determination is made by the court.

159 3. If the department has a good faith belief that the
 160 vulnerable adult lacks the capacity to consent to protective
 161 services, the petition to determine incapacity under s. 744.3201
 162 may be filed by the department. Once the petition is filed, the
 163 department may not be appointed guardian and may not provide
 164 legal counsel for the guardian.

165 Section 5. Subsection (4) of section 322.142, Florida
 166 Statutes, is amended to read:

167 322.142 Color photographic or digital imaged licenses.—

168 (4) The department may maintain a film negative or print
 169 file. The department shall maintain a record of the digital
 170 image and signature of the licensees, together with other data
 171 required by the department for identification and retrieval.
 172 Reproductions from the file or digital record are exempt from
 173 the provisions of s. 119.07(1) and shall be made and issued only
 174 for departmental administrative purposes; for the issuance of
 175 duplicate licenses; in response to law enforcement agency
 176 requests; to the Department of State pursuant to an interagency
 177 agreement to facilitate determinations of eligibility of voter
 178 registration applicants and registered voters in accordance with
 179 ss. 98.045 and 98.075; to the Department of Revenue pursuant to
 180 an interagency agreement for use in establishing paternity and
 181 establishing, modifying, or enforcing support obligations in
 182 Title IV-D cases; to the Department of Children and Family
 183 Services pursuant to an interagency agreement to conduct
 184 protective investigations under part III of chapter 39 and
 185 chapter 415; or to the Department of Financial Services pursuant
 186 to an interagency agreement to facilitate the location of owners
 187 of unclaimed property, the validation of unclaimed property
 188 claims, and the identification of fraudulent or false claims.

189 Section 6. Paragraph (a) of subsection (4) of section
 190 435.04, Florida Statutes, is amended to read:

191 435.04 Level 2 screening standards.—

192 (4) Standards must also ensure that the person:

193 (a) For employees or employers licensed or registered
 194 pursuant to chapter 400 or chapter 429, does not have a
 195 confirmed report of abuse, neglect, or exploitation as defined

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196 | in s. 415.102~~(6)~~, which has been uncontested or upheld under s.
 197 | 415.103.

198 | Section 7. Paragraph (a) of subsection (4) of section
 199 | 943.0585, Florida Statutes, is amended to read:

200 | 943.0585 Court-ordered expunction of criminal history
 201 | records.—The courts of this state have jurisdiction over their
 202 | own procedures, including the maintenance, expunction, and
 203 | correction of judicial records containing criminal history
 204 | information to the extent such procedures are not inconsistent
 205 | with the conditions, responsibilities, and duties established by
 206 | this section. Any court of competent jurisdiction may order a
 207 | criminal justice agency to expunge the criminal history record
 208 | of a minor or an adult who complies with the requirements of
 209 | this section. The court shall not order a criminal justice
 210 | agency to expunge a criminal history record until the person
 211 | seeking to expunge a criminal history record has applied for and
 212 | received a certificate of eligibility for expunction pursuant to
 213 | subsection (2). A criminal history record that relates to a
 214 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 215 | s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 216 | 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 217 | 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
 218 | any violation specified as a predicate offense for registration
 219 | as a sexual predator pursuant to s. 775.21, without regard to
 220 | whether that offense alone is sufficient to require such
 221 | registration, or for registration as a sexual offender pursuant
 222 | to s. 943.0435, may not be expunged, without regard to whether
 223 | adjudication was withheld, if the defendant was found guilty of

224 or pled guilty or nolo contendere to the offense, or if the
 225 defendant, as a minor, was found to have committed, or pled
 226 guilty or nolo contendere to committing, the offense as a
 227 delinquent act. The court may only order expunction of a
 228 criminal history record pertaining to one arrest or one incident
 229 of alleged criminal activity, except as provided in this
 230 section. The court may, at its sole discretion, order the
 231 expunction of a criminal history record pertaining to more than
 232 one arrest if the additional arrests directly relate to the
 233 original arrest. If the court intends to order the expunction of
 234 records pertaining to such additional arrests, such intent must
 235 be specified in the order. A criminal justice agency may not
 236 expunge any record pertaining to such additional arrests if the
 237 order to expunge does not articulate the intention of the court
 238 to expunge a record pertaining to more than one arrest. This
 239 section does not prevent the court from ordering the expunction
 240 of only a portion of a criminal history record pertaining to one
 241 arrest or one incident of alleged criminal activity.

242 Notwithstanding any law to the contrary, a criminal justice
 243 agency may comply with laws, court orders, and official requests
 244 of other jurisdictions relating to expunction, correction, or
 245 confidential handling of criminal history records or information
 246 derived therefrom. This section does not confer any right to the
 247 expunction of any criminal history record, and any request for
 248 expunction of a criminal history record may be denied at the
 249 sole discretion of the court.

250 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
 251 criminal history record of a minor or an adult which is ordered

252 expunged by a court of competent jurisdiction pursuant to this
 253 section must be physically destroyed or obliterated by any
 254 criminal justice agency having custody of such record; except
 255 that any criminal history record in the custody of the
 256 department must be retained in all cases. A criminal history
 257 record ordered expunged that is retained by the department is
 258 confidential and exempt from the provisions of s. 119.07(1) and
 259 s. 24(a), Art. I of the State Constitution and not available to
 260 any person or entity except upon order of a court of competent
 261 jurisdiction. A criminal justice agency may retain a notation
 262 indicating compliance with an order to expunge.

263 (a) The person who is the subject of a criminal history
 264 record that is expunged under this section or under other
 265 provisions of law, including former s. 893.14, former s. 901.33,
 266 and former s. 943.058, may lawfully deny or fail to acknowledge
 267 the arrests covered by the expunged record, except when the
 268 subject of the record:

- 269 1. Is a candidate for employment with a criminal justice
 270 agency;
- 271 2. Is a defendant in a criminal prosecution;
- 272 3. Concurrently or subsequently petitions for relief under
 273 this section or s. 943.059;
- 274 4. Is a candidate for admission to The Florida Bar;
- 275 5. Is seeking to be employed or licensed by or to contract
 276 with the Department of Children and Family Services, the Agency
 277 for Health Care Administration, the Agency for Persons with
 278 Disabilities, or the Department of Juvenile Justice or to be
 279 employed or used by such contractor or licensee in a sensitive

280 position having direct contact with children, the
 281 developmentally disabled, the aged, or the elderly as provided
 282 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
 283 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5)~~(4)~~,
 284 chapter 916, s. 985.644, chapter 400, or chapter 429;

285 6. Is seeking to be employed or licensed by the Department
 286 of Education, any district school board, any university
 287 laboratory school, any charter school, any private or parochial
 288 school, or any local governmental entity that licenses child
 289 care facilities; or

290 7. Is seeking authorization from a seaport listed in s.
 291 311.09 for employment within or access to one or more of such
 292 seaports pursuant to s. 311.12.

293 Section 8. Paragraph (a) of subsection (4) of section
 294 943.059, Florida Statutes, is amended to read:

295 943.059 Court-ordered sealing of criminal history
 296 records.—The courts of this state shall continue to have
 297 jurisdiction over their own procedures, including the
 298 maintenance, sealing, and correction of judicial records
 299 containing criminal history information to the extent such
 300 procedures are not inconsistent with the conditions,
 301 responsibilities, and duties established by this section. Any
 302 court of competent jurisdiction may order a criminal justice
 303 agency to seal the criminal history record of a minor or an
 304 adult who complies with the requirements of this section. The
 305 court shall not order a criminal justice agency to seal a
 306 criminal history record until the person seeking to seal a
 307 criminal history record has applied for and received a

308 certificate of eligibility for sealing pursuant to subsection
 309 (2). A criminal history record that relates to a violation of s.
 310 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 311 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 312 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 313 916.1075, a violation enumerated in s. 907.041, or any violation
 314 specified as a predicate offense for registration as a sexual
 315 predator pursuant to s. 775.21, without regard to whether that
 316 offense alone is sufficient to require such registration, or for
 317 registration as a sexual offender pursuant to s. 943.0435, may
 318 not be sealed, without regard to whether adjudication was
 319 withheld, if the defendant was found guilty of or pled guilty or
 320 nolo contendere to the offense, or if the defendant, as a minor,
 321 was found to have committed or pled guilty or nolo contendere to
 322 committing the offense as a delinquent act. The court may only
 323 order sealing of a criminal history record pertaining to one
 324 arrest or one incident of alleged criminal activity, except as
 325 provided in this section. The court may, at its sole discretion,
 326 order the sealing of a criminal history record pertaining to
 327 more than one arrest if the additional arrests directly relate
 328 to the original arrest. If the court intends to order the
 329 sealing of records pertaining to such additional arrests, such
 330 intent must be specified in the order. A criminal justice agency
 331 may not seal any record pertaining to such additional arrests if
 332 the order to seal does not articulate the intention of the court
 333 to seal records pertaining to more than one arrest. This section
 334 does not prevent the court from ordering the sealing of only a
 335 portion of a criminal history record pertaining to one arrest or

336 one incident of alleged criminal activity. Notwithstanding any
 337 law to the contrary, a criminal justice agency may comply with
 338 laws, court orders, and official requests of other jurisdictions
 339 relating to sealing, correction, or confidential handling of
 340 criminal history records or information derived therefrom. This
 341 section does not confer any right to the sealing of any criminal
 342 history record, and any request for sealing a criminal history
 343 record may be denied at the sole discretion of the court.

344 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
 345 history record of a minor or an adult which is ordered sealed by
 346 a court of competent jurisdiction pursuant to this section is
 347 confidential and exempt from the provisions of s. 119.07(1) and
 348 s. 24(a), Art. I of the State Constitution and is available only
 349 to the person who is the subject of the record, to the subject's
 350 attorney, to criminal justice agencies for their respective
 351 criminal justice purposes, which include conducting a criminal
 352 history background check for approval of firearms purchases or
 353 transfers as authorized by state or federal law, to judges in
 354 the state courts system for the purpose of assisting them in
 355 their case-related decisionmaking responsibilities, as set forth
 356 in s. 943.053(5), or to those entities set forth in
 357 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
 358 licensing, access authorization, and employment purposes.

359 (a) The subject of a criminal history record sealed under
 360 this section or under other provisions of law, including former
 361 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 362 deny or fail to acknowledge the arrests covered by the sealed
 363 record, except when the subject of the record:

- 364 1. Is a candidate for employment with a criminal justice
 365 agency;
- 366 2. Is a defendant in a criminal prosecution;
- 367 3. Concurrently or subsequently petitions for relief under
 368 this section or s. 943.0585;
- 369 4. Is a candidate for admission to The Florida Bar;
- 370 5. Is seeking to be employed or licensed by or to contract
 371 with the Department of Children and Family Services, the Agency
 372 for Health Care Administration, the Agency for Persons with
 373 Disabilities, or the Department of Juvenile Justice or to be
 374 employed or used by such contractor or licensee in a sensitive
 375 position having direct contact with children, the
 376 developmentally disabled, the aged, or the elderly as provided
 377 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
 378 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102~~(5)~~(4),
 379 s. 415.103, chapter 916, s. 985.644, chapter 400, or chapter
 380 429;
- 381 6. Is seeking to be employed or licensed by the Department
 382 of Education, any district school board, any university
 383 laboratory school, any charter school, any private or parochial
 384 school, or any local governmental entity that licenses child
 385 care facilities;
- 386 7. Is attempting to purchase a firearm from a licensed
 387 importer, licensed manufacturer, or licensed dealer and is
 388 subject to a criminal history check under state or federal law;
 389 or

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390 8. Is seeking authorization from a Florida seaport
391 identified in s. 311.09 for employment within or access to one
392 or more of such seaports pursuant to s. 311.12.

393 Section 9. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 911 Electronic Health Information
SPONSOR(S): Health Care Regulations Policy Committee; Hudson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Health Care Regulation Policy Committee</u>	<u>11 Y, 0 N, As CS</u>	<u>Holt</u>	<u>Calamas</u>
2) <u>Health & Family Services Policy Council</u>	<u></u>	<u>Holt</u> <i>JH</i>	<u>Gormley</u> <i>GG</i>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill directs AHCA to coordinate with regional extension centers to increase the readiness of health care providers to participate in implementing electronic health records and qualify for federal and state incentive programs for adoption of electronic health records.

The bill requires the State Consumer Health Information and Policy Advisory Council to develop AHCA's strategic plan for the adoption and use of electronic health records. The bill revises the list of stakeholders with which AHCA must collaborate concerning the clearinghouse of information on electronic prescribing and amends the electronic prescribing annual report requirements.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2010

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Health Information Technology Definitions

Discussions of health information technology often contain numerous technical terms that are difficult to understand for those who are not familiar with such usage. In addition, there is very little agreement amongst organizations in the health information technology community regarding the definitions of these terms. However, for the purposes of this analysis, the following terms are used:

- **Electronic Health Record (EHR).** Also known as an electronic medical record, an electronic health record is a computer-based record of one or more clinical encounters between a healthcare provider and a specific patient. An EHR may include a number of data items, from patient demographics to diagnostic images.
- **Electronic Health Records System (EHR system).** An electronic health record system is a software program that allows computer-based management of clinical information documenting the delivery of health care to multiple patients. An EHR system may include multiple functionalities, such as management of procedure results and electronic entry of clinical and prescription data.
- **Electronic Prescribing System (E-Prescribing System).** An electronic prescribing system is a software program for electronically creating and transmitting a prescription to a participating pharmacy. An e-prescribing system maintains a record of a patient's prescriptions and notifies a health care practitioner of conflicting medications. EHR systems generally include e-prescribing functionality; however, an e-prescribing system may also be purchased and operated independently.
- **Regional Health Information Organization (RHIO).** A regional health information organization is a neutral organization with a defined governance structure which is composed of and facilitates collaboration among its stakeholders in a given medical trading area, community, or region through secure electronic health information exchange to advance the effective and efficient delivery of healthcare for individuals and communities. The geographic footprint of a RHIO can range from a local community to a large multi-state region.

Applicability of EHR and E-Prescribing systems

Widespread adoption of EHR and e-prescribing systems holds the promise of improving patient safety and reducing the cost of health care by preventing unnecessary procedures. However, in a 2005 report, the National Center for Health Statistics (NCHS) within the United States Centers for Disease Control and Prevention noted that adoption of information technology within the health care sector is trailing behind other sectors in the economy of the United States.¹ The adoption of EHRs by hospitals and physicians has been particularly slow.

As part of its annual National Health Care Survey², NCHS found that, from 2001 through 2003:

- The most frequent IT application used in physician offices was an electronic billing system. Nearly three-fourths (73 percent) of physicians submitted claims electronically. Electronic submission of claims was more likely among physicians in the Midwest and South, in nonmetropolitan areas, among physicians under 50 years of age, and for physicians with 10 or more managed care contracts. Physicians in medical specialties such as psychiatry, dermatology, or sports medicine (among others) were least likely to submit claims electronically.
- EHRs were used more frequently in hospital settings (31 percent in emergency departments) than in physician offices (17 percent). Among physician office practices, there were no statistically significant differences in EMR use by region, metropolitan status, specialty physician age, type of practice, or number of managed care contracts.

A more recent 2007 NCHS report indicates that physician office use of EHR systems continues to grow; roughly 29 percent use full or partial (i.e., part paper) EHR systems, a 22 percent increase since 2005, and a 60 percent increase since 2001.³ The report also noted that EHR system use was higher in health maintenance organizations than among private practice physicians.⁴

Federal Health Information Technology Efforts

The federal government has embarked upon recent initiatives to incentivize the adoption of health information technology.

The first initiative is an incentive payment program for the adoption of an EHR system and reporting and performance on 26 quality measures.⁵ The program began in 2008 and will operate over a five-year period in two phases in 12 locations. The first phase began on June 1, 2009.⁶ The second phase includes six counties in the Jacksonville area, namely Baker, Clay, Duval, Nassau, Putnam and St. Johns counties.⁷

The second initiative is the E-Prescribing Incentive Program, which, beginning January 1, 2009, provides incentive payments to health care practitioners for e-prescribing.⁸ A successful e-prescriber under the program will gain an incentive payment of 2 percent in calendar years 2009 and 2010; 1 percent in calendar years 2011 and 2012; and .5 percent in calendar year 2013.⁹ Health care

¹ C.W. Burt and E. Hing, *Use of Computerized Clinical Support Systems in Medical Settings: United States, 2001–03*, Advance Data from Vital and Health Statistics no. 353, March 15, 2005.

² Centers for Disease Control and Prevention, *National Health Care Surveys*, available at: http://www.cdc.gov/nchs/nhcs/nhcs_surveys.htm (last viewed March 21, 2010).

³ E. Hing, C.W. Burt, and D. Woodwell, *Electronic Medical Record Use by Office-Based Physicians and Their Practices: United States, 2006*, Advance Data from Vital and Health Statistics no. 393, October 26, 2007.

⁴ *Id.*

⁵ Centers for Medicare and Medicaid Services, "Electronic Health Records Demonstration," available at: http://www.cms.hhs.gov/DemoProjectsEvalRpts/downloads/EHR_DemoSummary.pdf (last viewed March 20, 2010).

⁶ *Id.*

⁷ *Id.*

⁸ Centers for Medicare and Medicaid Services, "E-Prescribing Incentive Program Overview," available at: <http://www.cms.hhs.gov/ERXincentive/> (last viewed March 20, 2010).

⁹ Centers for Medicare and Medicaid Services, "Medicare's Practical Guide to the E-Prescribing Incentive Program," available at: <http://www.facs.org/ahp/pqri/2009erxprogramguide.pdf> (last viewed March 20, 2010) (In order to be a "successful" e-prescriber, a health

practitioners who do not qualify as successful e-prescribers will be penalized beginning in 2012; the penalty is 1 percent in 2012; 1.5 percent in 2013; and 2 percent in 2014.¹⁰

American Recovery and Reinvestment Act of 2009 Funded Programs

In addition to these incentive programs, the Centers for Medicare and Medicaid Services (CMS) published a proposed rule in December 2009 to implement provisions of The American Recovery and Reinvestment Act of 2009 (ARRA). The rule provided incentive payments for the meaningful use of certified EHR technology. The CMS proposed rule phases in criteria for demonstrating meaningful use in three stages through 2013. In addition, the Office of the National Coordinator for Health Information Technology issued an interim final regulation that sets initial standards, implementation specifications, and certification criteria for EHR technology.

The Medicare EHR incentive program will provide incentive payments to eligible professionals, eligible hospitals, and critical access hospitals that are meaningful users of certified EHR technology. The Medicaid EHR incentive program will provide incentive payments to eligible professionals and hospitals for efforts to adopt, implement, or upgrade certified EHR technology for meaningful use in the first year of their participation in the program and for demonstrating meaningful use during each of five subsequent years.

On February 26, 2010, the CMS announced that AHCA will receive \$1.69 million in federal matching funds to cover 90 percent of the costs for the state's planning activities to implement and administer the EHR incentive payments to Medicaid providers.¹¹ These planning activities will include conducting a comprehensive analysis to determine the current status of health information technology activities in the state and the creation of a State Medicaid Health Information Technology Plan.

The ARRA also provided grant funding for approximately 70 Health Information Technology Regional Extension Centers nationally to support health care providers with direct, individualized and on-site technical assistance in:¹²

- Selecting a certified EHR product that offers best value for the providers' needs;
- Achieving effective implementation of a certified EHR product;
- Enhancing clinical and administrative workflows to optimally leverage an EHR system's potential to improve quality and value of care, including patient experience as well as outcome of care; and,
- Observing and complying with applicable legal, regulatory, professional and ethical requirements to protect the integrity, privacy and security of patients' health information.

Within Florida, The Health Choice Network Regional Extension Center was awarded an \$8.5 million grant under this program on February 12, 2010.¹³ Currently, there are three additional proposed regional extension centers in Florida: the Rural / North Florida Regional Extension Center, USF – Paper Free Florida HIT Regional Extension Center, and UCF Medical School Regional Extension

care practitioner must "report the e-prescribing quality measure through [his or her] Medicare Part B claims on at least 50% of applicable cases during the reporting year").

¹⁰ *Id.*

¹¹ Florida Health Information Network, Medicaid Electronic Health Record Incentive Program, available at: <http://www.fhin.net/FHIN/MedicaidElectronicHealthRecordIncentiveProgram.shtml> (last viewed March 20, 2010).

¹² Federal Register, Vol. 74, No. 101., (May 28, 2009).

¹³ Florida Health Information Network, Regional Extension Centers, Health Choice Network Funding Award, available at: <http://www.fhin.net/FHIN/RegExtCenters.shtml> (last viewed March 20, 2010).

Center.¹⁴ Several counties in Florida are currently not covered by one of these four Regional Extension Centers.¹⁵

Florida Health Information Technology Efforts

Florida Health Information Network Grants Program

In 2006, the Legislature authorized AHCA to administer a grants program to advance the development of a health information network.¹⁶ According to AHCA¹⁷, grants are currently awarded to RHIOs in three categories:¹⁸

- Assessment and planning grants, which support engaging appropriate healthcare stakeholders to develop a strategic plan for health information exchange in their communities.
- Operations and evaluation grants, which support projects that demonstrate health information exchange among two or more competing provider organizations.
- Training and technical assistance grants, which support practitioner training and technical assistance activities designed to increase physician and dentist use of electronic health record systems.

From Fiscal Year 2005-2006 through Fiscal Year 2007-2008, a total of \$5.5 million has been appropriated by the legislature to fund the grants program. No funding was appropriated in Fiscal Year 2008-2009 or 2009-2010.

Electronic Prescribing Clearinghouse

In 2007, the Legislature created the Electronic Prescribing Clearinghouse within AHCA.¹⁹ The stated intent of the clearinghouse is to promote the implementation of electronic prescribing by health care practitioners, health care facilities, and pharmacies in order to prevent prescription drug abuse, improve patient safety, and reduce unnecessary prescriptions.²⁰ AHCA is required to annually publish a report by January 31 regarding the progress of implementing electronic prescribing.

Florida Health Records Exchange Act

In 2009, the Florida Legislature enacted the Florida Electronic Health Records Exchange Act (Act) in s. 408.051, F.S. In addition to defining terms, the Act authorizes the emergency release of identifiable health records without a patient's consent under certain conditions for use in the treatment of the patient for an emergency medical condition.

The Act also requires the Agency to develop a universal patient authorization form that may be used by a health care provider to document patient authorization for the use or release of an identifiable health record by July 1, 2010. The Act provides that the use of this form to request an identifiable health record is optional. The exchange of an identifiable health record upon receipt of the universal patient

¹⁴ Florida Health Information Network, Regional Extension Centers, available at: <http://www.fhin.net/FHIN/RegExtCenters.shtml> (last viewed March 20, 2010).

¹⁵ Florida Health Information Network, Regional Extension Centers, available at: <http://www.fhin.net/FHIN/RegExtCenters.shtml> (last viewed March 20, 2010).

¹⁶ s. 408.05(4)(b), F.S.

¹⁷ Agency for Health Care Administration, Florida Center for Health Information and Policy Analysis, Health Information Exchange Coordinating Committee Meeting, Proposed Changes to FY 2008 – 2009 FHIN Grant Program Requirements, available at: www.fhin.net/FHIN/.../ProposedChangesFHINgrantRequirements122607.pdf (last viewed March 21, 2010).

¹⁸ *Id.*

¹⁹ ch. 2007-156, L.O.F.

²⁰ *Id.*

authorization form creates a rebuttable presumption that the release of the record was appropriate and did not violate any right of confidentiality.

State Consumer Health Information and Policy Advisory Council

The Council is established in s. 408.05(8), F.S., within the Agency to assist the Florida Center for Health Information and Policy Analysis (Florida Center) in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of health-related data, fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities; and to recommend improvements for purposes of public health, policy analysis, and transparency of consumer health care information.²¹

The Council consists of an employee of the Executive Office of the Governor, Office of Insurance Regulation, and Department of Education and 10 persons appointed by the Secretary of the Agency, representing other state and local agencies, state universities, business and health coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.²² The council is required to meet at least quarterly.²³

The Council's duties and responsibilities include, but are not limited to:

- Developing a mission statement, goals, and plan of action for the identification, collection, standardization, sharing, and coordination of health-related data across federal, state, and local government and private sector entities;²⁴
- Developing a review process to ensure cooperative planning among agencies that collect or maintain health-related data,²⁵ and
- Creating ad hoc issue-oriented technical workgroups on an as-needed basis to make recommendations to the council.²⁶

Effects of the Bill

The bill requires the State Consumer Health Information and Policy Advisory Council to develop AHCA's strategic plan for the adoption and use of EHR. The bill adds the definition of agency to the Florida Electronic Health Records Exchange Act.

The bill requires AHCA to coordinate with regional extension centers to increase health care provider readiness to implement the use of electronic health records. Such readiness relates to provider ability to participate in health information exchange, electronic prescribing and reporting of performance measures, which is required to qualify for federal and state electronic health record adoption incentive programs.

The bill revises the list of stakeholders with which AHCA must collaborate to create a clearinghouse of information on electronic prescribing. The bill requires that AHCA report on the metrics of the implementation of electronic prescribing and publish the report on its Internet website. The bill requires AHCA to publish on its website total health care expenditures in the state, and repeals the requirement for the agency to publish a report of state health expenditures.

The bill takes effect July 1, 2010.

²¹ s. 408.05 (8)(a), F.S.

²² s. 408.05 (8)(a)1.-4., F.S.

²³ s. 408.05 (8)(c), F.S.

²⁴ s. 408.05 (8)(h)1., F.S.

²⁵ s. 408.05 (8)(h)2., F.S.

²⁶ s. 408.05 (8)(h)3., F.S.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 408.05, F.S., relating to the Florida Center for Health Information and Policy Analysis.
- Section 2.** Amends s. 408.051, F.S., relating to the Florida Electronic Health Records Exchange Act.
- Section 3.** Amends s. 408.0514, F.S., relating to regional extension centers.
- Section 4.** Amends s. 408.061, F.S., relating to data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; and immunity.
- Section 5.** Amends s. 408.0611, F.S., relating to electronic prescribing clearinghouse.
- Section 6.** Amends s. 408.062, F.S., relating to research, analysis, studies, and reports.
- Section 7.** Amends s. 408.063, F.S., relating to dissemination of health care information.
- Section 8.** Provides that the bill takes effect July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.
- 2. Other:
None.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 22, 2010, the Health Care Regulation Policy Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Deletes the definition for health information exchange;
- Deletes all provisions related to the Florida Health Information Exchange Participation Agreement; and
- Deletes authority given to AHCA to establish guidelines for services provided to Medicaid providers by regional extension centers and conditions of participation.

This analysis is drafted to the committee substitute.

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A bill to be entitled
 An act relating to electronic health information; amending
 s. 408.05, F.S.; requiring the State Consumer Health
 Information and Policy Advisory Council to develop the
 Agency for Health Care Administration's strategic plan
 relating to electronic health records; amending s.
 408.051, F.S.; defining the term "agency"; creating s.
 408.0514, F.S.; requiring the agency to coordinate with
 regional extension centers to implement the use of
 electronic health records; amending s. 408.061, F.S.;
 deleting a reference to an administrative rule relating to
 certain data reported by health care facilities; amending
 s. 408.0611, F.S.; revising provisions relating to a
 clearinghouse on information on electronic prescribing;
 requiring the State Consumer Health Information and Policy
 Advisory Council or a workgroup representing electronic
 prescribing and other health information technology
 stakeholders to participate in quarterly meetings on the
 implementation of electronic prescribing; requiring the
 agency to provide a report on the agency's Internet
 website; amending s. 408.062, F.S.; requiring the agency
 to post certain information on health care expenditures on
 the agency's Internet website; amending s. 408.063, F.S.;
 deleting the requirement that the agency annually publish
 a report on state health expenditures; providing an
 effective date.

28 WHEREAS, the use of electronic health information
 29 technology has improved the quality of health care, and
 30 WHEREAS, coordinating federally funded training and
 31 outreach activities with a state-based health information
 32 technology program will advance the adoption and meaningful use
 33 of electronic health records, and

34 WHEREAS, the Agency for Health Care Administration is
 35 responsible for developing a strategy for the implementation of
 36 an electronic health information network in this state, NOW,
 37 THEREFORE,

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Paragraph (h) of subsection (8) of section
 42 408.05, Florida Statutes, is amended to read:

43 408.05 Florida Center for Health Information and Policy
 44 Analysis.—

45 (8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY
 46 COUNCIL.—

47 (h) The council's duties and responsibilities include, but
 48 are not limited to, ~~the following:~~

49 1. Developing ~~To develop~~ a mission statement, goals, and a
 50 plan of action for the identification, collection,
 51 standardization, sharing, and coordination of health-related
 52 data across federal, state, and local government and private
 53 sector entities.

54 2. Developing the agency's strategic plan for the adoption
 55 and use of electronic health records, as specified in s.

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56 | 408.062(5).

57 | ~~3.2.~~ Developing ~~To develop~~ a review process that ensures
58 | ~~to ensure~~ cooperative planning among agencies that collect or
59 | maintain health-related data.

60 | ~~4.3.~~ Establishing ~~To create~~ ad hoc, issue-oriented
61 | technical workgroups as needed ~~on an as-needed basis~~ to make
62 | recommendations to the council.

63 | Section 2. Subsection (2) of section 408.051, Florida
64 | Statutes, is amended to read:

65 | 408.051 Florida Electronic Health Records Exchange Act.—

66 | (2) DEFINITIONS.—As used in this section and ss. 408.0512-
67 | 408.0514, the term:

68 | (a) "Agency" means the Agency for Health Care
69 | Administration.

70 | ~~(b)-(e)~~ "Certified electronic health record technology"
71 | means a qualified electronic health record that is certified
72 | pursuant to s. 3001(c)(5) of the Public Health Service Act as
73 | meeting standards adopted under s. 3004 of that ~~such~~ act which
74 | are applicable to the type of record involved, such as an
75 | ambulatory electronic health record for office-based physicians
76 | or an inpatient hospital electronic health record for hospitals.

77 | ~~(c)-(a)~~ "Electronic health record" means a record of an
78 | individual's ~~a person's~~ medical treatment which is created by a
79 | licensed health care provider and stored in an interoperable and
80 | accessible digital format.

81 | (d) "Health record" means any information, recorded in any
82 | form or medium, which relates to the past, present, or future
83 | health of an individual for the primary purpose of providing

84 health care and health-related services.

85 (e) "Identifiable health record" means a a ~~any~~ health record
 86 that identifies the patient or for ~~with respect to~~ which there
 87 is a reasonable basis to believe the information can be used to
 88 identify the patient.

89 (f) "Patient" means an individual who has sought, is
 90 seeking, is undergoing, or has undergone care or treatment in a
 91 health care facility or by a health care provider.

92 (g) "Patient representative" means a parent of a minor
 93 patient, a court-appointed guardian for the patient, a health
 94 care surrogate, or a person holding a power of attorney or
 95 notarized consent appropriately executed by the patient granting
 96 permission for ~~to~~ a health care facility or health care provider
 97 to disclose the patient's health care information to that
 98 person. In the case of a deceased patient, the term also means
 99 the personal representative of the estate of the deceased
 100 patient; the deceased patient's surviving spouse, surviving
 101 parent, or surviving adult child; the parent or guardian of a
 102 surviving minor child of the deceased patient; the attorney for
 103 the patient's surviving spouse, parent, or adult child; or the
 104 attorney for the parent or guardian of a surviving minor child.

105 (h) ~~(b)~~ "Qualified electronic health record" means an
 106 electronic record of health-related information concerning an
 107 individual which includes patient demographic and clinical
 108 health information, such as medical history and problem lists,
 109 and which has the capacity to provide clinical decision support,
 110 to support physician order entry, to capture and query
 111 information relevant to health care quality, and to exchange

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112 | electronic health information with, and integrate such
 113 | information from, other sources.

114 | Section 3. Section 408.0514, Florida Statutes, is created
 115 | to read:

116 | 408.0514 Regional extension centers.—The agency shall
 117 | coordinate with federally funded regional extension centers
 118 | operating in this state to increase provider readiness in
 119 | implementing the use of electronic health records in order to
 120 | enable provider participation in health information exchange and
 121 | electronic prescribing, including, but not limited to, readiness
 122 | to prepare, use, and report performance measures required to
 123 | qualify for federal and state electronic health record adoption
 124 | incentive programs.

125 | Section 4. Paragraph (a) of subsection (1) of section
 126 | 408.061, Florida Statutes, is amended to read:

127 | 408.061 Data collection; uniform systems of financial
 128 | reporting; information relating to physician charges;
 129 | confidential information; immunity.—

130 | (1) The agency shall require the submission by health care
 131 | facilities, health care providers, and health insurers of data
 132 | necessary to carry out the agency's duties. Specifications for
 133 | data to be collected under this section shall be developed by
 134 | the agency with the assistance of technical advisory panels
 135 | including representatives of affected entities, consumers,
 136 | purchasers, and such other interested parties as may be
 137 | determined by the agency.

138 | (a) Data submitted by health care facilities, including
 139 | ~~the~~ facilities as defined in chapter 395, must ~~shall~~ include,

140 | but is ~~are~~ not limited to: case-mix data;; patient admission and
 141 | discharge data;; hospital emergency department data, which
 142 | includes ~~shall include~~ the number of patients treated in the
 143 | hospital's emergency department and ~~of a licensed hospital~~
 144 | reported by patient acuity level;; data on hospital-acquired
 145 | infections as specified by rule;; data on complications as
 146 | specified by rule;; data on readmissions as specified by rule,
 147 | which includes ~~with~~ patient and provider-specific identifiers;
 148 | ~~included,~~ actual charge data by diagnostic groups;; financial
 149 | data;; accounting data;; operating expenses;; expenses incurred
 150 | for rendering services to patients who cannot or do not pay;;
 151 | interest charges;; depreciation expenses based on the expected
 152 | useful life of the property and equipment involved;; and
 153 | demographic data. The agency shall adopt nationally recognized
 154 | risk adjustment methodologies or software consistent with the
 155 | standards of the Agency for Healthcare Research and Quality and
 156 | as selected by the agency for all data submitted under ~~as~~
 157 | ~~required by~~ this section. Data may be obtained from documents
 158 | such as, but not limited to: leases, contracts, debt
 159 | instruments, itemized patient bills, medical record abstracts,
 160 | and related diagnostic information. Reported data elements shall
 161 | be reported electronically, and ~~in accordance with rule 59E-~~
 162 | ~~7.012, Florida Administrative Code. Data submitted shall be~~
 163 | ~~certified by~~ the chief executive officer or an appropriate and
 164 | duly authorized representative or employee of the licensed
 165 | facility must certify that the information submitted is true and
 166 | accurate.

167 Section 5. Subsections (3) and (4) of section 408.0611,
 168 Florida Statutes, are amended to read:

169 408.0611 Electronic prescribing clearinghouse.—

170 (3) The agency shall work in collaboration with private
 171 sector electronic prescribing initiatives and relevant
 172 stakeholders to create a clearinghouse of information on
 173 electronic prescribing for health care practitioners, health
 174 care facilities, regional health information organizations,
 175 health care consumers, and pharmacies, and regional extension
 176 centers that promote adoption of electronic health records.

177 ~~These stakeholders shall include organizations that represent~~
 178 ~~health care practitioners, organizations that represent health~~
 179 ~~care facilities, organizations that represent pharmacies,~~
 180 ~~organizations that operate electronic prescribing networks,~~
 181 ~~organizations that create electronic prescribing products, and~~
 182 ~~regional health information organizations.~~ Specifically, the
 183 agency shall, ~~by October 1, 2007:~~

184 (a) Provide on its website:

185 1. Information regarding the process of electronic
 186 prescribing and the availability of electronic prescribing
 187 products, including no-cost or low-cost products;

188 2. Information regarding the advantages of electronic
 189 prescribing, including using medication history data to prevent
 190 drug interactions, prevent allergic reactions, and deter doctor
 191 and pharmacy shopping for controlled substances;

192 3. Links to federal and private sector websites that
 193 provide guidance on selecting an appropriate electronic
 194 prescribing product; and

195 4. Links to state, federal, and private sector incentive
 196 programs for the implementation of electronic prescribing.

197 (b) Convene quarterly meetings of the State Consumer
 198 Health Information and Policy Advisory Council or a workgroup
 199 representing electronic prescribing and other health information
 200 technology stakeholders to assess and accelerate the
 201 implementation of electronic prescribing.

202 (4) Pursuant to s. 408.061, the agency shall monitor the
 203 implementation of electronic prescribing by health care
 204 practitioners, health care facilities, and pharmacies. By
 205 January 31 of each year, the agency shall report metrics on the
 206 ~~progress of~~ implementation of electronic prescribing on the
 207 agency's Internet website ~~to the Governor and the Legislature.~~
 208 The information reported must ~~pursuant to this subsection~~ shall
 209 include federal and private sector electronic prescribing
 210 initiatives and, to the extent that data is readily available
 211 from organizations that operate electronic prescribing networks,
 212 the number of health care practitioners using electronic
 213 prescribing and the number of prescriptions electronically
 214 transmitted.

215 Section 6. Paragraph (e) of subsection (1) of section
 216 408.062, Florida Statutes, is amended to read:

217 408.062 Research, analyses, studies, and reports.—

218 (1) The agency shall conduct research, analyses, and
 219 studies relating to health care costs and access to and quality
 220 of health care services as access and quality are affected by
 221 changes in health care costs. Such research, analyses, and
 222 studies shall include, but not be limited to:

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223 (e) Total health care expenditures in the state according
 224 to the sources of payment and the type of expenditure shall be
 225 published on the agency's Internet website.

226 Section 7. Subsections (5) and (6) of section 408.063,
 227 Florida Statutes, are amended to read:

228 408.063 Dissemination of health care information.—

229 ~~(5) The agency shall publish annually a comprehensive~~
 230 ~~report of state health expenditures. The report shall identify:~~

231 ~~(a) The contribution of health care dollars made by all~~
 232 ~~payors.~~

233 ~~(b) The dollars expended by type of health care service in~~
 234 ~~Florida.~~

235 (5)(6) ~~The staff of the Agency~~ staff may conduct or
 236 sponsor consumer information and education seminars at locations
 237 throughout the state and ~~may~~ hold public hearings to solicit
 238 consumer concerns or complaints relating to health care costs
 239 and make recommendations to the agency for study, action, or
 240 investigation.

241 Section 8. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council
3 Representative(s) Grimsley offered the following:

4
5 **Amendment (with directory and title amendments)**

6 Between lines 44 and 45, insert:

7
8 (7) BUDGET; FEES.-

9 ~~(a) The Legislature intends that funding for the Florida~~
10 ~~Center for Health Information and Policy Analysis be~~
11 ~~appropriated from the General Revenue Fund.~~

12 (a) ~~(b)~~ The Florida Center for Health Information and
13 Policy Analysis may apply for and receive and accept grants,
14 gifts, and other payments, including property and services, from
15 any governmental or other public or private entity or person and
16 make arrangements as to the use of same, including the
17 undertaking of special studies and other projects relating to
18 health-care-related topics. ~~Funds obtained pursuant to this~~

Amendment No. 1

19 ~~paragraph may not be used to offset annual appropriations from~~
20 ~~the General Revenue Fund.~~

21 (b) ~~(e)~~ The center may charge such reasonable fees for
22 services as the agency prescribes by rule. The established fees
23 may not exceed the reasonable cost for such services. ~~Fees~~
24 ~~collected may not be used to offset annual appropriations from~~
25 ~~the General Revenue Fund.~~

26

27

28

D I R E C T O R Y A M E N D M E N T

29

30 Remove lines 41-42 and insert:

30

31 Section 1. Paragraphs (a)-(c) of subsection (7), paragraph
32 (h) of subsection (8) of section 408.05, Florida Statutes, is
33 amended to read:

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32

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34

35

36

T I T L E A M E N D M E N T

37

38 Remove line 3 and insert:

38

39 s. 408.05, F.S.; modifying the funding mechanism for the State
40 Consumer Health Information and Policy Advisory Council;
41 requiring the State Consumer Health

39

40

41

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 923

Homelessness

SPONSOR(S): Reed

TIED BILLS:

IDEN./SIM. BILLS: SB 2654

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	13 Y, 0 N	Schoonover	Schoofield
2)	Roads, Bridges & Ports Policy Committee	10 Y, 0 N	Brown	Miller
3)	Health & Family Services Policy Council		Schoonover <i>CW</i>	Gormley <i>AG</i>
4)				
5)				

SUMMARY ANALYSIS

The bill creates and revises multiple sections of the Florida Statutes relating to homelessness. The bill:

- Authorizes the collection of voluntary contributions in the amount of \$1 to be added to motor vehicle registration and drivers license fees – initial and renewal fees - to aid the homeless.
- Replaces the existing Emergency Financial Assistance for Housing program with a homeless prevention grant program to be administered by local homeless continuums of care to provide emergency financial assistance to families facing the loss of their current home due to financial or other crises.
- Limits the amount a lead agency may spend on administrative costs under a Challenge Grant.
- Directs funding for homeless housing assistance grants to be appropriated as a fixed capital outlay item.
- Repeals s. 414.15, F.S., relating to Housing First, which was enacted in 2009.

The bill is expected to result in a savings of approximately \$200,000 in administrative costs for the Office on Homelessness from the elimination of temporary staff. The bill may generate an indeterminate amount of revenue from voluntary donations for grant programs to help the homeless.

The bill is effective July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Council on Homelessness (council) and the State Office on Homelessness (office) were created in 2001 within the Department of Children and Family Services (DCF).¹ The office coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions.² The 17-members council is comprised of representatives of state agencies, counties, homeless advocacy organizations, and volunteers.³ The council's duties include developing policy and advising the office.⁴

Emergency Financial Assistance Program

DCF administers this program and provides support to families with at least one minor child that are currently without shelter or face the loss of shelter because of the following:⁵

- Nonpayment of rent or mortgage resulting in eviction or notice of eviction;
- Household disaster, which renders the home uninhabitable;
- Other emergency situations defined in rule.⁶

Families may receive up to \$400 during 1 period of 30 consecutive days in any 12 consecutive months.⁷ DCF serves approximately 4,000 families a year under this program and utilizes seven temporary employees to assess eligibility and process payments.⁸

Challenge Grant

The Office on Homelessness may award grants of up to \$500,000 to lead agencies who have developed and implemented a local homeless assistance continuum of care plan to provide services including outreach, emergency shelter, support services, and permanent shelter in the area.⁹ Current law does not limit administrative costs under this grant.

¹ Chapter 2001-98, L.O.F.

² s. 420.622(3), F.S.

³ s. 420.622(2), F.S.

⁴ Id.

⁵ s. 414.16(1), F.S.

⁶ 65A-33.004, F.A.C.

⁷ 65A-33.011, F.A.C.

⁸ Staff Analysis (HB 923), Department of Children and Families. (On file with committee staff).

⁹ s. 420.622(4), F.S.

Homeless Housing Assistance Grant

The Office on Homelessness may administer moneys appropriated to it to provide homeless housing assistance grants up to \$750,000 annually to lead agencies to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.¹⁰ Administrative costs are capped at 5% of the funds awarded.¹¹

Housing First

Solutions to homelessness in both the public and private sectors have primarily been focused on providing individuals and families experiencing homelessness with housing.¹² While emergency shelter may provide access to services for individuals and families in crisis, it often fails to address long-term needs.¹³ The approach is premised on the belief that vulnerable and at-risk individuals and families who are homeless are more responsive to interventions and social services support after they are in their own housing, rather than while living in temporary/transitional facilities or housing programs.¹⁴ In 2009, the Governor signed the Housing First model into law in order to address the long term needs of homeless individuals and families.¹⁵

Voluntary Checkoffs

Section 320.023, F.S., provides the procedures which an organization must follow prior to seeking Legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application.

Section 322.081, F.S., provides the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a driver's license application.

The Department of Highway Safety and Motor Vehicles must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.¹⁶

Effect of Proposed Changes

The bill authorizes the collection of voluntary contributions in the amount of \$1.00 to be added to the motor vehicle and drivers license fees - initial and renewal fees - to aid the homeless. The bill does not require the voluntary contributions be subject to the check-off procedures and limitations of s. 320.023, F.S., and s. 322.081, F.S.

Funds will be placed in a grants and donations trust fund for use by the Office on Homelessness to supplement Challenge Grants and homeless housing assistance grants and to provide information on homelessness to the public. The effect of this change could potentially raise an indeterminate amount of money.

The bill replaces the existing Emergency Financial Assistance for Housing program with a homelessness prevention grant program. The program will be administered by local homeless assistance continuums of care to provide financial assistance to families facing the loss of their current home due to financial or other crises. The grants, which would be capped at \$300,000, may be used to pay past due rent and mortgage payments, past due utility costs and bills, and case management.

¹⁰ s. 420.622(5), F.S.

¹¹ s. 420.622(5)(f), F.S.

¹² s. 420.6275(1)(b), F.S.

¹³ *Id.*

¹⁴ Beyond Shelter. Founded in 1988. The mission of Beyond Shelter is to develop systemic approaches to combat poverty and homelessness among families with children and enhance family economic security and well-being.

¹⁵ HB 597 (2009)

¹⁶ s. 320.023(4)(a), F.S.; s. 322.081(4)(a), F.S.

Program administrative costs capped at 3 percent of the grant award. While the Office on Homelessness will administer the grant to the local prevention programs, tracking and reporting on progress will be the responsibility of those local programs. DCF estimates that this change in grant programs will result in a savings of about \$200,000 in administrative costs for the Office on Homelessness since the seven OPS employees would no longer be needed.

The bill caps administrative costs for lead agencies administering Challenge Grants at 8 percent. Challenge Grants awards are up to \$500,000 per lead agency.¹⁷ The effect of this change will permit lead agencies using Challenge Grants to spend more money on administrative costs compared to other homelessness assistance grants. For example, the homeless prevention grants created by this bill are capped at \$300,000 and limit administrative costs at 3 percent. The homeless housing assistance grants, which exist in current statute and are capped at \$750,000, have administrative costs limited to 5 percent. The rationale for the difference in administrative fee caps for the three grant programs is unclear.

The bill directs all funding for homeless housing assistance grants to be appropriated as a fixed capital outlay item. The use of homeless housing assistance grants are limited by statute to acquire, construct, or rehabilitate transitional or permanent housing units for housing persons. Currently, funding for these grants is classified as a grant in aid under general revenue, which must be used by the end of the fiscal year. The effect of this change will permit the use of grants for construction and housing purposes beyond the limitations of one fiscal year.

The bill also repeals s. 414.16, F.S., relating to the Housing First Methodology. This provision, which was enacted in 2009, mandates background checks and addiction rehabilitation as a condition for an effective program.

B. SECTION DIRECTORY:

Section 1. Amends s. 320.02, F.S., relating to registration required; application for registration; forms

Section 2. Amends s. 322.08, F.S., relating to application for license.

Section 3. Amends s. 322.18, F.S., relating to original applications, licenses, and renewals; expiration of licenses; delinquent licenses.

Section 4. Creates s. 414.161, F.S., relating to homelessness prevention grants.

Section 5. Amends s. 420.622, F.S., relating to State Office on Homelessness; Council on Homelessness.

Section 6. Amends s. 420.625, F.S., relating to grant-in-aid program.

Section 7. Amends s. 420.6275, F.S., relating to Housing First.

Section 8. Repeals s. 414.16, F.S., relating to emergency assistance program.

Section 9. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to DCF, the voluntary contributions authorized by the bill could provide new revenue for the Challenge Grants and Homeless Housing Assistance Grants. DCF provided a conservative

¹⁷ s. 420.622(4), F.S.

estimate of a minimum of \$20,000 based on voluntary contributions made for other programs. In fiscal year 2008-09, a total of \$1.5M was received in the voluntary contributions for the existing 24 entities in statute.¹⁸

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Consider making the administrative cost percentage caps the same for the Challenge Grant, homelessness prevention grant, and the homeless housing assistance program.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹⁸ Staff Analysis, Economic Development & Community Affairs Policy Council, HB 263 (2010).

1 A bill to be entitled
 2 An act relating to homelessness; amending ss. 320.02,
 3 322.08, and 322.18, F.S.; requiring the motor vehicle
 4 registration form and registration renewal form, the
 5 driver license application form, and the driver license
 6 application form for renewal issuance or renewal extension
 7 to include an option to make a voluntary contribution to
 8 aid the homeless; providing for such contributions to be
 9 deposited into the Grants and Donations Trust Fund of the
 10 Department of Children and Family Services and used by the
 11 State Office on Homelessness for certain purposes;
 12 providing that voluntary contributions for the homeless
 13 are not income of a revenue nature for the purpose of
 14 applying certain service charges; creating s. 414.161,
 15 F.S.; establishing a homelessness prevention grant
 16 program; requiring grant applicants to be ranked
 17 competitively; providing preference for certain grant
 18 applicants; providing eligibility requirements; providing
 19 grant limitations and restrictions; requiring lead
 20 agencies for local homeless assistance continuums of care
 21 to track, monitor, and report on assisted families for a
 22 specified period of time; amending s. 420.622, F.S.;
 23 limiting the percentage of funding that lead agencies may
 24 spend on administrative costs; providing that funding
 25 shall be appropriated as a fixed capital outlay item;
 26 amending s. 420.625, F.S.; deleting a cross-reference to
 27 conform; amending s. 420.6275, F.S.; revising legislative
 28 findings relating to the Housing First approach to

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29 homeless; repealing s. 414.16, F.S., relating to the
 30 emergency assistance program for families with children
 31 that have lost shelter or face loss of shelter due to an
 32 emergency; providing an effective date.

33

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

35

36 Section 1. Paragraph (i) is added to subsection (15) of
 37 section 320.02, Florida Statutes, to read:

38 320.02 Registration required; application for
 39 registration; forms.--

40

(15)

41

(i) Notwithstanding s. 320.023, the application form for

42

motor vehicle registration and renewal of registration must

43

include language permitting a voluntary contribution of \$1 per

44

applicant to aid the homeless. Contributions made pursuant to

45

this paragraph shall be deposited into the Grants and Donations

46

Trust Fund of the Department of Children and Family Services and

47

used by the State Office on Homelessness to supplement grants

48

made under s. 420.622(4) and (5), provide information to the

49

public about homelessness in the state, and provide literature

50

for homeless persons seeking assistance.

51

52 For the purpose of applying the service charge provided in s.

53

215.20, contributions received under this subsection are not

54

income of a revenue nature.

55

Section 2. Subsection (7) of section 322.08, Florida

56

Statutes, is amended to read:

57 | 322.08 Application for license.-

58 | (7) The application form for a driver's license or
59 | duplicate thereof shall include language permitting the
60 | following:

61 | (a) A voluntary contribution of \$1 per applicant, which
62 | contribution shall be deposited into the Health Care Trust Fund
63 | for organ and tissue donor education and for maintaining the
64 | organ and tissue donor registry.

65 | (b) A voluntary contribution of \$1 per applicant, which
66 | contribution shall be distributed to the Florida Council of the
67 | Blind.

68 | (c) A voluntary contribution of \$2 per applicant, which
69 | shall be distributed to the Hearing Research Institute,
70 | Incorporated.

71 | (d) A voluntary contribution of \$1 per applicant, which
72 | shall be distributed to the Juvenile Diabetes Foundation
73 | International.

74 | (e) A voluntary contribution of \$1 per applicant, which
75 | shall be distributed to the Children's Hearing Help Fund.

76 | (f) A voluntary contribution of \$1 per applicant, which
77 | shall be distributed to Family First, a nonprofit organization.

78 | (g) A voluntary contribution of \$1 per applicant, to Stop
79 | Heart Disease, which shall be distributed to the Florida Heart
80 | Research Institute, a nonprofit organization.

81 | (h) Notwithstanding s. 322.081, a voluntary contribution
82 | of \$1 per applicant to aid the homeless. Contributions made
83 | pursuant to this paragraph shall be deposited into the Grants
84 | and Donations Trust Fund of the Department of Children and

85 Family Services and used by the State Office on Homelessness to
 86 supplement grants made under s. 420.622(4) and (5), provide
 87 information to the public about homelessness in the state, and
 88 provide literature for homeless persons seeking assistance.

89

90 A statement providing an explanation of the purpose of the trust
 91 funds shall also be included. For the purpose of applying the
 92 service charge provided in s. 215.20, contributions received
 93 under paragraphs (b), (c), (d), (e), (f), ~~and~~ (g), and (h) and
 94 under s. 322.18(9) are not income of a revenue nature.

95 Section 3. Paragraph (c) is added to subsection (9) of
 96 section 322.18, Florida Statutes, to read:

97 322.18 Original applications, licenses, and renewals;
 98 expiration of licenses; delinquent licenses.-

99 (9)

100 (c) The application form for a renewal issuance or renewal
 101 extension shall include language permitting a voluntary
 102 contribution of \$1 per applicant to aid the homeless.

103 Contributions made pursuant to this paragraph shall be deposited
 104 into the Grants and Donations Trust Fund of the Department of
 105 Children and Family Services and used by the State Office on
 106 Homelessness to supplement grants made under s. 420.622(4) and
 107 (5), provide information to the public about homelessness in the
 108 state, and provide literature for homeless persons seeking
 109 assistance. For the purpose of applying the service charge
 110 provided in s. 215.20, contributions received under this
 111 paragraph are not income of a revenue nature.

112 Section 4. Section 414.161, Florida Statutes, is created
 113 to read:

114 414.161 Homelessness prevention grants.-

115 (1) ESTABLISHMENT OF PROGRAM.-There is created a grant
 116 program to provide emergency financial assistance to families
 117 facing the loss of their current home due to a financial or
 118 other crisis. The State Office on Homelessness, with the
 119 concurrence of the Council on Homelessness, may accept and
 120 administer moneys appropriated to it to provide homelessness
 121 prevention grants annually to lead agencies for local homeless
 122 assistance continuums of care, as recognized by the State Office
 123 on Homelessness. These moneys shall consist of any sums that the
 124 state may appropriate, as well as money received from donations,
 125 gifts, bequests, or otherwise from any public or private source
 126 that is intended to assist families to prevent them from
 127 becoming homeless.

128 (2) GRANT APPLICATIONS.-Grant applicants shall be ranked
 129 competitively. Preference shall be given to applicants who
 130 leverage additional private funds and public funds, who
 131 demonstrate the effectiveness of their homelessness prevention
 132 programs in keeping families housed, and who demonstrate the
 133 commitment of other assistance and services to address family
 134 health, employment, and education needs.

135 (3) ELIGIBILITY.-In order to qualify for a grant, a lead
 136 agency must develop and implement a local homeless assistance
 137 continuum of care plan for its designated catchment area. The
 138 homelessness prevention program must be included in the
 139 continuum of care plan.

140 (4) GRANT LIMITS.—The maximum grant amount per lead agency
 141 may not exceed \$300,000. The grant assistance may be used to pay
 142 past due rent or mortgage payments, past due utility costs,
 143 other past due bills creating a family's financial crisis,
 144 provision of case management services, and program
 145 administration costs not to exceed 3 percent of the grant award.
 146 The homelessness prevention program must develop a case plan for
 147 each family to be assisted setting forth what costs will be
 148 covered and the maximum level of assistance to be offered.

149 (5) PERFORMANCE.—The lead agency shall be required to
 150 track, monitor, and report on each family assisted for at least
 151 12 months after the last assistance provided to the family. The
 152 goal for the homelessness prevention program shall be to enable
 153 at least 85 percent of the families assisted to remain in their
 154 homes and avoid becoming homeless during the ensuing year.

155 Section 5. Paragraph (d) is added to subsection (4) of
 156 section 420.622, Florida Statutes, and paragraph (g) is added to
 157 subsection (5) of that section, to read:

158 420.622 State Office on Homelessness; Council on
 159 Homelessness.—

160 (4) Not less than 120 days after the effective date of
 161 this act, the State Office on Homelessness, with the concurrence
 162 of the Council on Homelessness, may accept and administer moneys
 163 appropriated to it to provide "Challenge Grants" annually to
 164 lead agencies for homeless assistance continuums of care
 165 designated by the State Office on Homelessness. A lead agency
 166 may be a local homeless coalition, municipal or county

167 government, or other public agency or private, not-for-profit
 168 corporation. Such grants may be up to \$500,000 per lead agency.

169 (d) A lead agency may spend a maximum of 8 percent of its
 170 funding on administrative costs.

171 (5) The State Office on Homelessness, with the concurrence
 172 of the Council on Homelessness, may administer moneys
 173 appropriated to it to provide homeless housing assistance grants
 174 annually to lead agencies for local homeless assistance
 175 continuum of care, as recognized by the State Office on
 176 Homelessness, to acquire, construct, or rehabilitate
 177 transitional or permanent housing units for homeless persons.
 178 These moneys shall consist of any sums that the state may
 179 appropriate, as well as money received from donations, gifts,
 180 bequests, or otherwise from any public or private source, which
 181 are intended to acquire, construct, or rehabilitate transitional
 182 or permanent housing units for homeless persons.

183 (g) Funding shall be appropriated as a fixed capital
 184 outlay item.

185 Section 6. Paragraph (d) of subsection (3) of section
 186 420.625, Florida Statutes, is amended to read:

187 420.625 Grant-in-aid program.—

188 (3) ESTABLISHMENT.—There is hereby established a grant-in-
 189 aid program to help local communities in serving the needs of
 190 the homeless through a variety of supportive services, which may
 191 include, but are not limited to:

192 (d) Emergency financial assistance for persons who are
 193 totally without shelter or facing loss of shelter, ~~but who are~~
 194 ~~not eligible for such assistance under s. 414.16.~~

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2010

195 Section 7. Paragraph (a) of subsection (2) of section
 196 420.6275, Florida Statutes, is amended to read:

197 420.6275 Housing First.—

198 (2) HOUSING FIRST METHODOLOGY.—

199 (a) The Housing First approach to homelessness differs
 200 from traditional approaches by providing housing assistance,
 201 case management, and support services responsive to individual
 202 or family needs after housing is obtained. By using this
 203 approach when appropriate, communities can significantly reduce
 204 the amount of time that individuals and families are homeless
 205 and prevent further episodes of homelessness. Housing First
 206 emphasizes that social services provided to enhance individual
 207 and family well-being can be more effective when people are in
 208 their own home, and:

209 1. The housing is not time-limited.

210 2. The housing is not contingent on compliance with
 211 services. Instead, participants must comply with a standard
 212 lease agreement and are provided with the services and support
 213 that are necessary to help them do so successfully.

214 ~~3. A background check and any rehabilitation necessary to~~
 215 ~~combat an addiction related to alcoholism or substance abuse has~~
 216 ~~been completed by the individual for whom assistance or support~~
 217 ~~services are provided.~~

218 Section 8. Section 414.16, Florida Statutes, is repealed.

219 Section 9. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1143 Reduction and Simplification of Health Care Provider Regulation

SPONSOR(S): Health Care Appropriations Committee; Health Care Regulation Policy Committee; Hudson
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Calamas	Calamas
2)	Health Care Appropriations Committee	11 Y, 0 N, As CS	Pridgeon	Pridgeon
3)	Health & Family Services Policy Council		Calamas	Gormley
4)				
5)				

SUMMARY ANALYSIS

The bill amends the Health Care Licensing Procedures Act (Act) and the various authorizing statutes of entities regulated by the Agency for Health Care Administration (AHCA) to reduce, streamline, and clarify regulations for those providers.

- The bill eliminates the Limited Nursing Services specialty license type for assisted living facilities (ALFs) to allow a licensed nurse to provide such services in a standard licensed ALF. The bill replaces the requirement to monitor specialty license facilities with a requirement to monitor all ALFs based upon citation of serious violations and allows a fee to be charged for monitoring visits. The bill modifies AHCA consultation duties related to ALFs, and requires the adoption of rules for data submission by ALFs related to the numbers of residents receiving mental health or nursing services, resident funding sources, and staffing.
- The bill precludes the collection of Lease Alternative Bond Fund (Fund) payments by certain nursing homes when the Fund exceeds \$25 million based on certain calculations. The bill limits the frequency of food safety inspections by the Department of Health (DOH) and fire safety inspections by the State Fire Marshal for nursing homes, and expands the ability of nursing homes to provide respite services and provides criteria for the provision of such services.
- The bill amends the Health Care Clinic Act to exempt from licensure entities owned by a corporation generating more than \$250 million in annual sales and which have at least one owner who is a health care practitioner.
- The bill amends various licensure provisions, including those related to bankruptcy notifications, licensure renewal notices, billing complaints, accrediting organizations, licensure application document submissions, staffing in geriatric outpatient clinics, medical records, property statements, AHCA inspection staff, litigation notices, and health care clinic licensure exemptions.
- The bill repeals obsolete or duplicative provisions in licensing and related statutes, including expired reports and regulations and provisions that exist in other sections of law. The bill resolves conflicts among and between provisions in the Act and various authorizing statutes for individual provider types. The bill also makes various revisions to update terminology and conforms current law to prior legislative changes.

The bill amends regulation of prescription drug wholesale distribution by the Department of Health. It eliminates the requirement for exempt entities to maintain separate inventories for drugs purchased under the federal 340B discount drug program and other drugs, and exempts sealed medical convenience kits meeting certain specifications from pedigree paper requirements.

The bill adds orthotic, pedorthic and prosthetic licensees to the list of "health care providers" for purposes of medical malpractice lawsuits.

The bill appears to have a positive fiscal impact on AHCA. See Fiscal Comments section.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Health Care Licensing Procedures Act (Act)

The AHCA regulates over 41,000 health care providers under various regulatory programs. Regulated providers include:

- Laboratories authorized to perform testing under the Drug-Free Workplace Act (ss. 112.0455, 440.102, F.S.).
- Birth centers (Ch. 383, F.S.).
- Abortion clinics (Ch. 390, F.S.).
- Crisis stabilization units (Pts. I and IV of Ch. 394, F.S.).
- Short-term residential treatment facilities (Pt. I and IV of Ch. 394, F.S.).
- Residential treatment facilities (Pt. IV of Ch. 394, F.S.).
- Residential treatment centers for children and adolescents (Pt. IV of Ch. 394, F.S.).
- Hospitals (Part I of Ch. 395, F.S.).
- Ambulatory surgical centers (Pt. I of Ch. 395, F.S.).
- Mobile surgical facilities (Pt. I of Ch. 395, F.S.).
- Health care risk managers (Pt. I of Ch. 395, F.S.).
- Nursing homes (Pt. II of Ch. 400, F.S.).
- Assisted living facilities (Pt. I of Ch. 429, F.S.).
- Home health agencies (Pt. III of Ch. 400, F.S.).
- Nurse registries (Pt. III of Ch. 400, F.S.).
- Companion services or homemaker services providers (Pt. III of Ch. 400, F.S.).
- Adult day care centers (Pt. III of Ch. 429, F.S.).
- Hospices (Pt. IV of Ch. 400, F.S.).
- Adult family-care homes (Pt. II of Ch. 429, F.S.).
- Homes for special services (Pt. V of Ch. 400, F.S.).
- Transitional living facilities (Pt. V of Ch. 400, F.S.).
- Prescribed pediatric extended care centers (Pt. VI of Ch. 400, F.S.).
- Home medical equipment providers (Pt. VII of Ch. 400, F.S.).
- Intermediate care facilities for persons with developmental disabilities (Pt. VIII of Ch. 400, F.S.).
- Health care services pools (Pt. IX of Ch. 400, F.S.).
- Health care clinics (Pt. X of Ch. 400, F.S.).

- Clinical laboratories (Pt. I of Ch. 483, F.S.).
- Multiphasic health testing centers (Pt. II of Ch. 483, F.S.).
- Organ, tissue, and eye procurement organizations (Pt. V of Ch. 765, F.S.).

Providers are regulated under individual licensing statutes and the Act in part II of chapter 408, F.S. The Act provides uniform licensing procedures and standards applicable to most AHCA-regulated entities. The Act contains basic licensing standards for 29 provider types in areas such as licensure application requirements, ownership disclosure, staff background screening, inspections, administrative sanctions, license renewal notices, and bankruptcy and eviction notices.

In addition to the Act, each provider type has an authorizing statute which includes unique provisions for licensure beyond the uniform criteria. Pursuant to s. 408.832, F.S., in the case of conflict between the Act and an individual authorizing statute, the Act prevails. There are several references in authorizing statutes that conflict with or duplicate provisions in the Act, including references to the classification of deficiencies, penalties for an intentional or negligent act by a provider, provisional licenses, proof of financial ability to operate, inspection requirements and plans of corrections from providers. Chapter 2009-223, L.O.F., made changes to part II of chapter 408, F.S., which supersede components of the specific licensing statutes.

This bill repeals obsolete or duplicative provisions in licensing and related statutes, including expired reports and regulations and provisions that exist in other sections of law like the Act. The bill also makes changes to the Act to reduce, streamline, or clarify regulations for all providers regulated by AHCA.

The bill changes individual licensing statutes to reflect updates to the uniform standards in the Act. The bill makes corresponding changes to provider licensing statutes to reflect the changes made to the Act to eliminate conflicts and obsolete language.

License Renewal Notices

Section 408.806, F.S., requires AHCA to notify licensees by mail or electronically when it is time to renew their licenses. AHCA mails renewal notices to over 30,000 providers every two years. While the statute does not specify the manner of mailing notices, AHCA sends them by certified mail to verify receipt by the providers. The cost of certified mail is approximately \$55,700 annually. According to AHCA, some certified mail is returned, as providers do not pick it up or the post office is unable to obtain necessary signatures for delivery. AHCA has also encountered situations in which licensees did not timely renew their licenses and claimed that their lack of receipt of a renewal reminder was a reason for that failure.

The bill clarifies that renewal notices are courtesy reminders only and do not excuse the licensees from the requirement to file timely licensure applications. The revised language gives AHCA clear flexibility to use or not use certified mail to send courtesy renewal reminders.

Classification and Fines for Violations

Section 408.813, F.S., includes criteria for the classification of deficiencies for all providers licensed by AHCA. Some authorizing statutes also contain criteria for the classification of deficiencies, some of which do not match the provisions contained in the Act. The provisions in the Act legally supersede conflicting provisions in the authorizing statutes. However, the dual provisions are confusing, and some conflicts still exist. Additionally, authorizing statutes are inconsistent related to fines for unclassified deficiencies such as failure to maintain insurance or exceeding licensed bed capacity.

The bill modifies the classification of licensure violations related to nursing homes, home health agencies, intermediate care facilities for the developmentally disabled, and adult family care homes to refer to the scope and severity in s. 408.813, F.S. Fine amounts for violations are unchanged. For intermediate care facilities for the developmentally disabled, the amount of fines for Class I, II, and III violations are unchanged, but a new Class IV is added for consistency with s. 408.813, F.S., with a fine not to exceed \$500. The addition of the Class IV violation creates a lower category for minor violations by those facilities. This resolves conflicting or confusing differences between the Act and the authorizing statutes, and resolves inconsistencies between these three authorizing statutes.

In addition, the bill establishes uniform sanction authority for unclassified deficiencies of up to \$500 per violation. Examples of unclassified deficiencies include failure to maintain insurance and other administrative requirements, exceeding licensed capacity, or violating a moratorium. Without fine authority, AHCA would be required to initiate revocation action for violations against those providers that do not have general fine authority. These violations may not warrant such a severe sanction.

Notice of Bankruptcy and Eviction

Currently, nursing homes are required to notify AHCA of bankruptcy filing pursuant to s. 400.141(1) (r), F.S. However, nursing homes are not required to notify AHCA of eviction, and there is no statutory requirement for other types of facility providers to notify AHCA if served with an eviction notice or of bankruptcy filing. AHCA reports that it has recently been made aware of several eviction and bankruptcy orders affecting regulated facilities. If notice is not received early in the process, finding alternative resident placement can become difficult and create a hardship for clients.

The bill amends s. 408.806, F.S., to require providers' controlling interests to notify AHCA within 10 days after a court action to initiate bankruptcy, foreclosure, or eviction proceedings. This applies to any such action to which the controlling interest is a petitioner or defendant. According to AHCA, this new requirement would allow the agency to monitor the facility to ensure patient protection and safe transfer, if necessary. If the property upon which a licensed provider operates is encumbered by a mortgage or is leased, the bill requires the licensee to notify the mortgage holder or landlord that the property will provide services that require licensure and instruct the mortgage holder or landlord to notify AHCA if action is initiated against the licensee, such as eviction or foreclosure.

Licensure Denial and Revocation

An action by AHCA to deny or revoke a license is subject to challenge under the Administrative Procedures Act (chapter 120, F.S.) If a licensee challenges the agency action, s. 408.815(2), F.S., allows the license to continue to exist and the provider to continue to operate during the pendency of the case. Once a final order is issued on the denial or revocation, if the original licensure expiration date has passed, there is no valid license and the provider must cease operations immediately. According to AHCA, this can be problematic for residents or clients who must immediately be moved to another facility or find another health care provider.

The bill amends s. 408.815, F.S., to authorize AHCA to extend a license expiration date up to 30 days beyond the final order date in the event of a licensure denial or revocation to allow for the orderly transfer of residents or patients.

Billing Complaint Authority

The Act provides authority to review billing complaints across all programs and gives the impression that AHCA can take licensure action regarding billing practices. Section 408.10(2), F.S., requires AHCA to investigate consumer complaints regarding billing practices and determine if the facility has engaged in billing practices which are unreasonable and unfair to the consumer. However, the Act does not provide specific standards for billing practices which AHCA can use to cite violations and discipline a provider's license. Nor does the Act define what activities would be unreasonable and unfair. Several providers' authorizing statutes do include billing standards, including nursing homes and assisted living facilities. However, other authorizing statutes are silent on billing standards.

For calendar year 2009, AHCA received 693 complaints that alleged billing-related issues. Of those, 269 were for providers that have billing standards in their licensure statutes. The remaining 424 were related to billing issues where no regulatory authority existed for billing matters. When the agency receives a billing complaint regarding one of the providers which does not have statutory billing standards, it is the agency's policy to review the complaint and encourage the parties to work together to resolve the problem. However, the provider is not cited or disciplined due to lack of authority.

The bill repeals AHCA's independent authority related to billing complaints in the Act. However, a review for regulatory compliance will continue to be conducted when a complaint is received for one of the providers over which AHCA has statutory billing authority. This review could possibly result in citations and discipline.

License Display

Section 408.804, F.S., makes it unlawful to provide or offer services that require licensure without first obtaining a license. This section of law also makes licenses valid only for entities and locations for which they are issued. Licensees are required to display licenses in a conspicuous place readily visible to the clients. The Act does not currently address falsification or ill-usage of license documents.

The bill makes it a second degree misdemeanor to knowingly alter, deface, or falsify a license and is punishable by up to 60 days in jail and a fine of up to \$500. The bill makes it an administrative violation for a licensee to display an altered, defaced, or falsified license. Such violations are subject to licensure revocation and a fine of up to \$1,000 per day.

Hospital Licensure

Accreditation Organizations

Currently, Florida law allows AHCA to consider and use hospital accreditation by certain accrediting organizations for various purposes, including accepting accreditation surveys in lieu of AHCA surveys, requiring accreditation for designation as certain specialty hospitals, and setting standards for quality improvement programs. Section 395.002, F.S., defines "accrediting organizations" as the Joint Commission on Accreditation of Healthcare Organizations, the American Osteopathic Association, the Commission on Accreditation of Rehabilitation Facilities, and the Accreditation Association for Ambulatory Health Care, Inc.

The bill broadens the definition of "accrediting organizations" for hospitals and ambulatory surgery centers to include any nationally recognized accrediting organization whose standards incorporate comparable licensure requirements as determined by AHCA. This gives AHCA and providers greater flexibility to accept new or improving accrediting organizations and reconsider existing organizations based on current statutory and rule-based standards.

Complaint Investigation Procedures

Complaint investigation procedures for hospitals exist in the hospital authorizing statutes as well as in the Act. Section 395.1046, F.S., provides special procedures for hospital complaints regarding emergency access issues. AHCA may investigate emergency access complaints even if the complaint is withdrawn. When the investigation is complete, AHCA shall prepare an investigative report that makes a probable cause determination. AHCA reports that the federal process for emergency access complaints dictates that these complaints should not be handled any differently from other types of complaints.

The bill repeals s. 395.1046, F.S., which eliminates the special procedures for investigating hospital emergency access complaints and would allow AHCA to employ existing hospital complaint investigation procedures used for all other types of complaints.

Nursing Home Licensure

An application for nursing home licensure must include the following:

- A signed affidavit disclosing financial or ownership interest of a nursing home controlling interest in the last five years in any health or residential facility which has closed, filed bankruptcy, has a receiver appointed or an injunction placed against it, or been denied, suspended, or revoked by a regulatory agency. This information is also required in s. 400.111, F.S.
- A plan for quality assurance and risk management. This plan is also reviewed during onsite inspections by AHCA.

- The total number of beds including those certified for Medicare and Medicaid. This information is also required by s. 408.806(1) (d), F.S.

The bill eliminates routine submission of documents at licensure by amending ss. 400.071, 400.111, and 400.1183, 400.141, F.S., to substitute the requirement for nursing homes to routinely submit certain documents at the time of licensure with the ability for AHCA to request the documents, if needed.

Nursing Home Geriatric Outpatient Clinics

Currently, nursing homes may establish a geriatric outpatient clinic as authorized in s. 400.021, F.S., to provide outpatient health care to persons 60 years of age or older. The clinic can be staffed by a registered nurse or a physician's assistant.

The bill expands the health care professionals that may staff a geriatric outpatient clinic in a nursing home to include licensed practical nurses under the direct supervision of registered nurses or advanced registered nurse practitioners.

Nursing Home Records

Nursing home medical records regulations exist under both state law and federal regulations. Section 400.141(1) (j), F.S., requires licensees to maintain full patient records. Rule 59A-4.118, F.A.C., also requires nursing homes to employ or contract with a person who is eligible for certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association. Nursing homes are required to maintain records of all grievances, and to report to the agency, upon licensure renewal, various data regarding those grievances.

The bill specifies that a facility must maintain medical records in accordance with accepted professional standards and practices. AHCA reports that this modification in language will allow the repeal of rules related to the credentials of medical records personnel. In addition, the bill removes the requirement that nursing homes report grievance information at the time of relicensure. The bill retains the requirement for nursing homes to maintain all grievance records and makes them available for inspection by AHCA.

Nursing Home Staffing Ratios

Nursing homes must comply with staff-to-resident ratios requirements. Under s. 400.141(1) (o), F.S., if a nursing home fails to comply with minimum staffing requirements for two consecutive days, the facility must cease new admissions until the staffing ratio has been achieved for six consecutive days. Failure to self-impose this moratorium on admissions results in a Class II deficiency cited by AHCA. All other citations for a Class II deficiency represent current ongoing non-compliance that AHCA determines has compromised a resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being. Use of the Class II deficiency for a failure to cease admissions is an inconsistent use of a "Class II" deficiency in comparison to all other violations. No nursing homes were cited for this violation in 2009.

The bill modifies the penalty for nursing homes that fail to self impose an admissions moratorium for insufficient staffing to a fine of \$1,000 instead of a Class II deficiency.

Nursing Home Do Not Resuscitate Orders

Section 400.142, F.S., requires AHCA to develop rules relating to implementation of Do Not Resuscitate Orders for nursing home residents. According to AHCA, draft rules have been developed but are not final. Criteria for Do Not Resuscitate Orders are found in s. 401.45, F.S.

The bill removes the requirement for AHCA to promulgate rules related to the implementation of Do Not Resuscitate Orders for nursing home residents. The statutory requirements for such orders in s. 401.45, F.S., are clear and do not require rule implementation.

Nursing Home Property Statements

Section 400.162, F.S., requires nursing homes to provide quarterly property statements to residents when they hold property or funds for a resident.

The bill maintains the requirement for a quarterly property statement for funds, but amends the requirement for other types of property. Instead of furnishing quarterly property statements, nursing homes must provide a property statement annually and within 7 calendar days after a request.

Nursing Home Lease Bond Alternative Fund (Fund)

Nursing homes that are leased and choose to participate in the Medicaid program must either post a bond or pay into a Fund annually pursuant to s. 400.179, F.S. Most leased nursing homes choose to pay into the Fund. Of the 674 licensed nursing homes in Florida, 519 are leased and participate in the Medicaid program. Of those, 505 nursing homes pay into the Fund and 14 post a leased surety bond. Chapter 2009-82 provided a reprieve from payments for Medicaid leased nursing homes for one year. The reprieve expires July 1, 2010. The bill specified that all nursing facilities licensees operating a leased facility shall not be required to submit the nonrefundable 1 percent lease bond fee or be required to provide proof of lease bond.

This bill creates an automatic mechanism to provide relief from payments into the Fund when receipts minus payments for nursing homes overpayments exceed \$25 million. This bill protects nursing homes from having to make additional payments into the Fund if the balance has been reduced as a result of transfers pursuant to s. 215.32 (2) (b) 4. a, F.S. The Fund would be reviewed annually to determine if payments during the next year will be required.

Nursing Home Inspections and Surveys

AHCA employs surveyors to inspect nursing homes. Pursuant to s. 400.275, F.S., newly hired nursing home surveyors must spend two days in a nursing home as part of basic training in a non-regulatory role. Federal regulations prescribe an extensive training process for nursing home inspection staff. Staff must pass the federal Surveyor Minimum Qualifications Test. Federal regulations prohibit an AHCA staff person who formerly worked in a nursing home from inspecting a nursing home within two years of employment with that home; state law requires a five year lapse.

The bill removes the requirement for new AHCA nursing home inspection staff to spend two days in a nursing home as part of basic training and aligns staff requirements with federal regulations. AHCA nursing home staff must still be fully qualified under federal requirements for the Surveyor Minimum Qualifications Test.

Nursing Home Litigation Notices

Sections 400.147 (10) and 400.0233, F.S., require nursing homes to report civil notices of intent to litigate and civil complaints filed with clerks of courts by a resident or representative of a resident. This information has been used to produce the Semi-Annual Report on Nursing Homes required by s. 400.195, F.S. Information is reported in aggregate for all facilities.

The bill eliminates the requirement to report notices of intent to litigate and civil complaints.

Nursing Home Respite Care

Section 400.141(1) (f), F.S., allows nursing homes to provide respite care for people needing short-term or temporary nursing home services. Only nursing homes with standard licensure status with no Class I or Class II deficiencies in the past two years or having Gold Seal status may provide respite services. AHCA is authorized to promulgate rules for the provision of respite services.

The bill amends s. 400.141, F.S., to expand the ability of nursing homes to provide respite services not exceeding 60 days per year and individual stays may not exceed 14 days. The bill allows all licensed nursing

homes to provide respite services without limitations based on prior deficiencies. The bill provides additional criteria for the provision of respite services. For each patient, the nursing home must:

- Have an abbreviated plan of care for each respite patient, covering nutrition, medication, physician orders, nursing assessments and dietary preferences;
- Have a contract that covers the services to be provided;
- Ensure patient release to the proper person; and
- Assume the duties of the patient's primary care giver.

The bill provides that respite patients are exempt from discharge planning requirements, allowed to use his or her personal medication with a physician's order, and covered by the resident rights as delineated in s. 400.022, F.S., except those related to transfer, choice of physician, bed reservation policies, and discharge challenges. The bill requires prospective respite patients to provide certain medical information to the nursing home and entitles the patient to retain his or her personal physician.

Nursing Home Kitchen Inspections

The Department of Health operates a food safety program pursuant to s. DOH issues food establishment licenses or permits, conducts food safety inspections and enforces regulations through fines and other disciplinary actions.¹ DOH licenses facilities that serve high-risk populations such as hospitals, nursing homes, group care facilities, child care facilities, detention centers, and schools.² DOH policy is to inspect nursing homes four times per year.³

In addition to the DOH food safety standards, nursing homes licensed and regulated by AHCA are subject to federal food safety standards which require a kitchen inspection by a surveyor who has been trained, passed the Surveyor Minimum Qualifications Test and is qualified to conduct a Quality Indicator Survey Process.⁴

The bill limits kitchen inspections of nursing homes by DOH to twice a year. DOH may make additional inspections in response to a complaint. The bill requires DOH to coordinate inspection timing with AHCA, such that a DOH inspection occurs at least 60 days after an AHCA inspection.

Nursing Home Fire Inspections

The Florida Fire Prevention Code is established in ch. 633, F.S., which also establishes the duties and responsibilities of the Florida Fire Marshal and his agents, who are housed within the Department of Financial Services (DFS). Currently, s. 633.081, F.S., requires the Fire Marshal to inspect nursing homes when DFS has "reasonable cause" to believe that a violation of the Florida Fire Code, any rules promulgated under the Florida Fire Code, or of a fire safety code established by a local authority, exists.

The bill amends s. 633.081 to limit fire inspections of nursing homes by the State Fire Marshal or his agent to once a year. The Fire Marshal may make additional inspections in response to a complaint giving rise to "reasonable cause" for believing a violation exists. The Fire Marshal may also make additional inspections upon identifying violations when accessing a nursing home facility for orientation or training activities.

Hospice Licensure

Section 408.810(8) F.S., requires any hospice initial or change of ownership applicant show anticipated provider revenue and expenditures, the basis for financing anticipated cash flow requirements and access to contingency financing. Section 400.606(1) (I), F.S., requires that an annual operating budget be submitted, which duplicates the financial information now required in the Act.

¹ Office of Program Policy Analysis & Government Accountability, State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency, Report No. 08-67 (December 2008).

² Section 381.0072, F.S.

³ *Supra*, note 1 at 7.

⁴ Email correspondence with AHCA staff on file with the Health Care Regulation Policy Committee (March 16, 2010).

The hospice authorizing statutes and federal regulations require that hospices have inpatient beds for pain control, symptom management, and respite care. Inpatient beds may be in a hospital, skilled nursing facility or a freestanding inpatient facility operated by a hospice. Section 408.043, F.S., requires that there be a certificate of need for a hospice freestanding facility “primarily engaged in providing inpatient care and related services.” This provision is repeated in the Act.

The bill removes the requirement for hospice licensure applicants to submit a projected annual operating budget. Financial projections are already submitted as part of the proof of financial ability to operate as required in the Act; therefore, this removes duplicative requirements.

The bill amends both the Act and the hospice authorizing statutes related to certificates of need for inpatient hospice facilities. The bill eliminates the modifier “primarily” to provide that any provision of inpatient hospice care, in any facility not already licensed as a health care facility (like a hospital or nursing home), requires a certificate of need. In effect, the bill provides that no exemptions to this requirement exist.

Home Medical Equipment Licensure

Section 400.931(2), F.S., allows a bond be posted as an alternative to submitting proof of financial ability to operate for a home medical equipment provider. Section 408.8065, F.S., requires the submission of financial statements demonstrating the ability to fund start up costs, working capital, and contingency requirements.

The bill deletes the provisions of s. 400.931, F.S., related to the ability to submit a bond as an alternative to submitting proof of financial ability to operate. Due to 2009 legislative changes, financial oversight is now addressed in the Act.

Health Care Clinic Licensure

Part X of ch. 400, F.S., contains the Health Care Clinic Act. This act was passed in 2003 to reduce fraud and abuse in the personal injury protection (PIP) insurance system. Florida’s Motor Vehicle No-Fault Law⁵ requires motor vehicle owners to maintain \$10,000 of personal injury protection (PIP) insurance. PIP benefits are available for certain express damages sustained in a motor vehicle accident, regardless of fault.

Pursuant to the Health Care Clinic Act, AHCA licenses entities that meet the definition of a “clinic”: “an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services...”⁶ Licensure applications must identify the owners, medical director, and medical providers employed by the clinic. Applicants must provide proof of compliance with applicable rules and financial ability to operate. A level 2 background screening is required of each applicant for clinic licensure, and certain criminal offenses bar licensure. Each clinic must have a medical director or clinic director who agrees in writing to accept legal responsibility pursuant to s. 400.9935, F.S., for the following activities on behalf of the clinic:

- Ensuring that all practitioners providing health care services or supplies to patients maintain a current, active, and unencumbered Florida license;
- Reviewing patient referral contracts or agreements made by the clinic;
- Ensuring that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided;
- Serving as the clinic records owner;
- Ensuring compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of ch. 456, F.S., the respective practice acts, and rules adopted under the Health Care Clinic Act; and
- Conducting systematic reviews of clinic billings to ensure billings are not fraudulent or unlawful. If an unlawful charge is discovered, immediate corrective action must be taken.

⁵ Sections 627.730-627.7405, F.S., the Florida Motor Vehicle No-Fault Law, were repealed on October 1, 2007 pursuant to s. 19, ch. 2003-411 L.O.F. The No-Fault Law was revived and reenacted effective January 1, 2008 pursuant to ch. 2007-324 L.O.F.

⁶ S. 400.9905(4), F.S.

AHCA may deny, revoke, or suspend a health care clinic license and impose administrative fines of up to \$5,000 per violation pursuant to s. 400.995, F.S.

Although all clinics must be licensed, s. 400.9905(4), F.S., contains a listing of entities that are not considered a "clinic" for purposes of licensure, including:

- Entities licensed or registered by the state under one or more specified practice acts and that only provide services within the scope of their license, and entities that own such entities, and entities under common ownership with such entities;
- Entities that are exempt from federal taxation under 26 U.S.C. sec. 501(c)(3) or sec. 501(c)(4);
- Community college and university clinics;
- Entities owned or operated by the federal or state government;
- Clinical facilities affiliated with an accredited medical school which provides certain training;
- Entities that provide only oncology or radiation therapy services by physicians and are owned by publicly-traded corporations;
- Clinical facilities affiliated with an accredited certain college of chiropractic which provides certain training;
- Entities that provide a certain amount of practitioner staffing or anesthesia services to hospitals; and
- Orthotic or prosthetic facilities owned by publicly-traded corporations.

The bill expands an existing exemption from health care clinic licensure for clinics that are wholly owned, directly or indirectly, by a publicly traded corporation to include pediatric cardiology or perinatology clinics. The bill also creates an exemption from licensure for entities owned by a corporation generating more than \$250 million in annual sales and which have at least one owner who is a health care practitioner.

Licensure for health care clinics includes mobile clinics and portable equipment providers. The bill provides that portable service providers, such as mobile ultrasound providers, are subject to health care clinic licensure even though they do not deliver care at the clinic's location.

Section 400.991(4), F.S., allows a bond to be posted as an alternative to submitting proof of financial ability to operate for health care clinics. The bill deletes provisions in s. 499.991(4) related to the ability to submit a bond as an alternative to submitting proof of financial ability to operate. Due to 2009 legislative changes, financial oversight is now addressed in the Act.

Assisted Living Facility Licensure

Currently, an ALF that wishes to provide certain nursing services must also have a LNS or extended congregate care (ECC) specialty license to provide certain nursing services. These specialty licenses allow facilities to provide a variety of additional services beyond those allowed in a standard licensed ALF.

With a LNS specialty license, a facility may provide nursing assessment; care and application of routine dressings; care of casts, braces and splints; administration and regulation of portable oxygen; catheter, colostomy, and ileostomy care; maintenance and the application of cold or heat treatments; passive range of motion exercises; and ear and eye irrigations.

Facilities with the ECC specialty license may provide additional services, including total help with activities of daily living (bathing, dressing, toileting); dietary management (special diets and nutrition monitoring); administering medication and prescribed treatments; rehabilitative services; and escort to health services. Additionally, licensed nursing staff in an ECC program may provide any nursing service permitted within the scope of their license consistent with residency requirements and the facility's written policies and procedures. A facility is required to pay an additional licensure fee for the LNS and ECC specialty license.

In accordance with current law, LNS facilities must be monitored at least twice a year and ECC facilities must be monitored quarterly. Additional fees required for these programs cover the costs of monitoring visits and the additional oversight during routine inspections and licensure due to the higher acuity of residents and services. As of February 2010, there are a total of 2,853 ALFs with standard licenses with a total of 81,038

beds. Of the 2,853 ALFs in Florida, 995 have a LNS specialty license and 313 have an ECC specialty license. Of those 995 ALFs, 77 have both a LNS and an ECC license.

ALFs are not currently required to submit resident population data to AHCA. However, chapter 2009-223, L.O.F., requires the submission of disaster/emergency information electronically via AHCA's Emergency Status System (ESS) in conjunction with the licensure renewal process. Currently, 42.1 percent (1197) of ALFs are currently enrolled in this system.

Section 429.23, F.S., requires each ALF to submit a monthly report on civil liability claims filed against the facility and provides that the reports are not discoverable on civil or administrative actions. Section 429.35, F.S., requires AHCA to forward the results of biennial licensure surveys to various entities, including a local public library, the local ombudsman council, and the district Adult Services and Mental Health Program Office.

The bill eliminates the LNS specialty license for ALFs and allows a licensed nurse to provide limited nursing services in a standard licensed ALF without additional licensure. The bill increases ALF licensure fees to compensate for the loss of LNS licensure fees and maintain the licensure program. The bill authorizes \$356 for a standard license fee, \$67.50 per private pay bed and \$18,000 for a total fee cap. The bill repeals the requirement to monitor extended congregate care facilities, and replaces it with a requirement to monitor based upon citation of serious violations (Class I or Class II) in any ALF. The bill allows AHCA to charge a fee for monitoring visits.

The bill modifies AHCA's consultation duties and requires AHCA to adopt rules for data submission by ALFs related to staffing and numbers of residents receiving certain services. The bill requires facilities to electronically submit resident population data to AHCA semi-annually. Licensees will be required to report ALF resident information not currently required and requires the Department of Elder Affairs (DOEA), in consultation with AHCA, to adopt rules. According to AHCA, this resident information will be useful for health planning and regulatory purposes.

The bill also eliminates the requirement that ALFs report civil liability claims to AHCA and allows AHCA to provide biennial survey results to the public electronically or via the AHCA website.

Multi-Phasic Health Testing Centers

Multi-phasic health testing centers (centers) are facilities which take human specimens for delivery to clinical laboratories for testing and may perform other basic human measurement functions. Centers are licensed and regulated under part II of chapter 483, F.S. Section 483.294, F.S., requires AHCA to inspect centers at least annually. The bill amends the inspection schedule requiring AHCA to inspect centers biennially.

Brain and Spinal Cord Injury Trust Fund

Under current law, specified traffic fines may be used to provide an enhanced Medicaid rate to nursing homes that serve clients with brain and spinal cord injuries. According to AHCA, funds collected from these fines have not been sufficient to support a Medicaid nursing home supplemental rate for the estimated 100 adult ventilator-dependent patients.

The bill redirects the revenue to the Brain and Spinal Cord Injury Trust Fund within the Department of Health, to be used for Medicaid recipients who have sustained a spinal cord injury and who are technologically and respiratory dependent.

Pilot Projects

The Medicaid "Up-or-Out" Quality of Care Contract Management Program authorized in s. 400.148, F.S., was created as a pilot program in 2001. The purpose of the program was to improve care in poor performing nursing homes and assisted living facilities by assigning trained medical personnel to facilities in select counties similar to Medicare models for managing the medical and supportive-care needs of long-term nursing home residents. The pilot was subject to appropriation; however, an appropriation was not allocated. Therefore, the program was never implemented. According to AHCA, the criteria specified to identify poor

performing facilities has been replaced by more comprehensive information for consumers to make informed choices for care.

The bill repeals the Medicaid Up-or-Out Pilot Quality of Care Contract Management Program.

Reports

Section 400.195, F.S., required AHCA to provide a semi-annual report on nursing homes from December 2002 through June 2005 as a tool to provide information about litigation in Florida nursing homes. The report included demographic and regulatory information about nursing homes in Florida and aggregate numbers of notices of intent to litigate and civil complaints filed with the clerks of courts against Florida nursing homes. The reporting requirement ended June 2005. The statutory obligation to publish this report has been met and by law expired on June 30, 2005.

Section 409.221(4)(k), F.S., required AHCA, DOEA, and the Agency for Persons with Disabilities (APD) to provide an annual update and to provide recommendation for improvement on the Consumer Directed Care Plus (CDC+) program. In March 2008, the CDC program was approved to be under the 1915(j) self directed option as a Medicaid state plan amendment instead of an 1115 Research and Demonstrative waiver. The 1915(j) state plan amendment requires annual and three (3) year comprehensive reporting to the federal Centers for Medicare and Medicaid Services (CMS). The report to CMS communicates current status of the CDC program, data on CDC enrollment, demographics, consumer satisfaction, and cost effectiveness. This federal report is required by CMS to be available for public review.

The Assisted Living Facility Extended Congregate Care Report mandated in s. 429.07, F.S., is produced by the DOEA. This report requires an annual description of assisted living facilities with an ECC specialty license including the number of beds, resident characteristics, services, availability, deficiencies, admission sources, and recommendations for changes to the ECC license. The requirement to publish this report was created when the ECC licensure type was implemented to monitor effectiveness. ECC facilities must report information to the DOEA for this report. According to AHCA, the need for this report has diminished.

The bill repeals these three reporting requirements.

Medical Malpractice

Sections 766.201-766.212, F.S., establish a process for prompt resolution of medical malpractice lawsuits including presuit investigation and arbitration. These sections apply to malpractice lawsuits against health care providers, which are:

- Hospitals, ambulatory surgical centers and mobile surgical facilities as defined and licensed under ch. 395;
- Birth centers licensed under ch. 383;
- Physicians licensed under ch. 458 or 459;
- Chiropractors licensed under ch. 460;
- Podiatrists licensed under ch. 461;
- Naturopaths licensed under ch. 462;
- Optometrists licensed under ch. 463;
- Nurses licensed under pt. I of ch. 464;
- Dentists, dental hygienists and dental labs licensed under ch. 466;
- Midwives licensed under ch. 467; or
- Physical therapists licensed under ch. 486;
- Clinical laboratories licensed under ch. 483;
- Health maintenance organization certified under pt. I of ch. 641;
- Blood banks;
- Plasma centers;
- Industrial clinics;
- Renal dialysis facilities; or

- Professional association partnerships, corporations, joint ventures, or other associations for professional activity by health care providers.

The bill adds orthotic, pedorthic and prosthetic providers licensed under pt. XIV of ch. 468 to the definition of “health care providers” for purposes of medical malpractice lawsuits governed by ss. 766.201-766.212, F.S.

Regulation of Drugs, Devices and Cosmetics

Part I of Chapter 499 requires DOH to regulate drugs, devices, and cosmetics. A significant majority of the regulations relate to the distribution of prescription drugs into and within Florida. In particular, the regulations require licensure of various entities in the distribution chain, including prescription drug wholesale distributors. Among many other provisions, the chapter provides for:

- Criminal prohibitions against the distribution of contraband and misbranded prescription drugs.
- Establishment of permits for distributing drugs, devices, and cosmetics.
- Regulation of the wholesale distribution of prescription drugs, which includes pedigree papers to track the distribution chain of possession.
- Regulation of the provision of drug samples.
- Establishment of numerous enforcement avenues for the Department of Health, including seizure and condemnation of drugs, devices, and cosmetics.

Section 499.01212, F.S., requires each person engaged in drug wholesale distribution to provide a pedigree paper to the person receiving the drug, for the purpose of tracking the distribution chain of possession, and specifies the format and content of the required pedigree papers. DOH is empowered to inspect wholesale distributor facilities and records, and seize drugs for violations of pedigree requirements. Section 499.01212, F.S., section also provides for exceptions to the pedigree paper requirement for various entities and activities, including distribution:

- By the manufacturer or by a third party logistics provider performing distribution for a manufacturer;
- By a freight forwarder within the authority of a freight forwarder permit;
- By a limited prescription drug veterinary wholesale distributor to a veterinarian;
- Of a compressed medical gas;
- Of a veterinary prescription drug;
- Of a drop shipment;
- By a warehouse within an affiliated group to a warehouse or retail pharmacy within its affiliated group; and
- As repackaging by a repackager solely for distribution to its affiliated group members for exclusive distribution to and among retail pharmacies that are members of the affiliated group to which the repackager is a member.

Section 499.003(53), F.S., defines “wholesale distribution” as distribution of prescription drugs to people other than consumers or patients. It expressly excludes certain activities, which effectively excludes these activities from wholesale drug distribution regulation.

One such excluded activity is the sale, purchase, trade or transfer of prescription drugs from or for entities able to purchase drugs at discount prices pursuant to the federal “340B” program. The 340B program limits the cost of certain drugs to certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals.⁷ To qualify for exclusion from state wholesale distribution regulation, s. 499.003(53)(a)4.d., F.S., requires such entities to maintain separate inventories for drugs purchased under the 340B program and other drugs.

The bill amends s. 499.003(53), F.S., to eliminate the requirement that purchasers of prescription drugs under the federal 340B program separate the 340B inventory from other inventory.

⁷ See, Introduction to 340B Drug Pricing Program, U.S. Department of Health and Human Services, Health Resources and Services Administration, available at <http://www.hrsa.gov/opa/introduction.htm> (last viewed April 1, 2010).

The bill amends s. 499.01212(3), F.S., to exempt sealed medical convenience kits meeting certain specifications from pedigree paper requirements.

Statutory Revisions

The bill updates the name of the Statewide Advocacy Council, formerly known as The Human Rights Advocacy Committee, The Joint Commission, formerly known as the Joint Commission of the Accreditation of Healthcare Organizations, and the Commission on Accreditation on Rehabilitation Facilities, formerly known as CARF-the Rehabilitation Accreditation Commission.

The bill deletes definitions for and references to private review agents and utilization review in s. 395.002, F.S., to conform to the repeal made in chapter 2009-223, L.O.F. The bill repeals unused or unnecessary definitions, including definitions for "department" and "agency".

The bill makes technical corrections and repeals requested by the Division of Statutory Revision, such as repealing obsolete dates, amending cross-references, and updating the reference to an obsolete rule.

B. SECTION DIRECTORY:

Section 1: Amends s. 112.0455, F.S., relating to the Drug-Free Workplace Act.

Section 2: Amends s. 154.11, F.S., relating to powers of the board of trustees.

Section 3: Amends s. 318.21, F.S., relating to the disposition of civil penalties by county courts.

Section 4: Amends s. 381.0072, F.S., relating to food service protection.

Section 5: Repeals s. 383.325, F.S., relating to inspection reports.

Section 6: Amends s. 394.4787, F.S., relating to specialty psychiatric hospitals.

Section 7: Amends s. 394.741, F.S., relating to accreditation requirements for providers of behavioral health care services.

Section 8: Amends s. 395.002, F.S., relating to accrediting organizations and specialty hospitals.

Section 9: Amends s. 395.003, F.S., relating to licensure; denial suspension, and revocation.

Section 10: Amends s. 395.0193, F.S., relating to licensed facilities; peer review; disciplinary powers; agency or partnership with physicians.

Section 11: Amends s. 395.1023, F.S., relating to child abuse and neglect cases.

Section 12: Amends s. 395.1041, F.S., relating to access to emergency services and care.

Section 13: Repeals s. 395.1046, F.S., relating to complaint investigation procedures.

Section 14: Amends s. 395.1055, F.S., relating to rules and enforcement.

Section 15: Amends s. 395.10972, F.S., relating to the Health Care Risk Manager Advisory Council.

Section 16: Amends s. 395.2050, F.S., relating to routine inquiry for organ and tissue donation.

Section 17: Amends s. 395.3036, F.S., relating to confidentiality of records and meetings of corporations that lease public hospitals or other public health care facilities.

Section 18: Repeals s. 395.3037, F.S., relating to definitions of "department" and "agency".

Section 19: Amends s. 395.3038, F.S., relating to state-listed primary stroke centers and comprehensive stroke centers, and notification of hospitals.

Section 20: Amends s. 395.602, F.S., relating to rural hospitals.

Section 21: Amends s. 400.021, F.S., relating to geriatric outpatient clinics.

Section 22: Amends s. 400.0239, F.S., relating to the quality of long-term care facility improvement trust fund.

Section 23: Amends s. 400.063, F.S., relating to resident protection.

Section 24: Amends s. 400.071, F.S., relating to applications for licensure.

Section 25: Amends s. 400.0712, F.S., relating to applications for inactive licenses.

Section 26: Amends s. 400.111, F.S., relating to disclosure of controlling interest.

Section 27: Amends s. 400.1183, F.S., relating to resident grievance procedures.

Section 28: Repeals s. 400.141, F.S., relating to administration and management of nursing home facilities.

Section 29: Amends s. 400.142, F.S., relating to emergency medication kits and orders not to resuscitate.

- Section 30:** Amends s. 400.147, F.S., relating to internal risk management and the quality assurance program.
- Section 31:** Repeals s. 400.148, F.S., relating to the Medicaid "Up-or-Out" quality of care contract management program.
- Section 32:** Amends s. 400.162, F.S., relating to property and personal affairs of residents.
- Section 33:** Amends s. 400.179, F.S., relating to liability for Medicaid underpayments and overpayments.
- Section 34:** Amends s. 400.19, F.S., relating to right of entry and inspection.
- Section 35:** Repeals s. 400.195, F.S., relating to agency reporting requirements.
- Section 36:** Amends s. 400.23, F.S., relating to rules, evaluation and deficiencies and licensure status.
- Section 37:** Amends s. 400.275, F.S., relating to agency duties.
- Section 38:** Amends s. 400.484, F.S., relating to right of inspection, violations and fines.
- Section 39:** Amends s. 400.606, F.S., relating to license application, renewal, conditional license or permits and certificates of need.
- Section 40:** Amends s. 400.607, F.S., relating to denial, suspension and revocation of a license; emergency actions and imposition of administrative fines.
- Section 41:** Amends s. 400.925, F.S., relating to accrediting organizations.
- Section 42:** Amends s. 400.931, F.S., relating to application for licensure.
- Section 43:** Amends s. 400.932, F.S., relating to administrative penalties.
- Section 44:** Amends s. 400.967, F.S., relating to rules and classification of violations.
- Section 45:** Amends s. 400.9905, F.S., relating to clinics and portable health service or equipment providers.
- Section 46:** Amends s. 400.991, F.S., relating to license requirements, background screenings and prohibitions.
- Section 47:** Amends s. 400.9935, F.S., relating to clinic responsibilities.
- Section 48:** Amends s. 408.034, F.S., relating to agency duties and responsibilities.
- Section 49:** Amends s. 408.036, F.S., relating to projects subject to review and exemptions.
- Section 50:** Amends s. 408.043, F.S., relating to special provisions.
- Section 51:** Amends s. 408.05, F.S., relating to the Florida Center for Health Information and Policy Analysis.
- Section 52:** Amends s. 408.061, F.S., relating to data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.
- Section 53:** Amends s. 408.07, F.S., relating to rural hospitals.
- Section 54:** Amends s. 408.10, F.S., relating to consumer complaints.
- Section 55:** Amends s. 408.802, F.S., relating to applicability.
- Section 56:** Amends s. 408.804, F.S., relating to displaying of a license.
- Section 57:** Amends s. 408.806, F.S., relating to the license application process.
- Section 58:** Amends s. 408.810, F.S., relating to minimum licensure requirements.
- Section 59:** Amends s. 408.813, F.S., relating to administrative fines and violations.
- Section 60:** Amends s. 408.815, F.S., relating to license or application denial and revocation.
- Section 61:** Amends s. 409.221, F.S., relating to the consumer-directed care program.
- Section 62:** Amends s. 429.07, F.S., relating to license requirements, fees and inspections.
- Section 63:** Amends s. 429.11, F.S., relating to initial applications for licensure.
- Section 64:** Amends s. 429.12, F.S., relating to the sale or transfer of ownership of a facility.
- Section 65:** Amends s. 429.14, F.S., relating to administrative penalties.
- Section 66:** Amends s. 429.17, F.S., relating to license expiration, renewal and conditional licenses.
- Section 67:** Amends s. 429.19, F.S., relating to violations and the imposition of administrative fines.
- Section 68:** Amends s. 429.23, F.S., relating to the internal risk management and quality assurance program.
- Section 69:** Amends s. 429.255, F.S., relating to the use of personnel and emergency care.
- Section 70:** Amends s. 429.28, F.S., relating to the resident bill of rights.
- Section 71:** Amends s. 429.35, F.S., relating to the maintenance of records and reports.
- Section 72:** Amends s. 429.41, F.S., relating to rules establishing standards.
- Section 73:** Amends s. 429.53, F.S., relating to consultation by the agency.
- Section 74:** Amends s. 429.54, F.S., relating to collection of information; local subsidy.
- Section 75:** Amends s. 429.71, F.S., relating to classification of violations and administrative fines.

- Section 76:** Amends s. 429.911, F.S., relating to the denial, suspension, or revocation of a license; emergency action; administrative fines; investigations and inspections.
- Section 77:** Amends s. 429.915, F.S., relating to conditional licensure.
- Section 78:** Amends s. 430.80, F.S., relating to the implementation of a teaching nursing home pilot project.
- Section 79:** Amends s. 440.13, F.S., relating to medical services and supplies; penalty for violations and limitations.
- Section 80:** Amends s. 483.294, F.S., relating to the inspection of centers.
- Section 81:** Amends s. 499.003, F.S., relating to wholesale distribution.
- Section 82:** Amends s. 499.01212, F.S., relating to pedigree paper.
- Section 83:** Amends s. 627.645, F.S., relating to the restriction of denied health insurance claims.
- Section 84:** Amends s. 627.668, F.S., relating to optional coverage for mental and nervous disorders.
- Section 85:** Amends s. 627.669, F.S., relating to optional coverage requirement for substance abuse impaired persons.
- Section 86:** Amends s. 627.736, F.S., relating to required personal injury protection benefits.
- Section 87:** Amends s. 633.081, F.S., relating to the inspection of buildings and equipment; orders; fire safety inspection training requirements; certification and disciplinary action.
- Section 88:** Amends s. 641.495, F.S., relating to the requirements for issuance and maintenance of certificates.
- Section 89:** Amends s. 651.118, F.S., relating to the Agency for Health Care Administration.
- Section 90:** Amends s. 766.1015, F.S., relating to civil immunity for members of or consultants to certain boards, committees, or other entities.
- Section 91:** Amends s. 766.202, F.S., relating to health care providers.
- Section 92:** Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will save nursing home providers up to \$4.2 million annually by providing relief from lease bond fund requirements if adequate Fund receipts exist.

Assisted living facility provider fees will be increased to offset the elimination of the LNS licensure fee. This will result in a neutral net impact to the industry. (See Fiscal Comments)

D. FISCAL COMMENTS:

License Renewal Notices

AHCA estimates that the bill will save approximately \$55,700 in the Health Care Trust Fund annually in administrative costs through the discontinuation of certified mail service to deliver licensure renewal notices.

License Display

This bill grants AHCA the authority to impose a fine of up to \$1,000 per day when a licensee displays an altered, defaced or falsified license. However, AHCA reports that it does not anticipate that this fine will generate any additional revenues, but instead act as a deterrent.

Nursing Home Lease Bond Fund

The bill will save up to \$1,264,448 (\$486,307 in GR) annually in Medicaid expenditures for nursing home lease bond payments. Nursing home providers include the costs of the lease bond payments in their cost reports as allowable costs, which impacts Medicaid expenditures.

To date, AHCA has expended \$10,466,138⁸ from the Fund for nursing home overpayments. The Fund net balance is \$28,845,366⁹ as of February 2010. The net balance represents the amount to be used in determining whether nursing home providers pay into the fund.

Assisted Living Facility Limited Nursing Specialty License

This bill increases the biennial license fee for standard ALFs and eliminates the LNS specialty licensure fees. AHCA reports that the adjustment in fees for ALF licensure has a neutral fiscal impact on fee collections.

Based on the number of LNS specialty licenses (995) and beds (25,883) in February 2010, the LNS specialty license is projected to generate approximately \$554,000 in revenues biennially. The revenues are calculated as follows:

$$\begin{aligned} & \$296 \text{ per license plus } \$10 \text{ per bed} = \$553,350 \text{ based on current numbers} \\ & (\$294,520 + \$258,830) = \$553,350 \end{aligned}$$

The additional fee increase in the bill will offset the loss in revenues from the elimination of the specialty license fee. The fee increase is calculated as follows:

$$\begin{aligned} & \$553,350 \text{ divided by } 65,298 \text{ beds} = \$8.47/\text{bed} \\ & (81,038 \text{ total beds less } 15,740 \text{ OSS}) \end{aligned}$$

The proposed fee is calculated as follows:

$$\$59 \text{ per bed} + 8.50 \text{ per bed} = \$67.50 \text{ per bed.}$$

⁸ E-mail correspondence with Agency for Health Care Administration staff (March 11, 2010).

⁹ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 9, 2010, the Health Regulation Policy Committee adopted seven amendments. The amendments:

- Expand the ability of nursing homes to provide respite services, and provide criteria for the provision of such services.
- Update the name of the Commission on Accreditation on Rehabilitation Facilities (formerly known as CARF-the Rehabilitation Accreditation Commission).
- Removes current provisions related bankruptcy reporting which conflicts with amendments made by the bill.
- Correct a drafting error to avoid conflict with existing laws which dictate fine amounts.
- Reduce the time for an extended license provided by the bill from 60 days to 30 days.
- Restore provisions deleted by the bill which exempt facilities from a fine for submitting a license renewal application after the deadline if the canceled postmark is dated timely.
- Conform a cross-reference.

The bill was reported favorably as a Committee Substitute.

On March 26, 2010, the Health Care Appropriations Committee adopted nine amendments. The amendments:

- Amend bill language on geriatric clinic staffing to clarify that licensed practical nurses are supervised by physicians (not physician assistants).
- Create an exemption from licensure under the Health Care Clinic Act for entities owned by a corporation generating more than \$250 million in annual sales and which have at least one owner who is a health care practitioner.
- Limit DOH kitchen inspections of nursing homes to twice a year and upon complaint, and requires coordination with AHCA inspections.
- Limit State Fire Marshal inspections of nursing homes to once a year and upon complaint and upon identifying violations through non-inspection activities.
- Correct the calculation for the cap on the nursing home lease bond collections.
- Eliminate the requirement that purchasers of prescription drugs under the federal 340B program separate the 340B inventory from other inventory.

- Add orthotic, pedorthic and prosthetic licensees to the list of “health care providers” defined in ch. 766 (medical malpractice).
- Amend bill’s ALF reporting requirements to eliminate rule-making authority to require reporting more frequently than semi-annually, and eliminate reporting on resident funding sources.
- Exempt sealed medical convenience kits meeting certain specifications from pedigree paper requirements.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

1 A bill to be entitled
2 An act relating to the reduction and simplification of
3 health care provider regulation; amending s. 112.0455,
4 F.S., relating to the Drug-Free Workplace Act; deleting an
5 obsolete provision; amending s. 318.21, F.S.; revising
6 distribution of funds from civil penalties imposed for
7 traffic infractions by county courts; amending s.
8 381.0072, F.S.; limiting Department of Health food service
9 inspections in nursing homes; requiring the department to
10 coordinate inspections with the Agency for Health Care
11 Administration; repealing s. 383.325, F.S., relating to
12 confidentiality of inspection reports of licensed birth
13 center facilities; amending s. 395.002, F.S.; revising and
14 deleting definitions applicable to regulation of hospitals
15 and other licensed facilities; conforming a cross-
16 reference; amending s. 395.003, F.S.; deleting an obsolete
17 provision; conforming a cross-reference; amending s.
18 395.0193, F.S.; requiring a licensed facility to report
19 certain peer review information and final disciplinary
20 actions to the Division of Medical Quality Assurance of
21 the Department of Health rather than the Division of
22 Health Quality Assurance of the Agency for Health Care
23 Administration; amending s. 395.1023, F.S.; providing for
24 the Department of Children and Family Services rather than
25 the Department of Health to perform certain functions with
26 respect to child protection cases; requiring certain
27 hospitals to notify the Department of Children and Family
28 Services of compliance; amending s. 395.1041, F.S.,

29 relating to hospital emergency services and care; deleting
 30 obsolete provisions; repealing s. 395.1046, F.S., relating
 31 to complaint investigation procedures; amending s.
 32 395.1055, F.S.; requiring licensed facility beds to
 33 conform to standards specified by the Agency for Health
 34 Care Administration, the Florida Building Code, and the
 35 Florida Fire Prevention Code; amending s. 395.10972, F.S.;
 36 revising a reference to the Florida Society of Healthcare
 37 Risk Management to conform to the current designation;
 38 amending s. 395.2050, F.S.; revising a reference to the
 39 federal Health Care Financing Administration to conform to
 40 the current designation; amending s. 395.3036, F.S.;
 41 correcting a reference; repealing s. 395.3037, F.S.,
 42 relating to redundant definitions; amending ss. 154.11,
 43 394.741, 395.3038, 400.925, 400.9935, 408.05, 440.13,
 44 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015,
 45 F.S.; revising references to the Joint Commission on
 46 Accreditation of Healthcare Organizations, the Commission
 47 on Accreditation of Rehabilitation Facilities, and the
 48 Council on Accreditation to conform to their current
 49 designations; amending s. 395.602, F.S.; revising the
 50 definition of the term "rural hospital" to delete an
 51 obsolete provision; amending s. 400.021, F.S.; revising
 52 the definition of the term "geriatric outpatient clinic";
 53 amending s. 400.063, F.S.; deleting an obsolete provision;
 54 amending ss. 400.071 and 400.0712, F.S.; revising
 55 applicability of general licensure requirements under pt.
 56 II of ch. 408, F.S., to applications for nursing home

57 licensure; revising provisions governing inactive
 58 licenses; amending s. 400.111, F.S.; providing for
 59 disclosure of controlling interest of a nursing home
 60 facility upon request by the Agency for Health Care
 61 Administration; amending s. 400.1183, F.S.; revising
 62 grievance record maintenance and reporting requirements
 63 for nursing homes; amending s. 400.141, F.S.; providing
 64 criteria for the provision of respite services by nursing
 65 homes; requiring a written plan of care; requiring a
 66 contract for services; requiring resident release to
 67 caregivers to be designated in writing; providing an
 68 exemption to the application of discharge planning rules;
 69 providing for residents' rights; providing for use of
 70 personal medications; providing terms of respite stay;
 71 providing for communication of patient information;
 72 requiring a physician order for care and proof of a
 73 physical examination; providing for services for respite
 74 patients and duties of facilities with respect to such
 75 patients; conforming a cross-reference; requiring
 76 facilities to maintain clinical records that meet
 77 specified standards; providing a fine relating to an
 78 admissions moratorium; deleting requirement for facilities
 79 to submit certain information related to management
 80 companies to the agency; deleting a requirement for
 81 facilities to notify the agency of certain bankruptcy
 82 filings to conform to changes made by the act; amending s.
 83 400.142, F.S.; deleting language relating to agency
 84 adoption of rules; amending 400.147, F.S.; revising

85 reporting requirements for licensed nursing home
 86 facilities relating to adverse incidents; repealing s.
 87 400.148, F.S., relating to the Medicaid "Up-or-Out"
 88 Quality of Care Contract Management Program; amending s.
 89 400.162, F.S., requiring nursing homes to provide a
 90 resident property statement annually and upon request;
 91 amending s. 400.179, F.S.; revising requirements for
 92 nursing home lease bond alternative fees; deleting an
 93 obsolete provision; amending s. 400.19, F.S.; revising
 94 inspection requirements; repealing s. 400.195, F.S.,
 95 relating to agency reporting requirements; amending s.
 96 400.23, F.S.; deleting an obsolete provision; clarifying a
 97 reference; amending s. 400.275, F.S.; revising agency
 98 duties with regard to training nursing home surveyor
 99 teams; revising requirements for team members; amending s.
 100 400.484, F.S.; revising the schedule of home health agency
 101 inspection violations; amending s. 400.606, F.S.; revising
 102 the content requirements of the plan accompanying an
 103 initial or change-of-ownership application for licensure
 104 of a hospice; revising requirements relating to
 105 certificates of need for certain hospice facilities;
 106 amending s. 400.607, F.S.; revising grounds for agency
 107 action against a hospice; amending s. 400.931, F.S.;
 108 deleting a requirement that an applicant for a home
 109 medical equipment provider license submit a surety bond to
 110 the agency; amending s. 400.932, F.S.; revising grounds
 111 for the imposition of administrative penalties for certain
 112 violations by an employee of a home medical equipment

113 provider; amending s. 400.967, F.S.; revising the schedule
 114 of inspection violations for intermediate care facilities
 115 for the developmentally disabled; providing a penalty for
 116 certain violations; amending s. 400.9905, F.S.; providing
 117 that pt. X of ch, 400, F.S., the Health Care Clinic Act,
 118 does not apply to an entity owned by a corporation with a
 119 specified amount of annual sales of health care services
 120 under certain circumstances; amending s. 400.991, F.S.;
 121 conforming terminology; revising application requirements
 122 relating to documentation of financial ability to operate
 123 a mobile clinic; amending s. 408.034, F.S.; revising
 124 agency authority relating to licensing of intermediate
 125 care facilities for the developmentally disabled; amending
 126 s. 408.036, F.S.; deleting an exemption from certain
 127 certificate-of-need review requirements for a hospice or a
 128 hospice inpatient facility; amending s. 408.043, F.S.;
 129 revising requirements for certain freestanding inpatient
 130 hospice care facilities to obtain a certificate of need;
 131 amending s. 408.061, F.S.; revising health care facility
 132 data reporting requirements; amending s. 408.10, F.S.;
 133 removing agency authority to investigate certain consumer
 134 complaints; amending s. 408.802, F.S.; removing
 135 applicability of pt. II of ch. 408, F.S., relating to
 136 general licensure requirements, to private review agents;
 137 amending s. 408.804, F.S.; providing penalties for
 138 altering, defacing, or falsifying a license certificate
 139 issued by the agency or displaying such an altered,
 140 defaced, or falsified certificate; amending s. 408.806,

141 F.S.; revising agency responsibilities for notification of
 142 licensees of impending expiration of a license; requiring
 143 payment of a late fee for a license application to be
 144 considered complete under certain circumstances; amending
 145 s. 408.810, F.S.; revising provisions relating to
 146 information required for licensure; requiring proof of
 147 submission of notice to a mortgagor or landlord regarding
 148 provision of services requiring licensure; requiring
 149 disclosure of information by a controlling interest of
 150 certain court actions relating to financial instability
 151 within a specified time period; amending s. 408.813, F.S.;
 152 authorizing the agency to impose fines for unclassified
 153 violations of pt. II of ch. 408, F.S.; amending s.
 154 408.815, F.S.; authorizing the agency to extend a license
 155 expiration date under certain circumstances; amending s.
 156 409.221, F.S.; deleting a reporting requirement relating
 157 to the consumer-directed care program; amending s. 429.07,
 158 F.S.; deleting the requirement for an assisted living
 159 facility to obtain an additional license in order to
 160 provide limited nursing services; deleting the requirement
 161 for the agency to conduct quarterly monitoring visits of
 162 facilities that hold a license to provide extended
 163 congregate care services; deleting the requirement for the
 164 department to report annually on the status of and
 165 recommendations related to extended congregate care;
 166 deleting the requirement for the agency to conduct
 167 monitoring visits at least twice a year to facilities
 168 providing limited nursing services; increasing the

169 licensure fees and the maximum fee required for the
 170 standard license; increasing the licensure fees for the
 171 extended congregate care license; eliminating the license
 172 fee for the limited nursing services license; transferring
 173 from another provision of law the requirement that a
 174 biennial survey of an assisted living facility include
 175 specific actions to determine whether the facility is
 176 adequately protecting residents' rights; providing that an
 177 assisted living facility that has a class I or class II
 178 violation is subject to monitoring visits; requiring a
 179 registered nurse to participate in certain monitoring
 180 visits; amending s. 429.11, F.S.; revising licensure
 181 application requirements for assisted living facilities to
 182 eliminate provisional licenses; amending s. 429.12, F.S.;
 183 revising notification requirements for the sale or
 184 transfer of ownership of an assisted living facility;
 185 amending s. 429.14, F.S.; removing a ground for the
 186 imposition of an administrative penalty; clarifying
 187 language relating to a facility's request for a hearing
 188 under certain circumstances; authorizing the agency to
 189 provide certain information relating to the licensure
 190 status of assisted living facilities electronically or
 191 through the agency's Internet website; amending s. 429.17,
 192 F.S.; deleting provisions relating to the limited nursing
 193 services license; revising agency responsibilities
 194 regarding the issuance of conditional licenses; amending
 195 s. 429.19, F.S.; clarifying that a monitoring fee may be
 196 assessed in addition to an administrative fine; amending

197 s. 429.23, F.S.; deleting reporting requirements for
 198 assisted living facilities relating to liability claims;
 199 amending s. 429.255, F.S.; eliminating provisions
 200 authorizing the use of volunteers to provide certain
 201 health-care-related services in assisted living
 202 facilities; authorizing assisted living facilities to
 203 provide limited nursing services; requiring an assisted
 204 living facility to be responsible for certain
 205 recordkeeping and staff to be trained to monitor residents
 206 receiving certain health-care-related services; amending
 207 s. 429.28, F.S.; deleting a requirement for a biennial
 208 survey of an assisted living facility, to conform to
 209 changes made by the act; amending s. 429.35, F.S.;
 210 authorizing the agency to provide certain information
 211 relating to the inspections of assisted living facilities
 212 electronically or through the agency's Internet website;
 213 amending s. 429.41, F.S., relating to rulemaking;
 214 conforming provisions to changes made by the act; amending
 215 s. 429.53, F.S.; revising provisions relating to
 216 consultation by the agency; revising a definition;
 217 amending s. 429.54, F.S.; requiring licensed assisted
 218 living facilities to electronically report certain data
 219 semiannually to the agency in accordance with rules
 220 adopted by the department; amending s. 429.71, F.S.;
 221 revising schedule of inspection violations for adult
 222 family-care homes; amending s. 429.911, F.S.; deleting a
 223 ground for agency action against an adult day care center;
 224 amending s. 429.915, F.S.; revising agency

225 responsibilities regarding the issuance of conditional
 226 licenses; amending s. 483.294, F.S.; revising frequency of
 227 agency inspections of multiphasic health testing centers;
 228 amending s. 499.003, F.S.; removing a requirement that
 229 certain prescription drug purchasers maintain a separate
 230 inventory of certain prescription drugs; amending s.
 231 499.01212, F.S.; exempting prescription drugs contained in
 232 sealed medical convenience kits from the pedigree paper
 233 requirements under specified circumstances; amending s.
 234 633.081, F.S.; limiting Fire Marshal inspections of
 235 nursing homes to once a year; providing for additional
 236 inspections based on complaints and violations identified
 237 in the course of orientation or training activities;
 238 amending s. 766.202, F.S.; adding persons licensed under
 239 pt. XIV of ch. 468, F.S., to the definition of "health
 240 care provider"; amending ss. 394.4787, 400.0239, 408.07,
 241 430.80, and 651.118, F.S.; conforming terminology and
 242 cross-references; revising a reference; providing an
 243 effective date.

244

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

246

247 Section 1. Present paragraph (e) of subsection (10) and
 248 paragraph (e) of subsection (14) of section 112.0455, Florida
 249 Statutes, are amended, and paragraphs (f) through (k) of
 250 subsection (10) of that section are redesignated as paragraphs
 251 (e) through (j), respectively, to read:

252 112.0455 Drug-Free Workplace Act.—

253 (10) EMPLOYER PROTECTION.—

254 ~~(e) Nothing in this section shall be construed to operate~~
 255 ~~retroactively, and nothing in this section shall abrogate the~~
 256 ~~right of an employer under state law to conduct drug tests prior~~
 257 ~~to January 1, 1990. A drug test conducted by an employer prior~~
 258 ~~to January 1, 1990, is not subject to this section.~~

259 (14) DISCIPLINE REMEDIES.—

260 (e) Upon resolving an appeal filed pursuant to paragraph
 261 (c), and finding a violation of this section, the commission may
 262 order the following relief:

- 263 1. Rescind the disciplinary action, expunge related
- 264 records from the personnel file of the employee or job applicant
- 265 and reinstate the employee.
- 266 2. Order compliance with paragraph (10) (f) ~~(g)~~.
- 267 3. Award back pay and benefits.
- 268 4. Award the prevailing employee or job applicant the
- 269 necessary costs of the appeal, reasonable attorney's fees, and
- 270 expert witness fees.

271 Section 2. Paragraph (n) of subsection (1) of section
 272 154.11, Florida Statutes, is amended to read:

273 154.11 Powers of board of trustees.—

274 (1) The board of trustees of each public health trust
 275 shall be deemed to exercise a public and essential governmental
 276 function of both the state and the county and in furtherance
 277 thereof it shall, subject to limitation by the governing body of
 278 the county in which such board is located, have all of the
 279 powers necessary or convenient to carry out the operation and
 280 governance of designated health care facilities, including, but

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281 without limiting the generality of, the foregoing:

282 (n) To appoint originally the staff of physicians to
 283 practice in any designated facility owned or operated by the
 284 board and to approve the bylaws and rules to be adopted by the
 285 medical staff of any designated facility owned and operated by
 286 the board, such governing regulations to be in accordance with
 287 the standards of The Joint Commission ~~on the Accreditation of~~
 288 ~~Hospitals~~ which provide, among other things, for the method of
 289 appointing additional staff members and for the removal of staff
 290 members.

291 Section 3. Subsection (15) of section 318.21, Florida
 292 Statutes, is amended to read:

293 318.21 Disposition of civil penalties by county courts.—
 294 All civil penalties received by a county court pursuant to the
 295 provisions of this chapter shall be distributed and paid monthly
 296 as follows:

297 (15) Of the additional fine assessed under s. 318.18(3)(e)
 298 for a violation of s. 316.1893, 50 percent of the moneys
 299 received from the fines shall be remitted to the Department of
 300 Revenue and deposited into the Brain and Spinal Cord Injury
 301 Trust Fund of Department of Health and shall be appropriated to
 302 the Department of Health Agency for Health Care Administration
 303 as general revenue to provide an enhanced Medicaid payment to
 304 nursing homes that serve Medicaid recipients with spinal cord
 305 injuries that are medically complex and who are technologically
 306 and respiratory dependent with brain and spinal cord injuries.
 307 The remaining 50 percent of the moneys received from the
 308 enhanced fine imposed under s. 318.18(3)(e) shall be remitted to

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309 the Department of Revenue and deposited into the Department of
 310 Health Administrative Trust Fund to provide financial support to
 311 certified trauma centers in the counties where enhanced penalty
 312 zones are established to ensure the availability and
 313 accessibility of trauma services. Funds deposited into the
 314 Administrative Trust Fund under this subsection shall be
 315 allocated as follows:

316 (a) Fifty percent shall be allocated equally among all
 317 Level I, Level II, and pediatric trauma centers in recognition
 318 of readiness costs for maintaining trauma services.

319 (b) Fifty percent shall be allocated among Level I, Level
 320 II, and pediatric trauma centers based on each center's relative
 321 volume of trauma cases as reported in the Department of Health
 322 Trauma Registry.

323 Section 4. Paragraph (e) is added to subsection (2) of
 324 section 381.0072, Florida Statutes, to read:

325 381.0072 Food service protection.—It shall be the duty of
 326 the Department of Health to adopt and enforce sanitation rules
 327 consistent with law to ensure the protection of the public from
 328 food-borne illness. These rules shall provide the standards and
 329 requirements for the storage, preparation, serving, or display
 330 of food in food service establishments as defined in this
 331 section and which are not permitted or licensed under chapter
 332 500 or chapter 509.

333 (2) DUTIES.—

334 (e) The department shall inspect food service
 335 establishments in nursing homes licensed under part II of
 336 chapter 400 twice each year. The department may make additional

337 inspections only in response to complaints. The department shall
 338 coordinate inspections with the Agency for Health Care
 339 Administration, such that the department's inspection is at
 340 least 60 days after a recertification visit by the Agency for
 341 Health Care Administration.

342 Section 5. Section 383.325, Florida Statutes, is repealed.

343 Section 6. Subsection (7) of section 394.4787, Florida
 344 Statutes, is amended to read:

345 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 346 and 394.4789.—As used in this section and ss. 394.4786,
 347 394.4788, and 394.4789:

348 (7) "Specialty psychiatric hospital" means a hospital
 349 licensed by the agency pursuant to s. 395.002 ~~(26)~~ ~~(28)~~ and part
 350 II of chapter 408 as a specialty psychiatric hospital.

351 Section 7. Subsection (2) of section 394.741, Florida
 352 Statutes, is amended to read:

353 394.741 Accreditation requirements for providers of
 354 behavioral health care services.—

355 (2) Notwithstanding any provision of law to the contrary,
 356 accreditation shall be accepted by the agency and department in
 357 lieu of the agency's and department's facility licensure onsite
 358 review requirements and shall be accepted as a substitute for
 359 the department's administrative and program monitoring
 360 requirements, except as required by subsections (3) and (4),
 361 for:

362 (a) Any organization from which the department purchases
 363 behavioral health care services that is accredited by The Joint
 364 Commission ~~on Accreditation of Healthcare Organizations~~ or the

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365 Council on Accreditation ~~for Children and Family Services~~, or
 366 has those services that are being purchased by the department
 367 accredited by the Commission on Accreditation of Rehabilitation
 368 Facilities ~~CARE the Rehabilitation Accreditation Commission.~~

369 (b) Any mental health facility licensed by the agency or
 370 any substance abuse component licensed by the department that is
 371 accredited by The Joint Commission ~~on Accreditation of~~
 372 ~~Healthcare Organizations~~, the Commission on Accreditation of
 373 Rehabilitation Facilities ~~CARE the Rehabilitation Accreditation~~
 374 ~~Commission~~, or the Council on Accreditation ~~of Children and~~
 375 ~~Family Services.~~

376 (c) Any network of providers from which the department or
 377 the agency purchases behavioral health care services accredited
 378 by The Joint Commission ~~on Accreditation of Healthcare~~
 379 ~~Organizations~~, the Commission on Accreditation of Rehabilitation
 380 Facilities ~~CARE the Rehabilitation Accreditation Commission~~, the
 381 Council on Accreditation ~~of Children and Family Services~~, or the
 382 National Committee for Quality Assurance. A provider
 383 organization, which is part of an accredited network, is
 384 afforded the same rights under this part.

385 Section 8. Present subsections (15) through (32) of
 386 section 395.002, Florida Statutes, are renumbered as subsections
 387 (14) through (28), respectively, and present subsections (1),
 388 (14), (24), (30), and (31), and paragraph (c) of present
 389 subsection (28) of that section are amended to read:

390 395.002 Definitions.—As used in this chapter:

391 (1) "Accrediting organizations" means nationally
 392 recognized or approved accrediting organizations whose standards

393 incorporate comparable licensure requirements as determined by
 394 the agency the Joint Commission on Accreditation of Healthcare
 395 Organizations, the American Osteopathic Association, the
 396 Commission on Accreditation of Rehabilitation Facilities, and
 397 the Accreditation Association for Ambulatory Health Care, Inc.

398 ~~(14) "Initial denial determination" means a determination~~
 399 ~~by a private review agent that the health care services~~
 400 ~~furnished or proposed to be furnished to a patient are~~
 401 ~~inappropriate, not medically necessary, or not reasonable.~~

402 ~~(24) "Private review agent" means any person or entity~~
 403 ~~which performs utilization review services for third-party~~
 404 ~~payors on a contractual basis for outpatient or inpatient~~
 405 ~~services. However, the term shall not include full-time~~
 406 ~~employees, personnel, or staff of health insurers, health~~
 407 ~~maintenance organizations, or hospitals, or wholly owned~~
 408 ~~subsidiaries thereof or affiliates under common ownership, when~~
 409 ~~performing utilization review for their respective hospitals,~~
 410 ~~health maintenance organizations, or insureds of the same~~
 411 ~~insurance group. For this purpose, health insurers, health~~
 412 ~~maintenance organizations, and hospitals, or wholly owned~~
 413 ~~subsidiaries thereof or affiliates under common ownership,~~
 414 ~~include such entities engaged as administrators of self-~~
 415 ~~insurance as defined in s. 624.031.~~

416 ~~(26)(28)~~ (26) "Specialty hospital" means any facility which
 417 meets the provisions of subsection (12), and which regularly
 418 makes available either:

419 (c) Intensive residential treatment programs for children
 420 and adolescents as defined in subsection (14) ~~(15)~~.

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421 ~~(30) "Utilization review" means a system for reviewing the~~
 422 ~~medical necessity or appropriateness in the allocation of health~~
 423 ~~care resources of hospital services given or proposed to be~~
 424 ~~given to a patient or group of patients.~~

425 ~~(31) "Utilization review plan" means a description of the~~
 426 ~~policies and procedures governing utilization review activities~~
 427 ~~performed by a private review agent.~~

428 Section 9. Paragraph (c) of subsection (1) and paragraph
 429 (b) of subsection (2) of section 395.003, Florida Statutes, are
 430 amended to read:

431 395.003 Licensure; denial, suspension, and revocation.-

432 (1)

433 ~~(c) Until July 1, 2006, additional emergency departments~~
 434 ~~located off the premises of licensed hospitals may not be~~
 435 ~~authorized by the agency.~~

436 (2)

437 (b) The agency shall, at the request of a licensee that is
 438 a teaching hospital as defined in s. 408.07(45), issue a single
 439 license to a licensee for facilities that have been previously
 440 licensed as separate premises, provided such separately licensed
 441 facilities, taken together, constitute the same premises as
 442 defined in s. 395.002(22)~~(23)~~. Such license for the single
 443 premises shall include all of the beds, services, and programs
 444 that were previously included on the licenses for the separate
 445 premises. The granting of a single license under this paragraph
 446 shall not in any manner reduce the number of beds, services, or
 447 programs operated by the licensee.

448 Section 10. Paragraph (e) of subsection (2) and subsection
 449 (4) of section 395.0193, Florida Statutes, are amended to read:
 450 395.0193 Licensed facilities; peer review; disciplinary
 451 powers; agency or partnership with physicians.—

452 (2) Each licensed facility, as a condition of licensure,
 453 shall provide for peer review of physicians who deliver health
 454 care services at the facility. Each licensed facility shall
 455 develop written, binding procedures by which such peer review
 456 shall be conducted. Such procedures shall include:

457 (e) Recording of agendas and minutes which do not contain
 458 confidential material, for review by the Division of Medical
 459 Quality Assurance of the department ~~Health Quality Assurance of~~
 460 ~~the agency.~~

461 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 462 actions taken under subsection (3) shall be reported in writing
 463 to the Division of Medical Quality Assurance of the department
 464 ~~Health Quality Assurance of the agency~~ within 30 working days
 465 after its initial occurrence, regardless of the pendency of
 466 appeals to the governing board of the hospital. The notification
 467 shall identify the disciplined practitioner, the action taken,
 468 and the reason for such action. All final disciplinary actions
 469 taken under subsection (3), if different from those which were
 470 reported to the department ~~agency~~ within 30 days after the
 471 initial occurrence, shall be reported within 10 working days to
 472 the Division of Medical Quality Assurance of the department
 473 ~~Health Quality Assurance of the agency~~ in writing and shall
 474 specify the disciplinary action taken and the specific grounds
 475 therefor. The division shall review each report and determine

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476 whether it potentially involved conduct by the licensee that is
 477 subject to disciplinary action, in which case s. 456.073 shall
 478 apply. The reports are not subject to inspection under s.
 479 119.07(1) even if the division's investigation results in a
 480 finding of probable cause.

481 Section 11. Section 395.1023, Florida Statutes, is amended
 482 to read:

483 395.1023 Child abuse and neglect cases; duties.—Each
 484 licensed facility shall adopt a protocol that, at a minimum,
 485 requires the facility to:

486 (1) Incorporate a facility policy that every staff member
 487 has an affirmative duty to report, pursuant to chapter 39, any
 488 actual or suspected case of child abuse, abandonment, or
 489 neglect; and

490 (2) In any case involving suspected child abuse,
 491 abandonment, or neglect, designate, at the request of the
 492 Department of Children and Family Services, a staff physician to
 493 act as a liaison between the hospital and the Department of
 494 Children and Family Services office which is investigating the
 495 suspected abuse, abandonment, or neglect, and the child
 496 protection team, as defined in s. 39.01, when the case is
 497 referred to such a team.

498
 499 Each general hospital and appropriate specialty hospital shall
 500 comply with the provisions of this section and shall notify the
 501 agency and the Department of Children and Family Services of its
 502 compliance by sending a copy of its policy to the agency and the
 503 Department of Children and Family Services as required by rule.

504 The failure by a general hospital or appropriate specialty
 505 hospital to comply shall be punished by a fine not exceeding
 506 \$1,000, to be fixed, imposed, and collected by the agency. Each
 507 day in violation is considered a separate offense.

508 Section 12. Subsection (2) and paragraph (d) of subsection
 509 (3) of section 395.1041, Florida Statutes, are amended to read:

510 395.1041 Access to emergency services and care.—

511 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
 512 shall establish and maintain an inventory of hospitals with
 513 emergency services. The inventory shall list all services within
 514 the service capability of the hospital, and such services shall
 515 appear on the face of the hospital license. Each hospital having
 516 emergency services shall notify the agency of its service
 517 capability in the manner and form prescribed by the agency. The
 518 agency shall use the inventory to assist emergency medical
 519 services providers and others in locating appropriate emergency
 520 medical care. The inventory shall also be made available to the
 521 general public. ~~On or before August 1, 1992, the agency shall~~
 522 ~~request that each hospital identify the services which are~~
 523 ~~within its service capability. On or before November 1, 1992,~~
 524 ~~the agency shall notify each hospital of the service capability~~
 525 ~~to be included in the inventory. The hospital has 15 days from~~
 526 ~~the date of receipt to respond to the notice. By December 1,~~
 527 ~~1992, the agency shall publish a final inventory.~~ Each hospital
 528 shall reaffirm its service capability when its license is
 529 renewed and shall notify the agency of the addition of a new
 530 service or the termination of a service prior to a change in its
 531 service capability.

532 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
 533 FACILITY OR HEALTH CARE PERSONNEL.—

534 (d)1. Every hospital shall ensure the provision of
 535 services within the service capability of the hospital, at all
 536 times, either directly or indirectly through an arrangement with
 537 another hospital, through an arrangement with one or more
 538 physicians, or as otherwise made through prior arrangements. A
 539 hospital may enter into an agreement with another hospital for
 540 purposes of meeting its service capability requirement, and
 541 appropriate compensation or other reasonable conditions may be
 542 negotiated for these backup services.

543 2. If any arrangement requires the provision of emergency
 544 medical transportation, such arrangement must be made in
 545 consultation with the applicable provider and may not require
 546 the emergency medical service provider to provide transportation
 547 that is outside the routine service area of that provider or in
 548 a manner that impairs the ability of the emergency medical
 549 service provider to timely respond to prehospital emergency
 550 calls.

551 3. A hospital shall not be required to ensure service
 552 capability at all times as required in subparagraph 1. if, prior
 553 to the receiving of any patient needing such service capability,
 554 such hospital has demonstrated to the agency that it lacks the
 555 ability to ensure such capability and it has exhausted all
 556 reasonable efforts to ensure such capability through backup
 557 arrangements. In reviewing a hospital's demonstration of lack of
 558 ability to ensure service capability, the agency shall consider

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559 factors relevant to the particular case, including the
560 following:

561 a. Number and proximity of hospitals with the same service
562 capability.

563 b. Number, type, credentials, and privileges of
564 specialists.

565 c. Frequency of procedures.

566 d. Size of hospital.

567 4. The agency shall publish ~~proposed~~ rules implementing a
568 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~
569 ~~1. shall become effective upon the effective date of said rules~~
570 ~~or January 31, 1993, whichever is earlier. For a period not to~~
571 ~~exceed 1 year from the effective date of subparagraph 1., a~~
572 ~~hospital requesting an exemption shall be deemed to be exempt~~
573 ~~from offering the service until the agency initially acts to~~
574 ~~deny or grant the original request.~~ The agency has 45 days from
575 the date of receipt of the request to approve or deny the
576 request. ~~After the first year from the effective date of~~
577 ~~subparagraph 1.,~~ If the agency fails to initially act within the
578 time period, the hospital is deemed to be exempt from offering
579 the service until the agency initially acts to deny the request.

580 Section 13. Section 395.1046, Florida Statutes, is
581 repealed.

582 Section 14. Paragraph (e) of subsection (1) of section
583 395.1055, Florida Statutes, is amended to read:

584 395.1055 Rules and enforcement.—

585 (1) The agency shall adopt rules pursuant to ss.

586 120.536(1) and 120.54 to implement the provisions of this part,

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587 which shall include reasonable and fair minimum standards for
 588 ensuring that:

589 (e) Licensed facility beds conform to minimum space,
 590 equipment, and furnishings standards as specified by the agency,
 591 the Florida Building Code, and the Florida Fire Prevention Code
 592 department.

593 Section 15. Subsection (1) of section 395.10972, Florida
 594 Statutes, is amended to read:

595 395.10972 Health Care Risk Manager Advisory Council.—The
 596 Secretary of Health Care Administration may appoint a seven-
 597 member advisory council to advise the agency on matters
 598 pertaining to health care risk managers. The members of the
 599 council shall serve at the pleasure of the secretary. The
 600 council shall designate a chair. The council shall meet at the
 601 call of the secretary or at those times as may be required by
 602 rule of the agency. The members of the advisory council shall
 603 receive no compensation for their services, but shall be
 604 reimbursed for travel expenses as provided in s. 112.061. The
 605 council shall consist of individuals representing the following
 606 areas:

607 (1) Two shall be active health care risk managers,
 608 including one risk manager who is recommended by and a member of
 609 the Florida Society for ~~of~~ Healthcare Risk Management and
 610 Patient Safety.

611 Section 16. Subsection (3) of section 395.2050, Florida
 612 Statutes, is amended to read:

613 395.2050 Routine inquiry for organ and tissue donation;
 614 certification for procurement activities; death records review.—

615 (3) Each organ procurement organization designated by the
 616 federal Centers for Medicare and Medicaid Services Health Care
 617 ~~Financing Administration~~ and licensed by the state shall conduct
 618 an annual death records review in the organ procurement
 619 organization's affiliated donor hospitals. The organ procurement
 620 organization shall enlist the services of every Florida licensed
 621 tissue bank and eye bank affiliated with or providing service to
 622 the donor hospital and operating in the same service area to
 623 participate in the death records review.

624 Section 17. Subsection (2) of section 395.3036, Florida
 625 Statutes, is amended to read:

626 395.3036 Confidentiality of records and meetings of
 627 corporations that lease public hospitals or other public health
 628 care facilities.—The records of a private corporation that
 629 leases a public hospital or other public health care facility
 630 are confidential and exempt from the provisions of s. 119.07(1)
 631 and s. 24(a), Art. I of the State Constitution, and the meetings
 632 of the governing board of a private corporation are exempt from
 633 s. 286.011 and s. 24(b), Art. I of the State Constitution when
 634 the public lessor complies with the public finance
 635 accountability provisions of s. 155.40(5) with respect to the
 636 transfer of any public funds to the private lessee and when the
 637 private lessee meets at least three of the five following
 638 criteria:

639 (2) The public lessor and the private lessee do not
 640 commingle any of their funds in any account maintained by either
 641 of them, other than the payment of the rent and administrative
 642 fees or the transfer of funds pursuant to s. 155.40(2)

643 ~~subsection (2).~~

644 Section 18. Section 395.3037, Florida Statutes, is
 645 repealed.

646 Section 19. Subsections (1), (4), and (5) of section
 647 395.3038, Florida Statutes, are amended to read:

648 395.3038 State-listed primary stroke centers and
 649 comprehensive stroke centers; notification of hospitals.—

650 (1) The agency shall make available on its website and to
 651 the department a list of the name and address of each hospital
 652 that meets the criteria for a primary stroke center and the name
 653 and address of each hospital that meets the criteria for a
 654 comprehensive stroke center. The list of primary and
 655 comprehensive stroke centers shall include only those hospitals
 656 that attest in an affidavit submitted to the agency that the
 657 hospital meets the named criteria, or those hospitals that
 658 attest in an affidavit submitted to the agency that the hospital
 659 is certified as a primary or a comprehensive stroke center by
 660 The Joint Commission ~~on Accreditation of Healthcare~~
 661 ~~Organizations.~~

662 (4) The agency shall adopt by rule criteria for a primary
 663 stroke center which are substantially similar to the
 664 certification standards for primary stroke centers of The Joint
 665 Commission ~~on Accreditation of Healthcare Organizations.~~

666 (5) The agency shall adopt by rule criteria for a
 667 comprehensive stroke center. However, if The Joint Commission ~~on~~
 668 ~~Accreditation of Healthcare Organizations~~ establishes criteria
 669 for a comprehensive stroke center, the agency shall establish
 670 criteria for a comprehensive stroke center which are

671 substantially similar to those criteria established by The Joint
 672 Commission ~~on Accreditation of Healthcare Organizations.~~

673 Section 20. Paragraph (e) of subsection (2) of section
 674 395.602, Florida Statutes, is amended to read:

675 395.602 Rural hospitals.—

676 (2) DEFINITIONS.—As used in this part:

677 (e) "Rural hospital" means an acute care hospital licensed
 678 under this chapter, having 100 or fewer licensed beds and an
 679 emergency room, which is:

680 1. The sole provider within a county with a population
 681 density of no greater than 100 persons per square mile;

682 2. An acute care hospital, in a county with a population
 683 density of no greater than 100 persons per square mile, which is
 684 at least 30 minutes of travel time, on normally traveled roads
 685 under normal traffic conditions, from any other acute care
 686 hospital within the same county;

687 3. A hospital supported by a tax district or subdistrict
 688 whose boundaries encompass a population of 100 persons or fewer
 689 per square mile;

690 ~~4. A hospital in a constitutional charter county with a~~
 691 ~~population of over 1 million persons that has imposed a local~~
 692 ~~option health service tax pursuant to law and in an area that~~
 693 ~~was directly impacted by a catastrophic event on August 24,~~
 694 ~~1992, for which the Governor of Florida declared a state of~~
 695 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
 696 ~~serves an agricultural community with an emergency room~~
 697 ~~utilization of no less than 20,000 visits and a Medicaid~~
 698 ~~inpatient utilization rate greater than 15 percent;~~

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699 4.5. A hospital with a service area that has a population
 700 of 100 persons or fewer per square mile. As used in this
 701 subparagraph, the term "service area" means the fewest number of
 702 zip codes that account for 75 percent of the hospital's
 703 discharges for the most recent 5-year period, based on
 704 information available from the hospital inpatient discharge
 705 database in the Florida Center for Health Information and Policy
 706 Analysis at the Agency for Health Care Administration; or

707 5.6. A hospital designated as a critical access hospital,
 708 as defined in s. 408.07(15).

709

710 Population densities used in this paragraph must be based upon
 711 the most recently completed United States census. A hospital
 712 that received funds under s. 409.9116 for a quarter beginning no
 713 later than July 1, 2002, is deemed to have been and shall
 714 continue to be a rural hospital from that date through June 30,
 715 2015, if the hospital continues to have 100 or fewer licensed
 716 beds and an emergency room, ~~or meets the criteria of~~
 717 ~~subparagraph 4.~~ An acute care hospital that has not previously
 718 been designated as a rural hospital and that meets the criteria
 719 of this paragraph shall be granted such designation upon
 720 application, including supporting documentation to the Agency
 721 for Health Care Administration.

722 Section 21. Subsection (8) of section 400.021, Florida
 723 Statutes, is amended to read:

724 400.021 Definitions.—When used in this part, unless the
 725 context otherwise requires, the term:

726 (8) "Geriatric outpatient clinic" means a site for

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727 providing outpatient health care to persons 60 years of age or
 728 older, which is staffed by a registered nurse or a physician
 729 assistant, or a licensed practical nurse under the direct
 730 supervision of a registered nurse, advanced registered nurse
 731 practitioner, or physician.

732 Section 22. Paragraph (g) of subsection (2) of section
 733 400.0239, Florida Statutes, is amended to read:

734 400.0239 Quality of Long-Term Care Facility Improvement
 735 Trust Fund.—

736 (2) Expenditures from the trust fund shall be allowable
 737 for direct support of the following:

738 (g) Other initiatives authorized by the Centers for
 739 Medicare and Medicaid Services for the use of federal civil
 740 monetary penalties, ~~including projects recommended through the~~
 741 ~~Medicaid "Up-or-Out" Quality of Care Contract Management Program~~
 742 ~~pursuant to s. 400.148.~~

743 Section 23. Subsection (2) of section 400.063, Florida
 744 Statutes, is amended to read:

745 400.063 Resident protection.—

746 (2) The agency is authorized to establish for each
 747 facility, subject to intervention by the agency, a separate bank
 748 account for the deposit to the credit of the agency of any
 749 moneys received from the Health Care Trust Fund or any other
 750 moneys received for the maintenance and care of residents in the
 751 facility, and the agency is authorized to disburse moneys from
 752 such account to pay obligations incurred for the purposes of
 753 this section. The agency is authorized to requisition moneys
 754 from the Health Care Trust Fund in advance of an actual need for

755 cash on the basis of an estimate by the agency of moneys to be
 756 spent under the authority of this section. Any bank account
 757 established under this section need not be approved in advance
 758 of its creation as required by s. 17.58, but shall be secured by
 759 depository insurance equal to or greater than the balance of
 760 such account or by the pledge of collateral security ~~in~~
 761 ~~conformance with criteria established in s. 18.11.~~ The agency
 762 shall notify the Chief Financial Officer of any such account so
 763 established and shall make a quarterly accounting to the Chief
 764 Financial Officer for all moneys deposited in such account.

765 Section 24. Subsections (1) and (5) of section 400.071,
 766 Florida Statutes, are amended to read:

767 400.071 Application for license.—

768 (1) In addition to the requirements of part II of chapter
 769 408, the application for a license shall be under oath and must
 770 contain the following:

771 (a) The location of the facility for which a license is
 772 sought and an indication, as in the original application, that
 773 such location conforms to the local zoning ordinances.

774 ~~(b) A signed affidavit disclosing any financial or~~
 775 ~~ownership interest that a controlling interest as defined in~~
 776 ~~part II of chapter 408 has held in the last 5 years in any~~
 777 ~~entity licensed by this state or any other state to provide~~
 778 ~~health or residential care which has closed voluntarily or~~
 779 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
 780 ~~appointed; has had a license denied, suspended, or revoked; or~~
 781 ~~has had an injunction issued against it which was initiated by a~~

782 ~~regulatory agency. The affidavit must disclose the reason any~~
 783 ~~such entity was closed, whether voluntarily or involuntarily.~~

784 ~~(c) The total number of beds and the total number of~~
 785 ~~Medicare and Medicaid certified beds.~~

786 (b) ~~(d)~~ Information relating to the applicant and employees
 787 which the agency requires by rule. The applicant must
 788 demonstrate that sufficient numbers of qualified staff, by
 789 training or experience, will be employed to properly care for
 790 the type and number of residents who will reside in the
 791 facility.

792 (c) ~~(e)~~ Copies of any civil verdict or judgment involving
 793 the applicant rendered within the 10 years preceding the
 794 application, relating to medical negligence, violation of
 795 residents' rights, or wrongful death. As a condition of
 796 licensure, the licensee agrees to provide to the agency copies
 797 of any new verdict or judgment involving the applicant, relating
 798 to such matters, within 30 days after filing with the clerk of
 799 the court. The information required in this paragraph shall be
 800 maintained in the facility's licensure file and in an agency
 801 database which is available as a public record.

802 (5) As a condition of licensure, each facility must
 803 establish ~~and submit with its application~~ a plan for quality
 804 assurance and for conducting risk management.

805 Section 25. Section 400.0712, Florida Statutes, is amended
 806 to read:

807 400.0712 Application for inactive license.—

808 ~~(1) As specified in this section, the agency may issue an~~
 809 ~~inactive license to a nursing home facility for all or a portion~~

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810 ~~of its beds. Any request by a licensee that a nursing home or~~
 811 ~~portion of a nursing home become inactive must be submitted to~~
 812 ~~the agency in the approved format. The facility may not initiate~~
 813 ~~any suspension of services, notify residents, or initiate~~
 814 ~~inactivity before receiving approval from the agency; and a~~
 815 ~~licensee that violates this provision may not be issued an~~
 816 ~~inactive license.~~

817 (1)-(2) In addition to the powers granted under part II of
 818 chapter 408, the agency may issue an inactive license to a
 819 nursing home that chooses to use an unoccupied contiguous
 820 portion of the facility for an alternative use to meet the needs
 821 of elderly persons through the use of less restrictive, less
 822 institutional services.

823 (a) An inactive license issued under this subsection may
 824 be granted for a period not to exceed the current licensure
 825 expiration date but may be renewed by the agency at the time of
 826 licensure renewal.

827 (b) A request to extend the inactive license must be
 828 submitted to the agency in the approved format and approved by
 829 the agency in writing.

830 (c) Nursing homes that receive an inactive license to
 831 provide alternative services shall not receive preference for
 832 participation in the Assisted Living for the Elderly Medicaid
 833 waiver.

834 (2)-(3) The agency shall adopt rules pursuant to ss.
 835 120.536(1) and 120.54 necessary to implement this section.

836 Section 26. Section 400.111, Florida Statutes, is amended
 837 to read:

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838 400.111 Disclosure of controlling interest.--In addition to
 839 the requirements of part II of chapter 408, when requested by
 840 the agency, the licensee shall submit a signed affidavit
 841 disclosing any financial or ownership interest that a
 842 controlling interest has held within the last 5 years in any
 843 entity licensed by the state or any other state to provide
 844 health or residential care which entity has closed voluntarily
 845 or involuntarily; has filed for bankruptcy; has had a receiver
 846 appointed; has had a license denied, suspended, or revoked; or
 847 has had an injunction issued against it which was initiated by a
 848 regulatory agency. The affidavit must disclose the reason such
 849 entity was closed, whether voluntarily or involuntarily.

850 Section 27. Subsection (2) of section 400.1183, Florida
 851 Statutes, is amended to read:

852 400.1183 Resident grievance procedures.--

853 (2) Each facility shall maintain records of all grievances
 854 for agency inspection and shall report to the agency at the time
 855 of relicensure the total number of grievances handled during the
 856 prior licensure period, a categorization of the cases underlying
 857 the grievances, and the final disposition of the grievances.

858 Section 28. Paragraphs (o) through (w) of subsection (1)
 859 of section 400.141, Florida Statutes, are redesignated as
 860 paragraphs (n) through (u), respectively, and present paragraphs
 861 (f), (g), (j), (n), (o), and (r) of that subsection are amended,
 862 to read:

863 400.141 Administration and management of nursing home
 864 facilities.--

865 (1) Every licensed facility shall comply with all
 866 applicable standards and rules of the agency and shall:

867 (f) Be allowed and encouraged by the agency to provide
 868 other needed services under certain conditions. If the facility
 869 has a standard licensure status, ~~and has had no class I or class~~
 870 ~~II deficiencies during the past 2 years~~ or has been awarded a
 871 Gold Seal under the program established in s. 400.235, it may ~~be~~
 872 ~~encouraged by the agency to provide services, including, but not~~
 873 limited to, respite and adult day services, which enable
 874 individuals to move in and out of the facility. A facility is
 875 not subject to any additional licensure requirements for
 876 providing these services.

877 1. Respite care may be offered to persons in need of
 878 short-term or temporary nursing home services. For each person
 879 admitted under the respite care program, the facility licensee
 880 must:

881 a. Have a written abbreviated plan of care that, at a
 882 minimum, includes nutritional requirements, medication orders,
 883 physician orders, nursing assessments, and dietary preferences.
 884 The nursing or physician assessments may take the place of all
 885 other assessments required for full-time residents.

886 b. Have a contract that, at a minimum, specifies the
 887 services to be provided to the respite resident, including
 888 charges for services, activities, equipment, emergency medical
 889 services, and the administration of medications. If multiple
 890 respite admissions for a single person are anticipated, the
 891 original contract is valid for 1 year after the date of
 892 execution.

893 c. Ensure that each resident is released to his or her
 894 caregiver or an individual designated in writing by the
 895 caregiver.

896 2. A person admitted under the respite care program is:

897 a. Exempt from requirements in rule related to discharge
 898 planning.

899 b. Covered by the resident's rights set forth in s.
 900 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident
 901 shall not be considered trust funds subject to the requirements
 902 of s. 400.022(1)(h) until the resident has been in the facility
 903 for more than 14 consecutive days.

904 c. Allowed to use his or her personal medications for the
 905 respite stay if permitted by facility policy. The facility must
 906 obtain a physician's orders for the medications. The caregiver
 907 may provide information regarding the medications as part of the
 908 nursing assessment, which must agree with the physician's
 909 orders. Medications shall be released with the resident upon
 910 discharge in accordance with current orders.

911 3. A person receiving respite care is entitled to a total
 912 of 60 days in the facility within a contract year or a calendar
 913 year if the contract is for less than 12 months. However, each
 914 single stay may not exceed 14 days. If a stay exceeds 14
 915 consecutive days, the facility must comply with all assessment
 916 and care planning requirements applicable to nursing home
 917 residents.

918 4. A person receiving respite care must reside in a
 919 licensed nursing home bed.

920 5. A prospective respite resident must provide medical

921 information from a physician, a physician assistant, or a nurse
 922 practitioner and other information from the primary caregiver as
 923 may be required by the facility prior to or at the time of
 924 admission to receive respite care. The medical information must
 925 include a physician's order for respite care and proof of a
 926 physical examination by a licensed physician, physician
 927 assistant, or nurse practitioner. The physician's order and
 928 physical examination may be used to provide intermittent respite
 929 care for up to 12 months after the date the order is written.

930 6. The facility must assume the duties of the primary
 931 caregiver. To ensure continuity of care and services, the
 932 resident is entitled to retain his or her personal physician and
 933 must have access to medically necessary services such as
 934 physical therapy, occupational therapy, or speech therapy, as
 935 needed. The facility must arrange for transportation to these
 936 services if necessary. ~~Respite care must be provided in~~
 937 ~~accordance with this part and rules adopted by the agency.~~
 938 ~~However, the agency shall, by rule, adopt modified requirements~~
 939 ~~for resident assessment, resident care plans, resident~~
 940 ~~contracts, physician orders, and other provisions, as~~
 941 ~~appropriate, for short-term or temporary nursing home services.~~

942 7. The agency shall allow for shared programming and staff
 943 in a facility which meets minimum standards and offers services
 944 pursuant to this paragraph, but, if the facility is cited for
 945 deficiencies in patient care, may require additional staff and
 946 programs appropriate to the needs of service recipients. A
 947 person who receives respite care may not be counted as a
 948 resident of the facility for purposes of the facility's licensed

949 capacity unless that person receives 24-hour respite care. A
 950 person receiving either respite care for 24 hours or longer or
 951 adult day services must be included when calculating minimum
 952 staffing for the facility. Any costs and revenues generated by a
 953 nursing home facility from nonresidential programs or services
 954 shall be excluded from the calculations of Medicaid per diems
 955 for nursing home institutional care reimbursement.

956 (g) If the facility has a standard license or is a Gold
 957 Seal facility, exceeds the minimum required hours of licensed
 958 nursing and certified nursing assistant direct care per resident
 959 per day, and is part of a continuing care facility licensed
 960 under chapter 651 or a retirement community that offers other
 961 services pursuant to part III of this chapter or part I or part
 962 III of chapter 429 on a single campus, be allowed to share
 963 programming and staff. At the time of inspection and in the
 964 semiannual report required pursuant to paragraph (n) ~~(e)~~, a
 965 continuing care facility or retirement community that uses this
 966 option must demonstrate through staffing records that minimum
 967 staffing requirements for the facility were met. Licensed nurses
 968 and certified nursing assistants who work in the nursing home
 969 facility may be used to provide services elsewhere on campus if
 970 the facility exceeds the minimum number of direct care hours
 971 required per resident per day and the total number of residents
 972 receiving direct care services from a licensed nurse or a
 973 certified nursing assistant does not cause the facility to
 974 violate the staffing ratios required under s. 400.23(3)(a).
 975 Compliance with the minimum staffing ratios shall be based on
 976 total number of residents receiving direct care services,

977 regardless of where they reside on campus. If the facility
 978 receives a conditional license, it may not share staff until the
 979 conditional license status ends. This paragraph does not
 980 restrict the agency's authority under federal or state law to
 981 require additional staff if a facility is cited for deficiencies
 982 in care which are caused by an insufficient number of certified
 983 nursing assistants or licensed nurses. The agency may adopt
 984 rules for the documentation necessary to determine compliance
 985 with this provision.

986 (j) Keep full records of resident admissions and
 987 discharges; medical and general health status, including medical
 988 records, personal and social history, and identity and address
 989 of next of kin or other persons who may have responsibility for
 990 the affairs of the residents; and individual resident care plans
 991 including, but not limited to, prescribed services, service
 992 frequency and duration, and service goals. The records shall be
 993 open to inspection by the agency. The facility must maintain
 994 clinical records on each resident in accordance with accepted
 995 professional standards and practices that are complete,
 996 accurately documented, readily accessible, and systematically
 997 organized.

998 ~~(n) Submit to the agency the information specified in s.~~
 999 ~~400.071(1)(b) for a management company within 30 days after the~~
 1000 ~~effective date of the management agreement.~~

1001 (n)-(e)1. Submit semiannually to the agency, or more
 1002 frequently if requested by the agency, information regarding
 1003 facility staff-to-resident ratios, staff turnover, and staff
 1004 stability, including information regarding certified nursing

1005 assistants, licensed nurses, the director of nursing, and the
 1006 facility administrator. For purposes of this reporting:

1007 a. Staff-to-resident ratios must be reported in the
 1008 categories specified in s. 400.23(3)(a) and applicable rules.
 1009 The ratio must be reported as an average for the most recent
 1010 calendar quarter.

1011 b. Staff turnover must be reported for the most recent 12-
 1012 month period ending on the last workday of the most recent
 1013 calendar quarter prior to the date the information is submitted.
 1014 The turnover rate must be computed quarterly, with the annual
 1015 rate being the cumulative sum of the quarterly rates. The
 1016 turnover rate is the total number of terminations or separations
 1017 experienced during the quarter, excluding any employee
 1018 terminated during a probationary period of 3 months or less,
 1019 divided by the total number of staff employed at the end of the
 1020 period for which the rate is computed, and expressed as a
 1021 percentage.

1022 c. The formula for determining staff stability is the
 1023 total number of employees that have been employed for more than
 1024 12 months, divided by the total number of employees employed at
 1025 the end of the most recent calendar quarter, and expressed as a
 1026 percentage.

1027 d. A nursing facility that has failed to comply with state
 1028 minimum-staffing requirements for 2 consecutive days is
 1029 prohibited from accepting new admissions until the facility has
 1030 achieved the minimum-staffing requirements for a period of 6
 1031 consecutive days. For the purposes of this sub-subparagraph, any
 1032 person who was a resident of the facility and was absent from

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1033 the facility for the purpose of receiving medical care at a
 1034 separate location or was on a leave of absence is not considered
 1035 a new admission. Failure to impose such an admissions moratorium
 1036 is subject to a \$1,000 fine ~~constitutes a class II deficiency.~~

1037 e. A nursing facility which does not have a conditional
 1038 license may be cited for failure to comply with the standards in
 1039 s. 400.23(3)(a)1.a. only if it has failed to meet those
 1040 standards on 2 consecutive days or if it has failed to meet at
 1041 least 97 percent of those standards on any one day.

1042 f. A facility which has a conditional license must be in
 1043 compliance with the standards in s. 400.23(3)(a) at all times.

1044 2. This paragraph does not limit the agency's ability to
 1045 impose a deficiency or take other actions if a facility does not
 1046 have enough staff to meet the residents' needs.

1047 ~~(r) Report to the agency any filing for bankruptcy~~
 1048 ~~protection by the facility or its parent corporation,~~
 1049 ~~divestiture or spin-off of its assets, or corporate~~
 1050 ~~reorganization within 30 days after the completion of such~~
 1051 ~~activity.~~

1052 Section 29. Subsection (3) of section 400.142, Florida
 1053 Statutes, is amended to read:

1054 400.142 Emergency medication kits; orders not to
 1055 resuscitate.—

1056 (3) Facility staff may withhold or withdraw
 1057 cardiopulmonary resuscitation if presented with an order not to
 1058 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 1059 ~~adopt rules providing for the implementation of such orders.~~

1060 Facility staff and facilities shall not be subject to criminal

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1061 prosecution or civil liability, nor be considered to have
 1062 engaged in negligent or unprofessional conduct, for withholding
 1063 or withdrawing cardiopulmonary resuscitation pursuant to such an
 1064 order and rules adopted by the agency. The absence of an order
 1065 not to resuscitate executed pursuant to s. 401.45 does not
 1066 preclude a physician from withholding or withdrawing
 1067 cardiopulmonary resuscitation as otherwise permitted by law.

1068 Section 30. Subsections (11) through (15) of section
 1069 400.147, Florida Statutes, are renumbered as subsections (10)
 1070 through (14), respectively, and present subsection (10) is
 1071 amended to read:

1072 400.147 Internal risk management and quality assurance
 1073 program.—

1074 ~~(10) By the 10th of each month, each facility subject to~~
 1075 ~~this section shall report any notice received pursuant to s.~~
 1076 ~~400.0233(2) and each initial complaint that was filed with the~~
 1077 ~~clerk of the court and served on the facility during the~~
 1078 ~~previous month by a resident or a resident's family member,~~
 1079 ~~guardian, conservator, or personal legal representative. The~~
 1080 ~~report must include the name of the resident, the resident's~~
 1081 ~~date of birth and social security number, the Medicaid~~
 1082 ~~identification number for Medicaid-eligible persons, the date or~~
 1083 ~~dates of the incident leading to the claim or dates of~~
 1084 ~~residency, if applicable, and the type of injury or violation of~~
 1085 ~~rights alleged to have occurred. Each facility shall also submit~~
 1086 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
 1087 ~~complaints filed with the clerk of the court. This report is~~
 1088 ~~confidential as provided by law and is not discoverable or~~

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1089 ~~admissible in any civil or administrative action, except in such~~
 1090 ~~actions brought by the agency to enforce the provisions of this~~
 1091 ~~part.~~

1092 Section 31. Section 400.148, Florida Statutes, is
 1093 repealed.

1094 Section 32. Paragraph (f) of subsection (5) of section
 1095 400.162, Florida Statutes, is amended to read:

1096 400.162 Property and personal affairs of residents.—

1097 (5)

1098 (f) At least every 3 months, the licensee shall furnish
 1099 the resident and the guardian, trustee, or conservator, if any,

1100 for the resident a complete and verified statement of all funds
 1101 ~~and other property~~ to which this subsection applies, detailing

1102 the amounts ~~and items~~ received, together with their sources and
 1103 disposition. For resident property, the licensee shall furnish

1104 such a statement annually and within 7 calendar days after a
 1105 request for a statement. In any event, the licensee shall

1106 furnish such statements ~~a statement~~ annually and upon the
 1107 discharge or transfer of a resident. Any governmental agency or

1108 private charitable agency contributing funds or other property
 1109 on account of a resident also shall be entitled to receive such

1110 statements ~~statement~~ annually and upon discharge or transfer and
 1111 such other report as it may require pursuant to law.

1112 Section 33. Paragraphs (d) and (e) of subsection (2) of
 1113 section 400.179, Florida Statutes, are amended to read:

1114 400.179 Liability for Medicaid underpayments and
 1115 overpayments.—

1116 (2) Because any transfer of a nursing facility may expose

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1117 the fact that Medicaid may have underpaid or overpaid the
 1118 transferor, and because in most instances, any such underpayment
 1119 or overpayment can only be determined following a formal field
 1120 audit, the liabilities for any such underpayments or
 1121 overpayments shall be as follows:

1122 (d) Where the transfer involves a facility that has been
 1123 leased by the transferor:

1124 1. The transferee shall, as a condition to being issued a
 1125 license by the agency, acquire, maintain, and provide proof to
 1126 the agency of a bond with a term of 30 months, renewable
 1127 annually, in an amount not less than the total of 3 months'
 1128 Medicaid payments to the facility computed on the basis of the
 1129 preceding 12-month average Medicaid payments to the facility.

1130 2. A leasehold licensee may meet the requirements of
 1131 subparagraph 1. by payment of a nonrefundable fee, paid at
 1132 initial licensure, paid at the time of any subsequent change of
 1133 ownership, and paid annually thereafter, in the amount of 1
 1134 percent of the total of 3 months' Medicaid payments to the
 1135 facility computed on the basis of the preceding 12-month average
 1136 Medicaid payments to the facility. If a preceding 12-month
 1137 average is not available, projected Medicaid payments may be
 1138 used. The fee shall be deposited into the Grants and Donations
 1139 Trust Fund and shall be accounted for separately as a Medicaid
 1140 nursing home overpayment account. These fees shall be used at
 1141 the sole discretion of the agency to repay nursing home Medicaid
 1142 overpayments. Payment of this fee shall not release the licensee
 1143 from any liability for any Medicaid overpayments, nor shall
 1144 payment bar the agency from seeking to recoup overpayments from

1145 the licensee and any other liable party. As a condition of
 1146 exercising this lease bond alternative, licensees paying this
 1147 fee must maintain an existing lease bond through the end of the
 1148 30-month term period of that bond. The agency is herein granted
 1149 specific authority to promulgate all rules pertaining to the
 1150 administration and management of this account, including
 1151 withdrawals from the account, subject to federal review and
 1152 approval. This provision shall take effect upon becoming law and
 1153 shall apply to any leasehold license application. The financial
 1154 viability of the Medicaid nursing home overpayment account shall
 1155 be determined by the agency through annual review of the account
 1156 balance and the amount of total outstanding, unpaid Medicaid
 1157 overpayments owing from leasehold licensees to the agency as
 1158 determined by final agency audits. By March 31 of each year, the
 1159 agency shall assess the cumulative fees collected under this
 1160 subparagraph, minus any amounts used to repay nursing home
 1161 Medicaid overpayments and amounts transferred to contribute to
 1162 the General Revenue Fund pursuant to s. 215.20. If the net
 1163 cumulative collections, minus amounts utilized to repay nursing
 1164 home Medicaid overpayments, exceed \$25 million, the provisions
 1165 of this paragraph shall not apply for the subsequent fiscal
 1166 year.

1167 3. The leasehold licensee may meet the bond requirement
 1168 through other arrangements acceptable to the agency. The agency
 1169 is herein granted specific authority to promulgate rules
 1170 pertaining to lease bond arrangements.

1171 4. All existing nursing facility licensees, operating the
 1172 facility as a leasehold, shall acquire, maintain, and provide

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1173 proof to the agency of the 30-month bond required in
 1174 subparagraph 1., above, on and after July 1, 1993, for each
 1175 license renewal.

1176 5. It shall be the responsibility of all nursing facility
 1177 operators, operating the facility as a leasehold, to renew the
 1178 30-month bond and to provide proof of such renewal to the agency
 1179 annually.

1180 6. Any failure of the nursing facility operator to
 1181 acquire, maintain, renew annually, or provide proof to the
 1182 agency shall be grounds for the agency to deny, revoke, and
 1183 suspend the facility license to operate such facility and to
 1184 take any further action, including, but not limited to,
 1185 enjoining the facility, asserting a moratorium pursuant to part
 1186 II of chapter 408, or applying for a receiver, deemed necessary
 1187 to ensure compliance with this section and to safeguard and
 1188 protect the health, safety, and welfare of the facility's
 1189 residents. A lease agreement required as a condition of bond
 1190 financing or refinancing under s. 154.213 by a health facilities
 1191 authority or required under s. 159.30 by a county or
 1192 municipality is not a leasehold for purposes of this paragraph
 1193 and is not subject to the bond requirement of this paragraph.

1194 ~~(e) For the 2009-2010 fiscal year only, the provisions of~~
 1195 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~
 1196 ~~2010.~~

1197 Section 34. Subsection (3) of section 400.19, Florida
 1198 Statutes, is amended to read:

1199 400.19 Right of entry and inspection.—

1200 (3) The agency shall every 15 months conduct at least one

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1201 unannounced inspection to determine compliance by the licensee
 1202 with statutes, and with rules promulgated under the provisions
 1203 of those statutes, governing minimum standards of construction,
 1204 quality and adequacy of care, and rights of residents. The
 1205 survey shall be conducted every 6 months for the next 2-year
 1206 period if the facility has been cited for a class I deficiency,
 1207 has been cited for two or more class II deficiencies arising
 1208 from separate surveys or investigations within a 60-day period,
 1209 or has had three or more substantiated complaints within a 6-
 1210 month period, each resulting in at least one class I or class II
 1211 deficiency. In addition to any other fees or fines in this part,
 1212 the agency shall assess a fine for each facility that is subject
 1213 to the 6-month survey cycle. The fine for the 2-year period
 1214 shall be \$6,000, one-half to be paid at the completion of each
 1215 survey. The agency may adjust this fine by the change in the
 1216 Consumer Price Index, based on the 12 months immediately
 1217 preceding the increase, to cover the cost of the additional
 1218 surveys. The agency shall verify through subsequent inspection
 1219 that any deficiency identified during inspection is corrected.
 1220 However, the agency may verify the correction of a class III or
 1221 class IV deficiency ~~unrelated to resident rights or resident~~
 1222 ~~care~~ without reinspecting the facility if adequate written
 1223 documentation has been received from the facility, which
 1224 provides assurance that the deficiency has been corrected. The
 1225 giving or causing to be given of advance notice of such
 1226 unannounced inspections by an employee of the agency to any
 1227 unauthorized person shall constitute cause for suspension of not
 1228 fewer than 5 working days according to the provisions of chapter

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1229 110.

1230 Section 35. Section 400.195, Florida Statutes, is
 1231 repealed.

1232 Section 36. Subsection (5) of section 400.23, Florida
 1233 Statutes, is amended to read:

1234 400.23 Rules; evaluation and deficiencies; licensure
 1235 status.—

1236 (5) The agency, in collaboration with the Division of
 1237 Children's Medical Services Network of the Department of Health,
 1238 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
 1239 standards of care for persons under 21 years of age who reside
 1240 in nursing home facilities. The rules must include a methodology
 1241 for reviewing a nursing home facility under ss. 408.031-408.045
 1242 which serves only persons under 21 years of age. A facility may
 1243 be exempt from these standards for specific persons between 18
 1244 and 21 years of age, if the person's physician agrees that
 1245 minimum standards of care based on age are not necessary.

1246 Section 37. Subsection (1) of section 400.275, Florida
 1247 Statutes, is amended to read:

1248 400.275 Agency duties.—

1249 ~~(1) The agency shall ensure that each newly hired nursing~~
 1250 ~~home surveyor, as a part of basic training, is assigned full-~~
 1251 ~~time to a licensed nursing home for at least 2 days within a 7-~~
 1252 ~~day period to observe facility operations outside of the survey~~
 1253 ~~process before the surveyor begins survey responsibilities. Such~~
 1254 ~~observations may not be the sole basis of a deficiency citation~~
 1255 ~~against the facility.~~ The agency may not assign an individual to
 1256 be a member of a survey team for purposes of a survey,

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1257 evaluation, or consultation visit at a nursing home facility in
 1258 which the surveyor was an employee within the preceding 2 ~~5~~
 1259 years.

1260 Section 38. Subsection (2) of section 400.484, Florida
 1261 Statutes, is amended to read:

1262 400.484 Right of inspection; violations ~~deficiencies~~;
 1263 fines.—

1264 (2) The agency shall impose fines for various classes of
 1265 violations ~~deficiencies~~ in accordance with the following
 1266 schedule:

1267 (a) Class I violations are defined in s. 408.813. ~~A class~~
 1268 ~~I deficiency is any act, omission, or practice that results in a~~
 1269 ~~patient's death, disablement, or permanent injury, or places a~~
 1270 ~~patient at imminent risk of death, disablement, or permanent~~
 1271 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
 1272 shall impose an administrative fine in the amount of \$15,000 for
 1273 each occurrence and each day that the violation ~~deficiency~~
 1274 exists.

1275 (b) Class II violations are defined in s. 408.813. ~~A class~~
 1276 ~~II deficiency is any act, omission, or practice that has a~~
 1277 ~~direct adverse effect on the health, safety, or security of a~~
 1278 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
 1279 agency shall impose an administrative fine in the amount of
 1280 \$5,000 for each occurrence and each day that the violation
 1281 ~~deficiency~~ exists.

1282 (c) Class III violations are defined in s. 408.813. ~~A~~
 1283 ~~class III deficiency is any act, omission, or practice that has~~
 1284 ~~an indirect, adverse effect on the health, safety, or security~~

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1285 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
 1286 violation deficiency, the agency shall impose an administrative
 1287 fine not to exceed \$1,000 for each occurrence and each day that
 1288 the uncorrected or repeated violation deficiency exists.

1289 (d) Class IV violations are defined in s. 408.813. ~~A class~~
 1290 ~~IV deficiency is any act, omission, or practice related to~~
 1291 ~~required reports, forms, or documents which does not have the~~
 1292 ~~potential of negatively affecting patients. These violations are~~
 1293 ~~of a type that the agency determines do not threaten the health,~~
 1294 ~~safety, or security of patients.~~ Upon finding an uncorrected or
 1295 repeated class IV violation deficiency, the agency shall impose
 1296 an administrative fine not to exceed \$500 for each occurrence
 1297 and each day that the uncorrected or repeated violation
 1298 deficiency exists.

1299 Section 39. Paragraph (i) of subsection (1) and subsection
 1300 (4) of section 400.606, Florida Statutes, are amended to read:

1301 400.606 License; application; renewal; conditional license
 1302 or permit; certificate of need.-

1303 (1) In addition to the requirements of part II of chapter
 1304 408, the initial application and change of ownership application
 1305 must be accompanied by a plan for the delivery of home,
 1306 residential, and homelike inpatient hospice services to
 1307 terminally ill persons and their families. Such plan must
 1308 contain, but need not be limited to:

1309 ~~(i) The projected annual operating cost of the hospice.~~

1310
 1311 If the applicant is an existing licensed health care provider,
 1312 the application must be accompanied by a copy of the most recent

1313 profit-loss statement and, if applicable, the most recent
 1314 licensure inspection report.

1315 (4) A freestanding hospice facility that is ~~primarily~~
 1316 engaged in providing inpatient and related services and that is
 1317 not otherwise licensed as a health care facility shall be
 1318 required to obtain a certificate of need. However, a
 1319 freestanding hospice facility with six or fewer beds shall not
 1320 be required to comply with institutional standards such as, but
 1321 not limited to, standards requiring sprinkler systems, emergency
 1322 electrical systems, or special lavatory devices.

1323 Section 40. Subsection (2) of section 400.607, Florida
 1324 Statutes, is amended to read:

1325 400.607 Denial, suspension, revocation of license;
 1326 emergency actions; imposition of administrative fine; grounds.—

1327 (2) A violation of this part, part II of chapter 408, or
 1328 applicable rules ~~Any of the following actions~~ by a licensed
 1329 hospice or any of its employees shall be grounds for
 1330 administrative action by the agency against a hospice.+

1331 ~~(a) A violation of the provisions of this part, part II of~~
 1332 ~~chapter 408, or applicable rules.~~

1333 ~~(b) An intentional or negligent act materially affecting~~
 1334 ~~the health or safety of a patient.~~

1335 Section 41. Subsection (1) of section 400.925, Florida
 1336 Statutes, is amended to read:

1337 400.925 Definitions.—As used in this part, the term:

1338 (1) "Accrediting organizations" means The Joint Commission
 1339 ~~on Accreditation of Healthcare Organizations~~ or other national

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1340 accreditation agencies whose standards for accreditation are
 1341 comparable to those required by this part for licensure.

1342 Section 42. Subsections (3) through (6) of section
 1343 400.931, Florida Statutes, are renumbered as subsections (2)
 1344 through (5), respectively, and present subsection (2) of that
 1345 section is amended to read:

1346 400.931 Application for license; ~~fee; provisional license;~~
 1347 ~~temporary permit.~~-

1348 ~~(2) As an alternative to submitting proof of financial~~
 1349 ~~ability to operate as required in s. 408.810(8), the applicant~~
 1350 ~~may submit a \$50,000 surety bond to the agency.~~

1351 Section 43. Subsection (2) of section 400.932, Florida
 1352 Statutes, is amended to read:

1353 400.932 Administrative penalties.-

1354 (2) A violation of this part, part II of chapter 408, or
 1355 applicable rules ~~Any of the following actions~~ by an employee of
 1356 a home medical equipment provider shall be ~~are~~ grounds for
 1357 administrative action or penalties by the agency. ~~+~~

1358 ~~(a) Violation of this part, part II of chapter 408, or~~
 1359 ~~applicable rules.~~

1360 ~~(b) An intentional, reckless, or negligent act that~~
 1361 ~~materially affects the health or safety of a patient.~~

1362 Section 44. Subsection (3) of section 400.967, Florida
 1363 Statutes, is amended to read:

1364 400.967 Rules and classification of violations
 1365 ~~deficiencies.~~-

1366 (3) The agency shall adopt rules to provide that, when the
 1367 criteria established under this part and part II of chapter 408

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1368 are not met, such violations ~~deficiencies~~ shall be classified
 1369 according to the nature of the violation ~~deficiency~~. The agency
 1370 shall indicate the classification on the face of the notice of
 1371 deficiencies as follows:

1372 (a) Class I violations ~~deficiencies~~ are defined in s.
 1373 408.813 ~~those which the agency determines present an imminent~~
 1374 ~~danger to the residents or guests of the facility or a~~
 1375 ~~substantial probability that death or serious physical harm~~
 1376 ~~would result therefrom. The condition or practice constituting a~~
 1377 ~~class I violation must be abated or eliminated immediately,~~
 1378 ~~unless a fixed period of time, as determined by the agency, is~~
 1379 ~~required for correction.~~ A class I violation ~~deficiency~~ is
 1380 subject to a civil penalty in an amount not less than \$5,000 and
 1381 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
 1382 be levied notwithstanding the correction of the violation
 1383 ~~deficiency~~.

1384 (b) Class II violations ~~deficiencies~~ are defined in s.
 1385 408.813 ~~those which the agency determines have a direct or~~
 1386 ~~immediate relationship to the health, safety, or security of the~~
 1387 ~~facility residents, other than class I deficiencies.~~ A class II
 1388 violation ~~deficiency~~ is subject to a civil penalty in an amount
 1389 not less than \$1,000 and not exceeding \$5,000 for each violation
 1390 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall
 1391 specify the time within which the violation ~~deficiency~~ must be
 1392 corrected. If a class II violation ~~deficiency~~ is corrected
 1393 within the time specified, no civil penalty shall be imposed,
 1394 unless it is a repeated offense.

1395 (c) Class III violations ~~deficiencies~~ are defined in s.
 1396 408.813 ~~those which the agency determines to have an indirect or~~
 1397 ~~potential relationship to the health, safety, or security of the~~
 1398 ~~facility residents, other than class I or class II deficiencies.~~
 1399 A class III violation ~~deficiency~~ is subject to a civil penalty
 1400 of not less than \$500 and not exceeding \$1,000 for each
 1401 deficiency. A citation for a class III violation ~~deficiency~~
 1402 shall specify the time within which the violation ~~deficiency~~
 1403 must be corrected. If a class III violation ~~deficiency~~ is
 1404 corrected within the time specified, no civil penalty shall be
 1405 imposed, unless it is a repeated offense.

1406 (d) Class IV violations are defined in s. 408.813. Upon
 1407 finding an uncorrected or repeated class IV violation, the
 1408 agency shall impose an administrative fine not to exceed \$500
 1409 for each occurrence and each day that the uncorrected or
 1410 repeated violation exists.

1411 Section 45. Subsections (4) and (7) of section 400.9905,
 1412 Florida Statutes, are amended to read:

1413 400.9905 Definitions.—

1414 (4) "Clinic" means an entity at which health care services
 1415 are provided to individuals and which tenders charges for
 1416 reimbursement for such services, including a mobile clinic and a
 1417 portable health service or equipment provider. For purposes of
 1418 this part, the term does not include and the licensure
 1419 requirements of this part do not apply to:

1420 (a) Entities licensed or registered by the state under
 1421 chapter 395; or entities licensed or registered by the state and
 1422 providing only health care services within the scope of services

1423 authorized under their respective licenses granted under ss.
 1424 383.30-383.335, chapter 390, chapter 394, chapter 397, this
 1425 chapter except part X, chapter 429, chapter 463, chapter 465,
 1426 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
 1427 chapter 651; end-stage renal disease providers authorized under
 1428 42 C.F.R. part 405, subpart U; or providers certified under 42
 1429 C.F.R. part 485, subpart B or subpart H; or any entity that
 1430 provides neonatal or pediatric hospital-based health care
 1431 services or other health care services by licensed practitioners
 1432 solely within a hospital licensed under chapter 395.

1433 (b) Entities that own, directly or indirectly, entities
 1434 licensed or registered by the state pursuant to chapter 395; or
 1435 entities that own, directly or indirectly, entities licensed or
 1436 registered by the state and providing only health care services
 1437 within the scope of services authorized pursuant to their
 1438 respective licenses granted under ss. 383.30-383.335, chapter
 1439 390, chapter 394, chapter 397, this chapter except part X,
 1440 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 1441 part I of chapter 483, chapter 484, chapter 651; end-stage renal
 1442 disease providers authorized under 42 C.F.R. part 405, subpart
 1443 U; or providers certified under 42 C.F.R. part 485, subpart B or
 1444 subpart H; or any entity that provides neonatal or pediatric
 1445 hospital-based health care services by licensed practitioners
 1446 solely within a hospital licensed under chapter 395.

1447 (c) Entities that are owned, directly or indirectly, by an
 1448 entity licensed or registered by the state pursuant to chapter
 1449 395; or entities that are owned, directly or indirectly, by an
 1450 entity licensed or registered by the state and providing only

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1451 health care services within the scope of services authorized
 1452 pursuant to their respective licenses granted under ss. 383.30-
 1453 383.335, chapter 390, chapter 394, chapter 397, this chapter
 1454 except part X, chapter 429, chapter 463, chapter 465, chapter
 1455 466, chapter 478, part I of chapter 483, chapter 484, or chapter
 1456 651; end-stage renal disease providers authorized under 42
 1457 C.F.R. part 405, subpart U; or providers certified under 42
 1458 C.F.R. part 485, subpart B or subpart H; or any entity that
 1459 provides neonatal or pediatric hospital-based health care
 1460 services by licensed practitioners solely within a hospital
 1461 under chapter 395.

1462 (d) Entities that are under common ownership, directly or
 1463 indirectly, with an entity licensed or registered by the state
 1464 pursuant to chapter 395; or entities that are under common
 1465 ownership, directly or indirectly, with an entity licensed or
 1466 registered by the state and providing only health care services
 1467 within the scope of services authorized pursuant to their
 1468 respective licenses granted under ss. 383.30-383.335, chapter
 1469 390, chapter 394, chapter 397, this chapter except part X,
 1470 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 1471 part I of chapter 483, chapter 484, or chapter 651; end-stage
 1472 renal disease providers authorized under 42 C.F.R. part 405,
 1473 subpart U; or providers certified under 42 C.F.R. part 485,
 1474 subpart B or subpart H; or any entity that provides neonatal or
 1475 pediatric hospital-based health care services by licensed
 1476 practitioners solely within a hospital licensed under chapter
 1477 395.

1478 (e) An entity that is exempt from federal taxation under

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1479 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
 1480 under 26 U.S.C. s. 409 that has a board of trustees not less
 1481 than two-thirds of which are Florida-licensed health care
 1482 practitioners and provides only physical therapy services under
 1483 physician orders, any community college or university clinic,
 1484 and any entity owned or operated by the federal or state
 1485 government, including agencies, subdivisions, or municipalities
 1486 thereof.

1487 (f) A sole proprietorship, group practice, partnership, or
 1488 corporation that provides health care services by physicians
 1489 covered by s. 627.419, that is directly supervised by one or
 1490 more of such physicians, and that is wholly owned by one or more
 1491 of those physicians or by a physician and the spouse, parent,
 1492 child, or sibling of that physician.

1493 (g) A sole proprietorship, group practice, partnership, or
 1494 corporation that provides health care services by licensed
 1495 health care practitioners under chapter 457, chapter 458,
 1496 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 1497 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
 1498 chapter 490, chapter 491, or part I, part III, part X, part
 1499 XIII, or part XIV of chapter 468, or s. 464.012, which are
 1500 wholly owned by one or more licensed health care practitioners,
 1501 or the licensed health care practitioners set forth in this
 1502 paragraph and the spouse, parent, child, or sibling of a
 1503 licensed health care practitioner, so long as one of the owners
 1504 who is a licensed health care practitioner is supervising the
 1505 business activities and is legally responsible for the entity's
 1506 compliance with all federal and state laws. However, a health

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1507 care practitioner may not supervise services beyond the scope of
 1508 the practitioner's license, except that, for the purposes of
 1509 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
 1510 provides only services authorized pursuant to s. 456.053(3)(b)
 1511 may be supervised by a licensee specified in s. 456.053(3)(b).

1512 (h) Clinical facilities affiliated with an accredited
 1513 medical school at which training is provided for medical
 1514 students, residents, or fellows.

1515 (i) Entities that provide only oncology or radiation
 1516 therapy services by physicians licensed under chapter 458 or
 1517 chapter 459 or entities that provide oncology or radiation
 1518 therapy services by physicians licensed under chapter 458 or
 1519 chapter 459 which are owned by a corporation whose shares are
 1520 publicly traded on a recognized stock exchange.

1521 (j) Clinical facilities affiliated with a college of
 1522 chiropractic accredited by the Council on Chiropractic Education
 1523 at which training is provided for chiropractic students.

1524 (k) Entities that provide licensed practitioners to staff
 1525 emergency departments or to deliver anesthesia services in
 1526 facilities licensed under chapter 395 and that derive at least
 1527 90 percent of their gross annual revenues from the provision of
 1528 such services. Entities claiming an exemption from licensure
 1529 under this paragraph must provide documentation demonstrating
 1530 compliance.

1531 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or
 1532 perinatology clinical facilities that are a publicly traded
 1533 corporation or that are wholly owned, directly or indirectly, by
 1534 a publicly traded corporation. As used in this paragraph, a

1535 publicly traded corporation is a corporation that issues
 1536 securities traded on an exchange registered with the United
 1537 States Securities and Exchange Commission as a national
 1538 securities exchange.

1539 (m) Entities that are owned by a corporation that has \$250
 1540 million or more in total annual sales of health care services
 1541 provided by licensed health care practitioners if one or more of
 1542 the owners of the entity is a health care practitioner who is
 1543 licensed in this state, is responsible for supervising the
 1544 business activities of the entity, and is legally responsible
 1545 for the entity's compliance with state law for purposes of this
 1546 section.

1547 (7) "Portable health service or equipment provider" means
 1548 an entity that contracts with or employs persons to provide
 1549 portable health care services or equipment to multiple locations
 1550 ~~performing treatment or diagnostic testing of individuals,~~ that
 1551 bills third-party payors for those services, and that otherwise
 1552 meets the definition of a clinic in subsection (4).

1553 Section 46. Paragraph (b) of subsection (1) and paragraph
 1554 (c) of subsection (4) of section 400.991, Florida Statutes, are
 1555 amended to read:

1556 400.991 License requirements; background screenings;
 1557 prohibitions.--

1558 (1)

1559 (b) Each mobile clinic must obtain a separate health care
 1560 clinic license and must provide to the agency, at least
 1561 quarterly, its projected street location to enable the agency to
 1562 locate and inspect such clinic. A portable health service or

1563 equipment provider must obtain a health care clinic license for
 1564 a single administrative office and is not required to submit
 1565 quarterly projected street locations.

1566 (4) In addition to the requirements of part II of chapter
 1567 408, the applicant must file with the application satisfactory
 1568 proof that the clinic is in compliance with this part and
 1569 applicable rules, including:

1570 (c) Proof of financial ability to operate as required
 1571 under ss. s. 408.810(8) and 408.8065. ~~As an alternative to~~
 1572 ~~submitting proof of financial ability to operate as required~~
 1573 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
 1574 ~~least \$500,000 which guarantees that the clinic will act in full~~
 1575 ~~conformity with all legal requirements for operating a clinic,~~
 1576 ~~payable to the agency. The agency may adopt rules to specify~~
 1577 ~~related requirements for such surety bond.~~

1578 Section 47. Paragraph (g) of subsection (1) and paragraph
 1579 (a) of subsection (7) of section 400.9935, Florida Statutes, are
 1580 amended to read:

1581 400.9935 Clinic responsibilities.—

1582 (1) Each clinic shall appoint a medical director or clinic
 1583 director who shall agree in writing to accept legal
 1584 responsibility for the following activities on behalf of the
 1585 clinic. The medical director or the clinic director shall:

1586 (g) Conduct systematic reviews of clinic billings to
 1587 ensure that the billings are not fraudulent or unlawful. Upon
 1588 discovery of an unlawful charge, the medical director or clinic
 1589 director shall take immediate corrective action. If the clinic
 1590 performs only the technical component of magnetic resonance

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1591 imaging, static radiographs, computed tomography, or positron
 1592 emission tomography, and provides the professional
 1593 interpretation of such services, in a fixed facility that is
 1594 accredited by The Joint Commission ~~on Accreditation of~~
 1595 ~~Healthcare Organizations~~ or the Accreditation Association for
 1596 Ambulatory Health Care, and the American College of Radiology;
 1597 and if, in the preceding quarter, the percentage of scans
 1598 performed by that clinic which was billed to all personal injury
 1599 protection insurance carriers was less than 15 percent, the
 1600 chief financial officer of the clinic may, in a written
 1601 acknowledgment provided to the agency, assume the responsibility
 1602 for the conduct of the systematic reviews of clinic billings to
 1603 ensure that the billings are not fraudulent or unlawful.

1604 (7) (a) Each clinic engaged in magnetic resonance imaging
 1605 services must be accredited by The Joint Commission ~~on~~
 1606 ~~Accreditation of Healthcare Organizations~~, the American College
 1607 of Radiology, or the Accreditation Association for Ambulatory
 1608 Health Care, within 1 year after licensure. A clinic that is
 1609 accredited by the American College of Radiology or is within the
 1610 original 1-year period after licensure and replaces its core
 1611 magnetic resonance imaging equipment shall be given 1 year after
 1612 the date on which the equipment is replaced to attain
 1613 accreditation. However, a clinic may request a single, 6-month
 1614 extension if it provides evidence to the agency establishing
 1615 that, for good cause shown, such clinic cannot be accredited
 1616 within 1 year after licensure, and that such accreditation will
 1617 be completed within the 6-month extension. After obtaining
 1618 accreditation as required by this subsection, each such clinic

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1619 must maintain accreditation as a condition of renewal of its
 1620 license. A clinic that files a change of ownership application
 1621 must comply with the original accreditation timeframe
 1622 requirements of the transferor. The agency shall deny a change
 1623 of ownership application if the clinic is not in compliance with
 1624 the accreditation requirements. When a clinic adds, replaces, or
 1625 modifies magnetic resonance imaging equipment and the
 1626 accreditation agency requires new accreditation, the clinic must
 1627 be accredited within 1 year after the date of the addition,
 1628 replacement, or modification but may request a single, 6-month
 1629 extension if the clinic provides evidence of good cause to the
 1630 agency.

1631 Section 48. Subsection (2) of section 408.034, Florida
 1632 Statutes, is amended to read:

1633 408.034 Duties and responsibilities of agency; rules.—

1634 (2) In the exercise of its authority to issue licenses to
 1635 health care facilities and health service providers, as provided
 1636 under chapters 393 and 395 and parts II, and IV, and VIII of
 1637 chapter 400, the agency may not issue a license to any health
 1638 care facility or health service provider that fails to receive a
 1639 certificate of need or an exemption for the licensed facility or
 1640 service.

1641 Section 49. Paragraph (d) of subsection (1) of section
 1642 408.036, Florida Statutes, is amended to read:

1643 408.036 Projects subject to review; exemptions.—

1644 (1) APPLICABILITY.—Unless exempt under subsection (3), all
 1645 health-care-related projects, as described in paragraphs (a)-
 1646 (g), are subject to review and must file an application for a

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1647 certificate of need with the agency. The agency is exclusively
 1648 responsible for determining whether a health-care-related
 1649 project is subject to review under ss. 408.031-408.045.

1650 (d) The establishment of a hospice or hospice inpatient
 1651 facility, ~~except as provided in s. 408.043.~~

1652 Section 50. Subsection (2) of section 408.043, Florida
 1653 Statutes, is amended to read:

1654 408.043 Special provisions.—

1655 (2) HOSPICES.—When an application is made for a
 1656 certificate of need to establish or to expand a hospice, the
 1657 need for such hospice shall be determined on the basis of the
 1658 need for and availability of hospice services in the community.
 1659 The formula on which the certificate of need is based shall
 1660 discourage regional monopolies and promote competition. The
 1661 inpatient hospice care component of a hospice which is a
 1662 freestanding facility, or a part of a facility, ~~which is~~
 1663 ~~primarily engaged in providing inpatient care and related~~
 1664 ~~services~~ and is not licensed as a health care facility shall
 1665 also be required to obtain a certificate of need. Provision of
 1666 hospice care by any current provider of health care is a
 1667 significant change in service and therefore requires a
 1668 certificate of need for such services.

1669 Section 51. Paragraph (k) of subsection (3) of section
 1670 408.05, Florida Statutes, is amended to read:

1671 408.05 Florida Center for Health Information and Policy
 1672 Analysis.—

1673 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
 1674 produce comparable and uniform health information and statistics

1675 for the development of policy recommendations, the agency shall
 1676 perform the following functions:

1677 (k) Develop, in conjunction with the State Consumer Health
 1678 Information and Policy Advisory Council, and implement a long-
 1679 range plan for making available health care quality measures and
 1680 financial data that will allow consumers to compare health care
 1681 services. The health care quality measures and financial data
 1682 the agency must make available shall include, but is not limited
 1683 to, pharmaceuticals, physicians, health care facilities, and
 1684 health plans and managed care entities. The agency shall submit
 1685 the initial plan to the Governor, the President of the Senate,
 1686 and the Speaker of the House of Representatives by January 1,
 1687 2006, and shall update the plan and report on the status of its
 1688 implementation annually thereafter. The agency shall also make
 1689 the plan and status report available to the public on its
 1690 Internet website. As part of the plan, the agency shall identify
 1691 the process and timeframes for implementation, any barriers to
 1692 implementation, and recommendations of changes in the law that
 1693 may be enacted by the Legislature to eliminate the barriers. As
 1694 preliminary elements of the plan, the agency shall:

1695 1. Make available patient-safety indicators, inpatient
 1696 quality indicators, and performance outcome and patient charge
 1697 data collected from health care facilities pursuant to s.
 1698 408.061(1)(a) and (2). The terms "patient-safety indicators" and
 1699 "inpatient quality indicators" shall be as defined by the
 1700 Centers for Medicare and Medicaid Services, the National Quality
 1701 Forum, The Joint Commission ~~on Accreditation of Healthcare~~
 1702 ~~Organizations~~, the Agency for Healthcare Research and Quality,

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1703 the Centers for Disease Control and Prevention, or a similar
 1704 national entity that establishes standards to measure the
 1705 performance of health care providers, or by other states. The
 1706 agency shall determine which conditions, procedures, health care
 1707 quality measures, and patient charge data to disclose based upon
 1708 input from the council. When determining which conditions and
 1709 procedures are to be disclosed, the council and the agency shall
 1710 consider variation in costs, variation in outcomes, and
 1711 magnitude of variations and other relevant information. When
 1712 determining which health care quality measures to disclose, the
 1713 agency:

1714 a. Shall consider such factors as volume of cases; average
 1715 patient charges; average length of stay; complication rates;
 1716 mortality rates; and infection rates, among others, which shall
 1717 be adjusted for case mix and severity, if applicable.

1718 b. May consider such additional measures that are adopted
 1719 by the Centers for Medicare and Medicaid Studies, National
 1720 Quality Forum, The Joint Commission ~~on Accreditation of~~
 1721 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
 1722 Quality, Centers for Disease Control and Prevention, or a
 1723 similar national entity that establishes standards to measure
 1724 the performance of health care providers, or by other states.

1725
 1726 When determining which patient charge data to disclose, the
 1727 agency shall include such measures as the average of
 1728 undiscounted charges on frequently performed procedures and
 1729 preventive diagnostic procedures, the range of procedure charges
 1730 from highest to lowest, average net revenue per adjusted patient

1731 | day, average cost per adjusted patient day, and average cost per
 1732 | admission, among others.

1733 | 2. Make available performance measures, benefit design,
 1734 | and premium cost data from health plans licensed pursuant to
 1735 | chapter 627 or chapter 641. The agency shall determine which
 1736 | health care quality measures and member and subscriber cost data
 1737 | to disclose, based upon input from the council. When determining
 1738 | which data to disclose, the agency shall consider information
 1739 | that may be required by either individual or group purchasers to
 1740 | assess the value of the product, which may include membership
 1741 | satisfaction, quality of care, current enrollment or membership,
 1742 | coverage areas, accreditation status, premium costs, plan costs,
 1743 | premium increases, range of benefits, copayments and
 1744 | deductibles, accuracy and speed of claims payment, credentials
 1745 | of physicians, number of providers, names of network providers,
 1746 | and hospitals in the network. Health plans shall make available
 1747 | to the agency any such data or information that is not currently
 1748 | reported to the agency or the office.

1749 | 3. Determine the method and format for public disclosure
 1750 | of data reported pursuant to this paragraph. The agency shall
 1751 | make its determination based upon input from the State Consumer
 1752 | Health Information and Policy Advisory Council. At a minimum,
 1753 | the data shall be made available on the agency's Internet
 1754 | website in a manner that allows consumers to conduct an
 1755 | interactive search that allows them to view and compare the
 1756 | information for specific providers. The website must include
 1757 | such additional information as is determined necessary to ensure
 1758 | that the website enhances informed decisionmaking among

1759 consumers and health care purchasers, which shall include, at a
 1760 minimum, appropriate guidance on how to use the data and an
 1761 explanation of why the data may vary from provider to provider.
 1762 The data specified in subparagraph 1. shall be released no later
 1763 than January 1, 2006, for the reporting of infection rates, and
 1764 no later than October 1, 2005, for mortality rates and
 1765 complication rates. The data specified in subparagraph 2. shall
 1766 be released no later than October 1, 2006.

1767 4. Publish on its website undiscounted charges for no
 1768 fewer than 150 of the most commonly performed adult and
 1769 pediatric procedures, including outpatient, inpatient,
 1770 diagnostic, and preventative procedures.

1771 Section 52. Paragraph (a) of subsection (1) of section
 1772 408.061, Florida Statutes, is amended to read:

1773 408.061 Data collection; uniform systems of financial
 1774 reporting; information relating to physician charges;
 1775 confidential information; immunity.—

1776 (1) The agency shall require the submission by health care
 1777 facilities, health care providers, and health insurers of data
 1778 necessary to carry out the agency's duties. Specifications for
 1779 data to be collected under this section shall be developed by
 1780 the agency with the assistance of technical advisory panels
 1781 including representatives of affected entities, consumers,
 1782 purchasers, and such other interested parties as may be
 1783 determined by the agency.

1784 (a) Data submitted by health care facilities, including
 1785 the facilities as defined in chapter 395, shall include, but are
 1786 not limited to: case-mix data, patient admission and discharge

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1787 data, hospital emergency department data which shall include the
 1788 number of patients treated in the emergency department of a
 1789 licensed hospital reported by patient acuity level, data on
 1790 hospital-acquired infections as specified by rule, data on
 1791 complications as specified by rule, data on readmissions as
 1792 specified by rule, with patient and provider-specific
 1793 identifiers included, actual charge data by diagnostic groups,
 1794 financial data, accounting data, operating expenses, expenses
 1795 incurred for rendering services to patients who cannot or do not
 1796 pay, interest charges, depreciation expenses based on the
 1797 expected useful life of the property and equipment involved, and
 1798 demographic data. The agency shall adopt nationally recognized
 1799 risk adjustment methodologies or software consistent with the
 1800 standards of the Agency for Healthcare Research and Quality and
 1801 as selected by the agency for all data submitted as required by
 1802 this section. Data may be obtained from documents such as, but
 1803 not limited to: leases, contracts, debt instruments, itemized
 1804 patient bills, medical record abstracts, and related diagnostic
 1805 information. Reported data elements shall be reported
 1806 electronically and ~~in accordance with rule 59E-7.012, Florida~~
 1807 ~~Administrative Code. Data submitted shall be~~ certified by the
 1808 chief executive officer or an appropriate and duly authorized
 1809 representative or employee of the licensed facility that the
 1810 information submitted is true and accurate.

1811 Section 53. Subsection (43) of section 408.07, Florida
 1812 Statutes, is amended to read:

1813 408.07 Definitions.—As used in this chapter, with the
 1814 exception of ss. 408.031-408.045, the term:

1815 (43) "Rural hospital" means an acute care hospital
 1816 licensed under chapter 395, having 100 or fewer licensed beds
 1817 and an emergency room, and which is:

1818 (a) The sole provider within a county with a population
 1819 density of no greater than 100 persons per square mile;

1820 (b) An acute care hospital, in a county with a population
 1821 density of no greater than 100 persons per square mile, which is
 1822 at least 30 minutes of travel time, on normally traveled roads
 1823 under normal traffic conditions, from another acute care
 1824 hospital within the same county;

1825 (c) A hospital supported by a tax district or subdistrict
 1826 whose boundaries encompass a population of 100 persons or fewer
 1827 per square mile;

1828 (d) A hospital with a service area that has a population
 1829 of 100 persons or fewer per square mile. As used in this
 1830 paragraph, the term "service area" means the fewest number of
 1831 zip codes that account for 75 percent of the hospital's
 1832 discharges for the most recent 5-year period, based on
 1833 information available from the hospital inpatient discharge
 1834 database in the Florida Center for Health Information and Policy
 1835 Analysis at the Agency for Health Care Administration; or

1836 (e) A critical access hospital.

1837
 1838 Population densities used in this subsection must be based upon
 1839 the most recently completed United States census. A hospital
 1840 that received funds under s. 409.9116 for a quarter beginning no
 1841 later than July 1, 2002, is deemed to have been and shall
 1842 continue to be a rural hospital from that date through June 30,

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1843 2015, if the hospital continues to have 100 or fewer licensed
 1844 beds and an emergency room, ~~or meets the criteria of s.~~
 1845 ~~395.602(2)(e)4.~~ An acute care hospital that has not previously
 1846 been designated as a rural hospital and that meets the criteria
 1847 of this subsection shall be granted such designation upon
 1848 application, including supporting documentation, to the Agency
 1849 for Health Care Administration.

1850 Section 54. Section 408.10, Florida Statutes, is amended
 1851 to read:

1852 408.10 Consumer complaints.—The agency shall:
 1853 ~~(1)~~ publish and make available to the public a toll-free
 1854 telephone number for the purpose of handling consumer complaints
 1855 and shall serve as a liaison between consumer entities and other
 1856 private entities and governmental entities for the disposition
 1857 of problems identified by consumers of health care.

1858 ~~(2) Be empowered to investigate consumer complaints~~
 1859 ~~relating to problems with health care facilities' billing~~
 1860 ~~practices and issue reports to be made public in any cases where~~
 1861 ~~the agency determines the health care facility has engaged in~~
 1862 ~~billing practices which are unreasonable and unfair to the~~
 1863 ~~consumer.~~

1864 Section 55. Subsections (12) through (30) of section
 1865 408.802, Florida Statutes, are renumbered as subsections (11)
 1866 through (29), respectively, and present subsection (11) of that
 1867 section is amended to read:

1868 408.802 Applicability.—The provisions of this part apply
 1869 to the provision of services that require licensure as defined
 1870 in this part and to the following entities licensed, registered,

1871 or certified by the agency, as described in chapters 112, 383,
 1872 390, 394, 395, 400, 429, 440, 483, and 765:

1873 ~~(11) Private review agents, as provided under part I of~~
 1874 ~~chapter 395.~~

1875 Section 56. Subsection (3) is added to section 408.804,
 1876 Florida Statutes, to read:

1877 408.804 License required; display.—

1878 (3) Any person who knowingly alters, defaces, or falsifies
 1879 a license certificate issued by the agency, or causes or
 1880 procures any person to commit such an offense, commits a
 1881 misdemeanor of the second degree, punishable as provided in s.
 1882 775.082 or s 775.083. Any licensee or provider who displays an
 1883 altered, defaced, or falsified license certificate is subject to
 1884 the penalties set forth in s. 408.815 and an administrative fine
 1885 of \$1,000 for each day of illegal display.

1886 Section 57. Paragraph (d) of subsection (2) of section
 1887 408.806, Florida Statutes, is amended, present subsections (3)
 1888 through (8) are renumbered as subsections (4) through (9),
 1889 respectively, and a new subsection (3) is added to that section,
 1890 to read:

1891 408.806 License application process.—

1892 (2)

1893 ~~(d) The agency shall notify the licensee by mail or~~
 1894 ~~electronically at least 90 days before the expiration of a~~
 1895 ~~license that a renewal license is necessary to continue~~
 1896 ~~operation.~~ The licensee's failure to timely file submit a
 1897 renewal application and license application fee with the agency
 1898 shall result in a \$50 per day late fee charged to the licensee

1899 by the agency; however, the aggregate amount of the late fee may
 1900 not exceed 50 percent of the licensure fee or \$500, whichever is
 1901 less. The agency shall provide a courtesy notice to the licensee
 1902 by United States mail, electronically, or by any other manner at
 1903 its address of record or mailing address, if provided, at least
 1904 90 days prior to the expiration of a license informing the
 1905 licensee of the expiration of the license. If the agency does
 1906 not provide the courtesy notice or the licensee does not receive
 1907 the courtesy notice, the licensee continues to be legally
 1908 obligated to timely file the renewal application and license
 1909 application fee with the agency and is not excused from the
 1910 payment of a late fee. If an application is received after the
 1911 required filing date and exhibits a hand-canceled postmark
 1912 obtained from a United States post office dated on or before the
 1913 required filing date, no fine will be levied.

1914 (3) Payment of the late fee is required to consider any
 1915 late application complete, and failure to pay the late fee is
 1916 considered an omission from the application.

1917 Section 58. Subsections (6) and (9) of section 408.810,
 1918 Florida Statutes, are amended to read:

1919 408.810 Minimum licensure requirements.—In addition to the
 1920 licensure requirements specified in this part, authorizing
 1921 statutes, and applicable rules, each applicant and licensee must
 1922 comply with the requirements of this section in order to obtain
 1923 and maintain a license.

1924 (6) (a) An applicant must provide the agency with proof of
 1925 the applicant's legal right to occupy the property before a
 1926 license may be issued. Proof may include, but need not be

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1927 | limited to, copies of warranty deeds, lease or rental
 1928 | agreements, contracts for deeds, quitclaim deeds, or other such
 1929 | documentation.

1930 | (b) In the event the property is encumbered by a mortgage
 1931 | or is leased, an applicant must provide the agency with proof
 1932 | that the mortgagor or landlord has been provided written notice
 1933 | of the applicant's intent as mortgagee or tenant to provide
 1934 | services that require licensure and instruct the mortgagor or
 1935 | landlord to serve the agency by certified mail with copies of
 1936 | any foreclosure or eviction actions initiated by the mortgagor
 1937 | or landlord against the applicant.

1938 | (9) A controlling interest may not withhold from the
 1939 | agency any evidence of financial instability, including, but not
 1940 | limited to, checks returned due to insufficient funds,
 1941 | delinquent accounts, nonpayment of withholding taxes, unpaid
 1942 | utility expenses, nonpayment for essential services, or adverse
 1943 | court action concerning the financial viability of the provider
 1944 | or any other provider licensed under this part that is under the
 1945 | control of the controlling interest. A controlling interest
 1946 | shall notify the agency within 10 days after a court action to
 1947 | initiate bankruptcy, foreclosure, or eviction proceedings
 1948 | concerning the provider, in which the controlling interest is a
 1949 | petitioner or defendant. Any person who violates this subsection
 1950 | commits a misdemeanor of the second degree, punishable as
 1951 | provided in s. 775.082 or s. 775.083. Each day of continuing
 1952 | violation is a separate offense.

1953 | Section 59. Subsection (3) is added to section 408.813,
 1954 | Florida Statutes, to read:

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1955 408.813 Administrative fines; violations.—As a penalty for
 1956 any violation of this part, authorizing statutes, or applicable
 1957 rules, the agency may impose an administrative fine.

1958 (3) The agency may impose an administrative fine for a
 1959 violation that does not qualify as a class I, class II, class
 1960 III, or class IV violation. Unless otherwise specified by law,
 1961 the amount of the fine shall not exceed \$500 for each violation.

1962 Unclassified violations may include:

1963 (a) Violating any term or condition of a license.

1964 (b) Violating any provision of this part, authorizing
 1965 statutes, or applicable rules.

1966 (c) Exceeding licensed capacity.

1967 (d) Providing services beyond the scope of the license.

1968 (e) Violating a moratorium imposed pursuant to s. 408.814.

1969 Section 60. Subsection (5) is added to section 408.815,
 1970 Florida Statutes, to read:

1971 408.815 License or application denial; revocation.—

1972 (5) In order to ensure the health, safety, and welfare of
 1973 clients when a license has been denied, revoked, or is set to
 1974 terminate, the agency may extend the license expiration date for
 1975 a period of up to 30 days for the sole purpose of allowing the
 1976 safe and orderly discharge of clients. The agency may impose
 1977 conditions on the extension, including, but not limited to,
 1978 prohibiting or limiting admissions, expedited discharge
 1979 planning, required status reports, and mandatory monitoring by
 1980 the agency or third parties. In imposing these conditions, the
 1981 agency shall take into consideration the nature and number of
 1982 clients, the availability and location of acceptable alternative

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1983 placements, and the ability of the licensee to continue
 1984 providing care to the clients. The agency may terminate the
 1985 extension or modify the conditions at any time. This authority
 1986 is in addition to any other authority granted to the agency
 1987 under chapter 120, this part, and authorizing statutes but
 1988 creates no right or entitlement to an extension of a license
 1989 expiration date.

1990 Section 61. Paragraph (k) of subsection (4) of section
 1991 409.221, Florida Statutes, is amended to read:

1992 409.221 Consumer-directed care program.—

1993 (4) CONSUMER-DIRECTED CARE.—

1994 ~~(k) Reviews and reports. The agency and the Departments of~~
 1995 ~~Elderly Affairs, Health, and Children and Family Services and~~
 1996 ~~the Agency for Persons with Disabilities shall each, on an~~
 1997 ~~ongoing basis, review and assess the implementation of the~~
 1998 ~~consumer-directed care program. By January 15 of each year, the~~
 1999 ~~agency shall submit a written report to the Legislature that~~
 2000 ~~includes each department's review of the program and contains~~
 2001 ~~recommendations for improvements to the program.~~

2002 Section 62. Subsections (3) and (4) of section 429.07,
 2003 Florida Statutes, are amended, and subsections (6) and (7) are
 2004 added to that section, to read:

2005 429.07 License required; fee; inspections.—

2006 (3) In addition to the requirements of s. 408.806, each
 2007 license granted by the agency must state the type of care for
 2008 which the license is granted. Licenses shall be issued for one
 2009 or more of the following categories of care: standard, extended
 2010 congregate care, ~~limited nursing services,~~ or limited mental

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2011 health.

2012 (a) A standard license shall be issued to a facility
 2013 ~~facilities~~ providing one or more of the personal services
 2014 identified in s. 429.02. Such licensee ~~facilities~~ may also
 2015 employ or contract with a person ~~licensed under part I of~~
 2016 ~~chapter 464 to administer medications and perform other tasks as~~
 2017 specified in s. 429.255.

2018 (b) An extended congregate care license shall be issued to
 2019 a licensee ~~facilities~~ providing, directly or through contract,
 2020 services beyond those authorized in paragraph (a), including
 2021 acts performed pursuant to part I of chapter 464 by persons
 2022 licensed thereunder, and supportive services defined by rule to
 2023 persons who otherwise would be disqualified from continued
 2024 residence in a facility licensed under this part.

2025 1. In order for extended congregate care services to be
 2026 provided in a facility licensed under this part, the agency must
 2027 first determine that all requirements established in law and
 2028 rule are met and must specifically designate, on the ~~facility's~~
 2029 license, that such services may be provided and whether the
 2030 designation applies to all or part of a facility. Such
 2031 designation may be made at the time of initial licensure or
 2032 relicensure, or upon request in writing by a licensee under this
 2033 part and part II of chapter 408. Notification of approval or
 2034 denial of such request shall be made in accordance with part II
 2035 of chapter 408. An existing licensee ~~facilities~~ qualifying to
 2036 provide extended congregate care services must have maintained a
 2037 standard license and ~~may not have~~ been subject to administrative
 2038 sanctions during the previous 2 years, or since initial

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2039 licensure if ~~the facility has been~~ licensed for less than 2
 2040 years, for any of the following reasons:
 2041 a. A class I or class II violation;
 2042 b. Three or more repeat or recurring class III violations
 2043 of identical or similar resident care standards as specified in
 2044 rule from which a pattern of noncompliance is found by the
 2045 agency;
 2046 c. Three or more class III violations that were not
 2047 corrected in accordance with the corrective action plan approved
 2048 by the agency;
 2049 d. Violation of resident care standards resulting in a
 2050 requirement to employ the services of a consultant pharmacist or
 2051 consultant dietitian;
 2052 e. Denial, suspension, or revocation of a license for
 2053 another facility under this part in which the applicant for an
 2054 extended congregate care license has at least 25 percent
 2055 ownership interest; or
 2056 f. Imposition of a moratorium pursuant to this part or
 2057 part II of chapter 408 or initiation of injunctive proceedings.
 2058 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide
 2059 extended congregate care services shall maintain a written
 2060 progress report for ~~on~~ each person who receives such services,
 2061 and the ~~which~~ report must describe ~~describes~~ the type, amount,
 2062 duration, scope, and outcome of services that are rendered and
 2063 the general status of the resident's health. ~~A registered nurse,~~
 2064 ~~or appropriate designee, representing the agency shall visit~~
 2065 ~~such facilities at least quarterly to monitor residents who are~~
 2066 ~~receiving extended congregate care services and to determine if~~

2067 ~~the facility is in compliance with this part, part II of chapter~~
 2068 ~~408, and rules that relate to extended congregate care. One of~~
 2069 ~~these visits may be in conjunction with the regular survey. The~~
 2070 ~~monitoring visits may be provided through contractual~~
 2071 ~~arrangements with appropriate community agencies. A registered~~
 2072 ~~nurse shall serve as part of the team that inspects such~~
 2073 ~~facility. The agency may waive one of the required yearly~~
 2074 ~~monitoring visits for a facility that has been licensed for at~~
 2075 ~~least 24 months to provide extended congregate care services,~~
 2076 ~~if, during the inspection, the registered nurse determines that~~
 2077 ~~extended congregate care services are being provided~~
 2078 ~~appropriately, and if the facility has no class I or class II~~
 2079 ~~violations and no uncorrected class III violations. Before such~~
 2080 ~~decision is made, the agency shall consult with the long-term~~
 2081 ~~care ombudsman council for the area in which the facility is~~
 2082 ~~located to determine if any complaints have been made and~~
 2083 ~~substantiated about the quality of services or care. The agency~~
 2084 ~~may not waive one of the required yearly monitoring visits if~~
 2085 ~~complaints have been made and substantiated.~~

- 2086 3. Licensees ~~Facilities~~ that are licensed to provide
 2087 extended congregate care services shall:
- 2088 a. Demonstrate the capability to meet unanticipated
 2089 resident service needs.
 - 2090 b. Offer a physical environment that promotes a homelike
 2091 setting, provides for resident privacy, promotes resident
 2092 independence, and allows sufficient congregate space as defined
 2093 by rule.
 - 2094 c. Have sufficient staff available, taking into account

2095 the physical plant and firesafety features of the building, to
 2096 assist with the evacuation of residents in an emergency, as
 2097 necessary.

2098 d. Adopt and follow policies and procedures that maximize
 2099 resident independence, dignity, choice, and decisionmaking to
 2100 permit residents to age in place to the extent possible, so that
 2101 moves due to changes in functional status are minimized or
 2102 avoided.

2103 e. Allow residents or, if applicable, a resident's
 2104 representative, designee, surrogate, guardian, or attorney in
 2105 fact to make a variety of personal choices, participate in
 2106 developing service plans, and share responsibility in
 2107 decisionmaking.

2108 f. Implement the concept of managed risk.

2109 g. Provide, either directly or through contract, the
 2110 services of a person licensed pursuant to part I of chapter 464.

2111 h. In addition to the training mandated in s. 429.52,
 2112 provide specialized training as defined by rule for facility
 2113 staff.

2114 4. Licensees ~~Facilities~~ licensed to provide extended
 2115 congregate care services are exempt from the criteria for
 2116 continued residency as set forth in rules adopted under s.
 2117 429.41. Licensees ~~Facilities so licensed~~ shall adopt their own
 2118 requirements within guidelines for continued residency set forth
 2119 by rule. However, such licensees ~~facilities~~ may not serve
 2120 residents who require 24-hour nursing supervision. Licensees
 2121 ~~Facilities~~ licensed to provide extended congregate care services
 2122 shall provide each resident with a written copy of facility

2123 policies governing admission and retention.

2124 5. The primary purpose of extended congregate care
 2125 services is to allow residents, as they become more impaired,
 2126 the option of remaining in a familiar setting from which they
 2127 would otherwise be disqualified for continued residency. A
 2128 facility licensed to provide extended congregate care services
 2129 may also admit an individual who exceeds the admission criteria
 2130 for a facility with a standard license, if the individual is
 2131 determined appropriate for admission to the extended congregate
 2132 care facility.

2133 6. Before admission of an individual to a facility
 2134 licensed to provide extended congregate care services, the
 2135 individual must undergo a medical examination as provided in s.
 2136 429.26(4) and the facility must develop a preliminary service
 2137 plan for the individual.

2138 7. When a licensee facility can no longer provide or
 2139 arrange for services in accordance with the resident's service
 2140 plan and needs and the licensee's facility's policy, the
 2141 licensee facility shall make arrangements for relocating the
 2142 person in accordance with s. 429.28(1)(k).

2143 8. Failure to provide extended congregate care services
 2144 may result in denial of extended congregate care license
 2145 renewal.

2146 ~~9. No later than January 1 of each year, the department,~~
 2147 ~~in consultation with the agency, shall prepare and submit to the~~
 2148 ~~Governor, the President of the Senate, the Speaker of the House~~
 2149 ~~of Representatives, and the chairs of appropriate legislative~~
 2150 ~~committees, a report on the status of, and recommendations~~

2151 ~~related to, extended congregate care services. The status report~~
 2152 ~~must include, but need not be limited to, the following~~
 2153 ~~information:~~

2154 ~~a. A description of the facilities licensed to provide~~
 2155 ~~such services, including total number of beds licensed under~~
 2156 ~~this part.~~

2157 ~~b. The number and characteristics of residents receiving~~
 2158 ~~such services.~~

2159 ~~c. The types of services rendered that could not be~~
 2160 ~~provided through a standard license.~~

2161 ~~d. An analysis of deficiencies cited during licensure~~
 2162 ~~inspections.~~

2163 ~~e. The number of residents who required extended~~
 2164 ~~congregate care services at admission and the source of~~
 2165 ~~admission.~~

2166 ~~f. Recommendations for statutory or regulatory changes.~~

2167 ~~g. The availability of extended congregate care to state~~
 2168 ~~clients residing in facilities licensed under this part and in~~
 2169 ~~need of additional services, and recommendations for~~
 2170 ~~appropriations to subsidize extended congregate care services~~
 2171 ~~for such persons.~~

2172 ~~h. Such other information as the department considers~~
 2173 ~~appropriate.~~

2174 ~~(c) A limited nursing services license shall be issued to~~
 2175 ~~a facility that provides services beyond those authorized in~~
 2176 ~~paragraph (a) and as specified in this paragraph.~~

2177 ~~1. In order for limited nursing services to be provided in~~
 2178 ~~a facility licensed under this part, the agency must first~~

2179 ~~determine that all requirements established in law and rule are~~
 2180 ~~met and must specifically designate, on the facility's license,~~
 2181 ~~that such services may be provided. Such designation may be made~~
 2182 ~~at the time of initial licensure or relicensure, or upon request~~
 2183 ~~in writing by a licensee under this part and part II of chapter~~
 2184 ~~408. Notification of approval or denial of such request shall be~~
 2185 ~~made in accordance with part II of chapter 408. Existing~~
 2186 ~~facilities qualifying to provide limited nursing services shall~~
 2187 ~~have maintained a standard license and may not have been subject~~
 2188 ~~to administrative sanctions that affect the health, safety, and~~
 2189 ~~welfare of residents for the previous 2 years or since initial~~
 2190 ~~licensure if the facility has been licensed for less than 2~~
 2191 ~~years.~~

2192 ~~2. Facilities that are licensed to provide limited nursing~~
 2193 ~~services shall maintain a written progress report on each person~~
 2194 ~~who receives such nursing services, which report describes the~~
 2195 ~~type, amount, duration, scope, and outcome of services that are~~
 2196 ~~rendered and the general status of the resident's health. A~~
 2197 ~~registered nurse representing the agency shall visit such~~
 2198 ~~facilities at least twice a year to monitor residents who are~~
 2199 ~~receiving limited nursing services and to determine if the~~
 2200 ~~facility is in compliance with applicable provisions of this~~
 2201 ~~part, part II of chapter 408, and related rules. The monitoring~~
 2202 ~~visits may be provided through contractual arrangements with~~
 2203 ~~appropriate community agencies. A registered nurse shall also~~
 2204 ~~serve as part of the team that inspects such facility.~~

2205 ~~3. A person who receives limited nursing services under~~
 2206 ~~this part must meet the admission criteria established by the~~

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2207 ~~agency for assisted living facilities. When a resident no longer~~
 2208 ~~meets the admission criteria for a facility licensed under this~~
 2209 ~~part, arrangements for relocating the person shall be made in~~
 2210 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
 2211 ~~to provide extended congregate care services.~~

2212 (4) In accordance with s. 408.805, an applicant or
 2213 licensee shall pay a fee for each license application submitted
 2214 under this part, part II of chapter 408, and applicable rules.
 2215 The amount of the fee shall be established by rule.

2216 (a) The biennial license fee required of a facility is
 2217 \$356 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per
 2218 resident based on the total licensed resident capacity of the
 2219 facility, except that no additional fee will be assessed for
 2220 beds designated for recipients of optional state supplementation
 2221 payments provided for in s. 409.212. The total fee may not
 2222 exceed \$18,000 ~~\$10,000~~.

2223 (b) In addition to the total fee assessed under paragraph
 2224 (a), the agency shall require facilities that are licensed to
 2225 provide extended congregate care services under this part to pay
 2226 an additional fee per licensed facility. The amount of the
 2227 biennial fee shall be \$501 ~~\$400~~ per license, with an additional
 2228 fee of \$10 per resident based on the total licensed resident
 2229 capacity of the facility.

2230 ~~(c) In addition to the total fee assessed under paragraph~~
 2231 ~~(a), the agency shall require facilities that are licensed to~~
 2232 ~~provide limited nursing services under this part to pay an~~
 2233 ~~additional fee per licensed facility. The amount of the biennial~~
 2234 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~

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2235 ~~resident based on the total licensed resident capacity of the~~
 2236 ~~facility.~~

2237 (6) In order to determine whether the facility is
 2238 adequately protecting residents' rights as provided in s.
 2239 429.28, the biennial survey shall include private informal
 2240 conversations with a sample of residents and consultation with
 2241 the ombudsman council in the planning and service area in which
 2242 the facility is located to discuss residents' experiences within
 2243 the facility.

2244 (7) An assisted living facility that has been cited within
 2245 the previous 24-month period for a class I or class II
 2246 violation, regardless of the status of any enforcement or
 2247 disciplinary action, is subject to periodic unannounced
 2248 monitoring to determine if the facility is in compliance with
 2249 this part, part II of chapter 408, and applicable rules.
 2250 Monitoring may occur through a desk review or an onsite
 2251 assessment. If the class I or class II violation relates to
 2252 providing or failing to provide nursing care, a registered nurse
 2253 must participate in at least two onsite monitoring visits within
 2254 a 12-month period.

2255 Section 63. Subsection (7) of section 429.11, Florida
 2256 Statutes, is renumbered as subsection (6), and present
 2257 subsection (6) of that section is amended to read:

2258 429.11 Initial application for license; ~~provisional~~
 2259 ~~license.~~

2260 ~~(6) In addition to the license categories available in s.~~
 2261 ~~408.808, a provisional license may be issued to an applicant~~
 2262 ~~making initial application for licensure or making application~~

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2263 ~~for a change of ownership. A provisional license shall be~~
 2264 ~~limited in duration to a specific period of time not to exceed 6~~
 2265 ~~months, as determined by the agency.~~

2266 Section 64. Section 429.12, Florida Statutes, is amended
 2267 to read:

2268 429.12 Sale or transfer of ownership of a facility.—It is
 2269 the intent of the Legislature to protect the rights of the
 2270 residents of an assisted living facility when the facility is
 2271 sold or the ownership thereof is transferred. Therefore, in
 2272 addition to the requirements of part II of chapter 408, whenever
 2273 a facility is sold or the ownership thereof is transferred,
 2274 including leasing~~±~~.

2275 ~~(1)~~ The transferee shall notify the residents, in writing,
 2276 of the change of ownership within 7 days after receipt of the
 2277 new license.

2278 ~~(2)~~ ~~The transferor of a facility the license of which is~~
 2279 ~~denied pending an administrative hearing shall, as a part of the~~
 2280 ~~written change of ownership contract, advise the transferee that~~
 2281 ~~a plan of correction must be submitted by the transferee and~~
 2282 ~~approved by the agency at least 7 days before the change of~~
 2283 ~~ownership and that failure to correct the condition which~~
 2284 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~
 2285 ~~denial of licensure is grounds for denial of the transferee's~~
 2286 ~~license.~~

2287 Section 65. Paragraphs (b) through (l) of subsection (1)
 2288 of section 429.14, Florida Statutes, are redesignated as
 2289 paragraphs (a) through (k), respectively, and present paragraph

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2290 (a) of subsection (1) and subsections (5) and (6) of that
 2291 section are amended to read:

2292 429.14 Administrative penalties.—

2293 (1) In addition to the requirements of part II of chapter
 2294 408, the agency may deny, revoke, and suspend any license issued
 2295 under this part and impose an administrative fine in the manner
 2296 provided in chapter 120 against a licensee of an assisted living
 2297 facility for a violation of any provision of this part, part II
 2298 of chapter 408, or applicable rules, or for any of the following
 2299 actions by a licensee of an assisted living facility, for the
 2300 actions of any person subject to level 2 background screening
 2301 under s. 408.809, or for the actions of any facility employee:

2302 ~~(a) An intentional or negligent act seriously affecting~~
 2303 ~~the health, safety, or welfare of a resident of the facility.~~

2304 (5) An action taken by the agency to suspend, deny, or
 2305 revoke a facility's license under this part or part II of
 2306 chapter 408, in which the agency claims that the facility owner
 2307 or an employee of the facility has threatened the health,
 2308 safety, or welfare of a resident of the facility shall be heard
 2309 by the Division of Administrative Hearings of the Department of
 2310 Management Services within 120 days after receipt of the
 2311 facility's request for a hearing, unless that time limitation is
 2312 waived by both parties. The administrative law judge must render
 2313 a decision within 30 days after receipt of a proposed
 2314 recommended order.

2315 (6) The agency shall provide to the Division of Hotels and
 2316 Restaurants of the Department of Business and Professional
 2317 Regulation, on a monthly basis, a list of those assisted living

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2318 facilities that have had their licenses denied, suspended, or
 2319 revoked or that are involved in an appellate proceeding pursuant
 2320 to s. 120.60 related to the denial, suspension, or revocation of
 2321 a license. This information may be provided electronically or
 2322 through the agency's Internet website.

2323 Section 66. Subsections (1), (4), and (5) of section
 2324 429.17, Florida Statutes, are amended to read:

2325 429.17 Expiration of license; renewal; conditional
 2326 license.—

2327 (1) ~~Limited nursing,~~ Extended congregate care, and limited
 2328 mental health licenses shall expire at the same time as the
 2329 facility's standard license, regardless of when issued.

2330 (4) In addition to the license categories available in s.
 2331 408.808, a conditional license may be issued to an applicant for
 2332 license renewal if the applicant fails to meet all standards and
 2333 requirements for licensure. A conditional license issued under
 2334 this subsection shall be limited in duration to a specific
 2335 period of time not to exceed 6 months, as determined by the
 2336 agency, ~~and shall be accompanied by an agency-approved plan of~~
 2337 ~~correction.~~

2338 (5) When an extended congregate care ~~or limited nursing~~
 2339 ~~license~~ is requested during a facility's biennial license
 2340 period, the fee shall be prorated in order to permit the
 2341 additional license to expire at the end of the biennial license
 2342 period. The fee shall be calculated as of the date the
 2343 additional license application is received by the agency.

2344 Section 67. Subsection (7) of section 429.19, Florida
 2345 Statutes, is amended to read:

2346 429.19 Violations; imposition of administrative fines;
 2347 grounds.—

2348 (7) In addition to any administrative fines imposed, the
 2349 agency may assess a survey or monitoring fee, equal to the
 2350 lesser of one half of the facility's biennial license and bed
 2351 fee or \$500, to cover the cost of conducting initial complaint
 2352 investigations that result in the finding of a violation that
 2353 was the subject of the complaint or to monitor the health,
 2354 safety, or security of residents under s. 429.07(7) monitoring
 2355 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~
 2356 ~~of the violations.~~

2357 Section 68. Subsections (6) through (10) of section
 2358 429.23, Florida Statutes, are renumbered as subsections (5)
 2359 through (9), respectively, and present subsection (5) of that
 2360 section is amended to read:

2361 429.23 Internal risk management and quality assurance
 2362 program; adverse incidents and reporting requirements.—

2363 ~~(5) Each facility shall report monthly to the agency any~~
 2364 ~~liability claim filed against it. The report must include the~~
 2365 ~~name of the resident, the dates of the incident leading to the~~
 2366 ~~claim, if applicable, and the type of injury or violation of~~
 2367 ~~rights alleged to have occurred. This report is not discoverable~~
 2368 ~~in any civil or administrative action, except in such actions~~
 2369 ~~brought by the agency to enforce the provisions of this part.~~

2370 Section 69. Paragraph (a) of subsection (1) and subsection
 2371 (2) of section 429.255, Florida Statutes, are amended to read:

2372 429.255 Use of personnel; emergency care.—

2373 (1) (a) Persons under contract to the facility or facility

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2374 staff, ~~or volunteers,~~ who are licensed according to part I of
 2375 chapter 464, or those persons exempt under s. 464.022(1), and
 2376 others as defined by rule, may administer medications to
 2377 residents, take residents' vital signs, manage individual weekly
 2378 pill organizers for residents who self-administer medication,
 2379 give prepackaged enemas ordered by a physician, observe
 2380 residents, document observations on the appropriate resident's
 2381 record, report observations to the resident's physician, and
 2382 contract or allow residents or a resident's representative,
 2383 designee, surrogate, guardian, or attorney in fact to contract
 2384 with a third party, provided residents meet the criteria for
 2385 appropriate placement as defined in s. 429.26. Persons under
 2386 contract to the facility or facility staff who are licensed
 2387 according to part I of chapter 464 may provide limited nursing
 2388 services. Nursing assistants certified pursuant to part II of
 2389 chapter 464 may take residents' vital signs as directed by a
 2390 licensed nurse or physician. The facility is responsible for
 2391 maintaining documentation of services provided under this
 2392 paragraph as required by rule and ensuring that staff are
 2393 adequately trained to monitor residents receiving these
 2394 services.

2395 (2) In facilities licensed to provide extended congregate
 2396 care, persons under contract to the facility or facility staff,
 2397 ~~or volunteers,~~ who are licensed according to part I of chapter
 2398 464, or those persons exempt under s. 464.022(1), or those
 2399 persons certified as nursing assistants pursuant to part II of
 2400 chapter 464, may also perform all duties within the scope of
 2401 their license or certification, as approved by the facility

2402 administrator and pursuant to this part.

2403 Section 70. Subsection (3) of section 429.28, Florida
 2404 Statutes, is amended to read:

2405 429.28 Resident bill of rights.—

2406 ~~(3) (a) The agency shall conduct a survey to determine
 2407 general compliance with facility standards and compliance with
 2408 residents' rights as a prerequisite to initial licensure or
 2409 licensure renewal.~~

2410 ~~(b) In order to determine whether the facility is
 2411 adequately protecting residents' rights, the biennial survey
 2412 shall include private informal conversations with a sample of
 2413 residents and consultation with the ombudsman council in the
 2414 planning and service area in which the facility is located to
 2415 discuss residents' experiences within the facility.~~

2416 ~~(c) During any calendar year in which no survey is
 2417 conducted, the agency shall conduct at least one monitoring
 2418 visit of each facility cited in the previous year for a class I
 2419 or class II violation, or more than three uncorrected class III
 2420 violations.~~

2421 ~~(d) The agency may conduct periodic followup inspections
 2422 as necessary to monitor the compliance of facilities with a
 2423 history of any class I, class II, or class III violations that
 2424 threaten the health, safety, or security of residents.~~

2425 ~~(e) The agency may conduct complaint investigations as
 2426 warranted to investigate any allegations of noncompliance with
 2427 requirements required under this part or rules adopted under
 2428 this part.~~

2429 Section 71. Subsection (2) of section 429.35, Florida

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2430 Statutes, is amended to read:

2431 429.35 Maintenance of records; reports.—

2432 (2) Within 60 days after the date of the biennial
 2433 inspection visit required under s. 408.811 or within 30 days
 2434 after the date of any interim visit, the agency shall forward
 2435 the results of the inspection to the local ombudsman council in
 2436 whose planning and service area, as defined in part II of
 2437 chapter 400, the facility is located; to at least one public
 2438 library or, in the absence of a public library, the county seat
 2439 in the county in which the inspected assisted living facility is
 2440 located; and, when appropriate, to the district Adult Services
 2441 and Mental Health Program Offices. This information may be
 2442 provided electronically or through the agency's Internet
 2443 website.

2444 Section 72. Paragraphs (i) and (j) of subsection (1) of
 2445 section 429.41, Florida Statutes, are amended to read:

2446 429.41 Rules establishing standards.—

2447 (1) It is the intent of the Legislature that rules
 2448 published and enforced pursuant to this section shall include
 2449 criteria by which a reasonable and consistent quality of
 2450 resident care and quality of life may be ensured and the results
 2451 of such resident care may be demonstrated. Such rules shall also
 2452 ensure a safe and sanitary environment that is residential and
 2453 noninstitutional in design or nature. It is further intended
 2454 that reasonable efforts be made to accommodate the needs and
 2455 preferences of residents to enhance the quality of life in a
 2456 facility. The agency, in consultation with the department, may
 2457 adopt rules to administer the requirements of part II of chapter

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2458 408. In order to provide safe and sanitary facilities and the
 2459 highest quality of resident care accommodating the needs and
 2460 preferences of residents, the department, in consultation with
 2461 the agency, the Department of Children and Family Services, and
 2462 the Department of Health, shall adopt rules, policies, and
 2463 procedures to administer this part, which must include
 2464 reasonable and fair minimum standards in relation to:

2465 (i) Facilities holding an ~~a limited nursing,~~ extended
 2466 congregate care, or limited mental health license.

2467 (j) The establishment of specific criteria to define
 2468 appropriateness of resident admission and continued residency in
 2469 a facility holding a standard, ~~limited nursing,~~ extended
 2470 congregate care, and limited mental health license.

2471 Section 73. Subsections (1) and (2) of section 429.53,
 2472 Florida Statutes, are amended to read:

2473 429.53 Consultation by the agency.—

2474 (1) ~~The area offices of licensure and certification of the~~
 2475 agency shall provide consultation to the following upon request:

2476 (a) A licensee of a facility.

2477 (b) A person interested in obtaining a license to operate
 2478 a facility under this part.

2479 (2) As used in this section, "consultation" includes:

2480 (a) An explanation of the requirements of this part and
 2481 rules adopted pursuant thereto;

2482 (b) An explanation of the license application and renewal
 2483 procedures;

2484 ~~(c) The provision of a checklist of general local and~~
 2485 ~~state approvals required prior to constructing or developing a~~

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2486 ~~facility and a listing of the types of agencies responsible for~~
 2487 ~~such approvals;~~

2488 ~~(d) An explanation of benefits and financial assistance~~
 2489 ~~available to a recipient of supplemental security income~~
 2490 ~~residing in a facility;~~

2491 ~~(c)(e)~~ Any other information which the agency deems
 2492 necessary to promote compliance with the requirements of this
 2493 part; and

2494 ~~(f) A preconstruction review of a facility to ensure~~
 2495 ~~compliance with agency rules and this part.~~

2496 Section 74. Subsections (1) and (2) of section 429.54,
 2497 Florida Statutes, are renumbered as subsections (2) and (3),
 2498 respectively, and a new subsection (1) is added to that section
 2499 to read:

2500 429.54 Collection of information; local subsidy.—

2501 (1) A facility that is licensed under this part must
 2502 report electronically to the agency semiannually data related to
 2503 the facility, including, but not limited to, the total number of
 2504 residents, the number of residents who are receiving limited
 2505 mental health services, the number of residents who are
 2506 receiving extended congregate care services, the number of
 2507 residents who are receiving limited nursing services, and
 2508 professional staffing employed by or under contract with the
 2509 licensee to provide resident services. The department, in
 2510 consultation with the agency, shall adopt rules to administer
 2511 this subsection.

2512 Section 75. Subsections (1) and (5) of section 429.71,
 2513 Florida Statutes, are amended to read:

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2514 429.71 Classification of violations ~~deficiencies~~;
 2515 administrative fines.—

2516 (1) In addition to the requirements of part II of chapter
 2517 408 and in addition to any other liability or penalty provided
 2518 by law, the agency may impose an administrative fine on a
 2519 provider according to the following classification:

2520 (a) Class I violations are defined in s. 408.813 ~~those~~
 2521 ~~conditions or practices related to the operation and maintenance~~
 2522 ~~of an adult family-care home or to the care of residents which~~
 2523 ~~the agency determines present an imminent danger to the~~
 2524 ~~residents or guests of the facility or a substantial probability~~
 2525 ~~that death or serious physical or emotional harm would result~~
 2526 ~~therefrom. The condition or practice that constitutes a class I~~
 2527 ~~violation must be abated or eliminated within 24 hours, unless a~~
 2528 ~~fixed period, as determined by the agency, is required for~~
 2529 ~~correction. A class I violation ~~deficiency~~ is subject to an~~
 2530 administrative fine in an amount not less than \$500 and not
 2531 exceeding \$1,000 for each violation. ~~A fine may be levied~~
 2532 ~~notwithstanding the correction of the deficiency.~~

2533 (b) Class II violations are defined in s. 408.813 ~~those~~
 2534 ~~conditions or practices related to the operation and maintenance~~
 2535 ~~of an adult family-care home or to the care of residents which~~
 2536 ~~the agency determines directly threaten the physical or~~
 2537 ~~emotional health, safety, or security of the residents, other~~
 2538 ~~than class I violations. A class II violation is subject to an~~
 2539 administrative fine in an amount not less than \$250 and not
 2540 exceeding \$500 for each violation. ~~A citation for a class II~~
 2541 ~~violation must specify the time within which the violation is~~

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2542 ~~required to be corrected. If a class II violation is corrected~~
 2543 ~~within the time specified, no civil penalty shall be imposed,~~
 2544 ~~unless it is a repeated offense.~~

2545 (c) Class III violations are defined in s. 408.813 ~~those~~
 2546 ~~conditions or practices related to the operation and maintenance~~
 2547 ~~of an adult family-care home or to the care of residents which~~
 2548 ~~the agency determines indirectly or potentially threaten the~~
 2549 ~~physical or emotional health, safety, or security of residents,~~
 2550 ~~other than class I or class II violations.~~ A class III violation
 2551 is subject to an administrative fine in an amount not less than
 2552 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
 2553 ~~class III violation shall specify the time within which the~~
 2554 ~~violation is required to be corrected.~~ If a class III violation
 2555 is corrected within the time specified, no civil penalty shall
 2556 be imposed, unless it is a repeated violation offense.

2557 (d) Class IV violations are defined in s. 408.813 ~~those~~
 2558 ~~conditions or occurrences related to the operation and~~
 2559 ~~maintenance of an adult family-care home, or related to the~~
 2560 ~~required reports, forms, or documents, which do not have the~~
 2561 ~~potential of negatively affecting the residents.~~ ~~A provider that~~
 2562 ~~does not correct~~ A class IV violation ~~within the time limit~~
 2563 ~~specified by the agency~~ is subject to an administrative fine in
 2564 an amount not less than \$50 and not exceeding \$100 for each
 2565 violation. Any class IV violation that is corrected during the
 2566 time the agency survey is conducted will be identified as an
 2567 agency finding and not as a violation, unless it is a repeat
 2568 violation.

2569 ~~(5) As an alternative to or in conjunction with an~~
 2570 ~~administrative action against a provider, the agency may request~~
 2571 ~~a plan of corrective action that demonstrates a good faith~~
 2572 ~~effort to remedy each violation by a specific date, subject to~~
 2573 ~~the approval of the agency.~~

2574 Section 76. Paragraphs (b) through (e) of subsection (2)
 2575 of section 429.911, Florida Statutes, are redesignated as
 2576 paragraphs (a) through (d), respectively, and present paragraph
 2577 (a) of that subsection is amended to read:

2578 429.911 Denial, suspension, revocation of license;
 2579 emergency action; administrative fines; investigations and
 2580 inspections.—

2581 (2) Each of the following actions by the owner of an adult
 2582 day care center or by its operator or employee is a ground for
 2583 action by the agency against the owner of the center or its
 2584 operator or employee:

2585 ~~(a) An intentional or negligent act materially affecting~~
 2586 ~~the health or safety of center participants.~~

2587 Section 77. Section 429.915, Florida Statutes, is amended
 2588 to read:

2589 429.915 Conditional license.—In addition to the license
 2590 categories available in part II of chapter 408, the agency may
 2591 issue a conditional license to an applicant for license renewal
 2592 or change of ownership if the applicant fails to meet all
 2593 standards and requirements for licensure. A conditional license
 2594 issued under this subsection must be limited to a specific
 2595 period not exceeding 6 months, as determined by the agency, ~~and~~
 2596 ~~must be accompanied by an approved plan of correction.~~

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2597 Section 78. Paragraphs (b) and (h) of subsection (3) of
 2598 section 430.80, Florida Statutes, are amended to read:

2599 430.80 Implementation of a teaching nursing home pilot
 2600 project.—

2601 (3) To be designated as a teaching nursing home, a nursing
 2602 home licensee must, at a minimum:

2603 (b) Participate in a nationally recognized accreditation
 2604 program and hold a valid accreditation, such as the
 2605 accreditation awarded by The Joint Commission ~~on Accreditation~~
 2606 ~~of Healthcare Organizations;~~

2607 (h) Maintain insurance coverage pursuant to s.
 2608 400.141(1) (q) ~~(s)~~ or proof of financial responsibility in a
 2609 minimum amount of \$750,000. Such proof of financial
 2610 responsibility may include:

2611 1. Maintaining an escrow account consisting of cash or
 2612 assets eligible for deposit in accordance with s. 625.52; or

2613 2. Obtaining and maintaining pursuant to chapter 675 an
 2614 unexpired, irrevocable, nontransferable and nonassignable letter
 2615 of credit issued by any bank or savings association organized
 2616 and existing under the laws of this state or any bank or savings
 2617 association organized under the laws of the United States that
 2618 has its principal place of business in this state or has a
 2619 branch office which is authorized to receive deposits in this
 2620 state. The letter of credit shall be used to satisfy the
 2621 obligation of the facility to the claimant upon presentment of a
 2622 final judgment indicating liability and awarding damages to be
 2623 paid by the facility or upon presentment of a settlement
 2624 agreement signed by all parties to the agreement when such final

2625 judgment or settlement is a result of a liability claim against
 2626 the facility.

2627 Section 79. Paragraph (a) of subsection (2) of section
 2628 440.13, Florida Statutes, is amended to read:

2629 440.13 Medical services and supplies; penalty for
 2630 violations; limitations.—

2631 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

2632 (a) Subject to the limitations specified elsewhere in this
 2633 chapter, the employer shall furnish to the employee such
 2634 medically necessary remedial treatment, care, and attendance for
 2635 such period as the nature of the injury or the process of
 2636 recovery may require, which is in accordance with established
 2637 practice parameters and protocols of treatment as provided for
 2638 in this chapter, including medicines, medical supplies, durable
 2639 medical equipment, orthoses, prostheses, and other medically
 2640 necessary apparatus. Remedial treatment, care, and attendance,
 2641 including work-hardening programs or pain-management programs
 2642 accredited by the Commission on Accreditation of Rehabilitation
 2643 Facilities or The Joint Commission ~~on the Accreditation of~~
 2644 ~~Health Organizations~~ or pain-management programs affiliated with
 2645 medical schools, shall be considered as covered treatment only
 2646 when such care is given based on a referral by a physician as
 2647 defined in this chapter. Medically necessary treatment, care,
 2648 and attendance does not include chiropractic services in excess
 2649 of 24 treatments or rendered 12 weeks beyond the date of the
 2650 initial chiropractic treatment, whichever comes first, unless
 2651 the carrier authorizes additional treatment or the employee is
 2652 catastrophically injured.

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Failure of the carrier to timely comply with this subsection shall be a violation of this chapter and the carrier shall be subject to penalties as provided for in s. 440.525.

Section 80. Section 483.294, Florida Statutes, is amended to read:

483.294 Inspection of centers.—In accordance with s. 408.811, the agency shall biennially, ~~at least once annually~~, inspect the premises and operations of all centers subject to licensure under this part.

Section 81. Paragraph (a) of subsection (53) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(53) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(a) Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.01(2)(g):

1. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

2. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in s. 501(c)(3) of the

2681 Internal Revenue Code of 1986, as amended and revised, to a
 2682 nonprofit affiliate of the organization to the extent otherwise
 2683 permitted by law.

2684 3. The sale, purchase, or trade of a prescription drug or
 2685 an offer to sell, purchase, or trade a prescription drug among
 2686 hospitals or other health care entities that are under common
 2687 control. For purposes of this subparagraph, "common control"
 2688 means the power to direct or cause the direction of the
 2689 management and policies of a person or an organization, whether
 2690 by ownership of stock, by voting rights, by contract, or
 2691 otherwise.

2692 4. The sale, purchase, trade, or other transfer of a
 2693 prescription drug from or for any federal, state, or local
 2694 government agency or any entity eligible to purchase
 2695 prescription drugs at public health services prices pursuant to
 2696 Pub. L. No. 102-585, s. 602 to a contract provider or its
 2697 subcontractor for eligible patients of the agency or entity
 2698 under the following conditions:

2699 a. The agency or entity must obtain written authorization
 2700 for the sale, purchase, trade, or other transfer of a
 2701 prescription drug under this subparagraph from the State Surgeon
 2702 General or his or her designee.

2703 b. The contract provider or subcontractor must be
 2704 authorized by law to administer or dispense prescription drugs.

2705 c. In the case of a subcontractor, the agency or entity
 2706 must be a party to and execute the subcontract.

2707 ~~d. A contract provider or subcontractor must maintain~~
 2708 ~~separate and apart from other prescription drug inventory any~~

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2709 ~~prescription drugs of the agency or entity in its possession.~~

2710 d.e. The contract provider and subcontractor must maintain
 2711 and produce immediately for inspection all records of movement
 2712 or transfer of all the prescription drugs belonging to the
 2713 agency or entity, including, but not limited to, the records of
 2714 receipt and disposition of prescription drugs. Each contractor
 2715 and subcontractor dispensing or administering these drugs must
 2716 maintain and produce records documenting the dispensing or
 2717 administration. Records that are required to be maintained
 2718 include, but are not limited to, a perpetual inventory itemizing
 2719 drugs received and drugs dispensed by prescription number or
 2720 administered by patient identifier, which must be submitted to
 2721 the agency or entity quarterly.

2722 e.f. The contract provider or subcontractor may administer
 2723 or dispense the prescription drugs only to the eligible patients
 2724 of the agency or entity or must return the prescription drugs
 2725 for or to the agency or entity. The contract provider or
 2726 subcontractor must require proof from each person seeking to
 2727 fill a prescription or obtain treatment that the person is an
 2728 eligible patient of the agency or entity and must, at a minimum,
 2729 maintain a copy of this proof as part of the records of the
 2730 contractor or subcontractor required under sub-subparagraph d.
 2731 ~~e.~~

2732 f.g. In addition to the departmental inspection authority
 2733 set forth in s. 499.051, the establishment of the contract
 2734 provider and subcontractor and all records pertaining to
 2735 prescription drugs subject to this subparagraph shall be subject
 2736 to inspection by the agency or entity. All records relating to

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2737 prescription drugs of a manufacturer under this subparagraph
 2738 shall be subject to audit by the manufacturer of those drugs,
 2739 without identifying individual patient information.

2740 Section 82. Paragraph (i) is added to subsection (3) of
 2741 section 499.01212, Florida Statutes, to read:

2742 499.01212 Pedigree paper.—

2743 (3) EXCEPTIONS.—A pedigree paper is not required for:

2744 (i) The wholesale distribution of prescription drugs
 2745 contained within a sealed medical convenience kit if the kit:

2746 1. Is assembled in an establishment that is registered as
 2747 a medical device manufacturer with the Food and Drug
 2748 Administration; and

2749 2. Does not contain any controlled substance that appears
 2750 in any schedule contained in or subject to chapter 893 or the
 2751 federal Comprehensive Drug Abuse Prevention and Control Act of
 2752 1970.

2753 Section 83. Subsection (1) of section 627.645, Florida
 2754 Statutes, is amended to read:

2755 627.645 Denial of health insurance claims restricted.—

2756 (1) No claim for payment under a health insurance policy
 2757 or self-insured program of health benefits for treatment, care,
 2758 or services in a licensed hospital which is accredited by The
 2759 Joint Commission ~~on the Accreditation of Hospitals~~, the American
 2760 Osteopathic Association, or the Commission on the Accreditation
 2761 of Rehabilitative Facilities shall be denied because such
 2762 hospital lacks major surgical facilities and is primarily of a
 2763 rehabilitative nature, if such rehabilitation is specifically
 2764 for treatment of physical disability.

2765 Section 84. Paragraph (c) of subsection (2) of section
 2766 627.668, Florida Statutes, is amended to read:

2767 627.668 Optional coverage for mental and nervous disorders
 2768 required; exception.—

2769 (2) Under group policies or contracts, inpatient hospital
 2770 benefits, partial hospitalization benefits, and outpatient
 2771 benefits consisting of durational limits, dollar amounts,
 2772 deductibles, and coinsurance factors shall not be less favorable
 2773 than for physical illness generally, except that:

2774 (c) Partial hospitalization benefits shall be provided
 2775 under the direction of a licensed physician. For purposes of
 2776 this part, the term "partial hospitalization services" is
 2777 defined as those services offered by a program accredited by The
 2778 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
 2779 compliance with equivalent standards. Alcohol rehabilitation
 2780 programs accredited by The Joint Commission ~~on Accreditation of~~
 2781 ~~Hospitals~~ or approved by the state and licensed drug abuse
 2782 rehabilitation programs shall also be qualified providers under
 2783 this section. In any benefit year, if partial hospitalization
 2784 services or a combination of inpatient and partial
 2785 hospitalization are utilized, the total benefits paid for all
 2786 such services shall not exceed the cost of 30 days of inpatient
 2787 hospitalization for psychiatric services, including physician
 2788 fees, which prevail in the community in which the partial
 2789 hospitalization services are rendered. If partial
 2790 hospitalization services benefits are provided beyond the limits
 2791 set forth in this paragraph, the durational limits, dollar
 2792 amounts, and coinsurance factors thereof need not be the same as

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2793 those applicable to physical illness generally.

2794 Section 85. Subsection (3) of section 627.669, Florida
 2795 Statutes, is amended to read:

2796 627.669 Optional coverage required for substance abuse
 2797 impaired persons; exception.—

2798 (3) The benefits provided under this section shall be
 2799 applicable only if treatment is provided by, or under the
 2800 supervision of, or is prescribed by, a licensed physician or
 2801 licensed psychologist and if services are provided in a program
 2802 accredited by The Joint Commission ~~on Accreditation of Hospitals~~
 2803 or approved by the state.

2804 Section 86. Paragraph (a) of subsection (1) of section
 2805 627.736, Florida Statutes, is amended to read:

2806 627.736 Required personal injury protection benefits;
 2807 exclusions; priority; claims.—

2808 (1) REQUIRED BENEFITS.—Every insurance policy complying
 2809 with the security requirements of s. 627.733 shall provide
 2810 personal injury protection to the named insured, relatives
 2811 residing in the same household, persons operating the insured
 2812 motor vehicle, passengers in such motor vehicle, and other
 2813 persons struck by such motor vehicle and suffering bodily injury
 2814 while not an occupant of a self-propelled vehicle, subject to
 2815 the provisions of subsection (2) and paragraph (4)(e), to a
 2816 limit of \$10,000 for loss sustained by any such person as a
 2817 result of bodily injury, sickness, disease, or death arising out
 2818 of the ownership, maintenance, or use of a motor vehicle as
 2819 follows:

2820 (a) Medical benefits.—Eighty percent of all reasonable

2821 expenses for medically necessary medical, surgical, X-ray,
 2822 dental, and rehabilitative services, including prosthetic
 2823 devices, and medically necessary ambulance, hospital, and
 2824 nursing services. However, the medical benefits shall provide
 2825 reimbursement only for such services and care that are lawfully
 2826 provided, supervised, ordered, or prescribed by a physician
 2827 licensed under chapter 458 or chapter 459, a dentist licensed
 2828 under chapter 466, or a chiropractic physician licensed under
 2829 chapter 460 or that are provided by any of the following persons
 2830 or entities:

2831 1. A hospital or ambulatory surgical center licensed under
 2832 chapter 395.

2833 2. A person or entity licensed under ss. 401.2101-401.45
 2834 that provides emergency transportation and treatment.

2835 3. An entity wholly owned by one or more physicians
 2836 licensed under chapter 458 or chapter 459, chiropractic
 2837 physicians licensed under chapter 460, or dentists licensed
 2838 under chapter 466 or by such practitioner or practitioners and
 2839 the spouse, parent, child, or sibling of that practitioner or
 2840 those practitioners.

2841 4. An entity wholly owned, directly or indirectly, by a
 2842 hospital or hospitals.

2843 5. A health care clinic licensed under ss. 400.990-400.995
 2844 that is:

2845 a. ~~Accredited by The Joint Commission on Accreditation of~~
 2846 ~~Healthcare Organizations~~, the American Osteopathic Association,
 2847 the Commission on Accreditation of Rehabilitation Facilities, or
 2848 the Accreditation Association for Ambulatory Health Care, Inc.;

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or

b. A health care clinic that:

(I) Has a medical director licensed under chapter 458, chapter 459, or chapter 460;

(II) Has been continuously licensed for more than 3 years or is a publicly traded corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange; and

(III) Provides at least four of the following medical specialties:

(A) General medicine.

(B) Radiography.

(C) Orthopedic medicine.

(D) Physical medicine.

(E) Physical therapy.

(F) Physical rehabilitation.

(G) Prescribing or dispensing outpatient prescription medication.

(H) Laboratory services.

The Financial Services Commission shall adopt by rule the form that must be used by an insurer and a health care provider specified in subparagraph 3., subparagraph 4., or subparagraph 5. to document that the health care provider meets the criteria of this paragraph, which rule must include a requirement for a sworn statement or affidavit.

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2877 Only insurers writing motor vehicle liability insurance in this
 2878 state may provide the required benefits of this section, and no
 2879 such insurer shall require the purchase of any other motor
 2880 vehicle coverage other than the purchase of property damage
 2881 liability coverage as required by s. 627.7275 as a condition for
 2882 providing such required benefits. Insurers may not require that
 2883 property damage liability insurance in an amount greater than
 2884 \$10,000 be purchased in conjunction with personal injury
 2885 protection. Such insurers shall make benefits and required
 2886 property damage liability insurance coverage available through
 2887 normal marketing channels. Any insurer writing motor vehicle
 2888 liability insurance in this state who fails to comply with such
 2889 availability requirement as a general business practice shall be
 2890 deemed to have violated part IX of chapter 626, and such
 2891 violation shall constitute an unfair method of competition or an
 2892 unfair or deceptive act or practice involving the business of
 2893 insurance; and any such insurer committing such violation shall
 2894 be subject to the penalties afforded in such part, as well as
 2895 those which may be afforded elsewhere in the insurance code.

2896 Section 87. Section 633.081, Florida Statutes, is amended
 2897 to read:

2898 633.081 Inspection of buildings and equipment; orders;
 2899 firesafety inspection training requirements; certification;
 2900 disciplinary action.—The State Fire Marshal and her or his
 2901 agents shall, at any reasonable hour, when the department has
 2902 reasonable cause to believe that a violation of this chapter or
 2903 s. 509.215, or a rule promulgated thereunder, or a minimum
 2904 firesafety code adopted by a local authority, may exist, inspect

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2905 any and all buildings and structures which are subject to the
 2906 requirements of this chapter or s. 509.215 and rules promulgated
 2907 thereunder. The authority to inspect shall extend to all
 2908 equipment, vehicles, and chemicals which are located within the
 2909 premises of any such building or structure. The State Fire
 2910 Marshal and her or his agents shall inspect nursing homes
 2911 licensed under part II of chapter 400 only once every calendar
 2912 year and upon receiving a complaint forming the basis of a
 2913 reasonable cause to believe that a violation of this chapter or
 2914 s. 509.215, or a rule promulgated thereunder, or a minimum
 2915 firesafety code adopted by a local authority may exist and upon
 2916 identifying such a violation in the course of conducting
 2917 orientation or training activities within a nursing home.

2918 (1) Each county, municipality, and special district that
 2919 has firesafety enforcement responsibilities shall employ or
 2920 contract with a firesafety inspector. The firesafety inspector
 2921 must conduct all firesafety inspections that are required by
 2922 law. The governing body of a county, municipality, or special
 2923 district that has firesafety enforcement responsibilities may
 2924 provide a schedule of fees to pay only the costs of inspections
 2925 conducted pursuant to this subsection and related administrative
 2926 expenses. Two or more counties, municipalities, or special
 2927 districts that have firesafety enforcement responsibilities may
 2928 jointly employ or contract with a firesafety inspector.

2929 (2) Every firesafety inspection conducted pursuant to
 2930 state or local firesafety requirements shall be by a person
 2931 certified as having met the inspection training requirements set
 2932 by the State Fire Marshal. Such person shall:

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- 2933 (a) Be a high school graduate or the equivalent as
 2934 determined by the department;
- 2935 (b) Not have been found guilty of, or having pleaded
 2936 guilty or nolo contendere to, a felony or a crime punishable by
 2937 imprisonment of 1 year or more under the law of the United
 2938 States, or of any state thereof, which involves moral turpitude,
 2939 without regard to whether a judgment of conviction has been
 2940 entered by the court having jurisdiction of such cases;
- 2941 (c) Have her or his fingerprints on file with the
 2942 department or with an agency designated by the department;
- 2943 (d) Have good moral character as determined by the
 2944 department;
- 2945 (e) Be at least 18 years of age;
- 2946 (f) Have satisfactorily completed the firesafety inspector
 2947 certification examination as prescribed by the department; and
- 2948 (g)1. Have satisfactorily completed, as determined by the
 2949 department, a firesafety inspector training program of not less
 2950 than 200 hours established by the department and administered by
 2951 agencies and institutions approved by the department for the
 2952 purpose of providing basic certification training for firesafety
 2953 inspectors; or
- 2954 2. Have received in another state training which is
 2955 determined by the department to be at least equivalent to that
 2956 required by the department for approved firesafety inspector
 2957 education and training programs in this state.
- 2958 (3) Each special state firesafety inspection which is
 2959 required by law and is conducted by or on behalf of an agency of
 2960 the state must be performed by an individual who has met the

2961 provision of subsection (2), except that the duration of the
 2962 training program shall not exceed 120 hours of specific training
 2963 for the type of property that such special state firesafety
 2964 inspectors are assigned to inspect.

2965 (4) A firefighter certified pursuant to s. 633.35 may
 2966 conduct firesafety inspections, under the supervision of a
 2967 certified firesafety inspector, while on duty as a member of a
 2968 fire department company conducting inservice firesafety
 2969 inspections without being certified as a firesafety inspector,
 2970 if such firefighter has satisfactorily completed an inservice
 2971 fire department company inspector training program of at least
 2972 24 hours' duration as provided by rule of the department.

2973 (5) Every firesafety inspector or special state firesafety
 2974 inspector certificate is valid for a period of 3 years from the
 2975 date of issuance. Renewal of certification shall be subject to
 2976 the affected person's completing proper application for renewal
 2977 and meeting all of the requirements for renewal as established
 2978 under this chapter or by rule promulgated thereunder, which
 2979 shall include completion of at least 40 hours during the
 2980 preceding 3-year period of continuing education as required by
 2981 the rule of the department or, in lieu thereof, successful
 2982 passage of an examination as established by the department.

2983 (6) The State Fire Marshal may deny, refuse to renew,
 2984 suspend, or revoke the certificate of a firesafety inspector or
 2985 special state firesafety inspector if it finds that any of the
 2986 following grounds exist:

2987 (a) Any cause for which issuance of a certificate could
 2988 have been refused had it then existed and been known to the

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2989 State Fire Marshal.
 2990 (b) Violation of this chapter or any rule or order of the
 2991 State Fire Marshal.
 2992 (c) Falsification of records relating to the certificate.
 2993 (d) Having been found guilty of or having pleaded guilty
 2994 or nolo contendere to a felony, whether or not a judgment of
 2995 conviction has been entered.
 2996 (e) Failure to meet any of the renewal requirements.
 2997 (f) Having been convicted of a crime in any jurisdiction
 2998 which directly relates to the practice of fire code inspection,
 2999 plan review, or administration.
 3000 (g) Making or filing a report or record that the
 3001 certificateholder knows to be false, or knowingly inducing
 3002 another to file a false report or record, or knowingly failing
 3003 to file a report or record required by state or local law, or
 3004 knowingly impeding or obstructing such filing, or knowingly
 3005 inducing another person to impede or obstruct such filing.
 3006 (h) Failing to properly enforce applicable fire codes or
 3007 permit requirements within this state which the
 3008 certificateholder knows are applicable by committing willful
 3009 misconduct, gross negligence, gross misconduct, repeated
 3010 negligence, or negligence resulting in a significant danger to
 3011 life or property.
 3012 (i) Accepting labor, services, or materials at no charge
 3013 or at a noncompetitive rate from any person who performs work
 3014 that is under the enforcement authority of the certificateholder
 3015 and who is not an immediate family member of the
 3016 certificateholder. For the purpose of this paragraph, the term

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3017 "immediate family member" means a spouse, child, parent,
 3018 sibling, grandparent, aunt, uncle, or first cousin of the person
 3019 or the person's spouse or any person who resides in the primary
 3020 residence of the certificateholder.

3021 (7) The department shall provide by rule for the
 3022 certification of firesafety inspectors.

3023 Section 88. Subsection (12) of section 641.495, Florida
 3024 Statutes, is amended to read:

3025 641.495 Requirements for issuance and maintenance of
 3026 certificate.—

3027 (12) The provisions of part I of chapter 395 do not apply
 3028 to a health maintenance organization that, on or before January
 3029 1, 1991, provides not more than 10 outpatient holding beds for
 3030 short-term and hospice-type patients in an ambulatory care
 3031 facility for its members, provided that such health maintenance
 3032 organization maintains current accreditation by The Joint
 3033 Commission ~~on Accreditation of Health Care Organizations~~, the
 3034 Accreditation Association for Ambulatory Health Care, or the
 3035 National Committee for Quality Assurance.

3036 Section 89. Subsection (13) of section 651.118, Florida
 3037 Statutes, is amended to read:

3038 651.118 Agency for Health Care Administration;
 3039 certificates of need; sheltered beds; community beds.—

3040 (13) Residents, as defined in this chapter, are not
 3041 considered new admissions for the purpose of s.

3042 400.141(1) (n) ~~(e)~~ 1.d.

3043 Section 90. Subsection (2) of section 766.1015, Florida
 3044 Statutes, is amended to read:

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3045 766.1015 Civil immunity for members of or consultants to
 3046 certain boards, committees, or other entities.—

3047 (2) Such committee, board, group, commission, or other
 3048 entity must be established in accordance with state law or in
 3049 accordance with requirements of The Joint Commission ~~on~~
 3050 ~~Accreditation of Healthcare Organizations~~, established and duly
 3051 constituted by one or more public or licensed private hospitals
 3052 or behavioral health agencies, or established by a governmental
 3053 agency. To be protected by this section, the act, decision,
 3054 omission, or utterance may not be made or done in bad faith or
 3055 with malicious intent.

3056 Section 91. Subsection (4) of section 766.202, Florida
 3057 Statutes, is amended to read:

3058 766.202 Definitions; ss. 766.201–766.212.—As used in ss.
 3059 766.201–766.212, the term:

3060 (4) "Health care provider" means any hospital, ambulatory
 3061 surgical center, or mobile surgical facility as defined and
 3062 licensed under chapter 395; a birth center licensed under
 3063 chapter 383; any person licensed under chapter 458, chapter 459,
 3064 chapter 460, chapter 461, chapter 462, chapter 463, part I of
 3065 chapter 464, chapter 466, chapter 467, part XIV of chapter 468,
 3066 or chapter 486; a clinical lab licensed under chapter 483; a
 3067 health maintenance organization certificated under part I of
 3068 chapter 641; a blood bank; a plasma center; an industrial
 3069 clinic; a renal dialysis facility; or a professional association
 3070 partnership, corporation, joint venture, or other association
 3071 for professional activity by health care providers.

3072 Section 92. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Hudson offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 1546 and 1547, insert:

7 (n) Entities that are owned or controlled, directly or
8 indirectly, by a publicly traded entity with \$100 million or
9 more, in the aggregate, total annual revenues derived from
10 providing health care services by licensed health care
11 practitioners that are employed or contracted by an entity
12 described in this paragraph.

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14
15 -----
16 **T I T L E A M E N D M E N T**

17 Remove lines 117-120 and insert:
18 that pt. X of ch. 400, F.S., the Health Care Clinic Act, does
19 not apply to an entity owned by a corporation with a specified

COUNCIL/COMMITTEE AMENDMENT
Bill No. CS/CS/HB 1143 (2010)

Amendment No. 1

20 amount of annual sales of health care services under certain
21 circumstances; providing that pt. X of ch. 400, F.S., the Health
22 Care Clinic Act, does not apply to an entity owned or controlled
23 by a publicly traded entity with a specified amount of annual
24 revenues; amending s. 400.991, F.S.;

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Hudson offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 2001 and 2002, insert:

7 Section 62. Paragraph (a) of subsection (39) of section
8 409.912, Florida Statutes, is amended to read:

9 409.912 Cost-effective purchasing of health care.—The
10 agency shall purchase goods and services for Medicaid recipients
11 in the most cost-effective manner consistent with the delivery
12 of quality medical care. To ensure that medical services are
13 effectively utilized, the agency may, in any case, require a
14 confirmation or second physician's opinion of the correct
15 diagnosis for purposes of authorizing future services under the
16 Medicaid program. This section does not restrict access to
17 emergency services or poststabilization care services as defined
18 in 42 C.F.R. part 438.114. Such confirmation or second opinion
19 shall be rendered in a manner approved by the agency. The agency

COUNCIL/COMMITTEE AMENDMENT
Bill No. CS/CS/HB 1143 (2010)

Amendment No. 2

20 shall maximize the use of prepaid per capita and prepaid
21 aggregate fixed-sum basis services when appropriate and other
22 alternative service delivery and reimbursement methodologies,
23 including competitive bidding pursuant to s. 287.057, designed
24 to facilitate the cost-effective purchase of a case-managed
25 continuum of care. The agency shall also require providers to
26 minimize the exposure of recipients to the need for acute
27 inpatient, custodial, and other institutional care and the
28 inappropriate or unnecessary use of high-cost services. The
29 agency shall contract with a vendor to monitor and evaluate the
30 clinical practice patterns of providers in order to identify
31 trends that are outside the normal practice patterns of a
32 provider's professional peers or the national guidelines of a
33 provider's professional association. The vendor must be able to
34 provide information and counseling to a provider whose practice
35 patterns are outside the norms, in consultation with the agency,
36 to improve patient care and reduce inappropriate utilization.
37 The agency may mandate prior authorization, drug therapy
38 management, or disease management participation for certain
39 populations of Medicaid beneficiaries, certain drug classes, or
40 particular drugs to prevent fraud, abuse, overuse, and possible
41 dangerous drug interactions. The Pharmaceutical and Therapeutics
42 Committee shall make recommendations to the agency on drugs for
43 which prior authorization is required. The agency shall inform
44 the Pharmaceutical and Therapeutics Committee of its decisions
45 regarding drugs subject to prior authorization. The agency is
46 authorized to limit the entities it contracts with or enrolls as
47 Medicaid providers by developing a provider network through

Amendment No. 2

48 provider credentialing. The agency may competitively bid single-
49 source-provider contracts if procurement of goods or services
50 results in demonstrated cost savings to the state without
51 limiting access to care. The agency may limit its network based
52 on the assessment of beneficiary access to care, provider
53 availability, provider quality standards, time and distance
54 standards for access to care, the cultural competence of the
55 provider network, demographic characteristics of Medicaid
56 beneficiaries, practice and provider-to-beneficiary standards,
57 appointment wait times, beneficiary use of services, provider
58 turnover, provider profiling, provider licensure history,
59 previous program integrity investigations and findings, peer
60 review, provider Medicaid policy and billing compliance records,
61 clinical and medical record audits, and other factors. Providers
62 shall not be entitled to enrollment in the Medicaid provider
63 network. The agency shall determine instances in which allowing
64 Medicaid beneficiaries to purchase durable medical equipment and
65 other goods is less expensive to the Medicaid program than long-
66 term rental of the equipment or goods. The agency may establish
67 rules to facilitate purchases in lieu of long-term rentals in
68 order to protect against fraud and abuse in the Medicaid program
69 as defined in s. 409.913. The agency may seek federal waivers
70 necessary to administer these policies.

71 (39)(a) The agency shall implement a Medicaid prescribed-
72 drug spending-control program that includes the following
73 components:

74 1. A Medicaid preferred drug list, which shall be a
75 listing of cost-effective therapeutic options recommended by the

Amendment No. 2

76 Medicaid Pharmacy and Therapeutics Committee established
77 pursuant to s. 409.91195 and adopted by the agency for each
78 therapeutic class on the preferred drug list. At the discretion
79 of the committee, and when feasible, the preferred drug list
80 should include at least two products in a therapeutic class. The
81 agency may post the preferred drug list and updates to the
82 preferred drug list on an Internet website without following the
83 rulemaking procedures of chapter 120. Antiretroviral agents are
84 excluded from the preferred drug list. The agency shall also
85 limit the amount of a prescribed drug dispensed to no more than
86 a 34-day supply unless the drug products' smallest marketed
87 package is greater than a 34-day supply, or the drug is
88 determined by the agency to be a maintenance drug in which case
89 a 100-day maximum supply may be authorized. The agency is
90 authorized to seek any federal waivers necessary to implement
91 these cost-control programs and to continue participation in the
92 federal Medicaid rebate program, or alternatively to negotiate
93 state-only manufacturer rebates. The agency may adopt rules to
94 implement this subparagraph. The agency shall continue to
95 provide unlimited contraceptive drugs and items. The agency must
96 establish procedures to ensure that:

97 a. There is a response to a request for prior consultation
98 by telephone or other telecommunication device within 24 hours
99 after receipt of a request for prior consultation; and

100 b. A 72-hour supply of the drug prescribed is provided in
101 an emergency or when the agency does not provide a response
102 within 24 hours as required by sub-subparagraph a.

COUNCIL/COMMITTEE AMENDMENT
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Amendment No. 2

103 2. Reimbursement to pharmacies for Medicaid prescribed
104 drugs shall be set at the lesser of: the average wholesale price
105 (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC)
106 plus 4.75 percent, the federal upper limit (FUL), the state
107 maximum allowable cost (SMAC), or the usual and customary (UAC)
108 charge billed by the provider.

109 3. For prescribed drugs billed as a 340B prescribed
110 medication, the claim must meet the requirements of the Deficit
111 Reduction Act of 2005 and the federal 340B program, contain a
112 national drug code, and be billed at the actual acquisition cost
113 or payment will be denied.

114 ~~4.3.~~ The agency shall develop and implement a process for
115 managing the drug therapies of Medicaid recipients who are using
116 significant numbers of prescribed drugs each month. The
117 management process may include, but is not limited to,
118 comprehensive, physician-directed medical-record reviews, claims
119 analyses, and case evaluations to determine the medical
120 necessity and appropriateness of a patient's treatment plan and
121 drug therapies. The agency may contract with a private
122 organization to provide drug-program-management services. The
123 Medicaid drug benefit management program shall include
124 initiatives to manage drug therapies for HIV/AIDS patients,
125 patients using 20 or more unique prescriptions in a 180-day
126 period, and the top 1,000 patients in annual spending. The
127 agency shall enroll any Medicaid recipient in the drug benefit
128 management program if he or she meets the specifications of this
129 provision and is not enrolled in a Medicaid health maintenance
130 organization.

COUNCIL/COMMITTEE AMENDMENT
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131 ~~5.4.~~ The agency may limit the size of its pharmacy network
132 based on need, competitive bidding, price negotiations,
133 credentialing, or similar criteria. The agency shall give
134 special consideration to rural areas in determining the size and
135 location of pharmacies included in the Medicaid pharmacy
136 network. A pharmacy credentialing process may include criteria
137 such as a pharmacy's full-service status, location, size,
138 patient educational programs, patient consultation, disease
139 management services, and other characteristics. The agency may
140 impose a moratorium on Medicaid pharmacy enrollment when it is
141 determined that it has a sufficient number of Medicaid-
142 participating providers. The agency must allow dispensing
143 practitioners to participate as a part of the Medicaid pharmacy
144 network regardless of the practitioner's proximity to any other
145 entity that is dispensing prescription drugs under the Medicaid
146 program. A dispensing practitioner must meet all credentialing
147 requirements applicable to his or her practice, as determined by
148 the agency.

149 ~~6.5.~~ The agency shall develop and implement a program that
150 requires Medicaid practitioners who prescribe drugs to use a
151 counterfeit-proof prescription pad for Medicaid prescriptions.
152 The agency shall require the use of standardized counterfeit-
153 proof prescription pads by Medicaid-participating prescribers or
154 prescribers who write prescriptions for Medicaid recipients. The
155 agency may implement the program in targeted geographic areas or
156 statewide.

157 ~~7.6.~~ The agency may enter into arrangements that require
158 manufacturers of generic drugs prescribed to Medicaid recipients

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159 to provide rebates of at least 15.1 percent of the average
160 manufacturer price for the manufacturer's generic products.
161 These arrangements shall require that if a generic-drug
162 manufacturer pays federal rebates for Medicaid-reimbursed drugs
163 at a level below 15.1 percent, the manufacturer must provide a
164 supplemental rebate to the state in an amount necessary to
165 achieve a 15.1-percent rebate level.

166 8.7. The agency may establish a preferred drug list as
167 described in this subsection, and, pursuant to the establishment
168 of such preferred drug list, it is authorized to negotiate
169 supplemental rebates from manufacturers that are in addition to
170 those required by Title XIX of the Social Security Act and at no
171 less than 14 percent of the average manufacturer price as
172 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless
173 the federal or supplemental rebate, or both, equals or exceeds
174 29 percent. There is no upper limit on the supplemental rebates
175 the agency may negotiate. The agency may determine that specific
176 products, brand-name or generic, are competitive at lower rebate
177 percentages. Agreement to pay the minimum supplemental rebate
178 percentage will guarantee a manufacturer that the Medicaid
179 Pharmaceutical and Therapeutics Committee will consider a
180 product for inclusion on the preferred drug list. However, a
181 pharmaceutical manufacturer is not guaranteed placement on the
182 preferred drug list by simply paying the minimum supplemental
183 rebate. Agency decisions will be made on the clinical efficacy
184 of a drug and recommendations of the Medicaid Pharmaceutical and
185 Therapeutics Committee, as well as the price of competing
186 products minus federal and state rebates. The agency is

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187 authorized to contract with an outside agency or contractor to
188 conduct negotiations for supplemental rebates. For the purposes
189 of this section, the term "supplemental rebates" means cash
190 rebates. Effective July 1, 2004, value-added programs as a
191 substitution for supplemental rebates are prohibited. The agency
192 is authorized to seek any federal waivers to implement this
193 initiative.

194 ~~9.8.~~ The Agency for Health Care Administration shall
195 expand home delivery of pharmacy products. To assist Medicaid
196 patients in securing their prescriptions and reduce program
197 costs, the agency shall expand its current mail-order-pharmacy
198 diabetes-supply program to include all generic and brand-name
199 drugs used by Medicaid patients with diabetes. Medicaid
200 recipients in the current program may obtain nondiabetes drugs
201 on a voluntary basis. This initiative is limited to the
202 geographic area covered by the current contract. The agency may
203 seek and implement any federal waivers necessary to implement
204 this subparagraph.

205 ~~10.9.~~ The agency shall limit to one dose per month any
206 drug prescribed to treat erectile dysfunction.

207 ~~11.10.~~a. The agency may implement a Medicaid behavioral
208 drug management system. The agency may contract with a vendor
209 that has experience in operating behavioral drug management
210 systems to implement this program. The agency is authorized to
211 seek federal waivers to implement this program.

212 b. The agency, in conjunction with the Department of
213 Children and Family Services, may implement the Medicaid
214 behavioral drug management system that is designed to improve

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215 the quality of care and behavioral health prescribing practices
216 based on best practice guidelines, improve patient adherence to
217 medication plans, reduce clinical risk, and lower prescribed
218 drug costs and the rate of inappropriate spending on Medicaid
219 behavioral drugs. The program may include the following
220 elements:

221 (I) Provide for the development and adoption of best
222 practice guidelines for behavioral health-related drugs such as
223 antipsychotics, antidepressants, and medications for treating
224 bipolar disorders and other behavioral conditions; translate
225 them into practice; review behavioral health prescribers and
226 compare their prescribing patterns to a number of indicators
227 that are based on national standards; and determine deviations
228 from best practice guidelines.

229 (II) Implement processes for providing feedback to and
230 educating prescribers using best practice educational materials
231 and peer-to-peer consultation.

232 (III) Assess Medicaid beneficiaries who are outliers in
233 their use of behavioral health drugs with regard to the numbers
234 and types of drugs taken, drug dosages, combination drug
235 therapies, and other indicators of improper use of behavioral
236 health drugs.

237 (IV) Alert prescribers to patients who fail to refill
238 prescriptions in a timely fashion, are prescribed multiple same-
239 class behavioral health drugs, and may have other potential
240 medication problems.

241 (V) Track spending trends for behavioral health drugs and
242 deviation from best practice guidelines.

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243 (VI) Use educational and technological approaches to
244 promote best practices, educate consumers, and train prescribers
245 in the use of practice guidelines.

246 (VII) Disseminate electronic and published materials.

247 (VIII) Hold statewide and regional conferences.

248 (IX) Implement a disease management program with a model
249 quality-based medication component for severely mentally ill
250 individuals and emotionally disturbed children who are high
251 users of care.

252 ~~12.11.a.~~ The agency shall implement a Medicaid
253 prescription drug management system. The agency may contract
254 with a vendor that has experience in operating prescription drug
255 management systems in order to implement this system. Any
256 management system that is implemented in accordance with this
257 subparagraph must rely on cooperation between physicians and
258 pharmacists to determine appropriate practice patterns and
259 clinical guidelines to improve the prescribing, dispensing, and
260 use of drugs in the Medicaid program. The agency may seek
261 federal waivers to implement this program.

262 b. The drug management system must be designed to improve
263 the quality of care and prescribing practices based on best
264 practice guidelines, improve patient adherence to medication
265 plans, reduce clinical risk, and lower prescribed drug costs and
266 the rate of inappropriate spending on Medicaid prescription
267 drugs. The program must:

268 (I) Provide for the development and adoption of best
269 practice guidelines for the prescribing and use of drugs in the
270 Medicaid program, including translating best practice guidelines

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271 into practice; reviewing prescriber patterns and comparing them
272 to indicators that are based on national standards and practice
273 patterns of clinical peers in their community, statewide, and
274 nationally; and determine deviations from best practice
275 guidelines.

276 (II) Implement processes for providing feedback to and
277 educating prescribers using best practice educational materials
278 and peer-to-peer consultation.

279 (III) Assess Medicaid recipients who are outliers in their
280 use of a single or multiple prescription drugs with regard to
281 the numbers and types of drugs taken, drug dosages, combination
282 drug therapies, and other indicators of improper use of
283 prescription drugs.

284 (IV) Alert prescribers to patients who fail to refill
285 prescriptions in a timely fashion, are prescribed multiple drugs
286 that may be redundant or contraindicated, or may have other
287 potential medication problems.

288 (V) Track spending trends for prescription drugs and
289 deviation from best practice guidelines.

290 (VI) Use educational and technological approaches to
291 promote best practices, educate consumers, and train prescribers
292 in the use of practice guidelines.

293 (VII) Disseminate electronic and published materials.

294 (VIII) Hold statewide and regional conferences.

295 (IX) Implement disease management programs in cooperation
296 with physicians and pharmacists, along with a model quality-
297 based medication component for individuals having chronic
298 medical conditions.

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299 | ~~13.12.~~ The agency is authorized to contract for drug
300 | rebate administration, including, but not limited to,
301 | calculating rebate amounts, invoicing manufacturers, negotiating
302 | disputes with manufacturers, and maintaining a database of
303 | rebate collections.

304 | ~~14.13.~~ The agency may specify the preferred daily dosing
305 | form or strength for the purpose of promoting best practices
306 | with regard to the prescribing of certain drugs as specified in
307 | the General Appropriations Act and ensuring cost-effective
308 | prescribing practices.

309 | ~~15.14.~~ The agency may require prior authorization for
310 | Medicaid-covered prescribed drugs. The agency may, but is not
311 | required to, prior-authorize the use of a product:

- 312 | a. For an indication not approved in labeling;
313 | b. To comply with certain clinical guidelines; or
314 | c. If the product has the potential for overuse, misuse,
315 | or abuse.

316 |
317 | The agency may require the prescribing professional to provide
318 | information about the rationale and supporting medical evidence
319 | for the use of a drug. The agency may post prior authorization
320 | criteria and protocol and updates to the list of drugs that are
321 | subject to prior authorization on an Internet website without
322 | amending its rule or engaging in additional rulemaking.

323 | ~~16.15.~~ The agency, in conjunction with the Pharmaceutical
324 | and Therapeutics Committee, may require age-related prior
325 | authorizations for certain prescribed drugs. The agency may
326 | preauthorize the use of a drug for a recipient who may not meet

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327 | the age requirement or may exceed the length of therapy for use
328 | of this product as recommended by the manufacturer and approved
329 | by the Food and Drug Administration. Prior authorization may
330 | require the prescribing professional to provide information
331 | about the rationale and supporting medical evidence for the use
332 | of a drug.

333 | ~~17.16.~~ The agency shall implement a step-therapy prior
334 | authorization approval process for medications excluded from the
335 | preferred drug list. Medications listed on the preferred drug
336 | list must be used within the previous 12 months prior to the
337 | alternative medications that are not listed. The step-therapy
338 | prior authorization may require the prescriber to use the
339 | medications of a similar drug class or for a similar medical
340 | indication unless contraindicated in the Food and Drug
341 | Administration labeling. The trial period between the specified
342 | steps may vary according to the medical indication. The step-
343 | therapy approval process shall be developed in accordance with
344 | the committee as stated in s. 409.91195(7) and (8). A drug
345 | product may be approved without meeting the step-therapy prior
346 | authorization criteria if the prescribing physician provides the
347 | agency with additional written medical or clinical documentation
348 | that the product is medically necessary because:

349 | a. There is not a drug on the preferred drug list to treat
350 | the disease or medical condition which is an acceptable clinical
351 | alternative;

352 | b. The alternatives have been ineffective in the treatment
353 | of the beneficiary's disease; or

Amendment No. 2

354 c. Based on historic evidence and known characteristics of
355 the patient and the drug, the drug is likely to be ineffective,
356 or the number of doses have been ineffective.

357
358 The agency shall work with the physician to determine the best
359 alternative for the patient. The agency may adopt rules waiving
360 the requirements for written clinical documentation for specific
361 drugs in limited clinical situations.

362 ~~18.17.~~ The agency shall implement a return and reuse
363 program for drugs dispensed by pharmacies to institutional
364 recipients, which includes payment of a \$5 restocking fee for
365 the implementation and operation of the program. The return and
366 reuse program shall be implemented electronically and in a
367 manner that promotes efficiency. The program must permit a
368 pharmacy to exclude drugs from the program if it is not
369 practical or cost-effective for the drug to be included and must
370 provide for the return to inventory of drugs that cannot be
371 credited or returned in a cost-effective manner. The agency
372 shall determine if the program has reduced the amount of
373 Medicaid prescription drugs which are destroyed on an annual
374 basis and if there are additional ways to ensure more
375 prescription drugs are not destroyed which could safely be
376 reused. The agency's conclusion and recommendations shall be
377 reported to the Legislature by December 1, 2005.

378
379
380 -----
381 **T I T L E A M E N D M E N T**

COUNCIL/COMMITTEE AMENDMENT
Bill No. CS/CS/HB 1143 (2010)

Amendment No. 2

382 Remove line 157 and insert:
383 to the consumer-directed care program; amending s. 409.912,
384 F.S.; revising procedures for implementation of a Medicaid
385 prescribed-drug spending-control program; amending s. 429.07,

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Hudson offered the following:
4

5 **Amendment (with title amendment)**

6 Between lines 322 and 323, insert:

7 Section 4. Subsection (3) is added to section 381.00315,
8 Florida Statutes, to read:

9 381.00315 Public health advisories; public health
10 emergencies.—The State Health Officer is responsible for
11 declaring public health emergencies and issuing public health
12 advisories.

13 (3) To facilitate effective emergency management, when the
14 United States Department of Health and Human Services contracts
15 for the manufacturing and delivery of licensable products in
16 response to a public health emergency and the terms of those
17 contracts are made available to the states, the department shall
18 accept funds provided by cities, counties and other entities
19 designated in the state emergency management plan required under

Amendment No. 3

20 s. 252.35(2)(a) for the purpose of participation in these
21 contracts. The department shall deposit said funds in the Grants
22 and Donations Trust Fund and expend those funds on behalf of the
23 donor city, county or other entity for the purchase the
24 licensable products made available under the contract.

27 -----
28 **T I T L E A M E N D M E N T**

29 Remove line 7 and insert:

30 traffic infractions by county courts; amending s. 381.00315,
31 F.S.; allowing the Department of Health to accept and funds from
32 certain entities for the delivery of certain products pursuant
33 to a state of emergency; amending s.

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Hudson offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 1236-1245 and insert:

7 (5) (a) The agency, in collaboration with the Division of
8 Children's Medical Services Network of the Department of Health,
9 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
10 standards of care for persons under 21 years of age who reside
11 in nursing home facilities. The rules must include a methodology
12 for reviewing a nursing home facility under ss. 408.031-408.045
13 which serves only persons under 21 years of age. A facility may
14 be exempt from these standards for specific persons between 18
15 and 21 years of age, if the person's physician agrees that
16 minimum standards of care based on age are not necessary.

17 (b) The agency, in collaboration with the Division of
18 Children's Medical Services Network, shall adopt rules for
19 minimum staffing requirements for nursing home facilities which

Amendment No. 4

20 serve persons under 21 years of age which shall apply in lieu of
21 the standards contained in subsection (3).

22 1. For persons under 21 who require skilled care, these
23 requirements shall include a minimum combined average of
24 licensed nursing, respiratory therapists, and certified nursing
25 assistants of 3.9 hours of direct care per resident per day for
26 each nursing home facility.

27 2. For persons under 21 who are fragile, these
28 requirements shall include a minimum combined average of
29 licensed nursing, respiratory therapists, respiratory care
30 practitioners, and certified nursing assistants of 5.0 hours of
31 direct care per resident per day for each nursing home facility.

32
33
34
35 -----
36 **T I T L E A M E N D M E N T**

37 Remove line 97 and insert:

38 reference; amending s. ,F.S.; requiring the agency to adopt
39 rules for minimum staffing standards in nursing homes which
40 serve persons under 21 years of age; providing minimum staffing
41 standards; amending s. 400.275, F.S.; revising agency

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1293

Public Assistance

SPONSOR(S): Coley

TIED BILLS:

IDEN./SIM. BILLS: SB 1306

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	11 Y, 0 N	Schoonover	Schoolfield
2)	Health Care Appropriations Committee	10 Y, 0 N	Massengale	Massengale
3)	Health & Family Services Policy Council		Schoonover <i>MS</i>	Gormley <i>GG</i>
4)				
5)				

SUMMARY ANALYSIS

HB 1293 makes several revisions to law relating to the food stamp program & WAGES Program to conform to current federal and state law. The bill replaces all references to either "food stamp" or "food stamp program," in current law with either "Supplemental Nutrition Assistance Program" or "food assistance." The bill replaces all references to either "WAGES" or "WAGES Program" in current law with "temporary cash assistance" or "Temporary Cash Assistance Program."

The bill does not appear to have a fiscal impact on state or local governments.

The bill becomes effective on July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 2008 Congress passed the Food, Conservation and Energy Act, which renamed the former federal Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP).¹ States retained flexibility to name the program but were encouraged to change the name to SNAP or another alternate name.² Food Stamps have not been issued in Florida since 1998 when the state converted to electronic benefit transfer cards.³

In 2000, the Florida Legislature passed the Workforce Innovation Act⁴ that defined temporary cash assistance as DCF's eligibility program for financial assistance to needy families with or expecting children.⁵ It also defined the welfare transition program as the state's program for providing work activities and providing parents with job presentation, work opportunities, and support services to enable them to leave the program and be self-sufficient.⁶ Prior to passage of the Workforce Innovation Act, the statute defined the Work and Gain Economic Self-sufficiency (WAGES) Program as the program providing these services.

Effect of Proposed Changes

The bill proposes several revisions to law relating to the food stamp program & WAGES Program to conform to current federal and state law.

The bill replaces all references to either "food stamp" or "food stamp program," in current law with either "Supplemental Nutrition Assistance Program" or "food assistance" in order to conform to current federal food assistance program.

¹ H.R. 2419 (2008).

² "A Short History of SNAP," Food and Nutrition Service, U.S. Department of Agriculture.
<http://www.fns.usda.gov/FSP/rules/Legislation/about.htm> (last visited March 4, 2010).

³ Staff Analysis (HB 1293), Department of Children and Family Services (On file with committee staff).

⁴ 2000-165, Laws of Florida.

⁵ Staff Analysis (HB 1293), Department of Children and Family Services (On file with committee staff).

⁶ *Id.*

The bill replaces all references to either "WAGES" or "WAGES Program" in statute with "temporary cash assistance" or "Temporary Cash Assistance Program" in order to align DCF's cash assistance program with the Workforce Innovation Act of 2000.

B. SECTION DIRECTORY:

- Section 1. Amends s. 97.021, F.S., relating to definitions.
- Section 2. Amends s. 163.2523, F.S., relating to grant program.
- Section 3. Amends s. 163.456, F.S., relating to Legislative findings and intent.
- Section 4. Amends s. 220.187, F.S., relating to credits for contributions to nonprofit scholarship-funding organizations.
- Section 5. Amends s. 288.9618, F.S., relating to microenterprises.
- Section 6. Amends s. 341.041, F.S., relating to transit responsibilities of the department.
- Section 7. Amends s. 379.353, F.S., relating to recreational licenses and permits; exemptions from fees and requirements.
- Section 8. Amends s. 402.33, F.S., relating to department authority to charge fees for services provided.
- Section 9. Amends s. 409.2554, F.S., relating to definitions.
- Section 10. Amends s. 409.2576, F.S., relating to state directory of new hires.
- Section 11. Amends s. 409.903, F.S., relating to mandatory payments for eligible persons.
- Section 12. Amends s. 409.942, F.S., relating to electronic benefit transfer program.
- Section 13. Amends s. 411.0101, F.S., relating to child care and early childhood resource and referral.
- Section 14. Amends s. 414.0252, F.S., relating to definitions.
- Section 15. Amends s. 414.065, F.S., relating to noncompliance with work requirements.
- Section 16. Amends s. 414.0655, F.S., relating to medical incapacity due to substance abuse or mental health impairment.
- Section 17. Amends s. 414.075, F.S., relating to resource eligibility standards.
- Section 18. Amends s. 414.085, F.S., relating to income eligibility standards.
- Section 19. Amends s. 414.095, F.S., relating to determining eligibility for temporary cash assistance.
- Section 20. Amends s. 414.14, F.S., relating to public assistance policy simplification.
- Section 21. Amends s. 414.16, F.S., relating to emergency assistance program.
- Section 22. Amends s. 414.17, F.S., relating to audits.
- Section 23. Amends s. 414.175, F.S., relating to review of existing waivers.
- Section 24. Amends s. 414.31, F.S., relating to state agency for administering federal food stamp program.
- Section 25. Amends s. 414.32, F.S., relating to prohibitions and restrictions with respect to food stamps.
- Section 26. Amends s. 414.33, F.S., relating to violations of food stamp program.
- Section 27. Amends s. 414.34, F.S., relating to annual report concerning administrative complaints and disciplinary actions involving food stamp program violations.
- Section 28. Amends s. 414.35, F.S., relating to emergency relief.
- Section 29. Amends s. 414.36, F.S., relating to public assistance overpayment recovery program; contracts.
- Section 30. Amends s. 414.39, F.S., relating to fraud.
- Section 31. Amends s. 414.41, F.S., relating to recovery of payments made due to mistake or fraud.
- Section 32. Amends s. 414.45, F.S., relating to rulemaking.
- Section 33. Amends s. 420.624, F.S., relating to local homeless assistance continuum of care.
- Section 34. Amends s. 430.2053, F.S., relating to aging resource centers.
- Section 35. Amends s. 445.004, F.S., relating to Workforce Florida, Inc.
- Section 36. Amends s. 445.009, F.S., relating to one-stop delivery system.
- Section 37. Amends s. 445.024, F.S., relating to work requirements.
- Section 38. Amends s. 445.026, F.S., relating to cash assistance severance benefit.
- Section 39. Amends s. 445.048, F.S., relating to waivers.
- Section 40. Amends s. 718.115, F.S., relating to common expenses and common surplus.
- Section 41. Amends s. 817.568, F.S., relating to criminal use of personal identification information.
- Section 42. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 43. Amends s. 943.401, F.S., relating to public assistance fraud.
Section 44. Providing an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public assistance; amending ss. 97.021, 163.2523, 163.456, 220.187, 288.9618, 341.041, 379.353, 402.33, 409.2554, 409.2576, 409.903, 409.942, 411.0101, 414.0252, 414.065, 414.0655, 414.075, 414.085, 414.095, 414.14, 414.16, 414.17, 414.175, 414.31, 414.32, 414.33, 414.34, 414.35, 414.36, 414.39, 414.41, 414.45, 420.624, 430.2053, 445.004, 445.009, 445.024, 445.026, 445.048, 718.115, 817.568, 921.0022, and 943.401, F.S.; revising terminology relating to the food stamp program and the WAGES Program to conform to current federal law; providing an effective date.

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

Section 1. Subsection (29) of section 97.021, Florida Statutes, is amended to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(29) "Public assistance" means assistance provided through the food assistance ~~stamp~~ program under the federal Supplemental Nutrition Assistance Program; the Medicaid program; the Special Supplemental Food Program for Women, Infants, and Children; and the Temporary Cash Assistance ~~WAGES~~ Program.

Section 2. Section 163.2523, Florida Statutes, is amended to read:

163.2523 Grant program.—An Urban Infill and Redevelopment Assistance Grant Program is created for local governments. A

29 local government may allocate grant money to special districts,
 30 including community redevelopment agencies, and nonprofit
 31 community development organizations to implement projects
 32 consistent with an adopted urban infill and redevelopment plan
 33 or plan employed in lieu thereof. Thirty percent of the general
 34 revenue appropriated for this program shall be available for
 35 planning grants to be used by local governments for the
 36 development of an urban infill and redevelopment plan, including
 37 community participation processes for the plan. Sixty percent of
 38 the general revenue appropriated for this program shall be
 39 available for fifty/fifty matching grants for implementing urban
 40 infill and redevelopment projects that further the objectives
 41 set forth in the local government's adopted urban infill and
 42 redevelopment plan or plan employed in lieu thereof. The
 43 remaining 10 percent of the revenue must be used for outright
 44 grants for implementing projects requiring an expenditure of
 45 under \$50,000. If the volume of fundable applications under any
 46 of the allocations specified in this section does not fully
 47 obligate the amount of the allocation, the Department of
 48 Community Affairs may transfer the unused balance to the
 49 category having the highest dollar value of applications
 50 eligible but unfunded. However, in no event may the percentage
 51 of dollars allocated to outright grants for implementing
 52 projects exceed 20 percent in any given fiscal year. Projects
 53 that provide employment opportunities to clients of the
 54 Temporary Cash Assistance ~~WAGES~~ program and projects within
 55 urban infill and redevelopment areas that include a community
 56 redevelopment area, Florida Main Street program, Front Porch

57 Florida Community, sustainable community, enterprise zone,
 58 federal enterprise zone, enterprise community, or neighborhood
 59 improvement district must be given an elevated priority in the
 60 scoring of competing grant applications. The Division of Housing
 61 and Community Development of the Department of Community Affairs
 62 shall administer the grant program. The Department of Community
 63 Affairs shall adopt rules establishing grant review criteria
 64 consistent with this section.

65 Section 3. Paragraph (c) of subsection (1) of section
 66 163.456, Florida Statutes, is amended to read:

67 163.456 Legislative findings and intent.—

68 (1) The Legislature finds that:

69 (c) The available means of eliminating or reducing these
 70 deteriorating economic conditions and encouraging local resident
 71 participation and support is to provide support assistance and
 72 resource investment to community-based development
 73 organizations. The Legislature also finds that community-based
 74 development organizations can contribute to the creation of jobs
 75 in response to federal welfare reform and state Temporary Cash
 76 Assistance ~~WAGES~~ Program legislation, and economic development
 77 activities related to urban and rural economic initiatives.

78 Section 4. Paragraph (b) of subsection (2) of section
 79 220.187, Florida Statutes, is amended to read:

80 220.187 Credits for contributions to nonprofit
 81 scholarship-funding organizations.—

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

83 (b) "Direct certification list" means the certified list
 84 of children who qualify for the food assistance ~~Stamp~~ program,

85 the Temporary Assistance to Needy Families Program, or the Food
 86 Distribution Program on Indian Reservations provided to the
 87 Department of Education by the Department of Children and Family
 88 Services.

89 Section 5. Paragraph (h) of subsection (1) of section
 90 288.9618, Florida Statutes, is amended to read:

91 288.9618 Microenterprises.—

92 (1) Subject to specific appropriations in the General
 93 Appropriations Act, the Office of Tourism, Trade, and Economic
 94 Development may contract with some appropriate not-for-profit or
 95 governmental organization for any action that the office deems
 96 necessary to foster the development of microenterprises in the
 97 state. As used within this section, microenterprises are
 98 extremely small business enterprises which enable low and
 99 moderate income individuals to achieve self-sufficiency through
 100 self-employment. Microenterprise programs are those which
 101 provide at least one of the following: small amounts of capital,
 102 business training, and technical assistance. Where feasible, the
 103 office or organizations under contract with the office shall
 104 work in cooperation with other organizations active in the study
 105 and support of microenterprises. Such actions may include, but
 106 are not limited to:

107 (h) Coordinating with other organizations to ensure that
 108 participants in the Temporary Cash Assistance ~~WAGES~~ Program are
 109 given opportunities to create microenterprises.

110 Section 6. Subsection (14) of section 341.041, Florida
 111 Statutes, is amended to read:

112 341.041 Transit responsibilities of the department.—The

113 department shall, within the resources provided pursuant to
 114 chapter 216:

115 (14) Assist local governmental entities and other transit
 116 operators in the planning, development, and coordination of
 117 transit services for Temporary Cash Assistance ~~WAGES~~ Program
 118 participants as defined in s. 414.0252.

119 Section 7. Paragraph (h) of subsection (2) of section
 120 379.353, Florida Statutes, is amended to read:

121 379.353 Recreational licenses and permits; exemptions from
 122 fees and requirements.—

123 (2) A hunting, freshwater fishing, or saltwater fishing
 124 license or permit is not required for:

125 (h) Any resident saltwater fishing from land or from a
 126 structure fixed to the land who has been determined eligible by
 127 the Department of Children and Family Services for the food
 128 assistance ~~stamp~~ program, temporary cash assistance, or the
 129 Medicaid programs. A benefit issuance or program identification
 130 card issued by the Department of Children and Family Services or
 131 the Florida Medicaid program of the Agency for Health Care
 132 Administration shall serve as proof of program eligibility. The
 133 client must have in his or her possession the ID card and
 134 positive proof of identification when fishing.

135 Section 8. Paragraph (g) of subsection (1) of section
 136 402.33, Florida Statutes, is amended to read:

137 402.33 Department authority to charge fees for services
 138 provided.—

139 (1) As used in this section, the term:

140 (g) "State and federal aid" means cash assistance or cash

141 equivalent benefits based on an individual's proof of financial
 142 need, including, but not limited to, temporary cash assistance
 143 and food assistance ~~stamps~~.

144 Section 9. Subsection (8) of section 409.2554, Florida
 145 Statutes, is amended to read:

146 409.2554 Definitions; ss. 409.2551-409.2598.—As used in
 147 ss. 409.2551-409.2598, the term:

148 (8) "Public assistance" means money assistance paid on the
 149 basis of Title IV-E and Title XIX of the Social Security Act,
 150 temporary cash assistance, or food assistance benefits ~~stamps~~
 151 received on behalf of a child under 18 years of age who has an
 152 absent parent.

153 Section 10. Paragraph (a) of subsection (9) of section
 154 409.2576, Florida Statutes, is amended to read:

155 409.2576 State Directory of New Hires.—

156 (9) DISCLOSURE OF INFORMATION.—

157 (a) New hire information shall be disclosed to the state
 158 agency administering the following programs for the purposes of
 159 determining eligibility under those programs:

160 1. Any state program funded under part A of Title IV of
 161 the Social Security Act;

162 2. The Medicaid program under Title XIX of the Social
 163 Security Act;

164 3. The unemployment compensation program under s. 3304 of
 165 the Internal Revenue Code of 1954;

166 4. The food assistance ~~stamp~~ program under the Food and
 167 Nutrition Act of 2008 ~~Food Stamp Act of 1977~~; and

168 5. Any state program under a plan approved under Title I

169 (Old-Age Assistance for the Aged), Title X (Aid to the Blind),
 170 Title XIV (Aid to the Permanently and Totally Disabled), or
 171 Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental
 172 Security Income for the Aged, Blind, and Disabled) of the Social
 173 Security Act.

174 Section 11. Subsection (3) of section 409.903, Florida
 175 Statutes, is amended to read:

176 409.903 Mandatory payments for eligible persons.—The
 177 agency shall make payments for medical assistance and related
 178 services on behalf of the following persons who the department,
 179 or the Social Security Administration by contract with the
 180 Department of Children and Family Services, determines to be
 181 eligible, subject to the income, assets, and categorical
 182 eligibility tests set forth in federal and state law. Payment on
 183 behalf of these Medicaid eligible persons is subject to the
 184 availability of moneys and any limitations established by the
 185 General Appropriations Act or chapter 216.

186 (3) A child under age 21 living in a low-income, two-
 187 parent family, and a child under age 7 living with a
 188 nonrelative, if the income and assets of the family or child, as
 189 applicable, do not exceed the resource limits under the
 190 Temporary Cash Assistance ~~WAGES~~ Program.

191 Section 12. Subsection (1) of section 409.942, Florida
 192 Statutes, is amended to read:

193 409.942 Electronic benefit transfer program.—

194 (1) The Department of Children and Family Services shall
 195 establish an electronic benefit transfer program for the
 196 dissemination of food assistance ~~stamp~~ benefits and temporary

197 cash assistance payments, including refugee cash assistance
 198 payments, asylum applicant payments, and child support disregard
 199 payments. If the Federal Government does not enact legislation
 200 or regulations providing for dissemination of supplemental
 201 security income by electronic benefit transfer, the state may
 202 include supplemental security income in the electronic benefit
 203 transfer program.

204 Section 13. Subsection (1) of section 411.0101, Florida
 205 Statutes, is amended to read:

206 411.0101 Child care and early childhood resource and
 207 referral.—The Agency for Workforce Innovation shall establish a
 208 statewide child care resource and referral network. Preference
 209 shall be given to using the already established early learning
 210 coalitions as the child care resource and referral agency. If an
 211 early learning coalition cannot comply with the requirements to
 212 offer the resource information component or does not want to
 213 offer that service, the early learning coalition shall select
 214 the resource information agency based upon a request for
 215 proposal pursuant to s. 411.01(5)(e)1. At least one child care
 216 resource and referral agency must be established in each early
 217 learning coalition's county or multicounty region. Child care
 218 resource and referral agencies shall provide the following
 219 services:

220 (1) Identification of existing public and private child
 221 care and early childhood education services, including child
 222 care services by public and private employers, and the
 223 development of a resource file of those services. These services
 224 may include family day care, public and private child care

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225 programs, head start, prekindergarten early intervention
 226 programs, special education programs for prekindergarten
 227 handicapped children, services for children with developmental
 228 disabilities, full-time and part-time programs, before-school
 229 and after-school programs, vacation care programs, parent
 230 education, the Temporary Cash Assistance ~~WAGES~~ Program, and
 231 related family support services. The resource file shall
 232 include, but not be limited to:

- 233 (a) Type of program.
- 234 (b) Hours of service.
- 235 (c) Ages of children served.
- 236 (d) Number of children served.
- 237 (e) Significant program information.
- 238 (f) Fees and eligibility for services.
- 239 (g) Availability of transportation.

240 Section 14. Subsection (10) of section 414.0252, Florida
 241 Statutes, is amended to read:

242 414.0252 Definitions.—As used in ss. 414.025-414.55, the
 243 term:

244 (10) "Public assistance" means benefits paid on the basis
 245 of the temporary cash assistance, food assistance ~~stamp~~,
 246 Medicaid, or optional state supplementation program.

247 Section 15. Subsection (1), paragraphs (a), (c), and (d)
 248 of subsection (2), and subsection (3) of section 414.065,
 249 Florida Statutes, are amended to read:

250 414.065 Noncompliance with work requirements.—

251 (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS
 252 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The

253 department shall establish procedures for administering
 254 penalties for nonparticipation in work requirements and failure
 255 to comply with the alternative requirement plan. If an
 256 individual in a family receiving temporary cash assistance fails
 257 to engage in work activities required in accordance with s.
 258 445.024, the following penalties shall apply. Prior to the
 259 imposition of a sanction, the participant shall be notified
 260 orally or in writing that the participant is subject to sanction
 261 and that action will be taken to impose the sanction unless the
 262 participant complies with the work activity requirements. The
 263 participant shall be counseled as to the consequences of
 264 noncompliance and, if appropriate, shall be referred for
 265 services that could assist the participant to fully comply with
 266 program requirements. If the participant has good cause for
 267 noncompliance or demonstrates satisfactory compliance, the
 268 sanction shall not be imposed. If the participant has
 269 subsequently obtained employment, the participant shall be
 270 counseled regarding the transitional benefits that may be
 271 available and provided information about how to access such
 272 benefits. The department shall administer sanctions related to
 273 food assistance ~~stamps~~ consistent with federal regulations.

274 (a)1. First noncompliance: temporary cash assistance shall
 275 be terminated for the family for a minimum of 10 days or until
 276 the individual who failed to comply does so.

277 2. Second noncompliance: temporary cash assistance shall
 278 be terminated for the family for 1 month or until the individual
 279 who failed to comply does so, whichever is later. Upon meeting
 280 this requirement, temporary cash assistance shall be reinstated

281 to the date of compliance or the first day of the month
 282 following the penalty period, whichever is later.

283 3. Third noncompliance: temporary cash assistance shall be
 284 terminated for the family for 3 months or until the individual
 285 who failed to comply does so, whichever is later. The individual
 286 shall be required to comply with the required work activity upon
 287 completion of the 3-month penalty period, before reinstatement
 288 of temporary cash assistance. Upon meeting this requirement,
 289 temporary cash assistance shall be reinstated to the date of
 290 compliance or the first day of the month following the penalty
 291 period, whichever is later.

292 (b) If a participant receiving temporary cash assistance
 293 who is otherwise exempted from noncompliance penalties fails to
 294 comply with the alternative requirement plan required in
 295 accordance with this section, the penalties provided in
 296 paragraph (a) shall apply.

297
 298 If a participant fully complies with work activity requirements
 299 for at least 6 months, the participant shall be reinstated as
 300 being in full compliance with program requirements for purpose
 301 of sanctions imposed under this section.

302 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
 303 CHILDREN; PROTECTIVE PAYEES.—

304 (a) Upon the second or third occurrence of noncompliance,
 305 temporary cash assistance and food assistance ~~stamps~~ for the
 306 child or children in a family who are under age 16 may be
 307 continued. Any such payments must be made through a protective
 308 payee or, in the case of food assistance ~~stamps~~, through an

309 authorized representative. Under no circumstances shall
 310 temporary cash assistance or food assistance ~~stamps~~ be paid to
 311 an individual who has failed to comply with program
 312 requirements.

313 (c) The protective payee designated by the department
 314 shall be the authorized representative for purposes of receiving
 315 food assistance ~~stamps~~ on behalf of a child or children under
 316 age 16. The authorized representative must agree in writing to
 317 use the food assistance ~~stamps~~ in the best interest of the child
 318 or children.

319 (d) If it is in the best interest of the child or
 320 children, as determined by the department, for the staff member
 321 of a private agency, a public agency, the department, or any
 322 other appropriate organization to serve as a protective payee or
 323 authorized representative, such designation may be made, except
 324 that a protective payee or authorized representative must not be
 325 any individual involved in determining eligibility for temporary
 326 cash assistance or food assistance ~~stamps~~ for the family, staff
 327 handling any fiscal processes related to issuance of temporary
 328 cash assistance or food assistance ~~stamps~~, or landlords,
 329 grocers, or vendors of goods, services, or items dealing
 330 directly with the participant.

331 (3) PROPORTIONAL REDUCTION OF TEMPORARY CASH ASSISTANCE
 332 RELATED TO PAY AFTER PERFORMANCE.—Notwithstanding the provisions
 333 of subsection (1), if an individual is receiving temporary cash
 334 assistance under a pay-after-performance arrangement and the
 335 individual participates, but fails to meet the full
 336 participation requirement, then the temporary cash assistance

337 received shall be reduced and shall be proportional to the
 338 actual participation. Food assistance ~~stamps~~ may be included in
 339 a pay-after-performance arrangement if permitted under federal
 340 law.

341 Section 16. Subsection (1) of section 414.0655, Florida
 342 Statutes, is amended to read:

343 414.0655 Medical incapacity due to substance abuse or
 344 mental health impairment.—

345 (1) Notwithstanding the provisions of s. 414.065 to the
 346 contrary, any participant who requires out-of-home residential
 347 treatment for alcoholism, drug addiction, alcohol abuse, or a
 348 mental health disorder, as certified by a physician licensed
 349 under chapter 458 or chapter 459, shall be exempted from work
 350 activities while participating in treatment. The participant
 351 shall be required to comply with the course of treatment
 352 necessary for the individual to resume work activity
 353 participation. The treatment agency shall be required to notify
 354 the department with an initial estimate of when the participant
 355 will have completed the course of treatment and be ready to
 356 resume full participation in the Temporary Cash Assistance ~~WAGES~~
 357 Program. If the treatment will take longer than 60 days, the
 358 treatment agency shall provide to the department the conditions
 359 justifying extended treatment, and the department and the
 360 treatment agency shall negotiate a continued stay in treatment
 361 not to exceed an additional 90 days.

362 Section 17. Section 414.075, Florida Statutes, is amended
 363 to read:

364 414.075 Resource eligibility standards.—For purposes of

365 program simplification and effective program management, certain
 366 resource definitions, as outlined in the food assistance ~~stamp~~
 367 regulations at 7 C.F.R. s. 273.8, shall be applied to the
 368 Temporary Cash Assistance ~~WAGES~~ Program as determined by the
 369 department to be consistent with federal law regarding temporary
 370 cash assistance and Medicaid for needy families, except that:

371 (1) The maximum allowable resources, including liquid and
 372 nonliquid resources, of all members of the family may not exceed
 373 \$2,000.

374 (2) In determining the resources of a family, the
 375 following shall be excluded:

376 (a) Licensed vehicles needed for individuals subject to
 377 the work participation requirement, not to exceed a combined
 378 value of \$8,500, and needed for training, employment, or
 379 education purposes. For any family without an individual subject
 380 to the work participation requirement, one vehicle valued at not
 381 more than \$8,500 shall be excluded. Any vehicle that is
 382 necessary to transport a physically disabled family member shall
 383 be excluded. A vehicle shall be considered necessary for the
 384 transportation of a physically disabled family member if the
 385 vehicle is specially equipped to meet the specific needs of the
 386 disabled person or if the vehicle is a special type of vehicle
 387 and makes it possible to transport the disabled person.

388 (b) Funds paid to a homeless shelter which are being held
 389 for the family to enable the family to pay deposits or other
 390 costs associated with moving to a new shelter arrangement.

391 (3) A vacation home that annually produces income
 392 consistent with its fair market value, and that is excluded as a

393 resource in determining eligibility for food assistance ~~stamp~~
 394 under federal regulations, may not be excluded as a resource in
 395 determining a family's eligibility for temporary cash
 396 assistance.

397 (4) An individual and the assistance group in which the
 398 individual is a current member will be ineligible for a period
 399 of 2 years from the original date of a transfer of an asset made
 400 for the purpose of qualifying for or maintaining eligibility for
 401 temporary cash assistance.

402 Section 18. Subsection (1) of section 414.085, Florida
 403 Statutes, is amended to read:

404 414.085 Income eligibility standards.—

405 (1) For purposes of program simplification and effective
 406 program management, certain income definitions, as outlined in
 407 the food assistance ~~stamp~~ regulations at 7 C.F.R. s. 273.9,
 408 shall be applied to the temporary cash assistance program as
 409 determined by the department to be consistent with federal law
 410 regarding temporary cash assistance and Medicaid for needy
 411 families, except as to the following:

412 (a) Participation in the temporary cash assistance program
 413 shall be limited to those families whose gross family income is
 414 equal to or less than 185 percent of the federal poverty level
 415 established in s. 673(2) of the Community Services Block Grant
 416 Act, 42 U.S.C. s. 9901(2).

417 (b) Income security payments, including payments funded
 418 under part B of Title IV of the Social Security Act, as amended;
 419 supplemental security income under Title XVI of the Social
 420 Security Act, as amended; or other income security payments as

421 defined by federal law shall be excluded as income unless
422 required to be included by federal law.

423 (c) The first \$50 of child support paid to a parent
424 receiving temporary cash assistance may not be disregarded in
425 calculating the amount of temporary cash assistance for the
426 family, unless such exclusion is required by federal law.

427 (d) An incentive payment to a participant authorized by a
428 regional workforce board shall not be considered income.

429 Section 19. Subsection (1), paragraphs (c) and (f) of
430 subsection (9), and paragraph (f) of subsection (14) of section
431 414.095, Florida Statutes, are amended to read:

432 414.095 Determining eligibility for temporary cash
433 assistance.—

434 (1) ELIGIBILITY.—An applicant must meet eligibility
435 requirements of this section before receiving services or
436 temporary cash assistance under this chapter, except that an
437 applicant shall be required to register for work and engage in
438 work activities in accordance with s. 445.024, as designated by
439 the regional workforce board, and may receive support services
440 or child care assistance in conjunction with such requirement.
441 The department shall make a determination of eligibility based
442 on the criteria listed in this chapter. The department shall
443 monitor continued eligibility for temporary cash assistance
444 through periodic reviews consistent with the food assistance
445 ~~stamp~~ eligibility process. Benefits shall not be denied to an
446 individual solely based on a felony drug conviction, unless the
447 conviction is for trafficking pursuant to s. 893.135. To be
448 eligible under this section, an individual convicted of a drug

449 felony must be satisfactorily meeting the requirements of the
 450 temporary cash assistance program, including all substance abuse
 451 treatment requirements. Within the limits specified in this
 452 chapter, the state opts out of the provision of Pub. L. No. 104-
 453 193, s. 115, that eliminates eligibility for temporary cash
 454 assistance and food assistance ~~stamps~~ for any individual
 455 convicted of a controlled substance felony.

456 (9) OPPORTUNITIES AND OBLIGATIONS.—An applicant for
 457 temporary cash assistance has the following opportunities and
 458 obligations:

459 (c) To be advised of any reduction or termination of
 460 temporary cash assistance or food assistance ~~stamps~~.

461 (f) To use temporary cash assistance and food assistance
 462 ~~stamps~~ for the purpose for which the assistance is intended.

463 (14) PROHIBITIONS AND RESTRICTIONS.—

464 (f) An individual who is convicted in federal or state
 465 court of receiving benefits under this chapter, Title XIX, the
 466 Food and Nutrition Act of 2008 ~~Food Stamp Act of 1977~~, or Title
 467 XVI (Supplemental Security Income), in two or more states
 468 simultaneously may not receive temporary cash assistance or
 469 services under this chapter for 10 years following the date of
 470 conviction.

471 Section 20. Section 414.14, Florida Statutes, is amended
 472 to read:

473 414.14 Public assistance policy simplification.—To the
 474 extent possible, the department shall align the requirements for
 475 eligibility under this chapter with the food assistance ~~stamp~~
 476 program and medical assistance eligibility policies and

477 procedures to simplify the budgeting process and reduce errors.
 478 If the department determines that s. 414.075, relating to
 479 resources, or s. 414.085, relating to income, is inconsistent
 480 with related provisions of federal law which govern the food
 481 assistance ~~stamp~~ program or medical assistance, and that
 482 conformance to federal law would simplify administration of the
 483 Temporary Cash Assistance ~~WAGES~~ Program or reduce errors without
 484 materially increasing the cost of the program to the state, the
 485 secretary of the department may propose a change in the resource
 486 or income requirements of the program by rule. The secretary
 487 shall provide written notice to the President of the Senate, the
 488 Speaker of the House of Representatives, and the chairpersons of
 489 the relevant committees of both houses of the Legislature
 490 summarizing the proposed modifications to be made by rule and
 491 changes necessary to conform state law to federal law. The
 492 proposed rule shall take effect 14 days after written notice is
 493 given unless the President of the Senate or the Speaker of the
 494 House of Representatives advises the secretary that the proposed
 495 rule exceeds the delegated authority of the Legislature.

496 Section 21. Paragraph (e) of subsection (3) of section
 497 414.16, Florida Statutes, is amended to read:

498 414.16 Emergency assistance program.—

499 (3) CRITERIA.—The department shall develop criteria for
 500 implementation of the program in accordance with the following
 501 guidelines:

502 (e) The family's adjusted gross income may not exceed the
 503 prevailing standard for participation in the Temporary Cash
 504 Assistance ~~WAGES~~ Program for the family's size.

505 Section 22. Section 414.17, Florida Statutes, is amended
 506 to read:

507 414.17 Audits.—The Temporary Cash Assistance ~~WAGES~~ Program
 508 is subject to the audit requirements of 31 U.S.C. ss. 5701 et
 509 seq.

510 Section 23. Subsection (2) of section 414.175, Florida
 511 Statutes, is amended to read:

512 414.175 Review of existing waivers.—

513 (2) The department shall review federal law, including
 514 revisions to federal food assistance program ~~stamp~~ requirements.
 515 If the department determines that federal food assistance ~~stamp~~
 516 waivers will further the goals of this chapter, including
 517 simplification of program policies or program administration,
 518 the department may obtain waivers if this can be accomplished
 519 within available resources.

520 Section 24. Section 414.31, Florida Statutes, is amended
 521 to read:

522 414.31 State agency for administering federal food
 523 assistance ~~stamp~~ program.—

524 (1) The department shall place into operation in each of
 525 the several counties of the state a food assistance ~~stamp~~
 526 program as authorized by the Congress of the United States. The
 527 department is designated as the state agency responsible for the
 528 administration and operation of such programs.

529 (2) The department shall provide for such instruction and
 530 counseling as will best assure that the recipients are able to
 531 provide a nutritionally adequate diet through the increased
 532 purchasing power received. This program shall be administered

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533 and operated in such a way that the distribution of food
534 assistance stamps shall be in locations reasonably accessible to
535 those areas in which persons eligible for the benefit of this
536 program are likely to be concentrated.

537 Section 25. Section 414.32, Florida Statutes, is amended
538 to read:

539 414.32 Prohibitions and restrictions with respect to food
540 assistance program stamps.—

541 (1) COOPERATION WITH CHILD SUPPORT ENFORCEMENT AGENCY.—

542 (a) A parent or caretaker relative who receives temporary
543 cash assistance or food assistance stamps on behalf of a child
544 under 18 years of age who has an absent parent is ineligible for
545 food assistance stamps unless the parent or caretaker relative
546 cooperates with the state agency that administers the child
547 support enforcement program in establishing the paternity of the
548 child, if the child is born out of wedlock, and in obtaining
549 support for the child or for the parent or caretaker relative
550 and the child. This paragraph does not apply if the state agency
551 that administers the food assistance stamp program determines
552 that the parent or caretaker relative has good cause for failing
553 to cooperate. The Department of Revenue shall determine good
554 cause for failure to cooperate if the Department of Children and
555 Family Services obtains written authorization from the United
556 States Department of Agriculture approving such arrangements.

557 (b) A putative or identified noncustodial parent of a
558 child under 18 years of age is ineligible for food assistance
559 stamps if the parent fails to cooperate with the state agency
560 that administers the child support enforcement program in

561 establishing the paternity of the child, if the child is born
 562 out of wedlock, or fails to provide support for the child. This
 563 paragraph does not apply if the state agency that administers
 564 the child support enforcement program determines that the
 565 noncustodial parent has good cause for refusing to cooperate in
 566 establishing the paternity of the child.

567 (2) REDUCTION OR DENIAL OF TEMPORARY CASH ASSISTANCE.—The
 568 food assistance ~~stamp~~ allotment shall be reduced or terminated
 569 as otherwise provided in this chapter if ~~temporary~~ cash
 570 assistance under the Temporary Cash Assistance ~~WAGES~~ Program is
 571 reduced or denied because an individual in the family fails to
 572 perform an action required under the program.

573 (3) DENIAL OF FOOD ASSISTANCE ~~STAMP~~ BENEFITS FOR RECEIPT
 574 OF MULTIPLE FOOD ASSISTANCE ~~STAMP~~ BENEFITS.—An individual is
 575 ineligible to participate in the food assistance ~~stamp~~ program
 576 individually, or as a member of any assistance group, for 10
 577 years following a conviction in federal or state court of having
 578 made a fraudulent statement or representation with respect to
 579 the identity or place of residence of the individual in order to
 580 receive multiple benefits simultaneously under the food
 581 assistance ~~stamp~~ program.

582 (4) DENIAL OF FOOD ASSISTANCE ~~STAMP~~ BENEFITS TO FLEEING
 583 FELONS.—An individual is ineligible to participate in the food
 584 assistance ~~stamp~~ program during any period when the individual
 585 is fleeing to avoid prosecution, custody, or confinement after
 586 committing a crime, attempting to commit a crime that is a
 587 felony under the laws of the place from which the individual
 588 flees or a high misdemeanor in the State of New Jersey, or

589 | violating a condition of probation or parole imposed under
 590 | federal or state law.

591 | Section 26. Section 414.33, Florida Statutes, is amended
 592 | to read:

593 | 414.33 Violations of food assistance ~~stamp~~ program.—

594 | (1) In accordance with federal law and regulations, the
 595 | department shall establish procedures for notifying the
 596 | appropriate federal and state agencies of any violation of
 597 | federal or state laws or rules governing the food assistance
 598 | ~~stamp~~ program.

599 | (2) In addition, the department shall establish procedures
 600 | for referring to the Department of Law Enforcement any case that
 601 | involves a suspected violation of federal or state law or rules
 602 | governing the administration of the food assistance ~~stamp~~
 603 | program.

604 | Section 27. Section 414.34, Florida Statutes, is amended
 605 | to read:

606 | 414.34 Annual report concerning administrative complaints
 607 | and disciplinary actions involving food assistance ~~stamp~~ program
 608 | violations.—The department shall prepare and submit a report to
 609 | the President of the Senate, the Speaker of the House of
 610 | Representatives, the chairs of the appropriate legislative
 611 | committees, and the Department of Law Enforcement by January 1
 612 | of each year. In addition to any other information the
 613 | Legislature may require, the report must include statistics and
 614 | relevant information detailing:

615 | (1) The number of complaints received and investigated.

616 | (2) The number of findings of probable cause made.

617 (3) The number of findings of no probable cause made.

618 (4) The number of administrative complaints filed.

619 (5) The disposition of all administrative complaints.

620 (6) The number of criminal complaints brought under s.
621 414.39, and their disposition.

622 (7) The status of the development and implementation of
623 rules governing the electronic benefits transfer program,
624 including any recommendations for statutory changes.

625 Section 28. Subsections (1) and (3) of section 414.35,
626 Florida Statutes, are amended to read:

627 414.35 Emergency relief.—

628 (1) The department shall adopt rules for the
629 administration of emergency assistance programs delegated to the
630 department either by executive order in accordance with the
631 Disaster Relief Act of 1974 or pursuant to the Food and
632 Nutrition Act of 2008 ~~Food Stamp Act of 1977~~.

633 (3) In administering emergency food assistance ~~stamp~~ and
634 other emergency assistance programs, the department shall
635 cooperate fully with the United States Government and with other
636 departments, instrumentalities, and agencies of this state.

637 Section 29. Subsections (1) and (2) of section 414.36,
638 Florida Statutes, are amended to read:

639 414.36 Public assistance overpayment recovery program;
640 contracts.—

641 (1) The department shall develop and implement a plan for
642 the statewide privatization of activities relating to the
643 recovery of public assistance overpayment claims. These
644 activities shall include, at a minimum, voluntary cash

645 collections functions for recovery of fraudulent and
 646 nonfraudulent benefits paid to recipients of temporary cash
 647 assistance, food assistance ~~stamps~~, and aid to families with
 648 dependent children.

649 (2) For purposes of privatization of public assistance
 650 overpayment recovery, the department shall enter into contracts
 651 consistent with federal law with for-profit corporations, not-
 652 for-profit corporations, or other entities capable of providing
 653 the services for recovering public assistance required under
 654 this section. The department shall issue requests for proposals,
 655 enter into a competitive bidding process, and negotiate
 656 contracts for such services. Contracts for such services may be
 657 funded on a contingency fee basis, per fiscal year, based on a
 658 percentage of the state-retained share of collections, for
 659 claims for food assistance ~~stamps~~, aid to families with
 660 dependent children, and temporary cash assistance. This section
 661 does not prohibit districts from entering into contracts to
 662 carry out the provisions of this section, if that is a cost-
 663 effective use of resources.

664 Section 30. Subsections (2) and (3), paragraph (c) of
 665 subsection (5), and subsection (10) of section 414.39, Florida
 666 Statutes, are amended to read:

667 414.39 Fraud.—

668 (2) Any person who knowingly:

669 (a) Uses, transfers, acquires, traffics, alters, forges,
 670 or possesses, or

671 (b) Attempts to use, transfer, acquire, traffic, alter,
 672 forge, or possess, or

673 (c) Aids and abets another person in the use, transfer,
 674 acquisition, traffic, alteration, forgery, or possession of,
 675
 676 ~~a food stamp,~~ a food assistance stamp identification card, an
 677 authorization, including, but not limited to, an electronic
 678 authorization, for the expenditure purchase of food assistance
 679 benefits stamps, a certificate of eligibility for medical
 680 services, or a Medicaid identification card in any manner not
 681 authorized by law commits ~~is guilty of~~ a crime and shall be
 682 punished as provided in subsection (5). ~~For the purposes of this~~
 683 ~~section, the value of an authorization to purchase food stamps~~
 684 ~~shall be the difference between the coupon allotment and the~~
 685 ~~amount paid by the recipient for that allotment.~~

686 (3) Any person having duties in the administration of a
 687 state or federally funded public assistance program or in the
 688 distribution of public assistance, or authorizations or
 689 identifications to obtain public assistance, under a state or
 690 federally funded public assistance program and who:

691 (a) Fraudulently misappropriates, attempts to
 692 misappropriate, or aids and abets in the misappropriation of, a
 693 food assistance stamp, an authorization for food assistance
 694 ~~stamps~~, a food assistance stamp identification card, a
 695 certificate of eligibility for prescribed medicine, a Medicaid
 696 identification card, or public assistance from any other state
 697 or federally funded program with which he or she has been
 698 entrusted or of which he or she has gained possession by virtue
 699 of his or her position, or who knowingly fails to disclose any
 700 such fraudulent activity; or

701 (b) Knowingly misappropriates, attempts to misappropriate,
 702 or aids or abets in the misappropriation of, funds given in
 703 exchange for food assistance program benefits ~~stamps~~ or for any
 704 form of food assistance ~~stamp~~ benefits authorization,
 705
 706 commits ~~is guilty of~~ a crime and shall be punished as provided
 707 in subsection (5).

708 (5)

709 (c) As used in this subsection, the value of a food
 710 assistance ~~stamp~~ authorization benefit is the cash or exchange
 711 value unlawfully obtained by the fraudulent act committed in
 712 violation of this section.

713 (10) The department shall create an error-prone or fraud-
 714 prone case profile within its public assistance information
 715 system and shall screen each application for public assistance,
 716 including food assistance ~~stamps~~, Medicaid, and temporary cash
 717 assistance, against the profile to identify cases that have a
 718 potential for error or fraud. Each case so identified shall be
 719 subjected to preeligibility fraud screening.

720 Section 31. Section 414.41, Florida Statutes, is amended
 721 to read:

722 414.41 Recovery of payments made due to mistake or fraud.—

723 (1) Whenever it becomes apparent that any person or
 724 provider has received any public assistance under this chapter
 725 to which she or he is not entitled, through either simple
 726 mistake or fraud on the part of the department or on the part of
 727 the recipient or participant, the department shall take all
 728 necessary steps to recover the overpayment. Recovery may include

729 Federal Income Tax Refund Offset Program collections activities
 730 in conjunction with Food and Nutrition ~~Consumer~~ Service and the
 731 Internal Revenue Service to intercept income tax refunds due to
 732 clients who owe food assistance ~~stamp~~ or temporary cash
 733 assistance ~~WAGES~~ debt to the state. The department will follow
 734 the guidelines in accordance with federal rules and regulations
 735 and consistent with the Food Assistance ~~Stamp~~ Program. The
 736 department may make appropriate settlements and shall establish
 737 a policy and cost-effective rules to be used in the computation
 738 and recovery of such overpayments.

739 (a) The department will consider an individual who has
 740 willfully provided false information or omitted information to
 741 become or remain eligible for temporary cash assistance to have
 742 committed an intentional program violation.

743 (b) When the intentional program violation or case facts
 744 do not warrant criminal prosecution for fraud as defined in s.
 745 414.39, the department will initiate an administrative
 746 disqualification hearing. The administrative disqualification
 747 hearing will be initiated regardless of the individual's current
 748 eligibility.

749 (c) Upon a finding through the administrative
 750 disqualification hearing process that the individual did commit
 751 an intentional program violation, the department will impose a
 752 disqualification period consistent with those established for
 753 food assistance ~~stamp~~ program purposes.

754 (2) The department shall determine if recovery of an
 755 overpayment as a result of department error regarding ~~temporary~~
 756 cash assistance provided under the Temporary Cash Assistance

757 | ~~WAGES~~ Program or benefits provided to a recipient of aid to
 758 | families with dependent children would create extreme hardship.
 759 | The department shall provide by rule the circumstances that
 760 | constitute an extreme hardship. The department may reduce the
 761 | amount of repayment if a recipient or participant demonstrates
 762 | to the satisfaction of the department that repayment of the
 763 | entire overpayment would result in extreme hardship, but the
 764 | department may not excuse repayment. A determination of extreme
 765 | hardship is not grounds for a waiver of repayment in whole or in
 766 | part.

767 | (3) The department, or its designee, shall enforce an
 768 | order of income deduction by the court against the liable adult
 769 | recipient or participant, including the head of a family, for
 770 | overpayment received as an adult under the temporary cash
 771 | assistance program, the AFDC program, the food assistance ~~stamp~~
 772 | program, or the Medicaid program.

773 | Section 32. Section 414.45, Florida Statutes, is amended
 774 | to read:

775 | 414.45 Rulemaking.—The department has authority to adopt
 776 | rules pursuant to ss. 120.536(1) and 120.54 to implement and
 777 | enforce the provisions of this chapter. The rules must provide
 778 | protection against discrimination and the opportunity for a
 779 | participant to request a review by a supervisor or administrator
 780 | of any decision made by a panel or board of the department or
 781 | the Temporary Cash Assistance ~~WAGES~~ Program.

782 | Section 33. Subsection (8) of section 420.624, Florida
 783 | Statutes, is amended to read:

784 | 420.624 Local homeless assistance continuum of care.—

785 (8) Continuum of care plans must promote participation by
 786 all interested individuals and organizations and may not exclude
 787 individuals and organizations on the basis of race, color,
 788 national origin, sex, handicap, familial status, or religion.
 789 Faith-based organizations must be encouraged to participate. To
 790 the extent possible, these components should be coordinated and
 791 integrated with other mainstream health, social services, and
 792 employment programs for which homeless populations may be
 793 eligible, including Medicaid, State Children's Health Insurance
 794 Program, Temporary Assistance for Needy Families, Food
 795 Assistance Program ~~Stamps~~, and services funded through the
 796 Mental Health and Substance Abuse Block Grant, the Workforce
 797 Investment Act, and the welfare-to-work grant program.

798 Section 34. Paragraph (g) of subsection (5) of section
 799 430.2053, Florida Statutes, is amended to read:

800 430.2053 Aging resource centers.—

801 (5) The duties of an aging resource center are to:

802 (g) Enhance the existing area agency on aging in each
 803 planning and service area by integrating, either physically or
 804 virtually, the staff and services of the area agency on aging
 805 with the staff of the department's local CARES Medicaid nursing
 806 home preadmission screening unit and a sufficient number of
 807 staff from the Department of Children and Family Services'
 808 Economic Self-Sufficiency Unit necessary to determine the
 809 financial eligibility for all persons age 60 and older residing
 810 within the area served by the aging resource center that are
 811 seeking Medicaid services, Supplemental Security Income, and
 812 food assistance ~~stamps~~.

813 Section 35. Paragraph (b) of subsection (5) of section
 814 445.004, Florida Statutes, is amended to read:

815 445.004 Workforce Florida, Inc.; creation; purpose;
 816 membership; duties and powers.—

817 (5) Workforce Florida, Inc., shall have all the powers and
 818 authority, not explicitly prohibited by statute, necessary or
 819 convenient to carry out and effectuate the purposes as
 820 determined by statute, Pub. L. No. 105-220, and the Governor, as
 821 well as its functions, duties, and responsibilities, including,
 822 but not limited to, the following:

823 (b) Providing oversight and policy direction to ensure
 824 that the following programs are administered by the Agency for
 825 Workforce Innovation in compliance with approved plans and under
 826 contract with Workforce Florida, Inc.:

827 1. Programs authorized under Title I of the Workforce
 828 Investment Act of 1998, Pub. L. No. 105-220, with the exception
 829 of programs funded directly by the United States Department of
 830 Labor under Title I, s. 167.

831 2. Programs authorized under the Wagner-Peyser Act of
 832 1933, as amended, 29 U.S.C. ss. 49 et seq.

833 3. Activities authorized under Title II of the Trade Act
 834 of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade
 835 Adjustment Assistance Program.

836 4. Activities authorized under 38 U.S.C., chapter 41,
 837 including job counseling, training, and placement for veterans.

838 5. Employment and training activities carried out under
 839 funds awarded to this state by the United States Department of
 840 Housing and Urban Development.

841 6. Welfare transition services funded by the Temporary
 842 Assistance for Needy Families Program, created under the
 843 Personal Responsibility and Work Opportunity Reconciliation Act
 844 of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403,
 845 of the Social Security Act, as amended.

846 7. Displaced homemaker programs, provided under s. 446.50.

847 8. The Florida Bonding Program, provided under Pub. L. No.
 848 97-300, s. 164(a)(1).

849 9. The Food Assistance ~~Stamp~~ Employment and Training
 850 Program, provided under the Food and Nutrition Act of 2008 ~~Stamp~~
 851 ~~Act of 1977~~, 7 U.S.C. ss. 2011-2032; the Food Security Act of
 852 1988, Pub. L. No. 99-198; and the Hunger Prevention Act, Pub. L.
 853 No. 100-435.

854 10. The Quick-Response Training Program, provided under
 855 ss. 288.046-288.047. Matching funds and in-kind contributions
 856 that are provided by clients of the Quick-Response Training
 857 Program shall count toward the requirements of s.
 858 288.90151(5)(d), pertaining to the return on investment from
 859 activities of Enterprise Florida, Inc.

860 11. The Work Opportunity Tax Credit, provided under the
 861 Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277,
 862 and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

863 12. Offender placement services, provided under ss.
 864 944.707-944.708.

865 Section 36. Paragraph (b) of subsection (9) of section
 866 445.009, Florida Statutes, is amended to read:

867 445.009 One-stop delivery system.—

868 (9)

869 (b) The network shall assure that a uniform method is used
 870 to determine eligibility for and management of services provided
 871 by agencies that conduct workforce development activities. The
 872 Department of Management Services shall develop strategies to
 873 allow access to the databases and information management systems
 874 of the following systems in order to link information in those
 875 databases with the one-stop delivery system:

876 1. The Unemployment Compensation Program of the Agency for
 877 Workforce Innovation.

878 2. The public employment service described in s. 443.181.

879 3. The FLORIDA System and the components related to
 880 temporary cash assistance ~~WAGES~~, food assistance ~~stamps~~, and
 881 Medicaid eligibility.

882 4. The Student Financial Assistance System of the
 883 Department of Education.

884 5. Enrollment in the public postsecondary education
 885 system.

886 6. Other information systems determined appropriate by
 887 Workforce Florida, Inc.

888 Section 37. Subsection (2) of section 445.024, Florida
 889 Statutes, is amended to read:

890 445.024 Work requirements.—

891 (2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not
 892 otherwise exempt from work activity requirements must
 893 participate in a work activity for the maximum number of hours
 894 allowable under federal law; however, a participant may not be
 895 required to work more than 40 hours per week. The maximum number
 896 of hours each month that a family may be required to participate

897 | in community service or work experience programs is the number
 898 | of hours that would result from dividing the family's monthly
 899 | amount for temporary cash assistance and food assistance ~~stamps~~
 900 | by the applicable minimum wage. However, the maximum hours
 901 | required per week for community service or work experience may
 902 | not exceed 40 hours.

903 | (a) A participant in a work activity may also be required
 904 | to enroll in and attend a course of instruction designed to
 905 | increase literacy skills to a level necessary for obtaining or
 906 | retaining employment if the instruction plus the work activity
 907 | does not require more than 40 hours per week.

908 | (b) Program funds may be used, as available, to support
 909 | the efforts of a participant who meets the work activity
 910 | requirements and who wishes to enroll in or continue enrollment
 911 | in an adult general education program or other training
 912 | programs.

913 | Section 38. Section 445.026, Florida Statutes, is amended
 914 | to read:

915 | 445.026 Cash assistance severance benefit.—An individual
 916 | who meets the criteria listed in this section may choose to
 917 | receive a lump-sum payment in lieu of ongoing cash assistance
 918 | payments, provided the individual:

- 919 | (1) Is employed and is receiving earnings.
- 920 | (2) Has received cash assistance for at least 6
 921 | consecutive months.
- 922 | (3) Expects to remain employed for at least 6 months.
- 923 | (4) Chooses to receive a one-time, lump-sum payment in
 924 | lieu of ongoing monthly payments.

925 (5) Provides employment and earnings information to the
 926 regional workforce board, so that the regional workforce board
 927 can ensure that the family's eligibility for severance benefits
 928 can be evaluated.

929 (6) Signs an agreement not to apply for or accept cash
 930 assistance for 6 months after receipt of the one-time payment.
 931 In the event of an emergency, such agreement shall provide for
 932 an exception to this restriction, provided that the one-time
 933 payment shall be deducted from any cash assistance for which the
 934 family subsequently is approved. This deduction may be prorated
 935 over an 8-month period. The board of directors of Workforce
 936 Florida, Inc., shall adopt criteria defining the conditions
 937 under which a family may receive cash assistance due to such
 938 emergency.

939
 940 Such individual may choose to accept a one-time, lump-sum
 941 payment of \$1,000 in lieu of receiving ongoing cash assistance.
 942 Such payment shall only count toward the time limitation for the
 943 month in which the payment is made in lieu of cash assistance. A
 944 participant choosing to accept such payment shall be terminated
 945 from cash assistance. However, eligibility for Medicaid, food
 946 assistance ~~stamps~~, or child care shall continue, subject to the
 947 eligibility requirements of those programs.

948 Section 39. Subsection (2) of section 445.048, Florida
 949 Statutes, is amended to read:

950 445.048 Passport to Economic Progress program.—

951 (2) WAIVERS.—If Workforce Florida, Inc., in consultation
 952 with the Department of Children and Family Services, finds that

953 federal waivers would facilitate implementation of the program,
 954 the department shall immediately request such waivers, and
 955 Workforce Florida, Inc., shall report to the Governor, the
 956 President of the Senate, and the Speaker of the House of
 957 Representatives if any refusal of the federal government to
 958 grant such waivers prevents the implementation of the program.
 959 If Workforce Florida, Inc., finds that federal waivers to
 960 provisions of the Food Assistance ~~Stamp~~ Program would facilitate
 961 implementation of the program, the Department of Children and
 962 Family Services shall immediately request such waivers in
 963 accordance with s. 414.175.

964 Section 40. Paragraph (d) of subsection (1) of section
 965 718.115, Florida Statutes, is amended to read:

966 718.115 Common expenses and common surplus.—

967 (1)

968 (d) If so provided in the declaration, the cost of a
 969 master antenna television system or duly franchised cable
 970 television service obtained pursuant to a bulk contract shall be
 971 deemed a common expense. If the declaration does not provide for
 972 the cost of a master antenna television system or duly
 973 franchised cable television service obtained under a bulk
 974 contract as a common expense, the board may enter into such a
 975 contract, and the cost of the service will be a common expense
 976 but allocated on a per-unit basis rather than a percentage basis
 977 if the declaration provides for other than an equal sharing of
 978 common expenses, and any contract entered into before July 1,
 979 1998, in which the cost of the service is not equally divided
 980 among all unit owners, may be changed by vote of a majority of

981 the voting interests present at a regular or special meeting of
 982 the association, to allocate the cost equally among all units.
 983 The contract shall be for a term of not less than 2 years.

984 1. Any contract made by the board after the effective date
 985 hereof for a community antenna system or duly franchised cable
 986 television service may be canceled by a majority of the voting
 987 interests present at the next regular or special meeting of the
 988 association. Any member may make a motion to cancel said
 989 contract, but if no motion is made or if such motion fails to
 990 obtain the required majority at the next regular or special
 991 meeting, whichever is sooner, following the making of the
 992 contract, then such contract shall be deemed ratified for the
 993 term therein expressed.

994 2. Any such contract shall provide, and shall be deemed to
 995 provide if not expressly set forth, that any hearing-impaired or
 996 legally blind unit owner who does not occupy the unit with a
 997 non-hearing-impaired or sighted person, or any unit owner
 998 receiving supplemental security income under Title XVI of the
 999 Social Security Act or food assistance ~~stamp~~ as administered by
 1000 the Department of Children and Family Services pursuant to s.
 1001 414.31, may discontinue the service without incurring disconnect
 1002 fees, penalties, or subsequent service charges, and, as to such
 1003 units, the owners shall not be required to pay any common
 1004 expenses charge related to such service. If less than all
 1005 members of an association share the expenses of cable
 1006 television, the expense shall be shared equally by all
 1007 participating unit owners. The association may use the
 1008 provisions of s. 718.116 to enforce payment of the shares of

1009 such costs by the unit owners receiving cable television.
 1010 Section 41. Paragraph (f) of subsection (1) of section
 1011 817.568, Florida Statutes, is amended to read:
 1012 817.568 Criminal use of personal identification
 1013 information.—
 1014 (1) As used in this section, the term:
 1015 (f) "Personal identification information" means any name
 1016 or number that may be used, alone or in conjunction with any
 1017 other information, to identify a specific individual, including
 1018 any:
 1019 1. Name, postal or electronic mail address, telephone
 1020 number, social security number, date of birth, mother's maiden
 1021 name, official state-issued or United States-issued driver's
 1022 license or identification number, alien registration number,
 1023 government passport number, employer or taxpayer identification
 1024 number, Medicaid or food assistance ~~stamp~~ account number, bank
 1025 account number, credit or debit card number, or personal
 1026 identification number or code assigned to the holder of a debit
 1027 card by the issuer to permit authorized electronic use of such
 1028 card;
 1029 2. Unique biometric data, such as fingerprint, voice
 1030 print, retina or iris image, or other unique physical
 1031 representation;
 1032 3. Unique electronic identification number, address, or
 1033 routing code;
 1034 4. Medical records;
 1035 5. Telecommunication identifying information or access
 1036 device; or

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1037 6. Other number or information that can be used to access
 1038 a person's financial resources.

1039 Section 42. Paragraph (a) of subsection (3) of section
 1040 921.0022, Florida Statutes, is amended to read:

1041 921.0022 Criminal Punishment Code; offense severity
 1042 ranking chart.—

1043 (3) OFFENSE SEVERITY RANKING CHART

1044 (a) LEVEL 1

1045

Florida Statute	Felony Degree	Description
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1046

24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
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1047

212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
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1048

212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
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1049

316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
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1050

319.30(5)	3rd	Sell, exchange, give away
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			certificate of title or identification number plate.
1051	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
1052	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
1053	322.212(1)(a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
1054	322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
1055	322.212(5)(a)	3rd	False application for driver's license or identification card.
1056	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food <u>assistance stamps</u> , Medicaid ID, value greater than \$200.
1057			

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1058	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
1059	443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
1060	509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
1061	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
1062	562.27(1)	3rd	Possess still or still apparatus.
1063	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not

			specified in subsection (2).
1064	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
1065	815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
1066	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
1067	817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
1068	826.01	3rd	Bigamy.
1069	828.122(3)	3rd	Fighting or baiting animals.
1070	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
1071			

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1072	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
1073	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
1074	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
1075	838.15(2)	3rd	Commercial bribe receiving.
1076	838.16	3rd	Commercial bribery.
1077	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
1078	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
1079	849.01	3rd	Keeping gambling house.

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1080	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
1081	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
1082	849.25(2)	3rd	Engaging in bookmaking.
1083	860.08	3rd	Interfere with a railroad signal.
1084	860.13(1)(a)	3rd	Operate aircraft while under the influence.
1085	893.13(2)(a)2.	3rd	Purchase of cannabis.
1086	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
1087	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

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1088 Section 43. Paragraph (a) of subsection (1) of section
 1089 943.401, Florida Statutes, is amended to read:

1090 943.401 Public assistance fraud.—

1091 (1)(a) The Department of Law Enforcement shall investigate
 1092 all public assistance provided to residents of the state or
 1093 provided to others by the state. In the course of such
 1094 investigation the Department of Law Enforcement shall examine
 1095 all records, including electronic benefits transfer records and
 1096 make inquiry of all persons who may have knowledge as to any
 1097 irregularity incidental to the disbursement of public moneys,
 1098 food assistance stamps, or other items or benefits
 1099 authorizations to recipients.

1100 Section 44. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7083 PCB HCS 10-01 Child Support Enforcement

SPONSOR(S): Health Care Services Policy Committee and Kreegel

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Services Policy Committee	10 Y, 1 N	Schoonover	Schoolfield
1)	Health & Family Services Policy Council		Schoonover <i>CW</i>	Gormley <i>CS</i>
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

HB 7083 makes several administrative and technical amendments to improve the effectiveness of the Child Support Enforcement program administered by the Department of Revenue (DOR). The bill:

- Restores authority for Clerk of Courts to process payments for private child support cases.
- Deletes DOR authority to reduce a retroactive support obligation by 25 percent when obligor and DOR agree on terms.
- Streamlines the process to modify child support obligations and allows DOR to electronically submit financial affidavits.
- Authorizes DOR to collect non-covered medical expenses by installments and gives DOR access to health records received by the Agency for Health Care Administration (AHCA).
- Authorizes DOR to claim as program income, uncashed checks of less than \$1 or to close case balances of less than \$1.
- Clarifies statutory terms regarding administrative establishment of child support orders.
- Assists DOR in establishing paternity by directing the Office of Vital Statistics to amend a child's birth certificate based on a marriage license application submitted under oath or upon entry of a final judgment of dissolution of marriage.
- Makes permissive the requirement for DOR to request a federal waiver to provide services without the need of an application.
- Extends the deadline for DOR to implement electronic filing of documents with the court.
- Clarifies assignment of child support rights to DOR in temporary cash assistance cases.

The bill has an estimated non-recurring fiscal impact of \$5,000 on state government:

The bill is effective upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Child support enforcement is a federally funded program that has been administered by the Department of Revenue (DOR) since 1994.¹ A "Title IV-D case" is defined as any case in which the child support enforcement agency is enforcing the child support order pursuant to Title IV-D of the Social Security Act.² DOR provides services under this federally required program directly 65 counties and through contracts with governmental entities in the remaining two counties.³

To remain eligible for the Temporary Assistance for Needy Families (TANF) Block Grant, Florida must have a federally compliant child support program. The program must contain the following services:

- Paternity establishment;
- Support order establishment;
- Support order review and modification;
- Location of parents, employers, and assets;
- Payment collection and disbursement
- Order enforcement.⁴

The paternity establishment service uses administrative and judicial actions to establish paternity, as well as genetic testing to assist in determining biological parents. In 2009, 105,379 children were born out-of-wedlock in Florida. Of that amount, 94,775 paternity determinations were made. Currently, 100,568 children await paternity determination.⁵

DOR establishes initial child support orders and modifies existing orders when a family's circumstances change. During FY 08-09, DOR support orders resulted in \$48 million in child support collections.⁶ Currently, 223,973 cases require a support order.

¹ s. 4, Ch. 94-124, Laws of Florida

² *Id.*

³ Miami-Dade County cases are handled by the State Attorney's Office; Manatee County cases are handled by the Clerk of Court.

⁴ Health Care Services Policy Committee Presentation by Lisa Echeverri of Department of Revenue. January 21, 2010.

⁵ *Id.*

⁶ *Id.*

DOR is responsible for several case processing activities including: opening and closing cases; collecting and maintaining case, location, and financial data; and receipt and response to verbal and written inquiries. In 2009, 1.1 million cases were maintained by DOR. In FY 08-09, DOR had a 7.3 percent increase in new service requests and 6.6 percent increase in reopened cases.⁷

Child support orders are enforced by DOR by using available administrative and judicial action. DOR also handles receipt and disbursement of collections. In 2009, over \$1.41 billion was collected and distributed, with 98 percent of collections distributed within 24 hours. Less than 30 percent of parents obligated to pay child support pay their full child support obligation on a monthly basis. Thus, DOR used enforcement actions to collect on 92 percent of the support collections eventually received.⁸

Effect of Proposed Changes

Clerk's Depository and Private Child Support Cases

The bill amends s. 61.13(1)(d), F.S., to allow parties in private child support cases to request that the local clerk's depository process their support payments. DOR operates the State Disbursement Unit, which is responsible for the collection and disbursement of child support payments. The clerks of all Florida circuit courts operate a depository to receive, record, report, disburse, monitor, and otherwise handle child support payments not otherwise required to be handled by the State Disbursement Unit.⁹ In previous years, parties in private child support cases could request the local circuit court's depository to process certain payments through their office. However, in 2009, legislation was passed that unintentionally eliminated this ability.¹⁰ The bill re-creates this procedure and allows payments through the depository, except for income deduction payments, which must be made through the State Disbursement Unit.

Support Obligation Modifications

The bill deletes a provision in s. 409.2564(4), F.S., enacted in 2006, providing DOR the authority to reduce the amount of retroactive support an obligor (parent) owes to the State by 25 percent if the obligor and DOR agree on terms. The provision was intended to encourage out-of-court settlements and improve compliance; however, DOR has been unable to implement this provision due to the complexity of federal distribution rules that determine when arrears are owed to the State. The bill removes this requirement in statute.

Current law, s. 409.2564, F.S., requires DOR to review temporary cash assistance cases at least every three years and, by request, other child support cases, to determine if a support obligation modification is necessary.¹¹ When such review reveals that a modification is warranted, DOR initiates the modification action by providing notice by personal service followed by a hearing before a judge or hearing officer to make the final determination.¹²

The bill amends s. 409.2564, F.S., by authorizing DOR to serve child support modification petitions by regular mail to parties who request, or participate in, a review. A party that does not request review or respond to the department during review will receive notice via certified mail. The bill permits either parent to object within 30 days of receipt of the proposed order and request a hearing on the matter. If a timely objection or request for hearing is not made, the bill authorizes the court to enter a final modified support order with the same provisions as the proposed order.

The bill also allows DOR to seek modification of the order if the order does not provide for payment of noncovered medical expenses or require health insurance for the child when such insurance is accessible and available at reasonable cost. A modification under these circumstances does not require proof, or a showing of change in circumstances.

⁷ *Id.*

⁸ *Id.*

⁹ s. 61.046, F.S.

¹⁰ s. 1, Ch. 2009-180, Laws of Florida.

¹¹ s. 409.2564(11), F.S.

¹² s. 409.3564, F.S.

The bill also amends s. 61.30(15), F.S., to give DOR the option to file a written declaration under penalty of perjury which attests to the income of a parent who receives public assistance when the parent is not cooperative in providing the information. The effect of this change will expedite establishment of child support orders and facilitate electronic filing when it becomes available, making the process more efficient.

Medical Support Improvements

In 2009, s. 61.13(1)(b) was amended, and created a process for determining each parent's share of responsibility for the child's health insurance and noncovered medical expenses when that is the only issue before the court. In such proceedings, each parent's share required for health insurance and noncovered medical expenses is calculated by dividing each parent's net monthly income by the combined monthly net income of both parents.¹³ However, the intent was to establish a clear procedure for calculating the parent's share of responsibility for noncovered medical expenses, not health insurance. The bill corrects this error by removing the reference to health insurance.

The bill amends s. 409.25635, F.S., to authorize DOR to collect noncovered medical expenses in installments by adding a periodic payment to an income deduction notice issued by DOR. Noncovered medical expenses are uninsured medical, dental, or prescription medication expenses that are ordered to be paid on behalf of a child.¹⁴ Under current law, DOR is authorized to use any available administrative remedy to collect noncovered medical expenses. The effect of this change will reduce the administrative burden on DOR in collecting noncovered medical expenses.

The bill amends s. 409.910, F.S., to give DOR access to health insurance records received by the Agency for Health Care Administration (AHCA). Currently, AHCA is not authorized to share data it receives from the Office of Insurance Regulation regarding third party insurance payors with DOR. This will allow DOR to identify whether parents have health insurance coverage and to enforce support orders with health insurance coverage for dependents.

Payment Processing

Pursuant to s. 409.2558(3), F.S., DOR is required to continue attempts to disburse minimal collections, including payments of less than \$1, when a parent does not cash such payment within 180 days, or balances of less than \$1 owed on closed cases. The bill authorizes DOR to claim as income the state share of any such payments. Any federal share of the funds will be returned to the federal government. For 2009, DOR estimates that the cumulative amount that would be retained from un-cashed checks is less than \$300 dollars.¹⁵

Section 409.2558(3)(b) establishes processing priorities for DOR related to undistributable collections and adds additional priorities for applying undistributable collections. The additional priorities will allow DOR to offset cost incurred from losses resulting from bad checks or overpayments made to either parent.

The effect of these changes will create additional program income and greater efficiency in payment processing for the department.

Administrative Process Improvements

The bill amends s. 409.256, F.S., to replace the term "custodian" with "caregiver" with regard to administrative proceedings to establish paternity and child support, and makes conforming changes throughout the section. "Caregiver" will be defined as a person, other than the mother, father or alleged father, who has physical custody or with whom the child primarily resides. The bill also substitutes the terms "putative father" with "alleged father" and "informal review" with "informal discussion." Using the term "informal review" ensures that s. 409.256, F.S., is consistent with s. 409.2563, F.S.

¹³ HB 5129; 2009-90, Laws of Florida.

¹⁴ s. 409.25635(1), F.S.

¹⁵ Email from D. Thomas, DOR dated 1-7-10.

Section 409.2563, F.S., permits either a parent or a caretaker relative to file suit to determine parental support obligations. "Caretaker relative" is defined as an adult who has assumed primary responsibility and care of the child and who is related to the child by blood or marriage.¹⁶ Thus, under current law, an adult with whom the child resides who is not a relative or has legal custody does not have standing to file a civil action or to request an administrative hearing to determine parental support obligations. The bill amends this section by replacing the term "caretaker relative" with "caregiver," which includes any person other than the mother, father, or alleged father who has physical custody or with whom the child primarily resides. This gives adults providing care or residence to a child standing to address child support obligations in legal or administrative proceedings.

Marriage Application, Dissolution of Marriage and Paternity Establishment

The bill amends s. 382.015, F.S., to require the Department of Health (DOH), Office of Vital Statistics (OVS), to accept a certified copy of a final judgment of dissolution of marriage that requires the former husband to pay support for the child as a determination of paternity. This will require OVS to amend a child's birth certificate to include the name of the legal father in these circumstances.

The bill also amend s. 741.01, F.S., to require both applicants to marriage to declare under oath, in writing, whether they are the parents of a child born in Florida and to identify children they have in common. Further the bill amends s. 382.016, F.S., to require the OVS to amend the birth certificate upon receipt of the marriage license to reflect the marital status of the parents.

The effect of these changes will enable DOR to establish paternity in a timely fashion and maintain compliance with federal standards for the program, which require paternity be established for 90 percent of out-of-wedlock births.¹⁷

Federal Waiver Request

Section 409.2567, F.S., requires DOR to seek a federal waiver allowing the department to provide services to an individual owed child support who has not applied to DOR for assistance. DOR has not requested the waiver because changes to incentive payments authorized in the federal funding formula for the Child Support Program has made it cost prohibitive to pursue the waiver.

The bill amends s. 409.2567, F.S. to make DOR's waiver request permissive instead of mandatory. DOR may seek the waiver if it would result in increased federal funding that exceed any additional cost to the state. The effect of this change will allow DOR to seek the waiver when the program would be cost beneficial to the state.

Electronic Filing Deadline

Section 409.259, F.S., requires DOR, the clerks of the circuit court, chief judges through the Office of State Courts Administrator, sheriffs, and the Office of Attorney General to 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 by October 1, 2009. DOR is in the process of implementing the second phase of the Child Support Automated Management System II (CAMS) in order to comply with this requirement; however due to cost and difficulty during implementation of the electronic processing, the requirement for electronic filing of documents with the court was removed from DOR's contract with the CAMS vendor.

The bill amends the October 1, 2009 implementation date in current law by making implementation required upon completion of CAMS. This will allow DOR to complete the statewide implementation of CAMS and permit DOR to work with each of its state partners on their individual requirements and schedules to ensure they can accept electronic documents and filings.

Assignment of Rights

Current law requires temporary cash assistance recipient to assign to the Department of Children and Families any rights, up to specified limitations, a member of the family may have to support from another person.¹⁸

¹⁶ s. 414.0252(11), F.S.

¹⁷ 45 C.F.R. 305.33(a)

The bill amends s. 414.095, F.S. to specify that such support rights are assigned to the DOR. This will align chapter 414, F.S., with chapter 409, to correctly identify DOR as the agency that obtains the right of assignment.

B. SECTION DIRECTORY:

Section 1. Amends s. 61.13, relating to support of children; parenting and time-sharing; powers of court.

Section 2. Amends s. 61.30, relating to child support guidelines; retroactive child support.

Section 3. Amends s. 382.015, relating to new certificates of live birth; duty of clerks of court and department.

Section 4. Amends s. 382.016, relating to amendment of records.

Section 5. Amends s. 409.2558, relating to support distribution and disbursement.

Section 6. Amends s. 409.2558, relating to support distribution and disbursement.

Section 7. Amends s. 409.256, relating to administrative proceeding to establish paternity or paternity and child support; order to appear for genetic testing.

Section 8. Amends s. 409.2563, relating to administrative establishment of child support obligations.

Section 9. Amends s. 409.25635, relating to determination and collection of noncovered medical expenses.

Section 10. Amends s. 409.2564, relating to actions for support.

Section 11. Amends s. 409.2567, relating to services to individuals not otherwise eligible.

Section 12. Amends s. 409.259, relating to filing fees in Title IV-D cases; electronic filing of pleadings, returns of service, and other papers.

Section 13. Amends s. 409.910, relating to responsibility for payments on behalf of Medicaid-eligible persons when other persons are liable.

Section 14. Amends s. 414.095, relating to determining eligibility for temporary cash assistance.

Section 15. Amends s. 741.01, relating to county court judge or clerk of the circuit court to issue marriage license; fee.

Section 16. Providing an effective date upon becoming law, except as otherwise specified in bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

<u>Estimated Expenditures</u>	<u>Year 1</u>	<u>Year 2</u>
Expense¹⁹ Modifying Alleged Father's registry forms, brochures, applications and re-stocking current forms.	\$5,000	\$0.00

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Health will face an estimated non-recurring cost of \$5,000 to change registry forms, brochures, and applications so that they all use the term "alleged father" rather than "putative father" to conform to the changes made by the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹⁹ Staff Analysis, HB 7083 (2010), Department of Health. (On file with committee staff).

1 A bill to be entitled
 2 An act relating to child support enforcement; amending s.
 3 61.13, F.S.; deleting a reference to health insurance with
 4 respect to a proceeding to determine each parent's share
 5 of a child's medical-support-only obligation; providing
 6 the procedure for child support payments to be paid
 7 through the depository; clarifying that income deduction
 8 payments are required to be paid to the State Disbursement
 9 Unit; amending s. 61.30, F.S.; authorizing the Department
 10 of Revenue to provide documentation of the income of a
 11 parent receiving public assistance to the court under
 12 certain circumstances; amending s. 382.015, F.S.;
 13 authorizing the Office of Vital Statistics to amend a
 14 birth certificate to include the name of the legal father
 15 when a final judgment of dissolution of marriage requires
 16 the former husband to pay support for the child; amending
 17 s. 382.016, F.S.; authorizing the Office of Vital
 18 Statistics to amend a child's birth certificate to include
 19 the name of the legal father upon receipt of a marriage
 20 license that identifies the registrant; amending s.
 21 409.2558, F.S.; creating additional priorities for
 22 processing undistributable collections; authorizing the
 23 Department of Revenue to retain uncashed checks or closed
 24 Title IV-D case balances of child support collections
 25 under \$1; amending s. 409.256, F.S.; revising the
 26 definitions of the terms "custodian" and "putative
 27 father"; permitting a person ordered to appear for genetic
 28 testing to contest the order by filing a written request

29 for informal discussion within a specified time period;
 30 amending s. 409.2563, F.S.; revising the definition of the
 31 term "caretaker relative"; conforming terminology;
 32 conforming a reference; amending s. 409.25635, F.S.;
 33 authorizing the Department of Revenue to collect
 34 noncovered medical expenses in installments by issuing an
 35 income deduction notice; amending s. 409.2564, F.S.;
 36 deleting the requirement for reducing the child support
 37 guideline amount for retroactive support by 25 percent;
 38 providing a process for court hearings relating to support
 39 order reviews; requiring the department, rather than the
 40 Title IV-D agency, to review and take certain actions with
 41 respect to child support orders; providing for
 42 modification of a child support order; requiring the
 43 department to file a petition to modify the order and
 44 specified financial documentation under certain
 45 circumstances; providing procedures for a party to obtain
 46 a court hearing; amending s. 409.2567, F.S.; authorizing
 47 the Department of Revenue to seek a waiver from certain
 48 application requirements from the United States Department
 49 of Health and Human Services under certain conditions;
 50 amending s. 409.259, F.S.; extending the deadline for
 51 implementing electronic filing in Title IV-D cases to
 52 coincide with completion of the department's Child Support
 53 Automated Management System II; amending s. 409.910, F.S.;
 54 authorizing the Agency for Health Care Administration to
 55 provide health insurance information to the Department of
 56 Revenue for administering the Title IV-D program;

57 requiring the agency and the department to enter into a
 58 cooperative agreement to implement the requirement;
 59 amending s. 414.095, F.S.; requiring a family to assign
 60 rights to receive certain financial support to the
 61 Department of Revenue, rather than the Department of
 62 Children and Family Services, as a condition of receiving
 63 temporary cash assistance; amending s. 741.01, F.S.;
 64 providing that an application for a marriage license must
 65 allow both parties to the marriage to state under oath and
 66 in writing if they are the parents of any child born in
 67 the state and to identify any child they have in common;
 68 requiring the name of any child recorded by both parties
 69 to be transmitted to the Department of Health; amending
 70 ss. 63.054, 63.0541, 63.062, 63.085, 63.089, 88.2011,
 71 409.2572, and 742.021, F.S.; conforming references to
 72 changes made by the act; providing effective dates.

73

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

75

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

78 61.13 Support of children; parenting and time-sharing;
 79 powers of court.—

80 (1)

81 (b) Each order for support shall contain a provision for
 82 health insurance for the minor child when health insurance is
 83 reasonable in cost and accessible to the child. Health insurance
 84 is presumed to be reasonable in cost if the incremental cost of

85 adding health insurance for the child or children does not
 86 exceed 5 percent of the gross income, as defined in s. 61.30, of
 87 the parent responsible for providing health insurance. Health
 88 insurance is accessible to the child if the health insurance is
 89 available to be used in the county of the child's primary
 90 residence or in another county if the parent who has the most
 91 time under the time-sharing plan agrees. If the time-sharing
 92 plan provides for equal time-sharing, health insurance is
 93 accessible to the child if the health insurance is available to
 94 be used in either county where the child resides or in another
 95 county if both parents agree. The court may require the obligor
 96 to provide health insurance or to reimburse the obligee for the
 97 cost of health insurance for the minor child when insurance is
 98 provided by the obligee. The presumption of reasonable cost may
 99 be rebutted by evidence of any of the factors in s.
 100 61.30(11)(a). The court may deviate from what is presumed
 101 reasonable in cost only upon a written finding explaining its
 102 determination why ordering or not ordering the provision of
 103 health insurance or the reimbursement of the obligee's cost for
 104 providing health insurance for the minor child would be unjust
 105 or inappropriate. In any event, the court shall apportion the
 106 cost of health insurance, and any noncovered medical, dental,
 107 and prescription medication expenses of the child, to both
 108 parties by adding the cost to the basic obligation determined
 109 pursuant to s. 61.30(6). The court may order that payment of
 110 noncovered medical, dental, and prescription medication expenses
 111 of the minor child be made directly to the obligee on a
 112 percentage basis. In a proceeding for medical support only, each

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

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

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

126 | b. The obligee serves written notice of intent to enforce
 127 | an order for health insurance on the obligor by mail at the
 128 | obligor's last known address; and

129 | c. The obligor fails within 15 days after the mailing of
 130 | the notice to provide written proof to the obligee that the
 131 | health insurance existed as of the date of mailing.

132 | 2.a. A support order enforced under Title IV-D of the
 133 | Social Security Act which requires that the obligor provide
 134 | health insurance is enforceable by the department through the
 135 | use of the national medical support notice, and an amendment to
 136 | the support order is not required. The department shall transfer
 137 | the national medical support notice to the obligor's union or
 138 | employer. The department shall notify the obligor in writing
 139 | that the notice has been sent to the obligor's union or
 140 | employer, and the written notification must include the

141 obligor's rights and duties under the national medical support
 142 notice. The obligor may contest the withholding required by the
 143 national medical support notice based on a mistake of fact. To
 144 contest the withholding, the obligor must file a written notice
 145 of contest with the department within 15 business days after the
 146 date the obligor receives written notification of the national
 147 medical support notice from the department. Filing with the
 148 department is complete when the notice is received by the person
 149 designated by the department in the written notification. The
 150 notice of contest must be in the form prescribed by the
 151 department. Upon the timely filing of a notice of contest, the
 152 department shall, within 5 business days, schedule an informal
 153 conference with the obligor to discuss the obligor's factual
 154 dispute. If the informal conference resolves the dispute to the
 155 obligor's satisfaction or if the obligor fails to attend the
 156 informal conference, the notice of contest is deemed withdrawn.
 157 If the informal conference does not resolve the dispute, the
 158 obligor may request an administrative hearing under chapter 120
 159 within 5 business days after the termination of the informal
 160 conference, in a form and manner prescribed by the department.
 161 However, the filing of a notice of contest by the obligor does
 162 not delay the withholding of premium payments by the union,
 163 employer, or health plan administrator. The union, employer, or
 164 health plan administrator must implement the withholding as
 165 directed by the national medical support notice unless notified
 166 by the department that the national medical support notice is
 167 terminated.

168 b. In a Title IV-D case, the department shall notify an

169 obligor's union or employer if the obligation to provide health
 170 insurance through that union or employer is terminated.

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

180 4.a. Upon receipt of the national medical support notice
 181 under subparagraph 2. in a Title IV-D case, the union or
 182 employer shall transfer the notice to the appropriate group
 183 health plan administrator within 20 business days after the date
 184 on the notice. The plan administrator must enroll the child as a
 185 beneficiary in the group health plan regardless of any
 186 restrictions on the enrollment period, and the union or employer
 187 must withhold any required premium from the obligor's income
 188 upon notification by the plan administrator that the child is
 189 enrolled. The child shall be enrolled in the group health plan
 190 in which the obligor is enrolled. If the group health plan in
 191 which the obligor is enrolled is not available where the child
 192 resides or if the obligor is not enrolled in group coverage, the
 193 child shall be enrolled in the lowest cost group health plan
 194 that is accessible to the child.

195 b. If health insurance or the obligor's employment is
 196 terminated in a Title IV-D case, the union or employer that is

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197 withholding premiums for health insurance under a national
 198 medical support notice must notify the department within 20 days
 199 after the termination and provide the obligor's last known
 200 address and the name and address of the obligor's new employer,
 201 if known.

202 5.a. The amount withheld by a union or employer in
 203 compliance with a support order may not exceed the amount
 204 allowed under s. 303(b) of the Consumer Credit Protection Act,
 205 15 U.S.C. s. 1673(b), as amended. The union or employer shall
 206 withhold the maximum allowed by the Consumer Credit Protection
 207 Act in the following order:

- 208 (I) Current support, as ordered.
- 209 (II) Premium payments for health insurance, as ordered.
- 210 (III) Past due support, as ordered.
- 211 (IV) Other medical support or insurance, as ordered.

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

- 219 (I) Current support, as ordered.
- 220 (II) Past due support, as ordered.
- 221 (III) Other medical support or insurance, as ordered.

222 6. An employer, union, or plan administrator who does not
 223 comply with the requirements in sub-subparagraph 4.a. is subject
 224 to a civil penalty not to exceed \$250 for the first violation

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225 and \$500 for subsequent violations, plus attorney's fees and
 226 costs. The department may file a petition in circuit court to
 227 enforce the requirements of this subparagraph.

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

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

234 2. If both parties request and the court finds that it is
 235 in the best interest of the child, support payments need not be
 236 subject to immediate income deduction. Support orders that are
 237 not subject to immediate income deduction may be directed
 238 through the depository under s. 61.181 or made payable directly
 239 to the obligee. Payments for all support orders that provide for
 240 immediate income deduction shall be made to the State
 241 Disbursement Unit. The court shall provide a copy of the order
 242 to the depository.

243 3. For support orders payable directly to the obligee ~~that~~
 244 ~~do not provide for immediate income deduction~~, any party, or the
 245 department IV-D agency in a IV-D case, may subsequently file an
 246 affidavit with the depository ~~State Disbursement Unit~~ alleging a
 247 default in payment of child support and stating that the party
 248 wishes to require that payments be made through the depository
 249 ~~State Disbursement Unit~~. The party shall provide copies of the
 250 affidavit to the court and to each other party. Fifteen days
 251 after receipt of the affidavit, the depository ~~State~~
 252 ~~Disbursement Unit~~ shall notify all parties that future payments

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253 shall be paid through the depository, except that income
 254 deduction payments shall be made to the State Disbursement Unit.

255 Section 2. Subsection (15) of section 61.30, Florida
 256 Statutes, is amended to read:

257 61.30 Child support guidelines; retroactive child
 258 support.—

259 (15) For purposes of establishing an obligation for
 260 support in accordance with this section, if a person who is
 261 receiving public assistance is found to be noncooperative as
 262 defined in s. 409.2572, the department ~~IV-D~~ agency is authorized
 263 to submit to the court an affidavit or written declaration
 264 signed under penalty of perjury pursuant to s. 92.525(2)
 265 attesting to the income of that parent based upon information
 266 available to the department ~~IV-D~~ agency.

267 Section 3. Subsection (2) of section 382.015, Florida
 268 Statutes, is amended to read:

269 382.015 New certificates of live birth; duty of clerks of
 270 court and department.—The clerk of the court in which any
 271 proceeding for adoption, annulment of an adoption, affirmation
 272 of parental status, or determination of paternity is to be
 273 registered, shall within 30 days after the final disposition,
 274 forward to the department a certified copy of the court order,
 275 or a report of the proceedings upon a form to be furnished by
 276 the department, together with sufficient information to identify
 277 the original birth certificate and to enable the preparation of
 278 a new birth certificate. The clerk of the court shall implement
 279 a monitoring and quality control plan to ensure that all
 280 judicial determinations of paternity are reported to the

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281 department in compliance with this section. The department shall
 282 track paternity determinations reported monthly by county,
 283 monitor compliance with the 30-day timeframe, and report the
 284 data to the clerks of the court quarterly.

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

297 Section 4. Paragraph (b) of subsection (1) of section
 298 382.016, Florida Statutes, is amended to read:

299 382.016 Amendment of records.—The department, upon receipt
 300 of the fee prescribed in s. 382.0255; documentary evidence, as
 301 specified by rule, of any misstatement, error, or omission
 302 occurring in any birth, death, or fetal death record; and an
 303 affidavit setting forth the changes to be made, shall amend or
 304 replace the original certificate as necessary.

305 (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.—

306 (b) Upon written request and receipt of an affidavit, a
 307 notarized voluntary acknowledgment of paternity signed by the
 308 mother and father acknowledging the paternity of a registrant

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309 | born out of wedlock, or a voluntary acknowledgment of paternity
 310 | that is witnessed by two individuals and signed under penalty of
 311 | perjury as specified by s. 92.525(2), together with sufficient
 312 | information to identify the original certificate of live birth,
 313 | the department shall prepare a new birth certificate, which
 314 | shall bear the same file number as the original birth
 315 | certificate. The names and identifying information of the
 316 | parents shall be entered as of the date of the registrant's
 317 | birth. The surname of the registrant may be changed from that
 318 | shown on the original birth certificate at the request of the
 319 | mother and father of the registrant, or the registrant if of
 320 | legal age. If the mother and father marry each other at any time
 321 | after the registrant's birth, the department shall, upon receipt
 322 | of a marriage license that identifies the registrant, or upon
 323 | the request of the mother and father or the registrant if the
 324 | registrant is of legal age, and upon proof of the marriage,
 325 | amend the certificate with regard to the parents' marital status
 326 | as though the parents were married at the time of birth. The
 327 | department shall substitute the new certificate of birth for the
 328 | original certificate on file. All copies of the original
 329 | certificate of live birth in the custody of a local registrar or
 330 | other state custodian of vital records shall be forwarded to the
 331 | State Registrar. Thereafter, when a certified copy of the
 332 | certificate of birth or portion thereof is issued, it shall be a
 333 | copy of the new certificate of birth or portion thereof, except
 334 | when a court order requires issuance of a certified copy of the
 335 | original certificate of birth. Except for a birth certificate on
 336 | which a father is listed pursuant to an affidavit, a notarized

337 voluntary acknowledgment of paternity signed by the mother and
 338 father acknowledging the paternity of a registrant born out of
 339 wedlock, or a voluntary acknowledgment of paternity that is
 340 witnessed by two individuals and signed under penalty of perjury
 341 as specified by s. 92.525(2), the department shall place the
 342 original certificate of birth and all papers pertaining thereto
 343 under seal, not to be broken except by order of a court of
 344 competent jurisdiction or as otherwise provided by law.

345 Section 5. Paragraph (b) of subsection (3) of section
 346 409.2558, Florida Statutes, is amended to read:

347 409.2558 Support distribution and disbursement.—

348 (3) UNDISTRIBUTABLE COLLECTIONS.—

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

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

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

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

362 ~~4.1.~~ Apply the payment to any assigned arrears on the
 363 obligee's case; then

364 ~~5.2.~~ Apply the payment to any administrative costs ordered

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365 by the court pursuant to s. 409.2567 associated with the
 366 obligee's case; then

367 ~~6.3-~~ When the obligor is subject to a valid order to
 368 support another child in a case with a different obligee and the
 369 obligation is being enforced by the department, the department
 370 shall send by certified mail, restricted delivery, return
 371 receipt requested, to the obligor at the most recent address
 372 provided by the obligor to the tribunal that issued the order, a
 373 notice stating the department's intention to apply the payment
 374 pursuant to this subparagraph, and advising the obligor of the
 375 right to contest the department's proposed action in the circuit
 376 court by filing and serving a petition on the department within
 377 30 days after the mailing of the notice. If the obligor does not
 378 file and serve a petition within the 30 days after mailing of
 379 the notice, or upon a disposition of the judicial action
 380 favorable to the department, the department shall apply the
 381 payment toward his or her other support obligation. If there is
 382 more than one such other case, the department shall allocate the
 383 remaining undistributable amount as specified by s.

384 61.1301(4)(c); then

385 ~~7.4-~~ Return the payment to the obligor; then

386 ~~8.5-~~ If the obligor cannot be located after diligent
 387 efforts by the department, the federal share of the payment
 388 shall be credited to the Federal Government and the state share
 389 shall be transferred to the General Revenue Fund.

390 Section 6. Effective July 1, 2010, paragraph (d) is added
 391 to subsection (3) of section 409.2558, Florida Statutes, to
 392 read:

393 409.2558 Support distribution and disbursement.—
 394 (3) UNDISTRIBUTABLE COLLECTIONS.—
 395 (d) If a payment of less than \$1 is made by a paper check
 396 on an open Title IV-D case and the payment is not cashed after
 397 180 days, or less than \$1 is owed on a closed Title IV-D case,
 398 the department shall declare the payment as program income,
 399 crediting the federal share of the payment to the Federal
 400 Government and the state share of the payment to the General
 401 Revenue Fund, without attempting to locate either party.

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

404 409.256 Administrative proceeding to establish paternity
 405 or paternity and child support; order to appear for genetic
 406 testing.—

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

408 (a)~~(g)~~ "Alleged Putative father" means an individual who
 409 is or may be the biological father of a child whose paternity
 410 has not been established and whose mother was unmarried when the
 411 child was conceived and born.

412 (b)~~(a)~~ "Another state" or "other state" means a state of
 413 the United States, the District of Columbia, Puerto Rico, the
 414 United States Virgin Islands, or any territory or insular
 415 possession subject to the jurisdiction of the United States. The
 416 term includes:

- 417 1. An Indian tribe.
- 418 2. A foreign jurisdiction that has enacted a law or
- 419 established procedures for issuance and enforcement of support
- 420 orders which are substantially similar to the procedures under

421 this act, the Uniform Reciprocal Enforcement of Support Act, or
 422 the Revised Uniform Reciprocal Enforcement of Support Act, as
 423 determined by the Attorney General.

424 (c)~~(b)~~ "Caregiver Custodian" means a person, other than
 425 the mother, father, or an alleged ~~a putative~~ father, who has
 426 physical custody of a child or with whom the child primarily
 427 resides. References in this section to the obligation of a
 428 caregiver custodian to submit to genetic testing mean that the
 429 caregiver custodian is obligated to submit the child for genetic
 430 testing, not that the caregiver custodian must submit to genetic
 431 testing.

432 (d)~~(e)~~ "Filed" means a document has been received and
 433 accepted for filing at the offices of the department ~~of Revenue~~
 434 by the clerk or an authorized deputy clerk designated by the
 435 department.

436 (e)~~(d)~~ "Genetic testing" means a scientific analysis of
 437 genetic markers that is performed by a qualified technical
 438 laboratory only to exclude an individual as the parent of a
 439 child or to show a probability of paternity.

440 (f)~~(e)~~ "Paternity and child support proceeding" means an
 441 administrative action commenced by the department ~~of Revenue~~ to
 442 order genetic testing, establish paternity, and establish an
 443 administrative support order pursuant to this section.

444 (g)~~(f)~~ "Paternity proceeding" means an administrative
 445 action commenced by the department ~~of Revenue~~ to order genetic
 446 testing and establish paternity pursuant to this section.

447 (h) "Qualified technical laboratory" means a genetic-
 448 testing laboratory that may be under contract with the

449 department ~~of Revenue~~, that uses tests and methods of a type
 450 generally acknowledged as reliable by accreditation
 451 organizations recognized by the United States Department of
 452 Health and Human Services, and that is approved by such an
 453 accreditation organization. The term includes a genetic-testing
 454 laboratory used by another state, if the laboratory has
 455 comparable qualifications.

456 (i) "Rendered" means that a signed written order is filed
 457 with the clerk or a deputy clerk of the department ~~of Revenue~~
 458 and served on the respondent. The date of filing must be
 459 indicated on the face of the order at the time of rendition.

460 (j) "Respondent" means the person or persons served by the
 461 department ~~of Revenue~~ with a notice of proceeding pursuant to
 462 subsection (4). The term includes the alleged ~~putative~~ father
 463 and may include the mother or the caregiver ~~custodian~~ of the
 464 child.

465 (k) "This state" or "the state" means the State of
 466 Florida.

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

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

- 472 1. The child's paternity has not been established.
- 473 2. No one is named as the father on the child's birth
 474 certificate or the person named as the father is the alleged
 475 ~~putative~~ father named in an affidavit or a written declaration
 476 as provided in subparagraph 5.

477 3. The child's mother was unmarried when the child was
 478 conceived and born.

479 4. The department ~~of Revenue~~ is providing services under
 480 Title IV-D.

481 5. The child's mother or an alleged ~~a putative~~ father has
 482 stated in an affidavit, or in a written declaration as provided
 483 in s. 92.525(2) that the alleged ~~putative~~ father is or may be
 484 the child's biological father. The affidavit or written
 485 declaration must set forth the factual basis for the allegation
 486 of paternity as provided in s. 742.12(2).

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

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

497 (d) If an alleged ~~a putative~~ father, mother, or caregiver
 498 ~~custodian~~ in a Title IV-D case voluntarily submits to genetic
 499 testing, the department ~~of Revenue~~ may schedule that individual
 500 or the child for genetic testing without serving that individual
 501 with an order to appear for genetic testing. A respondent or
 502 other person who is subject to an order to appear for genetic
 503 testing may waive, in writing or on the record at an
 504 administrative hearing, formal service of notices or orders or

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505 waive any other rights or time periods prescribed by this
 506 section.

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

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

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

528 (3) MULTIPLE ALLEGED ~~PUTATIVE~~ FATHERS; MULTIPLE CHILDREN.—
 529 If more than one alleged ~~putative~~ father has been named, the
 530 department ~~of Revenue~~ may proceed under this section against a
 531 single alleged ~~putative~~ father or may proceed simultaneously
 532 against more than one alleged ~~putative~~ father. If an alleged a

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533 ~~putative~~ father has been named as a possible father of more than
 534 one child born to the same mother, the department may proceed to
 535 establish the paternity of each child in the same proceeding.

536 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR
 537 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC
 538 TESTING; MANNER OF SERVICE; CONTENTS.—The department ~~of Revenue~~
 539 shall commence a proceeding to determine paternity, or a
 540 proceeding to determine both paternity and child support, by
 541 serving the respondent with a notice as provided in this
 542 section. An order to appear for genetic testing may be served at
 543 the same time as a notice of the proceeding or may be served
 544 separately. A copy of the affidavit or written declaration upon
 545 which the proceeding is based shall be provided to the
 546 respondent when notice is served. A notice or order to appear
 547 for genetic testing shall be served by certified mail,
 548 restricted delivery, return receipt requested, or in accordance
 549 with the requirements for service of process in a civil action.
 550 Service by certified mail is completed when the certified mail
 551 is received or refused by the addressee or by an authorized
 552 agent as designated by the addressee in writing. If a person
 553 other than the addressee signs the return receipt, the
 554 department shall attempt to reach the addressee by telephone to
 555 confirm whether the notice was received, and the department
 556 shall document any telephonic communications. If someone other
 557 than the addressee signs the return receipt, the addressee does
 558 not respond to the notice, and the department is unable to
 559 confirm that the addressee has received the notice, service is
 560 not completed and the department shall attempt to have the

561 addressee served personally. For purposes of this section, an
 562 employee or an authorized agent of the department may serve the
 563 notice or order to appear for genetic testing and execute an
 564 affidavit of service. The department may serve an order to
 565 appear for genetic testing on a caregiver ~~custodian~~. The
 566 department shall provide a copy of the notice or order to appear
 567 by regular mail to the mother and caregiver ~~custodian~~, if they
 568 are not respondents.

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

571 1. That the department has commenced an administrative
 572 proceeding to establish whether the alleged ~~putative~~ father is
 573 the biological father of the child named in the notice.

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

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

579 4. That the respondent is required to submit to genetic
 580 testing.

581 5. That genetic testing will establish either a high
 582 degree of probability that the alleged ~~putative~~ father is the
 583 biological father of the child or that the alleged ~~putative~~
 584 father cannot be the biological father of the child.

585 6. That if the results of the genetic test do not indicate
 586 a statistical probability of paternity that equals or exceeds 99
 587 percent, the paternity proceeding in connection with that child
 588 shall cease unless a second or subsequent test is required.

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

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

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

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

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

610 10. That, until the proceeding is ended, the respondent
 611 shall notify the department in writing of any change in the
 612 respondent's mailing address and that the respondent shall be
 613 deemed to have received any subsequent order, notice, or other
 614 paper mailed to the most recent address provided or, if a more
 615 recent address is not provided, to the address at which the
 616 respondent was served, and that this requirement continues if

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617 the department renders a final order that establishes paternity
 618 and a support order for the child.

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

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

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

631
 632 A notice under this paragraph must also notify the respondent of
 633 the provisions in s. 409.2563(4)(m) and (o).

634 (b) A notice of proceeding to establish paternity and
 635 child support must state the requirements of paragraph (a),
 636 except for subparagraph (a)7., and must state the requirements
 637 of s. 409.2563(4), to the extent that the requirements of s.
 638 409.2563(4) are not already required by and do not conflict with
 639 this subsection. This section and s. 409.2563 apply to a
 640 proceeding commenced under this subsection.

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

643 1. That the department has commenced an administrative
 644 proceeding to establish whether the alleged ~~putative~~ father is

645 the biological father of the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

691 (a) The person ordered to appear may contest an order to
 692 appear for genetic testing by filing a written request for
 693 informal discussion ~~review~~ with the department ~~of Revenue~~ within
 694 15 days after the date of service of the order. The purpose of
 695 the informal discussion ~~review~~ is to provide the person ordered
 696 to appear with an opportunity to discuss the proceedings and the
 697 basis of the order. At the conclusion of the informal discussion
 698 ~~review~~, the department shall notify the person ordered to
 699 appear, in writing, whether it intends to proceed with the order
 700 to appear. If the department notifies the person ordered to

701 appear of its intent to proceed, the notice must inform the
 702 person ordered to appear of the right to contest the order at an
 703 administrative hearing.

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

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

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729 1. The department has notified the person of its intent to
 730 proceed after informal discussion review, and a timely request
 731 for hearing is not filed;

732 2. The person ordered to appear withdraws the request for
 733 hearing or informal discussion review; or

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

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

743 (6) SCHEDULING OF GENETIC TESTING.—

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

- 757 (b) The department shall reschedule genetic testing:
 758 1. One time without cause if, in advance of the initial
 759 test date, the person ordered to appear requests the department
 760 to reschedule the test.
 761 2. One time if the person ordered to appear shows good
 762 cause for failure to appear for a scheduled test.
 763 3. One time upon request of a person ordered to appear
 764 against whom sanctions have been imposed as provided in
 765 subsection (7).

766
 767 A claim of good cause for failure to appear shall be filed with
 768 the department within 10 days after the scheduled test date and
 769 must state the facts and circumstances supporting the claim. The
 770 department shall notify the person ordered to appear, in
 771 writing, whether it accepts or rejects the person's claim of
 772 good cause. There is not a separate right to a hearing on the
 773 department's decision to accept or reject the claim of good
 774 cause because the person ordered to appear may raise good cause
 775 as a defense to any proceeding initiated by the department under
 776 subsection (7).

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

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

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

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

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

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

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

802
 803 As provided in s. 322.058(2), a suspended driver's license and
 804 motor vehicle registration may be reinstated when the person
 805 ordered to appear complies with the order to appear for genetic
 806 testing. The department may collect an administrative fine
 807 imposed under this subsection by using civil remedies or other
 808 statutory means available to the department for collecting
 809 support.

810 (8) GENETIC-TESTING RESULTS.—The department shall send a
 811 copy of the genetic-testing results to the alleged ~~putative~~
 812 father, to the mother, to the caregiver ~~custodian~~, and to the

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813 other state, if applicable. If the genetic-testing results,
 814 including second or subsequent genetic-testing results, do not
 815 indicate a statistical probability of paternity that equals or
 816 exceeds 99 percent, the paternity proceeding in connection with
 817 that child shall cease.

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

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

825 1. Issue a proposed order of paternity as provided in
 826 paragraph (b); or

827 2. If appropriate, delay issuing a proposed order of
 828 paternity and commence, by regular mail, an administrative
 829 proceeding to establish a support order for the child pursuant
 830 to s. 409.2563 and issue a single proposed order that addresses
 831 paternity and child support.

832 (b) A proposed order of paternity must:

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

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

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

838 (c) If a paternity and child support proceeding has been
 839 commenced under this section and the results of genetic testing
 840 indicate a statistical probability of paternity that equals or

841 exceeds 99 percent, the department ~~of Revenue~~ may issue a single
 842 proposed order that addresses paternity as provided in this
 843 section and child support as provided in s. 409.2563.

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

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

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

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

869 (c) If the respondent files a timely request for a
 870 hearing, the department ~~of Revenue~~ shall refer the hearing
 871 request to the Division of Administrative Hearings. Unless
 872 otherwise provided in this section or in s. 409.2563, chapter
 873 120 and the uniform rules of procedure govern the conduct of the
 874 proceedings.

875 (d) The genetic-testing results shall be admitted into
 876 evidence and made a part of the hearing record. For purposes of
 877 this section, a statistical probability of paternity that equals
 878 or exceeds 99 percent creates a presumption, as defined in s.
 879 90.304, that the alleged ~~putative~~ father is the biological
 880 father of the child. The presumption may be overcome only by
 881 clear and convincing evidence. The respondent or the department
 882 ~~of Revenue~~ may call an expert witness to refute or support the
 883 testing procedure or results or the mathematical theory on which
 884 they are based. Verified documentation of the chain of custody
 885 of the samples tested is competent evidence to establish the
 886 chain of custody.

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

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

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

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

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

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

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

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

925 judge under paragraph (5) (b).

926 (13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING
 927 ADDRESS.—Until a proceeding that has been commenced under this
 928 section has ended, a respondent who is served with a notice of
 929 proceeding must inform the department ~~of Revenue~~ in writing of
 930 any change in the respondent's mailing address and is deemed to
 931 have received any subsequent order, notice, or other paper
 932 mailed to that address, or the address at which the respondent
 933 was served, if the respondent has not provided a more recent
 934 address.

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

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

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

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

949 Section 8. Paragraph (b) of subsection (1), paragraph (d)
 950 of subsection (2), subsection (4), paragraphs (a) and (b) of
 951 subsection (5), paragraphs (d) and (e) of subsection (7), and

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952 subsection (13) of section 409.2563, Florida Statutes, are
 953 amended to read:

954 409.2563 Administrative establishment of child support
 955 obligations.--

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

957 (b) "Caregiver ~~Caretaker~~ relative" means a person other
 958 than the mother, father, or alleged father who has physical
 959 custody of a child or with whom the child primarily resides ~~has~~
 960 ~~the same meaning ascribed in s. 414.0252(11).~~

961
 962 Other terms used in this section have the meanings ascribed in
 963 ss. 61.046 and 409.2554.

964 (2) PURPOSE AND SCOPE.--

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

971 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
 972 SUPPORT ORDER.--To commence a proceeding under this section, the
 973 department shall provide to the parent from whom support is not
 974 being sought and serve the parent from whom support is being
 975 sought with a notice of proceeding to establish administrative
 976 support order and a blank financial affidavit form. The notice
 977 must state:

978 (a) The names of both parents, the name of the caregiver
 979 ~~caretaker~~ relative, if any, and the name and date of birth of

980 the child or children;

981 (b) That the department intends to establish an

982 administrative support order as defined in this section;

983 (c) That both parents must submit a completed financial

984 affidavit to the department within 20 days after receiving the

985 notice, as provided by paragraph (13) (a);

986 (d) That both parents, or a parent and the caregiver

987 ~~caretaker relative~~ if applicable, are required to furnish to the

988 department information regarding their identities and locations,

989 as provided by paragraph (13) (b);

990 (e) That both parents, or a parent and the caregiver

991 ~~caretaker relative~~ if applicable, are required to promptly

992 notify the department of any change in their mailing addresses

993 to ensure receipt of all subsequent pleadings, notices, and

994 orders, as provided by paragraph (13) (c);

995 (f) That the department will calculate support obligations

996 based on the child support guidelines schedule in s. 61.30 and

997 using all available information, as provided by paragraph

998 (5) (a), and will incorporate such obligations into a proposed

999 administrative support order;

1000 (g) That the department will send by regular mail to both

1001 parents, or to a parent and the caregiver ~~caretaker relative~~ if

1002 applicable, a copy of the proposed administrative support order,

1003 the department's child support worksheet, and any financial

1004 affidavits submitted by a parent or prepared by the department;

1005 (h) That the parent from whom support is being sought may

1006 file a request for a hearing in writing within 20 days after the

1007 date of mailing or other service of the proposed administrative

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1008 support order or will be deemed to have waived the right to
 1009 request a hearing;

1010 (i) That if the parent from whom support is being sought
 1011 does not file a timely request for hearing after service of the
 1012 proposed administrative support order, the department will issue
 1013 an administrative support order that incorporates the findings
 1014 of the proposed administrative support order, and will send by
 1015 regular mail a copy of the administrative support order to both
 1016 parents, or a parent and the caregiver ~~caretaker relative~~ if
 1017 applicable;

1018 (j) That after an administrative support order is
 1019 rendered, the department will file a copy of the order with the
 1020 clerk of the circuit court;

1021 (k) That after an administrative support order is
 1022 rendered, the department may enforce the administrative support
 1023 order by any lawful means;

1024 (l) That either parent, or the caregiver ~~caretaker~~
 1025 ~~relative~~ if applicable, may file at any time a civil action in a
 1026 circuit court having jurisdiction and proper venue to determine
 1027 parental support obligations, if any, and that a support order
 1028 issued by a circuit court supersedes an administrative support
 1029 order rendered by the department;

1030 (m) That, neither the department nor the Division of
 1031 Administrative Hearings has jurisdiction to award or change
 1032 child custody or rights of parental contact or time-sharing and
 1033 these issues may only be addressed in circuit court.

1034 1. The parent from whom support is being sought may
 1035 request in writing that the department proceed in circuit court

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1036 to determine his or her support obligations.

1037 2. The parent from whom support is being sought may state
 1038 in writing to the department his or her intention to address
 1039 issues concerning custody or rights to parental contact in
 1040 circuit court.

1041 3. If the parent from whom support is being sought submits
 1042 the request authorized in subparagraph 1., or the statement
 1043 authorized in subparagraph 2. to the department within 20 days
 1044 after the receipt of the initial notice, the department shall
 1045 file a petition in circuit court for the determination of the
 1046 parent's child support obligations, and shall send to the parent
 1047 from whom support is being sought a copy of its petition, a
 1048 notice of commencement of action, and a request for waiver of
 1049 service of process as provided in the Florida Rules of Civil
 1050 Procedure.

1051 4. If, within 10 days after receipt of the department's
 1052 petition and waiver of service, the parent from whom support is
 1053 being sought signs and returns the waiver of service form to the
 1054 department, the department shall terminate the administrative
 1055 proceeding without prejudice and proceed in circuit court.

1056 5. In any circuit court action filed by the department
 1057 pursuant to this paragraph or filed by a parent from whom
 1058 support is being sought or other person pursuant to paragraph
 1059 (l) or paragraph (n), the department shall be a party only with
 1060 respect to those issues of support allowed and reimbursable
 1061 under Title IV-D of the Social Security Act. It is the
 1062 responsibility of the parent from whom support is being sought
 1063 or other person to take the necessary steps to present other

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1064 issues for the court to consider.

1065 (n) That if the parent from whom support is being sought
 1066 files an action in circuit court and serves the department with
 1067 a copy of the petition within 20 days after being served notice
 1068 under this subsection, the administrative process ends without
 1069 prejudice and the action must proceed in circuit court;

1070 (o) Information provided by the Office of State Courts
 1071 Administrator concerning the availability and location of self-
 1072 help programs for those who wish to file an action in circuit
 1073 court but who cannot afford an attorney.

1074

1075 The department may serve the notice of proceeding to establish
 1076 administrative support order by certified mail, restricted
 1077 delivery, return receipt requested. Alternatively, the
 1078 department may serve the notice by any means permitted for
 1079 service of process in a civil action. For purposes of this
 1080 section, an authorized employee of the department may serve the
 1081 notice and execute an affidavit of service. Service by certified
 1082 mail is completed when the certified mail is received or refused
 1083 by the addressee or by an authorized agent as designated by the
 1084 addressee in writing. If a person other than the addressee signs
 1085 the return receipt, the department shall attempt to reach the
 1086 addressee by telephone to confirm whether the notice was
 1087 received, and the department shall document any telephonic
 1088 communications. If someone other than the addressee signs the
 1089 return receipt, the addressee does not respond to the notice,
 1090 and the department is unable to confirm that the addressee has
 1091 received the notice, service is not completed and the department

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1092 shall attempt to have the addressee served personally. The
 1093 department shall provide the parent from whom support is not
 1094 being sought or the caregiver ~~caretaker~~ relative with a copy of
 1095 the notice by regular mail to the last known address of the
 1096 parent from whom support is not being sought or the caregiver
 1097 ~~caretaker~~.

1098 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

1099 (a) After serving notice upon a parent in accordance with
 1100 subsection (4), the department shall calculate that parent's
 1101 child support obligation under the child support guidelines
 1102 schedule as provided by s. 61.30, based on any timely financial
 1103 affidavits received and other information available to the
 1104 department. If either parent fails to comply with the
 1105 requirement to furnish a financial affidavit, the department may
 1106 proceed on the basis of information available from any source,
 1107 if such information is sufficiently reliable and detailed to
 1108 allow calculation of guideline schedule amounts under s. 61.30.
 1109 If a parent receives public assistance and fails to submit a
 1110 financial affidavit, the department may submit a financial
 1111 affidavit or written declaration for that parent pursuant to s.
 1112 61.30(15). If there is a lack of sufficient reliable information
 1113 concerning a parent's actual earnings for a current or past
 1114 period, it shall be presumed for the purpose of establishing a
 1115 support obligation that the parent had an earning capacity equal
 1116 to the federal minimum wage during the applicable period.

1117 (b) The department shall send by regular mail to both
 1118 parents, or to a parent and the caregiver ~~caretaker~~ relative if
 1119 applicable, copies of the proposed administrative support order,

1120 its completed child support worksheet, and any financial
 1121 affidavits submitted by a parent or prepared by the department.
 1122 The proposed administrative support order must contain the same
 1123 elements as required for an administrative support order under
 1124 paragraph (7) (e).

1125 (7) ADMINISTRATIVE SUPPORT ORDER.—

1126 (d) The department shall send by regular mail a copy of
 1127 the administrative support order, or the final order denying an
 1128 administrative support order, to both parents, or a parent and
 1129 the caregiver ~~caretaker~~ relative if applicable. The parent from
 1130 whom support is being sought shall be notified of the right to
 1131 seek judicial review of the administrative support order in
 1132 accordance with s. 120.68.

1133 (e) An administrative support order must comply with ss.
 1134 61.13(1) and 61.30. The department shall develop a standard form
 1135 or forms for administrative support orders. An administrative
 1136 support order must provide and state findings, if applicable,
 1137 concerning:

- 1138 1. The full name and date of birth of the child or
 1139 children;
- 1140 2. The name of the parent from whom support is being
 1141 sought and the other parent or the caregiver ~~caretaker~~ relative;
- 1142 3. The parent's duty and ability to provide support;
- 1143 4. The amount of the parent's monthly support obligation;
- 1144 5. Any obligation to pay retroactive support;
- 1145 6. The parent's obligation to provide for the health care
 1146 needs of each child, whether through health insurance,
 1147 contribution towards the cost of health insurance, payment or

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1148 reimbursement of health care expenses for the child, or any
 1149 combination thereof;

1150 7. The beginning date of any required monthly payments and
 1151 health insurance;

1152 8. That all support payments ordered must be paid to the
 1153 Florida State Disbursement Unit as provided by s. 61.1824;

1154 9. That the parents, or the caregiver ~~caretaker~~ ~~relative~~
 1155 if applicable, must file with the department when the
 1156 administrative support order is rendered, if they have not
 1157 already done so, and update as appropriate the information
 1158 required pursuant to paragraph (13) (b);

1159 10. That both parents, or a parent and the caregiver
 1160 ~~caretaker~~ ~~relative~~ if applicable, are required to promptly
 1161 notify the department of any change in their mailing addresses
 1162 pursuant to paragraph (13) (c); and

1163 11. That if the parent ordered to pay support receives
 1164 unemployment compensation benefits, the payor shall withhold,
 1165 and transmit to the department, 40 percent of the benefits for
 1166 payment of support, not to exceed the amount owed.

1167
 1168 An income deduction order as provided by s. 61.1301 must be
 1169 incorporated into the administrative support order or, if not
 1170 incorporated into the administrative support order, the
 1171 department or the Division of Administrative Hearings shall
 1172 render a separate income deduction order.

1173 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT TO
 1174 ADDRESS OF RECORD.—In all proceedings pursuant to this section:

1175 (a) Each parent must execute and furnish to the

1176 department, no later than 20 days after receipt of the notice of
 1177 proceeding to establish administrative support order, a
 1178 financial affidavit in the form prescribed by the department. An
 1179 updated financial affidavit must be executed and furnished to
 1180 the department at the inception of each proceeding to modify an
 1181 administrative support order. A caregiver is ~~Caretaker relatives~~
 1182 ~~are~~ not required to furnish a financial affidavit ~~affidavits~~.

1183 (b) Each parent and the caregiver ~~caretaker relative~~ if
 1184 applicable, shall disclose to the department, no later than 20
 1185 days after receipt of the notice of proceeding to establish
 1186 administrative support order, and update as appropriate,
 1187 information regarding his or her identity and location,
 1188 including names he or she is known by; social security number;
 1189 residential and mailing addresses; telephone numbers; driver's
 1190 license numbers; and names, addresses, and telephone numbers of
 1191 employers. Pursuant to the federal Personal Responsibility and
 1192 Work Opportunity Reconciliation Act of 1996, each person must
 1193 provide his or her social security number in accordance with
 1194 this section. Disclosure of social security numbers obtained
 1195 through this requirement shall be limited to the purpose of
 1196 administration of the Title IV-D program for child support
 1197 enforcement.

1198 (c) Each parent and the caregiver ~~caretaker relative~~, if
 1199 applicable, has a continuing obligation to promptly inform the
 1200 department in writing of any change in his or her mailing
 1201 address to ensure receipt of all subsequent pleadings, notices,
 1202 payments, statements, and orders, and receipt is presumed if
 1203 sent by regular mail to the most recent address furnished by the

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1204 person.

1205 Section 9. Subsection (7) of section 409.25635, Florida
 1206 Statutes, is amended to read:

1207 409.25635 Determination and collection of noncovered
 1208 medical expenses.—

1209 (7) COLLECTION ACTION; ADMINISTRATIVE REMEDIES.—Any
 1210 administrative remedy available for collection of support may be
 1211 used to collect noncovered medical expenses that are determined
 1212 or established under this section. The department may collect
 1213 noncovered medical expenses in installments by adding a periodic
 1214 payment to an income deduction notice issued by the department.

1215 Section 10. Effective November 1, 2010, subsections (4),
 1216 (5), (7), (8), (9), and (11) of section 409.2564, Florida
 1217 Statutes, are amended to read:

1218 409.2564 Actions for support.—

1219 (4) Whenever the Department of Revenue has undertaken an
 1220 action for enforcement of support, the Department of Revenue may
 1221 enter into an agreement with the obligor for the entry of a
 1222 judgment determining paternity, if applicable, and for periodic
 1223 child support payments based on the child support guidelines
 1224 schedule in s. 61.30. Prior to entering into this agreement, the
 1225 obligor shall be informed that a judgment will be entered based
 1226 on the agreement. The clerk of the court shall file the
 1227 agreement without the payment of any fees or charges, and the
 1228 court, upon entry of the judgment, shall forward a copy of the
 1229 judgment to the parties to the action. ~~To encourage out-of-court~~
 1230 ~~settlement and promote support order compliance, if the obligor~~
 1231 ~~and the Department of Revenue agree on entry of a support order~~

1232 ~~and its terms, the guideline amount owed for retroactive support~~
 1233 ~~that is permanently assigned to the state shall be reduced by 25~~
 1234 ~~percent.~~

1235 (5) Whenever the department ~~IV-D agency~~ has undertaken an
 1236 action to determine paternity, to establish an obligation of
 1237 support, or to enforce or modify an obligation of support, the
 1238 department ~~IV-D agency~~ shall be a party to the action only for
 1239 those purposes allowed under Title IV-D of the Social Security
 1240 Act. The program attorney shall be the attorney of record solely
 1241 for the purposes of support enforcement as authorized under
 1242 Title IV-D and may prosecute only those activities which are
 1243 eligible for federal financial participation under Title IV-D.
 1244 An attorney-client relationship exists only between the
 1245 department and the legal services providers in all Title IV-D
 1246 cases. The attorney shall advise the obligee in Title IV-D cases
 1247 that the attorney represents the agency and not the obligee.

1248 (7) The director of the department ~~Title IV-D agency~~, or
 1249 the director's designee, is authorized to subpoena from any
 1250 person financial and other information necessary to establish,
 1251 modify, or enforce a child support order.

1252 (a) For the purpose of establishing or modifying a child
 1253 support order, or enforcing a support order, the director of the
 1254 department ~~this~~ or another state's Title IV-D agency, or any
 1255 employee designated by the director of the department ~~this~~
 1256 ~~state's Title IV-D agency~~ or authorized under another state's
 1257 law, may administer oaths or affirmations, subpoena witnesses
 1258 and compel their attendance, take evidence and require the
 1259 production of any matter which is relevant to the support

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1260 action, including the existence, description, nature, custody,
 1261 condition, and location of any books, documents, or other
 1262 tangible things and the identity and location of persons having
 1263 knowledge of relevant facts or any other matter reasonably
 1264 calculated to lead to the discovery of material evidence.

1265 (b) Subpoenas issued by the department ~~this~~ or another ~~any~~
 1266 ~~other~~ state's Title IV-D agency may be challenged in accordance
 1267 with s. 120.569(2)(k)1. While a subpoena is being challenged,
 1268 the department ~~Title IV-D agency~~ may not impose a fine as
 1269 provided for under paragraph (c) until the challenge is complete
 1270 and the subpoena has been found to be valid.

1271 (c) The department ~~Title IV-D agency~~ is authorized to
 1272 impose a fine for failure to comply with a subpoena. Failure to
 1273 comply with the subpoena, or to challenge the subpoena as
 1274 provided in paragraph (b), within 15 days after service of the
 1275 subpoena may result in the agency taking the following actions:

1276 1. Imposition of an administrative fine of not more than
 1277 \$500.

1278 2. Enforcement of the subpoena as provided in s.
 1279 120.569(2)(k)2. When the subpoena is enforced pursuant to s.
 1280 120.569(2)(k)2., the court may award costs and fees to the
 1281 prevailing party in accordance with that section.

1282 (d) The department ~~Title IV-D agency~~ may seek to collect
 1283 administrative fines imposed pursuant to paragraph (c) by filing
 1284 a petition in the circuit court of the judicial circuit in which
 1285 the person against whom the fine was imposed resides. All fines
 1286 collected pursuant to this subsection shall be deposited into
 1287 the Child Support Enforcement Application and Program Revenue

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1288 Trust Fund.

1289 (8) In cases in which support is subject to an assignment
 1290 as provided under 45 C.F.R. s. 301.1, the department ~~Title IV-D~~
 1291 ~~agency~~ shall, upon providing notice to the obligor and obligee,
 1292 direct the obligor or other payor to change the payee to the
 1293 appropriate depository.

1294 (9) (a) For the purpose of securing delinquent support, the
 1295 department ~~Title IV-D~~ ~~agency~~ may increase the amount of the
 1296 monthly support obligation to include amounts for delinquencies,
 1297 subject to such conditions or limitations as set forth in
 1298 paragraph (b).

1299 (b) In support obligations not subject to income
 1300 deduction, the department ~~Title IV-D~~ ~~agency~~ shall notify the
 1301 obligor of his or her delinquency and of the department's intent
 1302 to require an additional 20 percent of the monthly obligation
 1303 amount to allow for collection of the delinquency unless, within
 1304 20 days, the obligor:

- 1305 1. Pays the delinquency in full; or
- 1306 2. Files a petition with the circuit court to contest the
 1307 delinquency action.

1308 (11) (a) The department ~~Title IV-D~~ ~~agency~~ shall review
 1309 child support orders in IV-D cases at least every 3 years upon
 1310 request by either party, or the agency in cases where there is
 1311 an assignment of support to the state under s. 414.095(7), and
 1312 may seek modification ~~adjustment~~ of the order if appropriate
 1313 under the guidelines schedule established in s. 61.30. Not less
 1314 than once every 3 years the department ~~IV-D~~ ~~agency~~ shall provide
 1315 notice to the parties subject to the order informing them of

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1316 their right to request a review and, if appropriate, a
 1317 modification ~~an adjustment~~ of the child support order. The said
 1318 notice requirement may be met by including appropriate language
 1319 in the initial support order or any subsequent orders.

1320 (b) If the department's review of a support order entered
 1321 by the circuit court indicates that the order should be
 1322 modified, the department, through counsel, shall file a petition
 1323 to modify the order with the court. Along with the petition, the
 1324 department shall file a child support guideline worksheet, any
 1325 financial affidavits received from the parties or completed by
 1326 the department as part of the support order review, a proposed
 1327 modified order, and a notice that informs the parties of the
 1328 requirement to file an objection or a request for hearing with
 1329 the court if the party wants a court hearing on the petition to
 1330 modify. A copy of the petition, proposed order, and other
 1331 documents shall be served by regular mail on a party who
 1332 requested support order review or who responded to the
 1333 department during the review. A party who did not request the
 1334 support order review or respond to the department during the
 1335 review shall be served by certified mail, return receipt
 1336 requested, or restricted delivery, or served personally in any
 1337 manner authorized under chapter 48.

1338 (c) To obtain a court hearing on a petition to modify, a
 1339 party who is served by regular mail must file an objection to
 1340 the proposed order or a request for hearing with the court
 1341 within 30 days after the date on which the petition, proposed
 1342 order, and other documents were mailed. If a party is served
 1343 personally or by certified mail, to obtain a court hearing the

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1344 party must file an objection to the proposed order or a request
 1345 for hearing with the court within 30 days after the date of
 1346 receipt of the petition, proposed order, and other documents.

1347 (d) If a timely objection or request for hearing is not
 1348 filed with the court, the court may modify the support order
 1349 without a hearing in accordance with the terms of the proposed
 1350 order.

1351 (e) If a support order does not provide for payment of
 1352 noncovered medical expenses or require health insurance for the
 1353 minor child and health insurance is accessible to the child and
 1354 available at a reasonable cost, the department shall seek to
 1355 have the order modified and any modification shall be made
 1356 without a requirement for proof or showing of a change in
 1357 circumstances.

1358 Section 11. Subsection (5) of section 409.2567, Florida
 1359 Statutes, is amended to read:

1360 409.2567 Services to individuals not otherwise eligible.—

1361 (5) The Department of Revenue may ~~shall~~ seek a waiver from
 1362 the Secretary of the United States Department of Health and
 1363 Human Services to authorize the Department of Revenue to provide
 1364 services in accordance with Title IV-D of the Social Security
 1365 Act to individuals who are owed support without need of an
 1366 application. The department may seek a waiver if it determines
 1367 that the estimated increase in federal funding to the state
 1368 would exceed any additional cost to the state if the waiver is
 1369 granted. If the waiver is granted, the Department of Revenue
 1370 shall adopt rules to implement the waiver and begin providing
 1371 Title IV-D services if support payments are not being paid as

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1372 ordered, except that the individual first must be given written
 1373 notice of the right to refuse Title IV-D services and a
 1374 reasonable opportunity to respond.

1375 Section 12. Subsection (3) of section 409.259, Florida
 1376 Statutes, is amended to read:

1377 409.259 Filing fees in Title IV-D cases; electronic filing
 1378 of pleadings, returns of service, and other papers.—

1379 (3) The clerks of the circuit court, chief judges through
 1380 the Office of the State Courts Administrator, sheriffs, Office
 1381 of the Attorney General, and Department of Revenue shall work
 1382 cooperatively to implement electronic filing of pleadings,
 1383 returns of service, and other papers with the clerks of the
 1384 circuit court in Title IV-D cases upon completion of the
 1385 department's Child Support Automated Management System II ~~by~~
 1386 ~~October 1, 2009.~~

1387 Section 13. Paragraph (a) of subsection (20) of section
 1388 409.910, Florida Statutes, is amended to read:

1389 409.910 Responsibility for payments on behalf of Medicaid-
 1390 eligible persons when other parties are liable.—

1391 (20) Entities providing health insurance as defined in s.
 1392 624.603, health maintenance organizations and prepaid health
 1393 clinics as defined in chapter 641, and, on behalf of their
 1394 clients, third-party administrators and pharmacy benefits
 1395 managers as defined in s. 409.901(27) shall provide such records
 1396 and information as are necessary to accomplish the purpose of
 1397 this section, unless such requirement results in an unreasonable
 1398 burden.

1399 (a) The director of the agency and the Director of the

1400 Office of Insurance Regulation of the Financial Services
 1401 Commission shall enter into a cooperative agreement for
 1402 requesting and obtaining information necessary to effect the
 1403 purpose and objective of this section.

1404 1. The agency shall request only that information
 1405 necessary to determine whether health insurance as defined
 1406 pursuant to s. 624.603, or those health services provided
 1407 pursuant to chapter 641, could be, should be, or have been
 1408 claimed and paid with respect to items of medical care and
 1409 services furnished to any person eligible for services under
 1410 this section.

1411 2. All information obtained pursuant to subparagraph 1. is
 1412 confidential and exempt from s. 119.07(1). The agency shall
 1413 provide the information obtained pursuant to subparagraph 1. to
 1414 the Department of Revenue for purposes of administering the
 1415 Title IV-D program. The agency and the department shall enter
 1416 into a cooperative agreement for purposes of implementing this
 1417 subparagraph.

1418 3. The cooperative agreement or rules adopted under this
 1419 subsection may include financial arrangements to reimburse the
 1420 reporting entities for reasonable costs or a portion thereof
 1421 incurred in furnishing the requested information. Neither the
 1422 cooperative agreement nor the rules shall require the automation
 1423 of manual processes to provide the requested information.

1424 Section 14. Subsection (7) of section 414.095, Florida
 1425 Statutes, is amended to read:

1426 414.095 Determining eligibility for temporary cash
 1427 assistance.--

1428 (7) ASSIGNMENT OF RIGHTS TO SUPPORT.—As a condition of
 1429 receiving temporary cash assistance, the family must assign to
 1430 the Department of Revenue any rights a member of a family may
 1431 have to support from any other person. This applies to any
 1432 family member; however, the assigned amounts must not exceed the
 1433 total amount of temporary cash assistance provided to the
 1434 family. The assignment of support does not apply if the family
 1435 leaves the program.

1436 Section 15. Subsection (1) of section 741.01, Florida
 1437 Statutes, is amended to read:

1438 741.01 County court judge or clerk of the circuit court to
 1439 issue marriage license; fee.—

1440 (1) Every marriage license shall be issued by a county
 1441 court judge or clerk of the circuit court under his or her hand
 1442 and seal. The county court judge or clerk of the circuit court
 1443 shall issue such license, upon application for the license, if
 1444 there appears to be no impediment to the marriage. An
 1445 application for a marriage license must allow both parties to
 1446 the marriage to state under oath and in writing if they are the
 1447 parents of a child born in the state and to identify any such
 1448 child they have in common by name, date of birth, place of
 1449 birth, and, if available, birth certificate number. The name of
 1450 any child recorded by both parties must be transmitted to the
 1451 Department of Health with the original marriage license and
 1452 endorsements. The county court judge or clerk of the circuit
 1453 court shall collect and receive a fee of \$2 for receiving the
 1454 application for the issuance of a marriage license.

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1455 Section 16. Section 63.054, Florida Statutes, is amended
 1456 to read:

1457 63.054 Actions required by an unmarried biological father
 1458 to establish parental rights; Florida Alleged ~~Putative~~ Father
 1459 Registry.-

1460 (1) In order to preserve the right to notice and consent
 1461 to an adoption under this chapter, an unmarried biological
 1462 father must, as the "registrant," file a notarized claim of
 1463 paternity form with the Florida Alleged ~~Putative~~ Father Registry
 1464 maintained by the Office of Vital Statistics of the Department
 1465 of Health which includes confirmation of his willingness and
 1466 intent to support the child for whom paternity is claimed in
 1467 accordance with state law. The claim of paternity may be filed
 1468 at any time before the child's birth, but may not be filed after
 1469 the date a petition is filed for termination of parental rights.
 1470 In each proceeding for termination of parental rights, the
 1471 petitioner must submit to the Office of Vital Statistics a copy
 1472 of the petition for termination of parental rights. The Office
 1473 of Vital Statistics may not record a claim of paternity after
 1474 the date a petition for termination of parental rights is filed.
 1475 The failure of an unmarried biological father to file a claim of
 1476 paternity with the registry before the date a petition for
 1477 termination of parental rights is filed also bars him from
 1478 filing a paternity claim under chapter 742.

1479 (a) An unmarried biological father is excepted from the
 1480 time limitations for filing a claim of paternity with the
 1481 registry or for filing a paternity claim under chapter 742, if:

1482 1. The mother identifies him to the adoption entity as a

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1483 potential biological father by the date she executes a consent
 1484 for adoption; and

1485 2. He is served with a notice of intended adoption plan
 1486 pursuant to s. 63.062(3) and the 30-day mandatory response date
 1487 is later than the date the petition for termination of parental
 1488 rights is filed with the court.

1489 (b) If an unmarried biological father falls within the
 1490 exception provided by paragraph (a), the petitioner shall also
 1491 submit to the Office of Vital Statistics a copy of the notice of
 1492 intended adoption plan and proof of service of the notice on the
 1493 potential biological father.

1494 (c) An unmarried biological father who falls within the
 1495 exception provided by paragraph (a) may not file a claim of
 1496 paternity with the registry or a paternity claim under chapter
 1497 742 after the 30-day mandatory response date to the notice of
 1498 intended adoption plan has expired. The Office of Vital
 1499 Statistics may not record a claim of paternity 30 days after
 1500 service of the notice of intended adoption plan.

1501 (2) By filing a claim of paternity form with the Office of
 1502 Vital Statistics, the registrant expressly consents to submit to
 1503 DNA testing upon the request of any party, the registrant, or
 1504 the adoption entity with respect to the child referenced in the
 1505 claim of paternity.

1506 (3) The Office of Vital Statistics of the Department of
 1507 Health shall adopt by rule the appropriate claim of paternity
 1508 form in English, Spanish, and Creole in order to facilitate the
 1509 registration of an unmarried biological father with the Florida
 1510 Alleged ~~Putative~~ Father Registry and shall, within existing

1511 resources, make these forms available through local offices of
 1512 the Department of Health and the Department of Children and
 1513 Family Services, the Internet websites of those agencies, and
 1514 the offices of the clerks of the circuit court. The claim of
 1515 paternity form shall be signed by the unmarried biological
 1516 father and must include his name, address, date of birth, and
 1517 physical description. In addition, the registrant shall provide,
 1518 if known, the name, address, date of birth, and physical
 1519 description of the mother; the date, place, and location of
 1520 conception of the child; and the name, date, and place of birth
 1521 of the child or estimated date of birth of the expected minor
 1522 child, if known. The claim of paternity form shall be signed
 1523 under oath by the registrant.

1524 (4) Upon initial registration, or at any time thereafter,
 1525 the registrant may designate an address other than his
 1526 residential address for sending any communication regarding his
 1527 registration. Similarly, upon initial registration, or at any
 1528 time thereafter, the registrant may designate, in writing, an
 1529 agent or representative to receive any communication on his
 1530 behalf and receive service of process. The agent or
 1531 representative must file an acceptance of the designation, in
 1532 writing, in order to receive notice or service of process. The
 1533 failure of the designated representative or agent of the
 1534 registrant to deliver or otherwise notify the registrant of
 1535 receipt of correspondence from the Florida Alleged ~~Putative~~
 1536 Father Registry is at the registrant's own risk and shall not
 1537 serve as a valid defense based upon lack of notice.

1538 (5) The registrant may, at any time prior to the birth of

1539 | the child for whom paternity is claimed, execute a notarized
 1540 | written revocation of the claim of paternity previously filed
 1541 | with the Florida Alleged ~~Putative~~ Father Registry, and upon
 1542 | receipt of such revocation, the claim of paternity shall be
 1543 | deemed null and void. If a court determines that a registrant is
 1544 | not the father of the minor or has no parental rights, the court
 1545 | shall order the Department of Health to remove the registrant's
 1546 | name from the registry.

1547 | (6) It is the obligation of the registrant or, if
 1548 | designated under subsection (4), his designated agent or
 1549 | representative to notify and update the Office of Vital
 1550 | Statistics of any change of address or change in the designation
 1551 | of an agent or representative. The failure of a registrant, or
 1552 | designated agent or representative, to report any such change is
 1553 | at the registrant's own risk and may not serve as a defense
 1554 | based upon lack of notice, and the adoption entity or petitioner
 1555 | has no further obligation to search for the registrant unless
 1556 | the person petitioning for termination of parental rights or
 1557 | adoption has actual notice of the registrant's address and
 1558 | whereabouts from another source.

1559 | (7) In each proceeding for termination of parental rights
 1560 | or each adoption proceeding in which parental rights are being
 1561 | terminated simultaneously with entry of the final judgment of
 1562 | adoption, as in a stepparent and relative adoption filed under
 1563 | this chapter, the petitioner must contact the Office of Vital
 1564 | Statistics by submitting an application for a search of the
 1565 | Florida Alleged ~~Putative~~ Father Registry. The petitioner must
 1566 | provide the same information, if known, on the search

1567 application form that the registrant furnished under subsection
 1568 (3). Thereafter, the Office of Vital Statistics shall issue a
 1569 certificate signed by the State Registrar certifying:

1570 (a) The identity and contact information, if any, for each
 1571 registered unmarried biological father whose information matches
 1572 the search request sufficiently so that such person may be
 1573 considered a possible father of the subject child; or

1574 (b) That a diligent search has been made of the
 1575 registrants who may be the unmarried biological father of the
 1576 subject child and that no matching registration has been located
 1577 in the registry.

1578
 1579 The certificate must be filed with the court in the proceeding
 1580 to terminate parental rights or the adoption proceeding. If a
 1581 termination of parental rights and an adoption proceeding are
 1582 being adjudicated separately, the Florida Alleged ~~Putative~~
 1583 Father Registry need only be searched for the termination of
 1584 parental rights proceeding.

1585 (8) If an unmarried biological father does not know the
 1586 county in which the birth mother resides, gave birth, or intends
 1587 to give birth, he may initiate an action in any county in the
 1588 state, subject to the birth mother's right to change venue to
 1589 the county where she resides.

1590 (9) The Department of Health shall establish and maintain
 1591 a Florida Alleged ~~Putative~~ Father Registry through its Office of
 1592 Vital Statistics, in accordance with the requirements of this
 1593 section. The Department of Health may charge a nominal fee to
 1594 cover the costs of filing and indexing the Florida Alleged

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1595 ~~Putative~~ Father Registry and the costs of searching the
 1596 registry.

1597 (10) The Department of Health shall, within existing
 1598 resources, prepare and adopt by rule application forms for
 1599 initiating a search of the Florida Alleged ~~Putative~~ Father
 1600 Registry and shall make those forms available through the local
 1601 offices of the Department of Health and the Department of
 1602 Children and Family Services and the offices of the clerks of
 1603 the circuit court.

1604 (11) The Department of Health shall produce and
 1605 distribute, within existing resources, a pamphlet or publication
 1606 informing the public about the Florida Alleged ~~Putative~~ Father
 1607 Registry and which is printed in English, Spanish, and Creole.
 1608 The pamphlet shall indicate the procedures for voluntary
 1609 acknowledgment of paternity, the consequences of acknowledgment
 1610 of paternity, the consequences of failure to acknowledge
 1611 paternity, and the address of the Florida Alleged ~~Putative~~
 1612 Father Registry. Such pamphlets or publications shall be made
 1613 available for distribution at all offices of the Department of
 1614 Health and the Department of Children and Family Services and
 1615 shall be included in health class curricula taught in public and
 1616 charter schools in this state. The Department of Health shall
 1617 also provide such pamphlets or publications to hospitals,
 1618 adoption entities, libraries, medical clinics, schools,
 1619 universities, and providers of child-related services, upon
 1620 request. In cooperation with the Department of Highway Safety
 1621 and Motor Vehicles, each person applying for a Florida driver's
 1622 license, or renewal thereof, and each person applying for a

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1623 Florida identification card shall be offered the pamphlet or
 1624 publication informing the public about the Florida Alleged
 1625 ~~Putative~~ Father Registry.

1626 (12) The Department of Health shall, within existing
 1627 resources, provide additional information about the Florida
 1628 Alleged ~~Putative~~ Father Registry and its services to the public
 1629 in English, Spanish, and Creole using public service
 1630 announcements, Internet websites, and such other means as it
 1631 deems appropriate.

1632 (13) The filing of a claim of paternity with the Florida
 1633 Alleged ~~Putative~~ Father Registry does not excuse or waive the
 1634 obligation of a petitioner to comply with the requirements for
 1635 conducting a diligent search and inquiry with respect to the
 1636 identity of an unmarried biological father or legal father which
 1637 are set forth in this chapter.

1638 (14) The Office of Vital Statistics of the Department of
 1639 Health is authorized to adopt rules to implement this section.

1640 Section 17. Section 63.0541, Florida Statutes, is amended
 1641 to read:

1642 63.0541 Public records exemption for the Florida Alleged
 1643 ~~Putative~~ Father Registry.-

1644 (1) All information contained in the Florida Alleged
 1645 ~~Putative~~ Father Registry is confidential and exempt from s.
 1646 119.07(1) and s. 24(a), Art. I of the State Constitution.

1647 (2) Information made confidential and exempt by this
 1648 section shall be disclosed to:

1649 (a) An adoption entity, upon the filing of a request for a
 1650 diligent search of the Florida Alleged ~~Putative~~ Father Registry

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1651 in connection with the planned adoption of a child.

1652 (b) The registrant unmarried biological father, upon
 1653 receipt of a notarized request for a copy of his registry entry
 1654 only.

1655 (c) The birth mother, upon receipt of a notarized request
 1656 for a copy of any registry entry in which she is identified as
 1657 the birth mother.

1658 (d) The court, upon issuance of a court order concerning a
 1659 petitioner acting pro se in an action under this chapter.

1660 (3) The database comprising the Florida Alleged ~~Putative~~
 1661 Father Registry shall remain separate from all other databases.

1662 Section 18. Paragraphs (b) and (c) of subsection (2) and
 1663 subsection (3) of section 63.062, Florida Statutes, are amended
 1664 to read:

1665 63.062 Persons required to consent to adoption; affidavit
 1666 of nonpaternity; waiver of venue.—

1667 (2) In accordance with subsection (1), the consent of an
 1668 unmarried biological father shall be necessary only if the
 1669 unmarried biological father has complied with the requirements
 1670 of this subsection.

1671 (b) With regard to a child who is younger than 6 months of
 1672 age at the time the child is placed with the adoptive parents,
 1673 an unmarried biological father must have demonstrated a full
 1674 commitment to his parental responsibility by having performed
 1675 all of the following acts prior to the time the mother executes
 1676 her consent for adoption:

1677 1. Filed a notarized claim of paternity form with the
 1678 Florida Alleged ~~Putative~~ Father Registry within the Office of

1679 Vital Statistics of the Department of Health, which form shall
 1680 be maintained in the confidential registry established for that
 1681 purpose and shall be considered filed when the notice is entered
 1682 in the registry of notices from unmarried biological fathers.

1683 2. Upon service of a notice of an intended adoption plan
 1684 or a petition for termination of parental rights pending
 1685 adoption, executed and filed an affidavit in that proceeding
 1686 stating that he is personally fully able and willing to take
 1687 responsibility for the child, setting forth his plans for care
 1688 of the child, and agreeing to a court order of child support and
 1689 a contribution to the payment of living and medical expenses
 1690 incurred for the mother's pregnancy and the child's birth in
 1691 accordance with his ability to pay.

1692 3. If he had knowledge of the pregnancy, paid a fair and
 1693 reasonable amount of the expenses incurred in connection with
 1694 the mother's pregnancy and the child's birth, in accordance with
 1695 his financial ability and when not prevented from doing so by
 1696 the birth mother or person or authorized agency having lawful
 1697 custody of the child.

1698 (c) The petitioner shall file with the court a certificate
 1699 from the Office of Vital Statistics stating that a diligent
 1700 search has been made of the Florida Alleged ~~Putative~~ Father
 1701 Registry of notices from unmarried biological fathers described
 1702 in subparagraph (b)1. and that no filing has been found
 1703 pertaining to the father of the child in question or, if a
 1704 filing is found, stating the name of the alleged ~~putative~~ father
 1705 and the time and date of filing. That certificate shall be filed
 1706 with the court prior to the entry of a final judgment of

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1707 termination of parental rights.

1708 (3) Pursuant to chapter 48, an adoption entity shall serve

1709 a notice of intended adoption plan upon any known and locatable

1710 unmarried biological father who is identified to the adoption

1711 entity by the mother by the date she signs her consent for

1712 adoption or who is identified by a diligent search of the

1713 Florida Alleged ~~Putative~~ Father Registry, or upon an entity

1714 whose consent is required. Service of the notice of intended

1715 adoption plan is not mandatory when the unmarried biological

1716 father signs a consent for adoption or an affidavit of

1717 nonpaternity. The notice may be served at any time before the

1718 child's birth or before placing the child in the adoptive home.

1719 The recipient of the notice may waive service of process by

1720 executing a waiver and acknowledging receipt of the plan. The

1721 notice of intended adoption plan must specifically state that if

1722 the unmarried biological father desires to contest the adoption

1723 plan he must, within 30 days after service, file with the court

1724 a verified response that contains a pledge of commitment to the

1725 child in substantial compliance with subparagraph (2)(b)2. and a

1726 claim of paternity form with the Office of Vital Statistics, and

1727 must provide the adoption entity with a copy of the verified

1728 response filed with the court and the claim of paternity form

1729 filed with the Office of Vital Statistics. The notice must also

1730 include instructions for submitting a claim of paternity form to

1731 the Office of Vital Statistics and the address to which the

1732 claim must be sent. If the party served with the notice of

1733 intended adoption plan is an entity whose consent is required,

1734 the notice must specifically state that the entity must file,

1735 within 30 days after service, a verified response setting forth
 1736 a legal basis for contesting the intended adoption plan,
 1737 specifically addressing the best interest of the child.

1738 (a) If the unmarried biological father or entity whose
 1739 consent is required fails to timely and properly file a verified
 1740 response with the court and, in the case of an unmarried
 1741 biological father, a claim of paternity form with the Office of
 1742 Vital Statistics, the court shall enter a default against any
 1743 unmarried biological father or entity and the consent of that
 1744 unmarried biological father or entity shall no longer be
 1745 required under this chapter and shall be deemed to have waived
 1746 any claim of rights to the child. To avoid a default, within 30
 1747 days after receipt of service of the notice of intended adoption
 1748 plan:

1749 1. The unmarried biological father must:

1750 a. File a claim of paternity with the Florida Alleged
 1751 ~~Putative~~ Father Registry maintained by the Office of Vital
 1752 Statistics;

1753 b. File a verified response with the court which contains
 1754 a pledge of commitment to the child in substantial compliance
 1755 with subparagraph (2)(b)2.; and

1756 c. Provide support for the birth mother and the child.

1757 2. The entity whose consent is required must file a
 1758 verified response setting forth a legal basis for contesting the
 1759 intended adoption plan, specifically addressing the best
 1760 interest of the child.

1761 (b) If the mother identifies a potential unmarried
 1762 biological father whose location is unknown, the adoption entity

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1763 shall conduct a diligent search pursuant to s. 63.088. If, upon
 1764 completion of a diligent search, the potential unmarried
 1765 biological father's location remains unknown and a search of the
 1766 Florida Alleged ~~Putative~~ Father Registry fails to reveal a
 1767 match, the adoption entity shall request in the petition for
 1768 termination of parental rights pending adoption that the court
 1769 declare the diligent search to be in compliance with s. 63.088,
 1770 that the adoption entity has no further obligation to provide
 1771 notice to the potential unmarried biological father, and that
 1772 the potential unmarried biological father's consent to the
 1773 adoption is not required.

1774 Section 19. Subsection (1) of section 63.085, Florida
 1775 Statutes, is amended to read:

1776 63.085 Disclosure by adoption entity.—

1777 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 1778 ADOPTIVE PARENTS.—Within 14 days after a person seeking to adopt
 1779 a minor or a person seeking to place a minor for adoption
 1780 contacts an adoption entity in person or provides the adoption
 1781 entity with a mailing address, the entity must provide a written
 1782 disclosure statement to that person if the entity agrees or
 1783 continues to work with the person. The adoption entity shall
 1784 also provide the written disclosure to the parent who did not
 1785 initiate contact with the adoption entity within 14 days after
 1786 that parent is identified and located. For purposes of providing
 1787 the written disclosure, a person is considered to be seeking to
 1788 place a minor for adoption if that person has sought information
 1789 or advice from the adoption entity regarding the option of
 1790 adoptive placement. The written disclosure statement must be in

1791 substantially the following form:

1792

1793

ADOPTION DISCLOSURE

1794

1795

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO

1796

ALL PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO

1797

PLACE A MINOR FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING

1798

FACTS REGARDING ADOPTION UNDER FLORIDA LAW:

1799

1800

1. The name, address, and telephone number of the adoption entity providing this disclosure is:

1801

1802

Name: _____

1803

Address: _____

1804

Telephone Number: _____

1805

2. The adoption entity does not provide legal

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representation or advice to parents or anyone signing a

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consent for adoption or affidavit of nonpaternity, and

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parents have the right to consult with an attorney of their

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own choosing to advise them.

1810

3. With the exception of an adoption by a stepparent or

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relative, a child cannot be placed into a prospective

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adoptive home unless the prospective adoptive parents have

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received a favorable preliminary home study, including

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criminal and child abuse clearances.

1815

4. A valid consent for adoption may not be signed by the

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birth mother until 48 hours after the birth of the child,

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or the day the birth mother is notified, in writing, that

1818

she is fit for discharge from the licensed hospital or

1819 birth center. Any man may sign a valid consent for adoption
 1820 at any time after the birth of the child.

1821 5. A consent for adoption signed before the child attains
 1822 the age of 6 months is binding and irrevocable from the
 1823 moment it is signed unless it can be proven in court that
 1824 the consent was obtained by fraud or duress. A consent for
 1825 adoption signed after the child attains the age of 6 months
 1826 is valid from the moment it is signed; however, it may be
 1827 revoked up to 3 days after it was signed.

1828 6. A consent for adoption is not valid if the signature of
 1829 the person who signed the consent was obtained by fraud or
 1830 duress.

1831 7. An unmarried biological father must act immediately in
 1832 order to protect his parental rights. Section 63.062,
 1833 Florida Statutes, prescribes that any father seeking to
 1834 establish his right to consent to the adoption of his child
 1835 must file a claim of paternity with the Florida Alleged
 1836 ~~Putative~~ Father Registry maintained by the Office of Vital
 1837 Statistics of the Department of Health by the date a
 1838 petition to terminate parental rights is filed with the
 1839 court, or within 30 days after receiving service of a
 1840 Notice of Intended Adoption Plan. If he receives a Notice
 1841 of Intended Adoption Plan, he must file a claim of
 1842 paternity with the Florida Alleged ~~Putative~~ Father
 1843 Registry, file a parenting plan with the court, and provide
 1844 financial support to the mother or child within 30 days
 1845 following service. An unmarried biological father's failure
 1846 to timely respond to a Notice of Intended Adoption Plan

1847 constitutes an irrevocable legal waiver of any and all
 1848 rights that the father may have to the child. A claim of
 1849 paternity registration form for the Florida Alleged
 1850 ~~Putative~~ Father Registry may be obtained from any local
 1851 office of the Department of Health, Office of Vital
 1852 Statistics, the Department of Children and Families, the
 1853 Internet websites for these agencies, and the offices of
 1854 the clerks of the Florida circuit courts. The claim of
 1855 paternity form must be submitted to the Office of Vital
 1856 Statistics, Attention: Adoption Unit, P.O. Box 210,
 1857 Jacksonville, FL 32231.

1858 8. There are alternatives to adoption, including foster
 1859 care, relative care, and parenting the child. There may be
 1860 services and sources of financial assistance in the
 1861 community available to parents if they choose to parent the
 1862 child.

1863 9. A parent has the right to have a witness of his or her
 1864 choice, who is unconnected with the adoption entity or the
 1865 adoptive parents, to be present and witness the signing of
 1866 the consent or affidavit of nonpaternity.

1867 10. A parent 14 years of age or younger must have a
 1868 parent, legal guardian, or court-appointed guardian ad
 1869 litem to assist and advise the parent as to the adoption
 1870 plan.

1871 11. A parent has a right to receive supportive counseling
 1872 from a counselor, social worker, physician, clergy, or
 1873 attorney.

1874 12. The payment of living or medical expenses by the

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1875 prospective adoptive parents before the birth of the child
 1876 does not, in any way, obligate the parent to sign the
 1877 consent for adoption.

1878
 1879 Section 20. Paragraph (a) of subsection (2) of section
 1880 63.089, Florida Statutes, is amended to read:

1881 63.089 Proceeding to terminate parental rights pending
 1882 adoption; hearing; grounds; dismissal of petition; judgment.—

1883 (2) HEARING PREREQUISITES.—The court may hold the hearing
 1884 only when:

1885 (a) For each person whose consent to adoption is required
 1886 under s. 63.062:

1887 1. A consent under s. 63.082 has been executed and filed
 1888 with the court;

1889 2. An affidavit of nonpaternity under s. 63.082 has been
 1890 executed and filed with the court;

1891 3. Notice has been provided under ss. 63.087 and 63.088;
 1892 or

1893 4. The certificate from the Office of Vital Statistics has
 1894 been provided to the court stating that a diligent search has
 1895 been made of the Florida Alleged ~~Putative~~ Father Registry
 1896 created in s. 63.054 and that no filing has been found
 1897 pertaining to the father of the child in question or, if a
 1898 filing is found, stating the name of the alleged ~~putative~~ father
 1899 and the time and date of the filing.

1900 Section 21. Subsection (7) of section 88.2011, Florida
 1901 Statutes, is amended to read:

1902 88.2011 Bases for jurisdiction over nonresident.—In a

1903 proceeding to establish, enforce, or modify a support order or
 1904 to determine parentage, a tribunal of this state may exercise
 1905 personal jurisdiction over a nonresident individual or the
 1906 individual's guardian or conservator if:

1907 (7) The individual asserted parentage in a tribunal or in
 1908 an alleged ~~a putative~~ father registry maintained in this state
 1909 by the appropriate agency; or

1910 Section 22. Paragraph (e) of subsection (1) of section
 1911 409.2572, Florida Statutes, is amended to read:

1912 409.2572 Cooperation.—

1913 (1) An applicant for, or recipient of, public assistance
 1914 for a dependent child shall cooperate in good faith with the
 1915 department or a program attorney in:

1916 (e) Identifying another alleged ~~putative~~ father when an
 1917 earlier named alleged ~~putative~~ father has been excluded by DNA,
 1918 Human Leukocyte Antigen, or other scientific test.

1919 Section 23. Subsection (2) of section 742.021, Florida
 1920 Statutes, is amended to read:

1921 742.021 Venue, process, complaint.—

1922 (2) The complaint shall assert sufficient facts charging
 1923 the paternity of the child. Upon filing of a complaint seeking
 1924 to determine paternity, the clerk of court shall issue a notice
 1925 to each petitioner and to each respondent or defendant along
 1926 with service of the petition. The notice must be in
 1927 substantially the following form:

1928
 1929 In order to preserve the right to notice and consent to the
 1930 adoption of the child, an unmarried biological father must,

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1931 as the "registrant," file a notarized claim of paternity
 1932 form with the Florida Alleged ~~Putative~~ Father Registry
 1933 maintained by the Office of Vital Statistics of the
 1934 Department of Health which includes confirmation of his
 1935 willingness and intent to support the child for whom
 1936 paternity is claimed in accordance with state law. The
 1937 claim of paternity may be filed at any time before the
 1938 child's birth, but a claim of paternity may not be filed
 1939 after the date a petition is filed for termination of
 1940 parental rights.

1941
 1942 Section 24. Except as otherwise expressly provided in this
 1943 act, this act shall take effect upon becoming a law.

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COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Kreegel offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 61.13 Support of children; parenting and time-sharing;
10 powers of court.—

11 (1)

12 (b) Each order for support shall contain a provision for
13 health insurance for the minor child when health insurance is
14 reasonable in cost and accessible to the child. Health insurance
15 is presumed to be reasonable in cost if the incremental cost of
16 adding health insurance for the child or children does not
17 exceed 5 percent of the gross income, as defined in s. 61.30, of
18 the parent responsible for providing health insurance. Health
19 insurance is accessible to the child if the health insurance is

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20 available to be used in the county of the child's primary
21 residence or in another county if the parent who has the most
22 time under the time-sharing plan agrees. If the time-sharing
23 plan provides for equal time-sharing, health insurance is
24 accessible to the child if the health insurance is available to
25 be used in either county where the child resides or in another
26 county if both parents agree. The court may require the obligor
27 to provide health insurance or to reimburse the obligee for the
28 cost of health insurance for the minor child when insurance is
29 provided by the obligee. The presumption of reasonable cost may
30 be rebutted by evidence of any of the factors in s.
31 61.30(11)(a). The court may deviate from what is presumed
32 reasonable in cost only upon a written finding explaining its
33 determination why ordering or not ordering the provision of
34 health insurance or the reimbursement of the obligee's cost for
35 providing health insurance for the minor child would be unjust
36 or inappropriate. In any event, the court shall apportion the
37 cost of health insurance, and any noncovered medical, dental,
38 and prescription medication expenses of the child, to both
39 parties by adding the cost to the basic obligation determined
40 pursuant to s. 61.30(6). The court may order that payment of
41 noncovered medical, dental, and prescription medication expenses
42 of the minor child be made directly to the obligee on a
43 percentage basis. In a proceeding for medical support only, each
44 parent's share of the child's ~~health insurance~~ and noncovered
45 medical expenses shall equal the parent's percentage share of
46 the combined net income of the parents. The percentage share
47 shall be calculated by dividing each parent's net monthly income

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48 by the combined monthly net income of both parents. Net income
49 is calculated as specified by s. 61.30(3) and (4).

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

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

57 b. The obligee serves written notice of intent to enforce
58 an order for health insurance on the obligor by mail at the
59 obligor's last known address; and

60 c. The obligor fails within 15 days after the mailing of
61 the notice to provide written proof to the obligee that the
62 health insurance existed as of the date of mailing.

63 2.a. A support order enforced under Title IV-D of the
64 Social Security Act which requires that the obligor provide
65 health insurance is enforceable by the department through the
66 use of the national medical support notice, and an amendment to
67 the support order is not required. The department shall transfer
68 the national medical support notice to the obligor's union or
69 employer. The department shall notify the obligor in writing
70 that the notice has been sent to the obligor's union or
71 employer, and the written notification must include the
72 obligor's rights and duties under the national medical support
73 notice. The obligor may contest the withholding required by the
74 national medical support notice based on a mistake of fact. To
75 contest the withholding, the obligor must file a written notice

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76 of contest with the department within 15 business days after the
77 date the obligor receives written notification of the national
78 medical support notice from the department. Filing with the
79 department is complete when the notice is received by the person
80 designated by the department in the written notification. The
81 notice of contest must be in the form prescribed by the
82 department. Upon the timely filing of a notice of contest, the
83 department shall, within 5 business days, schedule an informal
84 conference with the obligor to discuss the obligor's factual
85 dispute. If the informal conference resolves the dispute to the
86 obligor's satisfaction or if the obligor fails to attend the
87 informal conference, the notice of contest is deemed withdrawn.
88 If the informal conference does not resolve the dispute, the
89 obligor may request an administrative hearing under chapter 120
90 within 5 business days after the termination of the informal
91 conference, in a form and manner prescribed by the department.
92 However, the filing of a notice of contest by the obligor does
93 not delay the withholding of premium payments by the union,
94 employer, or health plan administrator. The union, employer, or
95 health plan administrator must implement the withholding as
96 directed by the national medical support notice unless notified
97 by the department that the national medical support notice is
98 terminated.

99 b. In a Title IV-D case, the department shall notify an
100 obligor's union or employer if the obligation to provide health
101 insurance through that union or employer is terminated.

102 3. In a non-Title IV-D case, upon receipt of the order
103 pursuant to subparagraph 1., or upon application of the obligor

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104 pursuant to the order, the union or employer shall enroll the
105 minor child as a beneficiary in the group health plan regardless
106 of any restrictions on the enrollment period and withhold any
107 required premium from the obligor's income. If more than one
108 plan is offered by the union or employer, the child shall be
109 enrolled in the group health plan in which the obligor is
110 enrolled.

111 4.a. Upon receipt of the national medical support notice
112 under subparagraph 2. in a Title IV-D case, the union or
113 employer shall transfer the notice to the appropriate group
114 health plan administrator within 20 business days after the date
115 on the notice. The plan administrator must enroll the child as a
116 beneficiary in the group health plan regardless of any
117 restrictions on the enrollment period, and the union or employer
118 must withhold any required premium from the obligor's income
119 upon notification by the plan administrator that the child is
120 enrolled. The child shall be enrolled in the group health plan
121 in which the obligor is enrolled. If the group health plan in
122 which the obligor is enrolled is not available where the child
123 resides or if the obligor is not enrolled in group coverage, the
124 child shall be enrolled in the lowest cost group health plan
125 that is accessible to the child.

126 b. If health insurance or the obligor's employment is
127 terminated in a Title IV-D case, the union or employer that is
128 withholding premiums for health insurance under a national
129 medical support notice must notify the department within 20 days
130 after the termination and provide the obligor's last known

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131 address and the name and address of the obligor's new employer,
132 if known.

133 5.a. The amount withheld by a union or employer in
134 compliance with a support order may not exceed the amount
135 allowed under s. 303(b) of the Consumer Credit Protection Act,
136 15 U.S.C. s. 1673(b), as amended. The union or employer shall
137 withhold the maximum allowed by the Consumer Credit Protection
138 Act in the following order:

- 139 (I) Current support, as ordered.
140 (II) Premium payments for health insurance, as ordered.
141 (III) Past due support, as ordered.
142 (IV) Other medical support or insurance, as ordered.

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

- 150 (I) Current support, as ordered.
151 (II) Past due support, as ordered.
152 (III) Other medical support or insurance, as ordered.

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

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

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

165 2. If both parties request and the court finds that it is
166 in the best interest of the child, support payments need not be
167 subject to immediate income deduction. Support orders that are
168 not subject to immediate income deduction may be directed
169 through the depository under s. 61.181 or made payable directly
170 to the obligee. Payments for all support orders that provide for
171 immediate income deduction shall be made to the State
172 Disbursement Unit. The court shall provide a copy of the order
173 to the depository.

174 3. For support orders payable directly to the obligee that
175 ~~do not provide for immediate income deduction~~, any party, or the
176 ~~department IV-D agency~~ in a IV-D case, may subsequently file an
177 affidavit with the depository ~~State Disbursement Unit~~ alleging a
178 default in payment of child support and stating that the party
179 wishes to require that payments be made through the depository
180 ~~State Disbursement Unit~~. The party shall provide copies of the
181 affidavit to the court and to each other party. Fifteen days
182 after receipt of the affidavit, the depository ~~State~~
183 ~~Disbursement Unit~~ shall notify all parties that future payments
184 shall be paid through the depository, except that income
185 deduction payments shall be made to the State Disbursement Unit.
186

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

189 61.30 Child support guidelines; retroactive child
190 support.--

191 (15) For purposes of establishing an obligation for
192 support in accordance with this section, if a person who is
193 receiving public assistance is found to be noncooperative as
194 defined in s. 409.2572, the department IV-D agency is authorized
195 to submit to the court an affidavit or written declaration
196 signed under penalty of perjury pursuant to s. 92.525(2)
197 attesting to the income of that parent based upon information
198 available to the department IV-D agency.

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

201 382.013 Birth registration.--

202 (2) PATERNITY.--

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

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

213 (c) If the mother is not married at the time of the birth,
214 the name of the father may not be entered on the birth

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215 certificate without the execution of an affidavit signed by both
216 the mother and the person to be named as the father. The
217 facility shall give notice orally or through the use of video or
218 audio equipment, and in writing, of the alternatives to, the
219 legal consequences of, and the rights, including, if one parent
220 is a minor, any rights afforded due to minority status, and
221 responsibilities that arise from signing an acknowledgment of
222 paternity, as well as information provided by the Title IV-D
223 agency established pursuant to s. 409.2557, regarding the
224 benefits of voluntary establishment of paternity. Upon request
225 of the mother and the person to be named as the father, the
226 facility shall assist in the execution of the affidavit, a
227 notarized voluntary acknowledgment of paternity, or a voluntary
228 acknowledgment of paternity that is witnessed by two individuals
229 and signed under penalty of perjury as specified by s.
230 92.525(2).

231 (d) If the paternity of the child is determined by a court
232 of competent jurisdiction, or there is a final judgment of
233 dissolution of marriage which requires the former husband to pay
234 child support for the child as provided under s. 382.015, the
235 name of the father and the surname of the child shall be entered
236 on the certificate in accordance with the finding and order of
237 the court. If the court fails to specify a surname for the
238 child, the surname shall be entered in accordance with
239 subsection (3).

240 (e) If the paternity of the child is determined pursuant
241 to s. 409.256, the name of the father and the surname of the

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242 child shall be entered on the certificate in accordance with the
243 finding and order of the Department of Revenue.

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

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

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

254 382.015 New certificates of live birth; duty of clerks of
255 court and department.—The clerk of the court in which any
256 proceeding for adoption, annulment of an adoption, affirmation
257 of parental status, or determination of paternity is to be
258 registered, shall within 30 days after the final disposition,
259 forward to the department a certified copy of the court order,
260 or a report of the proceedings upon a form to be furnished by
261 the department, together with sufficient information to identify
262 the original birth certificate and to enable the preparation of
263 a new birth certificate. The clerk of the court shall implement
264 a monitoring and quality control plan to ensure that all
265 judicial determinations of paternity are reported to the
266 department in compliance with this section. The department shall
267 track paternity determinations reported monthly by county,
268 monitor compliance with the 30-day timeframe, and report the
269 data to the clerks of the court quarterly.

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

282 Section 5. Paragraph (b) of subsection (1) of section
283 382.016, Florida Statutes, is amended to read:

284 382.016 Amendment of records.—The department, upon receipt
285 of the fee prescribed in s. 382.0255; documentary evidence, as
286 specified by rule, of any misstatement, error, or omission
287 occurring in any birth, death, or fetal death record; and an
288 affidavit setting forth the changes to be made, shall amend or
289 replace the original certificate as necessary.

290 (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.—

291 (b) Upon written request and receipt of an affidavit, a
292 notarized voluntary acknowledgment of paternity signed by the
293 mother and father acknowledging the paternity of a registrant
294 born out of wedlock, or a voluntary acknowledgment of paternity
295 that is witnessed by two individuals and signed under penalty of
296 perjury as specified by s. 92.525(2), together with sufficient
297 information to identify the original certificate of live birth,

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298 the department shall prepare a new birth certificate, which
299 shall bear the same file number as the original birth
300 certificate. The names and identifying information of the
301 parents shall be entered as of the date of the registrant's
302 birth. The surname of the registrant may be changed from that
303 shown on the original birth certificate at the request of the
304 mother and father of the registrant, or the registrant if of
305 legal age. If the mother and father marry each other at any time
306 after the registrant's birth, the department shall, upon receipt
307 of a marriage license that identifies the registrant, or upon
308 the request of the mother and father or the registrant if the
309 registrant is of legal age, and upon proof of the marriage,
310 amend the certificate with regard to the parents' marital status
311 as though the parents were married at the time of birth. The
312 department shall substitute the new certificate of birth for the
313 original certificate on file. All copies of the original
314 certificate of live birth in the custody of a local registrar or
315 other state custodian of vital records shall be forwarded to the
316 State Registrar. Thereafter, when a certified copy of the
317 certificate of birth or portion thereof is issued, it shall be a
318 copy of the new certificate of birth or portion thereof, except
319 when a court order requires issuance of a certified copy of the
320 original certificate of birth. Except for a birth certificate on
321 which a father is listed pursuant to an affidavit, a notarized
322 voluntary acknowledgment of paternity signed by the mother and
323 father acknowledging the paternity of a registrant born out of
324 wedlock, or a voluntary acknowledgment of paternity that is
325 witnessed by two individuals and signed under penalty of perjury

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326 as specified by s. 92.525(2), the department shall place the
327 original certificate of birth and all papers pertaining thereto
328 under seal, not to be broken except by order of a court of
329 competent jurisdiction or as otherwise provided by law.

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

333 409.2558 Support distribution and disbursement.—

334 (3) UNDISTRIBUTABLE COLLECTIONS.—

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

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

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

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

348 ~~4.1.~~ Apply the payment to any assigned arrears on the
349 obligee's case; then

350 ~~5.2.~~ Apply the payment to any administrative costs ordered
351 by the court pursuant to s. 409.2567 associated with the
352 obligee's case; then

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353 ~~6.3.~~ When the obligor is subject to a valid order to
354 support another child in a case with a different obligee and the
355 obligation is being enforced by the department, the department
356 shall send by certified mail, restricted delivery, return
357 receipt requested, to the obligor at the most recent address
358 provided by the obligor to the tribunal that issued the order, a
359 notice stating the department's intention to apply the payment
360 pursuant to this subparagraph, and advising the obligor of the
361 right to contest the department's proposed action in the circuit
362 court by filing and serving a petition on the department within
363 30 days after the mailing of the notice. If the obligor does not
364 file and serve a petition within the 30 days after mailing of
365 the notice, or upon a disposition of the judicial action
366 favorable to the department, the department shall apply the
367 payment toward his or her other support obligation. If there is
368 more than one such other case, the department shall allocate the
369 remaining undistributable amount as specified by s.
370 61.1301(4)(c); then

371 ~~7.4.~~ Return the payment to the obligor; then

372 ~~8.5.~~ If the obligor cannot be located after diligent
373 efforts by the department, the federal share of the payment
374 shall be credited to the Federal Government and the state share
375 shall be transferred to the General Revenue Fund.

376 Section 7. Effective July 1, 2010, paragraph (d) is added
377 to subsection (3) of section 409.2558, Florida Statutes, to
378 read:

379 409.2558 Support distribution and disbursement.—

380 (3) UNDISTRIBUTABLE COLLECTIONS.—

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381 (d) If a payment of less than \$1 is made by a paper check
382 on an open Title IV-D case and the payment is not cashed after
383 180 days, or less than \$1 is owed on a closed Title IV-D case,
384 the department shall declare the payment as program income,
385 crediting the federal share of the payment to the Federal
386 Government and the state share of the payment to the General
387 Revenue Fund, without attempting to locate either party.

388 Section 8. Section 409.256, Florida Statutes, is amended
389 to read:

390 409.256 Administrative proceeding to establish paternity
391 or paternity and child support; order to appear for genetic
392 testing.—

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

394 (a) "Another state" or "other state" means a state of the
395 United States, the District of Columbia, Puerto Rico, the United
396 States Virgin Islands, or any territory or insular possession
397 subject to the jurisdiction of the United States. The term
398 includes:

399 1. An Indian tribe.

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

406 (b) "Caregiver Custodian" means a person, other than the
407 mother, father, or a putative father, who has physical custody
408 of a child or with whom the child primarily resides. References

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409 in this section to the obligation of a caregiver ~~custodian~~ to
410 submit to genetic testing mean that the caregiver ~~custodian~~ is
411 obligated to submit the child for genetic testing, not that the
412 caregiver ~~custodian~~ must submit to genetic testing.

413 (c) "Filed" means a document has been received and
414 accepted for filing at the offices of the department ~~of Revenue~~
415 by the clerk or an authorized deputy clerk designated by the
416 department.

417 (d) "Genetic testing" means a scientific analysis of
418 genetic markers that is performed by a qualified technical
419 laboratory only to exclude an individual as the parent of a
420 child or to show a probability of paternity.

421 (e) "Paternity and child support proceeding" means an
422 administrative action commenced by the department ~~of Revenue~~ to
423 order genetic testing, establish paternity, and establish an
424 administrative support order pursuant to this section.

425 (f) "Paternity proceeding" means an administrative action
426 commenced by the department ~~of Revenue~~ to order genetic testing
427 and establish paternity pursuant to this section.

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

432 (h) "Qualified technical laboratory" means a genetic-
433 testing laboratory that may be under contract with the
434 department ~~of Revenue~~, that uses tests and methods of a type
435 generally acknowledged as reliable by accreditation
436 organizations recognized by the United States Department of

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437 Health and Human Services, and that is approved by such an
438 accreditation organization. The term includes a genetic-testing
439 laboratory used by another state, if the laboratory has
440 comparable qualifications.

441 (i) "Rendered" means that a signed written order is filed
442 with the clerk or a deputy clerk of the department ~~of Revenue~~
443 and served on the respondent. The date of filing must be
444 indicated on the face of the order at the time of rendition.

445 (j) "Respondent" means the person or persons served by the
446 department ~~of Revenue~~ with a notice of proceeding pursuant to
447 subsection (4). The term includes the putative father and may
448 include the mother or the caregiver ~~custodian~~ of the child.

449 (k) "This state" or "the state" means the State of
450 Florida.

451 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
452 THE COURTS.-

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

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

457 2. No one is named as the father on the child's birth
458 certificate or the person named as the father is the putative
459 father named in an affidavit or a written declaration as
460 provided in subparagraph 5.

461 3. The child's mother was unmarried when the child was
462 conceived and born.

463 4. The department ~~of Revenue~~ is providing services under
464 Title IV-D.

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465 5. The child's mother, caregiver or a putative father has
466 stated in an affidavit, or in a written declaration as provided
467 in s. 92.525(2) that the putative father is or may be the
468 child's biological father. The affidavit or written declaration
469 must set forth the factual basis for the allegation of paternity
470 as provided in s. 742.12(2).

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

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

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

490 (e) Whenever practicable, hearings held by the Division of
491 Administrative Hearings pursuant to this section shall be held
492 in the judicial circuit where the person receiving services

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493 under Title IV-D resides or, if the person receiving services
494 under Title IV-D does not reside in this state, in the judicial
495 circuit where the respondent resides. If the department of
496 Revenue and the respondent agree, the hearing may be held in
497 another location. If ordered by the administrative law judge,
498 the hearing may be conducted telephonically or by
499 videoconference.

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

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

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

519 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR
520 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC

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521 | TESTING; MANNER OF SERVICE; CONTENTS.—The department ~~of Revenue~~
522 | shall commence a proceeding to determine paternity, or a
523 | proceeding to determine both paternity and child support, by
524 | serving ~~the~~ respondent with a notice as provided in this
525 | section. An order to appear for genetic testing may be served at
526 | the same time as a notice of the proceeding or may be served
527 | separately. A copy of the affidavit or written declaration upon
528 | which the proceeding is based shall be provided to the
529 | respondent when notice is served. A notice or order to appear
530 | for genetic testing shall be served by certified mail,
531 | restricted delivery, return receipt requested, or in accordance
532 | with the requirements for service of process in a civil action.
533 | Service by certified mail is completed when the certified mail
534 | is received or refused by the addressee or by an authorized
535 | agent as designated by the addressee in writing. If a person
536 | other than the addressee signs the return receipt, the
537 | department shall attempt to reach the addressee by telephone to
538 | confirm whether the notice was received, and the department
539 | shall document any telephonic communications. If someone other
540 | than the addressee signs the return receipt, the addressee does
541 | not respond to the notice, and the department is unable to
542 | confirm that the addressee has received the notice, service is
543 | not completed and the department shall attempt to have the
544 | addressee served personally. For purposes of this section, an
545 | employee or an authorized agent of the department may serve the
546 | notice or order to appear for genetic testing and execute an
547 | affidavit of service. The department may serve an order to
548 | appear for genetic testing on a caregiver ~~custodian~~. The

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549 department shall provide a copy of the notice or order to appear
550 by regular mail to the mother and caregiver ~~eustodian~~, if they
551 are not respondents.

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

554 1. That the department has commenced an administrative
555 proceeding to establish whether the putative father is the
556 biological father of the child named in the notice.

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

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

562 4. That the respondent is required to submit to genetic
563 testing.

564 5. That genetic testing will establish either a high
565 degree of probability that the putative father is the biological
566 father of the child or that the putative father cannot be the
567 biological father of the child.

568 6. That if the results of the genetic test do not indicate
569 a statistical probability of paternity that equals or exceeds 99
570 percent, the paternity proceeding in connection with that child
571 shall cease unless a second or subsequent test is required.

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

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

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

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

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

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

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

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

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

613

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

616 (b) A notice of proceeding to establish paternity and
617 child support must state the requirements of paragraph (a),
618 except for subparagraph (a)7., and must state the requirements
619 of s. 409.2563(4), to the extent that the requirements of s.
620 409.2563(4) are not already required by and do not conflict with
621 this subsection. This section and s. 409.2563 apply to a
622 proceeding commenced under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

684 (b) Following an informal review, within 15 days after the
685 mailing date of the department's ~~Department of Revenue's~~
686 notification that the department shall proceed with an order to
687 appear for genetic testing, the person ordered to appear may
688 file a request for an administrative hearing to contest whether

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689 the person should be required to submit to genetic testing. A
690 request for an administrative hearing must state the specific
691 reasons why the person ordered to appear believes he or she
692 should not be required to submit to genetic testing as ordered.
693 If the person ordered to appear files a timely request for a
694 hearing, the department shall refer the hearing request to the
695 Division of Administrative Hearings. Unless otherwise provided
696 in this section, administrative hearings are governed by chapter
697 120 and the uniform rules of procedure. The administrative law
698 judge assigned to the case shall issue an order as to whether
699 the person must submit to genetic testing in accordance with the
700 order to appear. The department or the person ordered to appear
701 may seek immediate judicial review under s. 120.68 of an order
702 issued by an administrative law judge pursuant to this
703 paragraph.

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

709 1. The department has notified the person of its intent to
710 proceed after informal review, and a timely request for hearing
711 is not filed;

712 2. The person ordered to appear withdraws the request for
713 hearing or informal review; or

714 3. The Division of Administrative Hearings issues an order
715 that the person must submit to genetic testing, or issues an

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716 order closing the division's file, and that an order has become
717 final.

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

722 (6) SCHEDULING OF GENETIC TESTING.—

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

736 (b) The department shall reschedule genetic testing:

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

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

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

745

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

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

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

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

767 (7) FAILURE OR REFUSAL TO SUBMIT TO GENETIC TESTING.—If a
768 person who is served with an order to appear for genetic testing
769 fails to appear without good cause or refuses to submit to

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770 testing without good cause, the department may take one or more
771 of the following actions:

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

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

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

781

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

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

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

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

804 1. Issue a proposed order of paternity as provided in
805 paragraph (b); or

806 2. If appropriate, delay issuing a proposed order of
807 paternity and commence, by regular mail, an administrative
808 proceeding to establish a support order for the child pursuant
809 to s. 409.2563 and issue a single proposed order that addresses
810 paternity and child support.

811 (b) A proposed order of paternity must:

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

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

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

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

823 (d) The department ~~of Revenue~~ shall serve a proposed order
824 issued under this section on the respondent by regular mail and

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825 shall provide a copy by regular mail to the mother or caregiver
826 custodian if they are not respondents.

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

829 (a) Within 10 days after the date of mailing or other
830 service of a proposed order of paternity, the respondent may
831 contact a representative of the department ~~of Revenue~~ at the
832 address or telephone number provided to request an informal
833 review of the proposed order. If an informal review is timely
834 requested, the time for requesting a hearing is extended until
835 10 days after the department mails notice to the respondent that
836 the informal review has been concluded.

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

847 (c) If the respondent files a timely request for a
848 hearing, the department ~~of Revenue~~ shall refer the hearing
849 request to the Division of Administrative Hearings. Unless
850 otherwise provided in this section or in s. 409.2563, chapter
851 120 and the uniform rules of procedure govern the conduct of the
852 proceedings.

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853 (d) The genetic-testing results shall be admitted into
854 evidence and made a part of the hearing record. For purposes of
855 this section, a statistical probability of paternity that equals
856 or exceeds 99 percent creates a presumption, as defined in s.
857 90.304, that the putative father is the biological father of the
858 child. The presumption may be overcome only by clear and
859 convincing evidence. The respondent or the department ~~of Revenue~~
860 may call an expert witness to refute or support the testing
861 procedure or results or the mathematical theory on which they
862 are based. Verified documentation of the chain of custody of the
863 samples tested is competent evidence to establish the chain of
864 custody.

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

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

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

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

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

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

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

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

904 (13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING
905 ADDRESS.—Until a proceeding that has been commenced under this
906 section has ended, a respondent who is served with a notice of
907 proceeding must inform the department ~~of Revenue~~ in writing of

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908 any change in the respondent's mailing address and is deemed to
909 have received any subsequent order, notice, or other paper
910 mailed to that address, or the address at which the respondent
911 was served, if the respondent has not provided a more recent
912 address.

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

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

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

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

927 Section 9. Paragraph (b) of subsection (1), paragraph (d)
928 of subsection (2), subsection (4), paragraphs (a) and (b) of
929 subsection (5), paragraphs (d) and (e) of subsection (7), and
930 subsection (13) of section 409.2563, Florida Statutes, are
931 amended to read:

932 409.2563 Administrative establishment of child support
933 obligations.—

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

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

939

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

942 (2) PURPOSE AND SCOPE.—

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

949 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
950 SUPPORT ORDER.—To commence a proceeding under this section, the
951 department shall provide to the parent from whom support is not
952 being sought and serve the parent from whom support is being
953 sought with a notice of proceeding to establish administrative
954 support order and a blank financial affidavit form. The notice
955 must state:

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

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

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

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

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

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

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

983 (h) That the parent from whom support is being sought may
984 file a request for a hearing in writing within 20 days after the
985 date of mailing or other service of the proposed administrative
986 support order or will be deemed to have waived the right to
987 request a hearing;

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988 (i) That if the parent from whom support is being sought
989 does not file a timely request for hearing after service of the
990 proposed administrative support order, the department will issue
991 an administrative support order that incorporates the findings
992 of the proposed administrative support order, and will send by
993 regular mail a copy of the administrative support order to both
994 parents, or a parent and the caregiver ~~caretaker~~ ~~relative~~ if
995 applicable;

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

999 (k) That after an administrative support order is
1000 rendered, the department may enforce the administrative support
1001 order by any lawful means;

1002 (l) That either parent, or the caregiver ~~caretaker~~
1003 ~~relative~~ if applicable, may file at any time a civil action in a
1004 circuit court having jurisdiction and proper venue to determine
1005 parental support obligations, if any, and that a support order
1006 issued by a circuit court supersedes an administrative support
1007 order rendered by the department;

1008 (m) That, neither the department nor the Division of
1009 Administrative Hearings has jurisdiction to award or change
1010 child custody or rights of parental contact or time-sharing and
1011 these issues may only be addressed in circuit court.

1012 1. The parent from whom support is being sought may
1013 request in writing that the department proceed in circuit court
1014 to determine his or her support obligations.

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1015 2. The parent from whom support is being sought may state
1016 in writing to the department his or her intention to address
1017 issues concerning custody or rights to parental contact in
1018 circuit court.

1019 3. If the parent from whom support is being sought submits
1020 the request authorized in subparagraph 1., or the statement
1021 authorized in subparagraph 2. to the department within 20 days
1022 after the receipt of the initial notice, the department shall
1023 file a petition in circuit court for the determination of the
1024 parent's child support obligations, and shall send to the parent
1025 from whom support is being sought a copy of its petition, a
1026 notice of commencement of action, and a request for waiver of
1027 service of process as provided in the Florida Rules of Civil
1028 Procedure.

1029 4. If, within 10 days after receipt of the department's
1030 petition and waiver of service, the parent from whom support is
1031 being sought signs and returns the waiver of service form to the
1032 department, the department shall terminate the administrative
1033 proceeding without prejudice and proceed in circuit court.

1034 5. In any circuit court action filed by the department
1035 pursuant to this paragraph or filed by a parent from whom
1036 support is being sought or other person pursuant to paragraph
1037 (l) or paragraph (n), the department shall be a party only with
1038 respect to those issues of support allowed and reimbursable
1039 under Title IV-D of the Social Security Act. It is the
1040 responsibility of the parent from whom support is being sought
1041 or other person to take the necessary steps to present other
1042 issues for the court to consider.

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1043 (n) That if the parent from whom support is being sought
1044 files an action in circuit court and serves the department with
1045 a copy of the petition within 20 days after being served notice
1046 under this subsection, the administrative process ends without
1047 prejudice and the action must proceed in circuit court;

1048 (o) Information provided by the Office of State Courts
1049 Administrator concerning the availability and location of self-
1050 help programs for those who wish to file an action in circuit
1051 court but who cannot afford an attorney.

1052

1053 The department may serve the notice of proceeding to establish
1054 administrative support order by certified mail, restricted
1055 delivery, return receipt requested. Alternatively, the
1056 department may serve the notice by any means permitted for
1057 service of process in a civil action. For purposes of this
1058 section, an authorized employee of the department may serve the
1059 notice and execute an affidavit of service. Service by certified
1060 mail is completed when the certified mail is received or refused
1061 by the addressee or by an authorized agent as designated by the
1062 addressee in writing. If a person other than the addressee signs
1063 the return receipt, the department shall attempt to reach the
1064 addressee by telephone to confirm whether the notice was
1065 received, and the department shall document any telephonic
1066 communications. If someone other than the addressee signs the
1067 return receipt, the addressee does not respond to the notice,
1068 and the department is unable to confirm that the addressee has
1069 received the notice, service is not completed and the department
1070 shall attempt to have the addressee served personally. The

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1071 department shall provide the parent from whom support is not
1072 being sought or the caregiver ~~caretaker~~ relative with a copy of
1073 the notice by regular mail to the last known address of the
1074 parent from whom support is not being sought or the caregiver
1075 ~~caretaker~~.

1076 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

1077 (a) After serving notice upon a parent in accordance with
1078 subsection (4), the department shall calculate that parent's
1079 child support obligation under the child support guidelines
1080 schedule as provided by s. 61.30, based on any timely financial
1081 affidavits received and other information available to the
1082 department. If either parent fails to comply with the
1083 requirement to furnish a financial affidavit, the department may
1084 proceed on the basis of information available from any source,
1085 if such information is sufficiently reliable and detailed to
1086 allow calculation of guideline schedule amounts under s. 61.30.
1087 If a parent receives public assistance and fails to submit a
1088 financial affidavit, the department may submit a financial
1089 affidavit or written declaration for that parent pursuant to s.
1090 61.30(15). If there is a lack of sufficient reliable information
1091 concerning a parent's actual earnings for a current or past
1092 period, it shall be presumed for the purpose of establishing a
1093 support obligation that the parent had an earning capacity equal
1094 to the federal minimum wage during the applicable period.

1095 (b) The department shall send by regular mail to both
1096 parents, or to a parent and the caregiver ~~caretaker~~ relative if
1097 applicable, copies of the proposed administrative support order,
1098 its completed child support worksheet, and any financial

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1099 affidavits submitted by a parent or prepared by the department.
1100 The proposed administrative support order must contain the same
1101 elements as required for an administrative support order under
1102 paragraph (7) (e).

1103 (7) ADMINISTRATIVE SUPPORT ORDER.—

1104 (d) The department shall send by regular mail a copy of
1105 the administrative support order, or the final order denying an
1106 administrative support order, to both parents, or a parent and
1107 the caregiver ~~caretaker~~ relative if applicable. The parent from
1108 whom support is being sought shall be notified of the right to
1109 seek judicial review of the administrative support order in
1110 accordance with s. 120.68.

1111 (e) An administrative support order must comply with ss.
1112 61.13(1) and 61.30. The department shall develop a standard form
1113 or forms for administrative support orders. An administrative
1114 support order must provide and state findings, if applicable,
1115 concerning:

- 1116 1. The full name and date of birth of the child or
1117 children;
- 1118 2. The name of the parent from whom support is being
1119 sought and the other parent or the caregiver ~~caretaker~~ relative;
- 1120 3. The parent's duty and ability to provide support;
- 1121 4. The amount of the parent's monthly support obligation;
- 1122 5. Any obligation to pay retroactive support;
- 1123 6. The parent's obligation to provide for the health care
1124 needs of each child, whether through health insurance,
1125 contribution towards the cost of health insurance, payment or

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1126 reimbursement of health care expenses for the child, or any
1127 combination thereof;

1128 7. The beginning date of any required monthly payments and
1129 health insurance;

1130 8. That all support payments ordered must be paid to the
1131 Florida State Disbursement Unit as provided by s. 61.1824;

1132 9. That the parents, or the caregiver ~~caretaker~~ ~~relative~~
1133 if applicable, must file with the department when the
1134 administrative support order is rendered, if they have not
1135 already done so, and update as appropriate the information
1136 required pursuant to paragraph (13)(b);

1137 10. That both parents, or a parent and the caregiver
1138 ~~caretaker~~ ~~relative~~ if applicable, are required to promptly
1139 notify the department of any change in their mailing addresses
1140 pursuant to paragraph (13)(c); and

1141 11. That if the parent ordered to pay support receives
1142 unemployment compensation benefits, the payor shall withhold,
1143 and transmit to the department, 40 percent of the benefits for
1144 payment of support, not to exceed the amount owed.

1145

1146 An income deduction order as provided by s. 61.1301 must be
1147 incorporated into the administrative support order or, if not
1148 incorporated into the administrative support order, the
1149 department or the Division of Administrative Hearings shall
1150 render a separate income deduction order.

1151 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT TO
1152 ADDRESS OF RECORD.—In all proceedings pursuant to this section:

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1153 (a) Each parent must execute and furnish to the
1154 department, no later than 20 days after receipt of the notice of
1155 proceeding to establish administrative support order, a
1156 financial affidavit in the form prescribed by the department. An
1157 updated financial affidavit must be executed and furnished to
1158 the department at the inception of each proceeding to modify an
1159 administrative support order. A caregiver is ~~Caretaker relatives~~
1160 ~~are~~ not required to furnish a financial affidavit ~~affidavits~~.

1161 (b) Each parent and the caregiver ~~caretaker relative~~ if
1162 applicable, shall disclose to the department, no later than 20
1163 days after receipt of the notice of proceeding to establish
1164 administrative support order, and update as appropriate,
1165 information regarding his or her identity and location,
1166 including names he or she is known by; social security number;
1167 residential and mailing addresses; telephone numbers; driver's
1168 license numbers; and names, addresses, and telephone numbers of
1169 employers. Pursuant to the federal Personal Responsibility and
1170 Work Opportunity Reconciliation Act of 1996, each person must
1171 provide his or her social security number in accordance with
1172 this section. Disclosure of social security numbers obtained
1173 through this requirement shall be limited to the purpose of
1174 administration of the Title IV-D program for child support
1175 enforcement.

1176 (c) Each parent and the caregiver ~~caretaker relative~~, if
1177 applicable, has a continuing obligation to promptly inform the
1178 department in writing of any change in his or her mailing
1179 address to ensure receipt of all subsequent pleadings, notices,
1180 payments, statements, and orders, and receipt is presumed if

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1181 sent by regular mail to the most recent address furnished by the
1182 person.

1183 Section 10. Effective October 1, 2010, subsection (7) of
1184 section 409.25635, Florida Statutes, is amended to read:

1185 409.25635 Determination and collection of noncovered
1186 medical expenses.—

1187 (7) COLLECTION ACTION; ADMINISTRATIVE REMEDIES.—Any
1188 administrative remedy available for collection of support may be
1189 used to collect noncovered medical expenses that are determined
1190 or established under this section. The department may collect
1191 noncovered medical expenses in installments by adding a periodic
1192 payment to an income deduction notice issued by the department.

1193 Section 11. Effective November 1, 2010, subsections (4),
1194 (5), (7), (8), (9), and (11) of section 409.2564, Florida
1195 Statutes, are amended to read:

1196 409.2564 Actions for support.—

1197 (4) Whenever the Department of Revenue has undertaken an
1198 action for enforcement of support, the Department of Revenue may
1199 enter into an agreement with the obligor for the entry of a
1200 judgment determining paternity, if applicable, and for periodic
1201 child support payments based on the child support guidelines
1202 schedule in s. 61.30. Prior to entering into this agreement, the
1203 obligor shall be informed that a judgment will be entered based
1204 on the agreement. The clerk of the court shall file the
1205 agreement without the payment of any fees or charges, and the
1206 court, upon entry of the judgment, shall forward a copy of the
1207 judgment to the parties to the action. ~~To encourage out-of-court~~
1208 ~~settlement and promote support order compliance, if the obligor~~

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1209 ~~and the Department of Revenue agree on entry of a support order~~
1210 ~~and its terms, the guideline amount owed for retroactive support~~
1211 ~~that is permanently assigned to the state shall be reduced by 25~~
1212 ~~percent.~~

1213 (5) Whenever the department ~~IV-D agency~~ has undertaken an
1214 action to determine paternity, to establish an obligation of
1215 support, or to enforce or modify an obligation of support, the
1216 department ~~IV-D agency~~ shall be a party to the action only for
1217 those purposes allowed under Title IV-D of the Social Security
1218 Act. The program attorney shall be the attorney of record solely
1219 for the purposes of support enforcement as authorized under
1220 Title IV-D and may prosecute only those activities which are
1221 eligible for federal financial participation under Title IV-D.
1222 An attorney-client relationship exists only between the
1223 department and the legal services providers in all Title IV-D
1224 cases. The attorney shall advise the obligee in Title IV-D cases
1225 that the attorney represents the agency and not the obligee.

1226 (7) The director of the department ~~Title IV-D agency~~, or
1227 the director's designee, is authorized to subpoena from any
1228 person financial and other information necessary to establish,
1229 modify, or enforce a child support order.

1230 (a) For the purpose of establishing or modifying a child
1231 support order, or enforcing a support order, the director of the
1232 department ~~this~~ or another state's Title IV-D agency, or any
1233 employee designated by the director of the department ~~this~~
1234 ~~state's Title IV-D agency~~ or authorized under another state's
1235 law, may administer oaths or affirmations, subpoena witnesses
1236 and compel their attendance, take evidence and require the

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1237 production of any matter which is relevant to the support
1238 action, including the existence, description, nature, custody,
1239 condition, and location of any books, documents, or other
1240 tangible things and the identity and location of persons having
1241 knowledge of relevant facts or any other matter reasonably
1242 calculated to lead to the discovery of material evidence.

1243 (b) Subpoenas issued by the department ~~this~~ or another any
1244 ~~other~~ state's Title IV-D agency may be challenged in accordance
1245 with s. 120.569(2)(k)1. While a subpoena is being challenged,
1246 the department ~~Title IV-D agency~~ may not impose a fine as
1247 provided for under paragraph (c) until the challenge is complete
1248 and the subpoena has been found to be valid.

1249 (c) The department ~~Title IV-D agency~~ is authorized to
1250 impose a fine for failure to comply with a subpoena. Failure to
1251 comply with the subpoena, or to challenge the subpoena as
1252 provided in paragraph (b), within 15 days after service of the
1253 subpoena may result in the agency taking the following actions:

1254 1. Imposition of an administrative fine of not more than
1255 \$500.

1256 2. Enforcement of the subpoena as provided in s.
1257 120.569(2)(k)2. When the subpoena is enforced pursuant to s.
1258 120.569(2)(k)2., the court may award costs and fees to the
1259 prevailing party in accordance with that section.

1260 (d) The department ~~Title IV-D agency~~ may seek to collect
1261 administrative fines imposed pursuant to paragraph (c) by filing
1262 a petition in the circuit court of the judicial circuit in which
1263 the person against whom the fine was imposed resides. All fines
1264 collected pursuant to this subsection shall be deposited into

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1265 the Child Support Enforcement Application and Program Revenue
1266 Trust Fund.

1267 (8) In cases in which support is subject to an assignment
1268 as provided under 45 C.F.R. s. 301.1, the department ~~Title IV-D~~
1269 ~~agency~~ shall, upon providing notice to the obligor and obligee,
1270 direct the obligor or other payor to change the payee to the
1271 appropriate depository.

1272 (9) (a) For the purpose of securing delinquent support, the
1273 department ~~Title IV-D~~ ~~agency~~ may increase the amount of the
1274 monthly support obligation to include amounts for delinquencies,
1275 subject to such conditions or limitations as set forth in
1276 paragraph (b).

1277 (b) In support obligations not subject to income
1278 deduction, the department ~~Title IV-D~~ ~~agency~~ shall notify the
1279 obligor of his or her delinquency and of the department's intent
1280 to require an additional 20 percent of the monthly obligation
1281 amount to allow for collection of the delinquency unless, within
1282 20 days, the obligor:

- 1283 1. Pays the delinquency in full; or
1284 2. Files a petition with the circuit court to contest the
1285 delinquency action.

1286 (11) (a) The department ~~Title IV-D~~ ~~agency~~ shall review
1287 child support orders in IV-D cases at least once every 3 years
1288 when requested upon request by either party, or when support
1289 rights are assigned the agency in cases where there is an
1290 ~~assignment of support~~ to the state under s. 414.095(7), and may
1291 seek modification ~~adjustment~~ of the order if appropriate under
1292 the child support guidelines ~~schedule~~ established in s. 61.30.

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1293 Not less than once every 3 years the department IV-D agency
1294 shall provide notice to the parties subject to the order
1295 informing them of their right to request a review and, if
1296 appropriate, a modification an adjustment of the child support
1297 order. The said notice requirement may be met by including
1298 appropriate language in the initial support order or any
1299 subsequent orders.

1300 (b) If the department's review of a support order entered
1301 by the circuit court indicates that the order should be
1302 modified, the department, through counsel, shall file a petition
1303 to modify the order with the court. Along with the petition, the
1304 department shall file a child support guideline worksheet, any
1305 financial affidavits or written declarations, pursuant to s.
1306 61.30(15), received from the parties or completed by the
1307 department as part of the support order review a proposed
1308 modified order that includes findings as to the source and
1309 amount of income, and a notice that informs the parties of the
1310 requirement to file an objection or a request for hearing with
1311 the court if the party wants a court hearing on the petition to
1312 modify. A copy of the petition, proposed order, and other
1313 documents shall be served by regular mail on a party who
1314 requested support order review. A party who did not request the
1315 support order review shall be served personally in any manner
1316 authorized under chapter 48.

1317 (c) To obtain a court hearing on a petition to modify, a
1318 party who is served by regular mail must file an objection to
1319 the proposed order or a request for hearing with the court
1320 within 30 days after the date on which the petition, proposed

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1321 order, and other documents were mailed. If a party is served
1322 personally, to obtain a court hearing on a petition to modify
1323 the party must file an objection to the proposed order or a
1324 request for hearing with the court within 30 days after the date
1325 of receipt of the petition, proposed order, and other documents.

1326 (d) If a timely objection or request for hearing is not
1327 filed with the court, the court may modify the support order
1328 without a hearing in accordance with the terms of the proposed
1329 order.

1330 (e) If a support order does not provide for payment of
1331 noncovered medical expenses or require health insurance for the
1332 minor child and health insurance is accessible to the child and
1333 available at a reasonable cost, the department shall seek to
1334 have the order modified and any modification shall be made
1335 without a requirement for proof or showing of a change in
1336 circumstances.

1337 Section 12. Subsection (5) of section 409.2567, Florida
1338 Statutes, is amended to read:

1339 409.2567 Services to individuals not otherwise eligible.—

1340 (5) The Department of Revenue may ~~shall~~ seek a waiver from
1341 the Secretary of the United States Department of Health and
1342 Human Services to authorize the Department of Revenue to provide
1343 services in accordance with Title IV-D of the Social Security
1344 Act to individuals who are owed support without need of an
1345 application. The department may seek a waiver if it determines
1346 that the estimated increase in federal funding to the state
1347 would exceed any additional cost to the state if the waiver is
1348 granted. If the waiver is granted, the Department of Revenue

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1349 shall adopt rules to implement the waiver and begin providing
1350 Title IV-D services if support payments are not being paid as
1351 ordered, except that the individual first must be given written
1352 notice of the right to refuse Title IV-D services and a
1353 reasonable opportunity to respond.

1354 Section 13. Subsection (3) of section 409.259, Florida
1355 Statutes, is amended to read:

1356 409.259 Filing fees in Title IV-D cases; electronic filing
1357 of pleadings, returns of service, and other papers.-

1358 (3) The clerks of the circuit court, chief judges through
1359 the Office of the State Courts Administrator, sheriffs, Office
1360 of the Attorney General, and Department of Revenue shall work
1361 cooperatively to implement electronic filing of pleadings,
1362 returns of service, and other papers with the clerks of the
1363 circuit court in Title IV-D cases upon completion of the
1364 department's Child Support Automated Management System II by
1365 October 1, 2009.

1366 Section 14. Paragraph (a) of subsection (20) of section
1367 409.910, Florida Statutes, is amended to read:

1368 409.910 Responsibility for payments on behalf of Medicaid-
1369 eligible persons when other parties are liable.-

1370 (20) Entities providing health insurance as defined in s.
1371 624.603, health maintenance organizations and prepaid health
1372 clinics as defined in chapter 641, and, on behalf of their
1373 clients, third-party administrators and pharmacy benefits
1374 managers as defined in s. 409.901(27) shall provide such records
1375 and information as are necessary to accomplish the purpose of

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1376 this section, unless such requirement results in an unreasonable
1377 burden.

1378 (a) The director of the agency and the Director of the
1379 Office of Insurance Regulation of the Financial Services
1380 Commission shall enter into a cooperative agreement for
1381 requesting and obtaining information necessary to effect the
1382 purpose and objective of this section.

1383 1. The agency shall request only that information
1384 necessary to determine whether health insurance as defined
1385 pursuant to s. 624.603, or those health services provided
1386 pursuant to chapter 641, could be, should be, or have been
1387 claimed and paid with respect to items of medical care and
1388 services furnished to any person eligible for services under
1389 this section.

1390 2. All information obtained pursuant to subparagraph 1. is
1391 confidential and exempt from s. 119.07(1). The agency shall
1392 provide the information obtained pursuant to subparagraph 1. to
1393 the Department of Revenue for purposes of administering the
1394 Title IV-D program. The agency and the department shall enter
1395 into a cooperative agreement for purposes of implementing this
1396 requirement.

1397 3. The cooperative agreement or rules adopted under this
1398 subsection may include financial arrangements to reimburse the
1399 reporting entities for reasonable costs or a portion thereof
1400 incurred in furnishing the requested information. Neither the
1401 cooperative agreement nor the rules shall require the automation
1402 of manual processes to provide the requested information.

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1403 Section 15. Subsection (7) of section 414.095, Florida
1404 Statutes, is amended to read:

1405 414.095 Determining eligibility for temporary cash
1406 assistance.—

1407 (7) ASSIGNMENT OF RIGHTS TO SUPPORT.—As a condition of
1408 receiving temporary cash assistance, the family must assign to
1409 the Department of Revenue any rights a member of a family may
1410 have to support from any other person. This applies to any
1411 family member; however, the assigned amounts must not exceed the
1412 total amount of temporary cash assistance provided to the
1413 family. The assignment of support does not apply if the family
1414 leaves the program.

1415 Section 16. Subsection (1) of section 741.01, Florida
1416 Statutes, is amended to read:

1417 741.01 County court judge or clerk of the circuit court to
1418 issue marriage license; fee.—

1419 (1) Every marriage license shall be issued by a county
1420 court judge or clerk of the circuit court under his or her hand
1421 and seal. The county court judge or clerk of the circuit court
1422 shall issue such license, upon application for the license, if
1423 there appears to be no impediment to the marriage. An
1424 application for a marriage license must allow both parties to
1425 the marriage to state under oath and in writing if they are the
1426 parents of a child born in the state and to identify any such
1427 child they have in common by name, date of birth, place of
1428 birth, and, if available, birth certificate number. The name of
1429 any child recorded by both parties must be transmitted to the
1430 Department of Health with the original marriage license and

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1431 endorsements. The county court judge or clerk of the circuit
1432 court shall collect and receive a fee of \$2 for receiving the
1433 application for the issuance of a marriage license.

1434 Section 17. Effective November 1, 2010, for purposes of
1435 incorporating the amendment made to this act to section
1436 409.2564, Florida Statutes, in a reference thereto, paragraph
1437 (c) of subsection (1) of section 61.14, Florida Statutes, is
1438 reenacted to read:

1439 61.14 Enforcement and modification of support, maintenance,
1440 or alimony agreements or orders.-

1441 (1)

1442 (c) For each support order reviewed by the department as
1443 required by s. 409.2564(11), if the amount of the child support
1444 award under the order differs by at least 10 percent but not
1445 less than \$25 from the amount that would be awarded under s.
1446 61.30, the department shall seek to have the order modified and
1447 any modification shall be made without a requirement for proof
1448 or showing of a change in circumstances.

1449 Section 18. Effective November 1, 2010, for purposes of
1450 incorporating the amendment made to this act to section
1451 409.2564, Florida Statutes, in a reference thereto, paragraph
1452 (c) of subsection (1) of section 61.30, Florida Statutes, is
1453 reenacted to read:

1454 61.30 Child support guidelines; retroactive child support.-

1455 (1)

1456 (c) For each support order reviewed by the department as
1457 required by s. 409.2564(11), if the amount of the child support
1458 award under the order differs by at least 10 percent but not

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1459 less than \$25 from the amount that would be awarded under s.
1460 61.30, the department shall seek to have the order modified and
1461 any modification shall be made without a requirement for proof
1462 or showing of a change in circumstances.

1463 Section 19. Except as otherwise expressly provided in this
1464 act, this act shall take effect upon becoming a law.

1465

1466

T I T L E A M E N D M E N T

1467

1468 Remove lines 2-72 and insert:

1469 An act relating to child support enforcement; amending s. 61.13,
1470 F.S.; deleting a reference to health insurance with respect to a
1471 proceeding to determine each parent's share of a child's
1472 medical-support-only obligation; providing the procedure for
1473 child support payments to be paid through the depository;
1474 clarifying that income deduction payments are required to be
1475 paid to the State Disbursement Unit; amending s. 61.30, F.S.;
1476 authorizing the Department of Revenue to provide documentation
1477 of the income of a parent receiving public assistance to the
1478 court under certain circumstances; amending s. 382.013;
1479 authorizing paternity determination based on final judgment of
1480 dissolution of marriage requiring former husband to pay child
1481 support; authorizing Department of Health to amend a birth
1482 certificate to reflect marital status if the mother and father
1483 marry after birth of the child; amending s. 382.015, F.S.;
1484 authorizing the Office of Vital Statistics to amend a birth
1485 certificate to include the name of the legal father when a final
1486 judgment of dissolution of marriage requires the former husband

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1487 to pay support for the child; amending s. 382.016, F.S.;

1488 authorizing the Office of Vital Statistics to amend a child's

1489 birth certificate to include the name of the legal father upon

1490 receipt of a marriage license that identifies the registrant;

1491 amending s. 409.2558, F.S.; creating additional priorities for

1492 processing undistributable collections; authorizing the

1493 Department of Revenue to retain uncashed checks or closed Title

1494 IV-D case balances of child support collections under \$1;

1495 amending s. 409.256, F.S.; revising the definitions of the terms

1496 "custodian" and "putative father"; permitting a person ordered

1497 to appear for genetic testing to contest the order by filing a

1498 written request for informal discussion within a specified time

1499 period; amending s. 409.2563, F.S.; revising the definition of

1500 the term "caretaker relative"; conforming terminology;

1501 conforming a reference; amending s. 409.25635, F.S.; authorizing

1502 the Department of Revenue to collect noncovered medical expenses

1503 in installments by issuing an income deduction notice; amending

1504 s. 409.2564, F.S.; deleting the requirement for reducing the

1505 child support guideline amount for retroactive support by 25

1506 percent; providing a process for court hearings relating to

1507 support order reviews; requiring the department, rather than the

1508 Title IV-D agency, to review and take certain actions with

1509 respect to child support orders; providing for modification of a

1510 child support order; requiring the department to file a petition

1511 to modify the order and specified financial documentation under

1512 certain circumstances; providing procedures for a party to

1513 obtain a court hearing; amending s. 409.2567, F.S.; authorizing

1514 the Department of Revenue to seek a waiver from certain

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1515 application requirements from the United States Department of
1516 Health and Human Services under certain conditions; amending s.
1517 409.259, F.S.; extending the deadline for implementing
1518 electronic filing in Title IV-D cases to coincide with
1519 completion of the department's Child Support Automated
1520 Management System II; amending s. 409.910, F.S.; authorizing the
1521 Agency for Health Care Administration to provide health
1522 insurance information to the Department of Revenue for
1523 administering the Title IV-D program; requiring the agency and
1524 the department to enter into a cooperative agreement to
1525 implement the requirement; amending s. 414.095, F.S.; requiring
1526 a family to assign rights to receive certain financial support
1527 to the Department of Revenue, rather than the Department of
1528 Children and Family Services, as a condition of receiving
1529 temporary cash assistance; amending s. 741.01, F.S.; providing
1530 that an application for a marriage license must allow both
1531 parties to the marriage to state under oath and in writing if
1532 they are the parents of any child born in the state and to
1533 identify any child they have in common; requiring the name of
1534 any child recorded by both parties to be transmitted to the
1535 Department of Health; reenacting ss. 61.14(1)(c) and
1536 61.30(1)(c), F.S., relating to the enforcement and modification
1537 of support, maintenance, or alimony agreements or orders and the
1538 child support guidelines, respectively, to incorporate the
1539 amendments made to s. 409.2564, F.S., in references thereto;
1540 providing effective dates.