

Health Care Services Policy Committee

Meeting Packet

**Tuesday, February 16, 2010
9:30 AM - 12:00 PM
306 HOB**

**Larry Cretul
Speaker**

**Paige Kreegel
Chair**



The Florida House of Representatives

Health Care Services Policy Committee


Agenda

February 16, 2010
9:30 AM – 12:00 AM
306 HOB

- I. Call to Order/Roll Call
- II. PCB HCS 10-01, Child Support Enforcement.
- III. Workshop on PCB HCS 10-02.
 - a) Presentation, update on Tier Waiver System, by Director, Jim DeBeaugrine, Agency for Persons with Disabilities.
 - b) Discussion PCB HCS 10-02.
- IV. Adjournment.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: 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		Schoonover	 Schoolfield
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

PCB HCS 10-01 makes several administrative and technical amendments to improve the effectiveness of the Child Support Enforcement program administered by the Department of Revenue (DOR). The amendments made in the bill include:

- 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, 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 terms uses in statute 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 under oath or on a final judgment of dissolution of marriage.
- Makes permissive the requirement to 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.

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 the federally required program in 65 counties and through contracts in 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, assets;
- Payment collection and disbursement
- Order enforcement.⁴

Paternity establishment uses all administrative and judicial actions to establish paternity. It also uses genetic testing in assisting parents in determining the 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 in the DOR caseload need their paternity established.⁵

DOR establishes the initial child support order and modifies existing orders when a family's circumstances change. Currently, 223,973 cases need a support order established. During FY 08-09, DOR processed \$48 million in child support collections on support orders established in that fiscal year.⁶

¹ HB 5129 (2009), Staff Analysis

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 all administrative and judicial action available. Also, the receipt and disbursement of collections are handled by DOR. In 2009, over \$1.41 billion was collected and distributed, with 98 percent of collections distributed within 24 hours. Of all parents in the DOR caseload, less than 30 percent pay their full child support obligation on a monthly basis. In addition, DOR used enforcement action 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 perform depository functions and 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 effect of this change will re-create this procedure and allow 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 section of s. 409.2564(4), F.S., which gave DOR the authority to reduce by 25 percent the amount of retroactive support an obligor (parent) owed to the State, if the obligor and DOR agree on terms. The intent of this law passed in 2006, was 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 which determine when arrears are owed to the State. The effect of this change is to delete a requirement in statute that DOR is currently unable to implement.

The bill amends s. 409.2564, F.S., to allow DOR to serve child support modification petitions by regular mail to parties who requested review or participated in a review. Upon receipt of the proposed order, the bill will permit either parent to object and allow for a hearing in court if the objection is timely. If objection is not timely, the bill will allow 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 payment of noncovered medical expenses or required health insurance is accessible and available.

Under current law, DOR, at least every three years, reviews temporary cash assistance cases, and by request, other child support cases to determine if a support obligation modification is needed.¹¹ When a review shows 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 effect of these changes will allow DOR to modify support orders at less cost by using regular mail for notification and avoiding unnecessary court hearings.

The bill also amends s. 61.30(15), F.S., to give DOR the option of filing a written declaration under penalty of perjury which attests to the income of a parent who receives public assistance when the

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.

parent is not cooperative in providing the information. The effect of this change will expedite establishment of child support orders and allow electronic filing, making the process more efficient.

Medical Support Improvements

The bill amends s. 61.13(1)(b), F.S., to remove a reference to health insurance for determining medical support orders which was placed in statute during the 2009 Session.¹³ For cases in which only medical support is being sought, the intent was to establish a clear procedure for calculation of a percentage share to both parents for noncovered medical expenses, not health insurance. The effect of this change will correct an error and will remove health insurance expenses from the calculation of percentage share of the parents.

This 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 mean 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.

This 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 health insurers with DOR. The effect of this change will assist DOR to identify available health insurance of parents and to enforce support orders with health insurance coverage for dependents.

Payment Processing

This bill amends s. 409.2558, F.S., to allow DOR to retain un-cashed checks of less than \$1 which are older than 180 days and balances on closed cases which are less than \$1 dollar. Currently DOR is required to continue attempts to disburse minimal collections of less than one dollar when a parent does not cash the check. DOR estimates that the cumulative amount that would be retained from un-cashed checks is less than \$300 dollars in 2009.¹⁵ The bill also establishes additional priorities for applying undistributable collections in the program. 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 for the department and greater efficiency in payment processing.

Administrative Process Improvements

The bill amends s. 409.256, F.S., to replace the term "custodian" with "caregiver" relating to administrative proceedings to establish paternity and child support. "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 term "caregiver" will replace "custodian" throughout the section. The bill also makes a technical change by eliminating all uses of "putative father" and replacing with "alleged father." Additionally, the bill makes a technical change replacing the words "informal review" with "informal discussion" to make the terminology used in s. 409.256, F.S., consistent with that used in s. 409.2563, F.S.

The bill also amends s. 409.2563, F.S. to replace the term "caretaker relative" with "caregiver" relating to child support obligations. "Caregiver" is defined the same as above in s. 409.256, F.S. Currently, the law 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 who is not a relative and has legal custody or with whom the child resides does not have standing to file a civil action or to request an administrative hearing to determine parental support obligations. The effect of

¹³ HB 5129

¹⁴ s. 409.25635(1), F.S.

¹⁵ Email from D. Thomas, DOR dated 1-7-10.

¹⁶ s. 414.0252(11), F.S.

this bill will give those adults providing care or residence to a child, the standing to address child support obligations in a court of law or in an administrative proceeding.

Marriage Application, Dissolution of Marriage and Paternity Establishment

The bill amends s. 382.015, F.S., to require the Department of Health (DOH) and its Office of Vital Statistics (OVS) to accept as a determination of paternity a certified copy of a final judgment of dissolution of marriage that requires the former husband to pay support for the child. This will require OVS to amend a child's birth certificate to include the name of the legal father following a judgment of dissolution of marriage requiring child support pay from the former husband.

The bill will also amend s. 741.01, F.S., to require both applicants to marriage, to state under oath in writing if they are the parents of a child born in Florida and to identify children they have in common. Further the bill will amend 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 assist DOR to establish paternity in a timely fashion and maintain compliance with federal standards for the program which requires paternity to be established for 90 percent of out of wedlock births.¹⁷

Federal Waiver Request

The bill amends s. 409.2567, F.S., to make permissive instead of mandatory a current requirement in statute which directs DOR to request a federal waiver allowing them to provide services to an individual owed child support who has not made an application to DOR for assistance. The bill further provides that DOR may seek a waiver if it would result in increased federal funding over cost to the state. While current law requires DOR to seek the waiver, it has not requested it since changes to the federal funding formula of the Child Support Program regarding incentive payments has made it cost prohibitive to pursue the waiver. The effect of this change will allow DOR to seek the waiver, should the federal funding formula change and make the program cost beneficial to the state.

Electronic Filing Deadline

The bill amends s. 409.259, F.S., to remove the October 1, 2009 deadline to begin electronic filing for pleadings, returns of service, and other papers with the clerks of the circuit courts for child support cases. The bill instead creates an implementation date upon completion of the Child Support Automated Management System II (CAMS). DOR is currently developing the second phase of CAMS. 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 effect of this change will allow DOR to complete the statewide implementation of CAMS and permit DOR to work with each partner on its individual requirements and schedules to ensure they can accept electronic documents and filings.

Assignment of Rights

The bill amends s. 414.095, F.S. to specify that support rights to temporary cash assistance are assigned to the DOR. Currently, this section of law identifies "department" to mean the Department of Children and Families (DCF) as the agency who obtains the rights of assignment. The effect of this change will align chapter 414, F.S., with chapter 409, to correctly identify DOR as the agency who obtains the rights of assignment of temporary cash assistance.

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.

¹⁷ 45 C.F.R. 305.33(a)

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:

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

1 A bill to be entitled
 2 An act relating to child support; amending s. 61.13, F.S.;
 3 deleting a reference to health insurance in the process to
 4 determine share of a medical support only obligation;
 5 providing the procedure for child support payments to be
 6 paid through the depository; clarifying that income
 7 deduction payments are required to be paid to the State
 8 Disbursement Unit; amending s. 61.30, F.S.; replacing "IV-D
 9 agency" with "department"; authorizing a written
 10 declaration signed under penalty of perjury as specified
 11 by s. 92.525(2) be used for purposes of establishing an
 12 obligation for support; amending s. 382.015, F.S.;
 13 authorizing the Office of Vital Statistics to amend a
 14 child's birth certificate to include the name of the legal
 15 father when a final judgment of dissolution of marriage
 16 requires the former husband to pay child support for the
 17 child; amending s. 382.016, F.S.; authorizing the Office of
 18 Vital Statistics to amend a child's birth certificate to
 19 include the name of the legal father upon receipt of a
 20 marriage license that identifies the registrant; amending
 21 s. 409.2558, F.S.; creating additional priorities for
 22 processing undistributable collections; authorizing the
 23 Department to retain un-cashed checks or closed Title IV-D
 24 case balances of child support collections under \$1;
 25 amending s. 409.256, F.S.; changing the term "custodian" to
 26 "caregiver"; replacing "putative father" with "alleged
 27 father"; clarifying the definition of the "caregiver";
 28 replacing "Department of Revenue" with "department";

29 replacing "review" with "discussion"; amending s.
 30 409.2563, F.S.; replacing "caretaker relative" with
 31 "caregiver"; amending s. 409.25635, F.S.; authorizing the
 32 Department of Revenue to collect noncovered medical
 33 expenses in installments by issuing an income deduction
 34 notice; amending s. 409.2564, F.S.; deleting the
 35 requirement for reducing the guideline amount by 25
 36 percent for retroactive support; providing a process for
 37 court hearings related to support order reviews; providing
 38 for support orders to be modified by the department;
 39 replacing "IV-D agency" with "department"; replacing
 40 "adjustment" with "modification"; amending s. 409.2567,
 41 F.S.; providing that the Department of Revenue may seek a
 42 waiver from the United States Department of Health and
 43 Human Services from the requirement for an application for
 44 Title IV-D services; amending s. 409.259, F.S.; extending
 45 the deadline for implementing electronic filing in Title
 46 IV-D cases to coincide with completion of the Child
 47 Support Automated Management System II; amending s.
 48 409.910, F.S.; authorizing the Agency for Health Care
 49 Administration to provide health insurance information to
 50 the Department of Revenue for use in the Title IV-D
 51 program; requiring both agencies to enter into a
 52 cooperative agreement to implement the requirement;
 53 amending s. 414.095, F.S.; replacing "department" with
 54 "Department of Revenue"; amending s. 741.01, F.S.;
 55 providing that an application for a marriage license must
 56 allow both parties to the marriage to state under oath in

57 writing if they are the parents of any child born in
 58 Florida and to identify any child they have in common;
 59 providing an effective date.
 60

61 Be It Enacted by the Legislature of the State of Florida:
 62

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

65 61.13 Support of children; parenting and time-sharing;
 66 powers of court.—

67 (1)

68 (b) Each order for support shall contain a provision for
 69 health insurance for the minor child when health insurance is
 70 reasonable in cost and accessible to the child. Health insurance
 71 is presumed to be reasonable in cost if the incremental cost of
 72 adding health insurance for the child or children does not
 73 exceed 5 percent of the gross income, as defined in s. 61.30, of
 74 the parent responsible for providing health insurance. Health
 75 insurance is accessible to the child if the health insurance is
 76 available to be used in the county of the child's primary
 77 residence or in another county if the parent who has the most
 78 time under the time-sharing plan agrees. If the time-sharing
 79 plan provides for equal time-sharing, health insurance is
 80 accessible to the child if the health insurance is available to
 81 be used in either county where the child resides or in another
 82 county if both parents agree. The court may require the obligor
 83 to provide health insurance or to reimburse the obligee for the
 84 cost of health insurance for the minor child when insurance is

85 provided by the obligee. The presumption of reasonable cost may
 86 be rebutted by evidence of any of the factors in s.
 87 61.30(11)(a). The court may deviate from what is presumed
 88 reasonable in cost only upon a written finding explaining its
 89 determination why ordering or not ordering the provision of
 90 health insurance or the reimbursement of the obligee's cost for
 91 providing health insurance for the minor child would be unjust
 92 or inappropriate. In any event, the court shall apportion the
 93 cost of health insurance, and any noncovered medical, dental,
 94 and prescription medication expenses of the child, to both
 95 parties by adding the cost to the basic obligation determined
 96 pursuant to s. 61.30(6). The court may order that payment of
 97 noncovered medical, dental, and prescription medication expenses
 98 of the minor child be made directly to the obligee on a
 99 percentage basis. In a proceeding for medical support only, each
 100 parent's share of the child's ~~health insurance~~ and noncovered
 101 medical expenses shall equal the parent's percentage share of
 102 the combined net income of the parents. The percentage share
 103 shall be calculated by dividing each parent's net monthly income
 104 by the combined monthly net income of both parents. Net income
 105 is calculated as specified by s. 61.30(3) and (4).

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

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

113 b. The obligee serves written notice of intent to enforce
 114 an order for health insurance on the obligor by mail at the
 115 obligor's last known address; and

116 c. The obligor fails within 15 days after the mailing of
 117 the notice to provide written proof to the obligee that the
 118 health insurance existed as of the date of mailing.

119 2.a. A support order enforced under Title IV-D of the
 120 Social Security Act which requires that the obligor provide
 121 health insurance is enforceable by the department through the
 122 use of the national medical support notice, and an amendment to
 123 the support order is not required. The department shall transfer
 124 the national medical support notice to the obligor's union or
 125 employer. The department shall notify the obligor in writing
 126 that the notice has been sent to the obligor's union or
 127 employer, and the written notification must include the
 128 obligor's rights and duties under the national medical support
 129 notice. The obligor may contest the withholding required by the
 130 national medical support notice based on a mistake of fact. To
 131 contest the withholding, the obligor must file a written notice
 132 of contest with the department within 15 business days after the
 133 date the obligor receives written notification of the national
 134 medical support notice from the department. Filing with the
 135 department is complete when the notice is received by the person
 136 designated by the department in the written notification. The
 137 notice of contest must be in the form prescribed by the
 138 department. Upon the timely filing of a notice of contest, the
 139 department shall, within 5 business days, schedule an informal
 140 conference with the obligor to discuss the obligor's factual

141 dispute. If the informal conference resolves the dispute to the
 142 obligor's satisfaction or if the obligor fails to attend the
 143 informal conference, the notice of contest is deemed withdrawn.
 144 If the informal conference does not resolve the dispute, the
 145 obligor may request an administrative hearing under chapter 120
 146 within 5 business days after the termination of the informal
 147 conference, in a form and manner prescribed by the department.
 148 However, the filing of a notice of contest by the obligor does
 149 not delay the withholding of premium payments by the union,
 150 employer, or health plan administrator. The union, employer, or
 151 health plan administrator must implement the withholding as
 152 directed by the national medical support notice unless notified
 153 by the department that the national medical support notice is
 154 terminated.

155 b. In a Title IV-D case, the department shall notify an
 156 obligor's union or employer if the obligation to provide health
 157 insurance through that union or employer is terminated.

158 3. In a non-Title IV-D case, upon receipt of the order
 159 pursuant to subparagraph 1., or upon application of the obligor
 160 pursuant to the order, the union or employer shall enroll the
 161 minor child as a beneficiary in the group health plan regardless
 162 of any restrictions on the enrollment period and withhold any
 163 required premium from the obligor's income. If more than one
 164 plan is offered by the union or employer, the child shall be
 165 enrolled in the group health plan in which the obligor is
 166 enrolled.

167 4.a. Upon receipt of the national medical support notice
 168 under subparagraph 2. in a Title IV-D case, the union or

169 employer shall transfer the notice to the appropriate group
 170 health plan administrator within 20 business days after the date
 171 on the notice. The plan administrator must enroll the child as a
 172 beneficiary in the group health plan regardless of any
 173 restrictions on the enrollment period, and the union or employer
 174 must withhold any required premium from the obligor's income
 175 upon notification by the plan administrator that the child is
 176 enrolled. The child shall be enrolled in the group health plan
 177 in which the obligor is enrolled. If the group health plan in
 178 which the obligor is enrolled is not available where the child
 179 resides or if the obligor is not enrolled in group coverage, the
 180 child shall be enrolled in the lowest cost group health plan
 181 that is accessible to the child.

182 b. If health insurance or the obligor's employment is
 183 terminated in a Title IV-D case, the union or employer that is
 184 withholding premiums for health insurance under a national
 185 medical support notice must notify the department within 20 days
 186 after the termination and provide the obligor's last known
 187 address and the name and address of the obligor's new employer,
 188 if known.

189 5.a. The amount withheld by a union or employer in
 190 compliance with a support order may not exceed the amount
 191 allowed under s. 303(b) of the Consumer Credit Protection Act,
 192 15 U.S.C. s. 1673(b), as amended. The union or employer shall
 193 withhold the maximum allowed by the Consumer Credit Protection
 194 Act in the following order:

- 195 (I) Current support, as ordered.
- 196 (II) Premium payments for health insurance, as ordered.

197 (III) Past due support, as ordered.
 198 (IV) Other medical support or insurance, as ordered.
 199 b. If the combined amount to be withheld for current
 200 support plus the premium payment for health insurance exceed the
 201 amount allowed under the Consumer Credit Protection Act, and the
 202 health insurance cannot be obtained unless the full amount of
 203 the premium is paid, the union or employer may not withhold the
 204 premium payment. However, the union or employer shall withhold
 205 the maximum allowed in the following order:
 206 (I) Current support, as ordered.
 207 (II) Past due support, as ordered.
 208 (III) Other medical support or insurance, as ordered.
 209 6. An employer, union, or plan administrator who does not
 210 comply with the requirements in sub-subparagraph 4.a. is subject
 211 to a civil penalty not to exceed \$250 for the first violation
 212 and \$500 for subsequent violations, plus attorney's fees and
 213 costs. The department may file a petition in circuit court to
 214 enforce the requirements of this subparagraph.
 215 7. The department may adopt rules to administer the child
 216 support enforcement provisions of this section that affect Title
 217 IV-D cases.
 218 (d)1. All child support orders shall provide the full name
 219 and date of birth of each minor child who is the subject of the
 220 child support order.
 221 2. If both parties request and the court finds that it is
 222 in the best interest of the child, support payments need not be
 223 subject to immediate income deduction. Support orders that are
 224 not subject to immediate income deduction may be directed

225 through the depository under s. 61.181 or made payable directly
 226 to the obligee. Payments for all support orders that provide for
 227 immediate income deduction shall be made to the State
 228 Disbursement Unit. The court shall provide a copy of the order
 229 to the depository.

230 3. For support orders payable directly to the obligee,
 231 ~~that do not provide for immediate income deduction,~~ any party,
 232 or the ~~IV-D agency~~ department in a IV-D case, may subsequently
 233 file an affidavit with the depository ~~State Disbursement Unit~~
 234 alleging a default in payment of child support and stating that
 235 the party wishes to require that payments be made through the
 236 depository ~~State Disbursement Unit~~. The party shall provide
 237 copies of the affidavit to the court and to each other party.
 238 Fifteen days after receipt of the affidavit, the depository
 239 ~~State Disbursement Unit~~ shall notify all parties that future
 240 payments shall be paid through the depository, except that income
 241 deduction payments shall be made to the State Disbursement Unit.

242 Note.—Former s. 65.14.

243 Section 2. Subsection (15) of section 61.30, Florida
 244 Statutes, is amended to read:

245 61.30 Child support guidelines; retroactive child
 246 support.—

247 (15) For purposes of establishing an obligation for
 248 support in accordance with this section, if a person who is
 249 receiving public assistance is found to be noncooperative as
 250 defined in s. 409.2572, the department ~~IV-D agency~~ is authorized
 251 to submit to the court an affidavit or written declaration
 252 signed under penalty of perjury as specified by s. 92.525(2)

253 attesting to the income of that parent based upon information
 254 available to the department ~~IV-D~~ agency.

255 Section 3. Subsection (2) of section 382.015, Florida
 256 Statutes, is amended to read:

257 382.015 New certificates of live birth; duty of clerks of
 258 court and department.—The clerk of the court in which any
 259 proceeding for adoption, annulment of an adoption, affirmation
 260 of parental status, or determination of paternity is to be
 261 registered, shall within 30 days after the final disposition,
 262 forward to the department a certified copy of the court order,
 263 or a report of the proceedings upon a form to be furnished by
 264 the department, together with sufficient information to identify
 265 the original birth certificate and to enable the preparation of
 266 a new birth certificate. The clerk of the court shall implement
 267 a monitoring and quality control plan to ensure that all
 268 judicial determinations of paternity are reported to the
 269 department in compliance with this section. The department shall
 270 track paternity determinations reported monthly by county,
 271 monitor compliance with the 30-day timeframe, and report the
 272 data to the clerks of the court quarterly.

273 (2) DETERMINATION OF PATERNITY.—Upon receipt of the report
 274 or a certified copy of a final decree of determination of
 275 paternity, , or a certified copy of a final judgment of
 276 dissolution of marriage that requires the former husband to pay
 277 support for the child, together with sufficient information to
 278 identify the original certificate of live birth, the department
 279 shall prepare and file a new birth certificate which shall bear
 280 the same file number as the original birth certificate. The

281 | registrant's name shall be entered as decreed by the court or as
 282 | reflected in the final judgment. The names and identifying
 283 | information of the parents shall be entered as of the date of
 284 | the registrant's birth.

285 | Note.—Consolidation of former ss. 382.21, 382.22.

286 | Section 4. Paragraph (b) of subsection (1) of section
 287 | 382.016, Florida Statutes, is amended to read:

288 | 382.016 Amendment of records.—The department, upon receipt
 289 | of the fee prescribed in s. 382.0255; documentary evidence, as
 290 | specified by rule, of any misstatement, error, or omission
 291 | occurring in any birth, death, or fetal death record; and an
 292 | affidavit setting forth the changes to be made, shall amend or
 293 | replace the original certificate as necessary.

294 | (1) CERTIFICATE OF LIVE BIRTH AMENDMENT.—

295 | (b) Upon written request and receipt of an affidavit, a
 296 | notarized voluntary acknowledgment of paternity signed by the
 297 | mother and father acknowledging the paternity of a registrant
 298 | born out of wedlock, or a voluntary acknowledgment of paternity
 299 | that is witnessed by two individuals and signed under penalty of
 300 | perjury as specified by s. 92.525(2), together with sufficient
 301 | information to identify the original certificate of live birth,
 302 | the department shall prepare a new birth certificate, which
 303 | shall bear the same file number as the original birth
 304 | certificate. The names and identifying information of the
 305 | parents shall be entered as of the date of the registrant's
 306 | birth. The surname of the registrant may be changed from that
 307 | shown on the original birth certificate at the request of the
 308 | mother and father of the registrant, or the registrant if of

309 legal age. If the mother and father marry each other at any time
 310 after the registrant's birth, the department shall, upon receipt
 311 of a marriage license that identifies the registrant, or upon the
 312 request of the mother and father or registrant if of legal age
 313 and proof of the marriage, amend the certificate with regard to
 314 the parents' marital status as though the parents were married
 315 at the time of birth. The department shall substitute the new
 316 certificate of birth for the original certificate on file. All
 317 copies of the original certificate of live birth in the custody
 318 of a local registrar or other state custodian of vital records
 319 shall be forwarded to the State Registrar. Thereafter, when a
 320 certified copy of the certificate of birth or portion thereof is
 321 issued, it shall be a copy of the new certificate of birth or
 322 portion thereof, except when a court order requires issuance of
 323 a certified copy of the original certificate of birth. Except
 324 for a birth certificate on which a father is listed pursuant to
 325 an affidavit, a notarized voluntary acknowledgment of paternity
 326 signed by the mother and father acknowledging the paternity of a
 327 registrant born out of wedlock, or a voluntary acknowledgment of
 328 paternity that is witnessed by two individuals and signed under
 329 penalty of perjury as specified by s. 92.525(2), the department
 330 shall place the original certificate of birth and all papers
 331 pertaining thereto under seal, not to be broken except by order
 332 of a court of competent jurisdiction or as otherwise provided by
 333 law.

334 Note.—As enacted by s. 18, ch. 2005-39. The s. 7, ch. 2005-
 335 82, version used "is not eligible" instead of "would not be
 336 eligible."

337 Note.—Former s. 382.49.
 338 Section 5. Paragraph (b) of subsection (3) of section
 339 409.2558, Florida Statutes, is amended to read:
 340 409.2558 Support distribution and disbursement.—
 341 (3) UNDISTRIBUTABLE COLLECTIONS.—
 342 (b) Collections that are determined to be undistributable
 343 shall be processed in the following order of priority:
 344 1. Apply the payment to any financial liability incurred
 345 by the obligor as a result of a previous payment returned to the
 346 department for insufficient funds; then
 347 2. Apply the payment to any financial liability incurred by
 348 the obligor as a result of an overpayment to the obligor that
 349 the obligor has failed to return to the department after notice;
 350 then
 351 3. Apply the payment to any financial liability incurred by
 352 the obligee as a result of an overpayment to the obligee that
 353 the obligee has failed to return to the department after notice,
 354 then
 355
 356 ~~4~~. Apply the payment to any assigned arrears on the
 357 obligee's case; then
 358 ~~2~~5. Apply the payment to any administrative costs ordered
 359 by the court pursuant to s. 409.2567 associated with the
 360 obligee's case; then
 361 ~~3~~6. When the obligor is subject to a valid order to
 362 support another child in a case with a different obligee and the
 363 obligation is being enforced by the department, the department
 364 shall send by certified mail, restricted delivery, return

365 receipt requested, to the obligor at the most recent address
 366 provided by the obligor to the tribunal that issued the order, a
 367 notice stating the department's intention to apply the payment
 368 pursuant to this subparagraph, and advising the obligor of the
 369 right to contest the department's proposed action in the circuit
 370 court by filing and serving a petition on the department within
 371 30 days after the mailing of the notice. If the obligor does not
 372 file and serve a petition within the 30 days after mailing of
 373 the notice, or upon a disposition of the judicial action
 374 favorable to the department, the department shall apply the
 375 payment toward his or her other support obligation. If there is
 376 more than one such other case, the department shall allocate the
 377 remaining undistributable amount as specified by s.

378 61.1301(4)(c); then

379 47. Return the payment to the obligor; then

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

384 Section 6. Effective July 1, 2010, Paragraph (d) is added
 385 to subsection (3) of section 409.2558, Florida Statutes, to
 386 read:

387 409.2558 Support distribution and disbursement.—

388 (3) UNDISTRIBUTABLE COLLECTIONS.—

389 (d) If a payment of less than one dollar is made by a
 390 paper check on an open Title IV-D case and the payment is not
 391 cashd after 180 days, or less than one dollar is owed on a
 392 closed Title IV-D case, the department shall declare the payment

393 as program income, crediting the federal share of the payment to
 394 the Federal Government and the state share of the payment to the
 395 General Revenue Fund, without attempting to locate either party.

396 Section 7. Paragraphs (b), (g), and (j) of subsection (1)
 397 and subsections (2), (3), (4), (5), (6), (8), (9), (10), (11),
 398 (12), and (13) of section 409.256, Florida Statutes, are amended
 399 to read:

400 409.256 Administrative proceeding to establish paternity
 401 or paternity and child support; order to appear for genetic
 402 testing.-

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

404 (b) "Caregiver" ~~"Custodian"~~ means a person, other than the
 405 mother, father or an alleged ~~a putative~~ father, who has physical
 406 custody of a child or with whom the child primarily resides.
 407 References in this section to the obligation of a caregiver
 408 ~~custodian~~ to submit to genetic testing mean that the caregiver
 409 ~~custodian~~ is obligated to submit the child for genetic testing,
 410 not that the caregiver ~~custodian~~ must submit to genetic testing.

411 (g) "Alleged father" ~~"Putative father"~~ means an individual
 412 who is or may be the biological father of a child whose
 413 paternity has not been established and whose mother was
 414 unmarried when the child was conceived and born.

415 (j) "Respondent" means the person or persons served by the
 416 Department of Revenue with a notice of proceeding pursuant to
 417 subsection (4). The term includes the alleged ~~putative~~ father
 418 and may include the mother or the custodian of the child.

419 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
 420 THE COURTS.-

421 (a) The Department ~~of Revenue~~ may commence a paternity
 422 proceeding or a paternity and child support proceeding as
 423 provided in subsection (4) if:

424 1. The child's paternity has not been established.
 425 2. No one is named as the father on the child's birth
 426 certificate or the person named as the father is the alleged
 427 ~~putative~~ father named in an affidavit or a written declaration
 428 as provided in subparagraph 5.

429 3. The child's mother was unmarried when the child was
 430 conceived and born.

431 4. The Department ~~of Revenue~~ is providing services under
 432 Title IV-D.

433 5. The child's mother or an alleged ~~a putative~~ father has
 434 stated in an affidavit, or in a written declaration as provided
 435 in s. 92.525(2) that the alleged ~~putative~~ father is or may be
 436 the child's biological father. The affidavit or written
 437 declaration must set forth the factual basis for the allegation
 438 of paternity as provided in s. 742.12(2).

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

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

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

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

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

477 obligations.

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

480 (3) MULTIPLE Alleged ~~PUTATIVE~~ FATHERS; MULTIPLE CHILDREN.—

481 If more than one alleged ~~putative~~ father has been named, the
482 Department of Revenue may proceed under this section against a
483 single alleged ~~putative~~ father or may proceed simultaneously
484 against more than one alleged ~~putative~~ father. If an alleged a
485 ~~putative~~ father has been named as a possible father of more than
486 one child born to the same mother, the department may proceed to
487 establish the paternity of each child in the same proceeding.

488 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR
489 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC
490 TESTING; MANNER OF SERVICE; CONTENTS.—The Department ~~of Revenue~~
491 shall commence a proceeding to determine paternity, or a
492 proceeding to determine both paternity and child support, by
493 serving the respondent with a notice as provided in this
494 section. An order to appear for genetic testing may be served at
495 the same time as a notice of the proceeding or may be served
496 separately. A copy of the affidavit or written declaration upon
497 which the proceeding is based shall be provided to the
498 respondent when notice is served. A notice or order to appear
499 for genetic testing shall be served by certified mail,
500 restricted delivery, return receipt requested, or in accordance
501 with the requirements for service of process in a civil action.
502 Service by certified mail is completed when the certified mail
503 is received or refused by the addressee or by an authorized
504 agent as designated by the addressee in writing. If a person

505 other than the addressee signs the return receipt, the
 506 department shall attempt to reach the addressee by telephone to
 507 confirm whether the notice was received, and the department
 508 shall document any telephonic communications. If someone other
 509 than the addressee signs the return receipt, the addressee does
 510 not respond to the notice, and the department is unable to
 511 confirm that the addressee has received the notice, service is
 512 not completed and the department shall attempt to have the
 513 addressee served personally. For purposes of this section, an
 514 employee or an authorized agent of the department may serve the
 515 notice or order to appear for genetic testing and execute an
 516 affidavit of service. The department may serve an order to
 517 appear for genetic testing on a caregiver ~~custodian~~. The
 518 department shall provide a copy of the notice or order to appear
 519 by regular mail to the mother and caregiver ~~custodian~~, if they
 520 are not respondents.

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

523 1. That the department has commenced an administrative
 524 proceeding to establish whether the alleged ~~putative~~ father is
 525 the biological father of the child named in the notice.

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

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

531 4. That the respondent is required to submit to genetic
 532 testing.

533 5. That genetic testing will establish either a high
 534 degree of probability that the alleged ~~putative~~ father is the
 535 biological father of the child or that the alleged ~~putative~~
 536 father cannot be the biological father of the child.

537 6. That if the results of the genetic test do not indicate
 538 a statistical probability of paternity that equals or exceeds 99
 539 percent, the paternity proceeding in connection with that child
 540 shall cease unless a second or subsequent test is required.

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

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

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

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

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

561 administrative support order for the child.

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

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

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

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

583
 584 A notice under this paragraph must also notify the respondent of
 585 the provisions in s. 409.2563(4)(m) and (o).

586 (b) A notice of proceeding to establish paternity and
 587 child support must state the requirements of paragraph (a),
 588 except for subparagraph (a)7., and must state the requirements

589 of s. 409.2563(4), to the extent that the requirements of s.
 590 409.2563(4) are not already required by and do not conflict with
 591 this subsection. This section and s. 409.2563 apply to a
 592 proceeding commenced under this subsection.

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

595 1. That the department has commenced an administrative
 596 proceeding to establish whether the alleged ~~putative~~ father is
 597 the biological father of the child.

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

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

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

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

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

614 7. That if the person ordered to appear submits to genetic
 615 testing, the department shall pay the cost of the genetic
 616 testing and shall provide the person ordered to appear with a

617 copy of any test results obtained.

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

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

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

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

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

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

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

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

643 (a) The person ordered to appear may contest an order to
 644 appear for genetic testing by filing a written request for

645 | informal discussion review with the Department ~~of Revenue~~ within
 646 | 15 days after the date of service of the order. The purpose of
 647 | the informal discussion review is to provide the person ordered
 648 | to appear with an opportunity to discuss the proceedings and the
 649 | basis of the order. At the conclusion of the informal discussion
 650 | ~~review~~, the department shall notify the person ordered to
 651 | appear, in writing, whether it intends to proceed with the order
 652 | to appear. If the department notifies the person ordered to
 653 | appear of its intent to proceed, the notice must inform the
 654 | person ordered to appear of the right to contest the order at an
 655 | administrative hearing.

656 | (b) Following an informal discussion review, within 15
 657 | days after the mailing date of the department's ~~Department of~~
 658 | ~~Revenue's~~ notification that the department shall proceed with an
 659 | order to appear for genetic testing, the person ordered to
 660 | appear may file a request for an administrative hearing to
 661 | contest whether the person should be required to submit to
 662 | genetic testing. A request for an administrative hearing must
 663 | state the specific reasons why the person ordered to appear
 664 | believes he or she should not be required to submit to genetic
 665 | testing as ordered. If the person ordered to appear files a
 666 | timely request for a hearing, the department shall refer the
 667 | hearing request to the Division of Administrative Hearings.
 668 | Unless otherwise provided in this section, administrative
 669 | hearings are governed by chapter 120 and the uniform rules of
 670 | procedure. The administrative law judge assigned to the case
 671 | shall issue an order as to whether the person must submit to
 672 | genetic testing in accordance with the order to appear. The

673 department or the person ordered to appear may seek immediate
 674 judicial review under s. 120.68 of an order issued by an
 675 administrative law judge pursuant to this paragraph.

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

681 1. The department has notified the person of its intent to
 682 proceed after informal discussion review, and a timely request
 683 for hearing is not filed;

684 2. The person ordered to appear withdraws the request for
 685 hearing or informal discussion review; or

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

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

695 (6) SCHEDULING OF GENETIC TESTING.—

696 (a) The Department ~~of Revenue~~ shall notify, in writing,
 697 the person ordered to appear of the date, time, and location of
 698 the appointment for genetic testing and of the requirement to
 699 verify his or her identity and the identity of the child, if
 700 applicable, when the samples are provided by presenting a form

701 of identification as prescribed in s. 117.05(5)(b)2. that bears
 702 the photograph of the person who is providing the sample or
 703 other form of verification approved by the department. If the
 704 person ordered to appear is the putative father or the mother,
 705 that person shall appear and submit to genetic testing. If the
 706 person ordered to appear is a caregiver ~~custodian~~, or if the
 707 alleged ~~putative~~ father or the mother has custody of the child,
 708 that person must submit the child for genetic testing.

- 709 (b) The department shall reschedule genetic testing:
- 710 1. One time without cause if, in advance of the initial
 711 test date, the person ordered to appear requests the department
 712 to reschedule the test.
 - 713 2. One time if the person ordered to appear shows good
 714 cause for failure to appear for a scheduled test.
 - 715 3. One time upon request of a person ordered to appear
 716 against whom sanctions have been imposed as provided in
 717 subsection (7).

718

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

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

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

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

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

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

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

- 755 1. Issue a proposed order of paternity as provided in
 756 paragraph (b); or

757 2. If appropriate, delay issuing a proposed order of
 758 paternity and commence, by regular mail, an administrative
 759 proceeding to establish a support order for the child pursuant
 760 to s. 409.2563 and issue a single proposed order that addresses
 761 paternity and child support.

762 (b) A proposed order of paternity must:
 763 1. State proposed findings of fact and conclusions of law.
 764 2. Include a copy of the results of genetic testing.
 765 3. Include notice of the respondent's right to informal
 766 review and to contest the proposed order of paternity at an
 767 administrative hearing.

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

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

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

780 (a) Within 10 days after the date of mailing or other
 781 service of a proposed order of paternity, the respondent may
 782 contact a representative of the Department ~~of Revenue~~ at the
 783 address or telephone number provided to request an informal
 784 review of the proposed order. If an informal discussion review

785 is timely requested, the time for requesting a hearing is
 786 extended until 10 days after the department mails notice to the
 787 respondent that the informal discussion ~~review~~ has been
 788 concluded.

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

799 (c) If the respondent files a timely request for a
 800 hearing, the Department ~~of Revenue~~ shall refer the hearing
 801 request to the Division of Administrative Hearings. Unless
 802 otherwise provided in this section or in s. 409.2563, chapter
 803 120 and the uniform rules of procedure govern the conduct of the
 804 proceedings.

805 (d) The genetic-testing results shall be admitted into
 806 evidence and made a part of the hearing record. For purposes of
 807 this section, a statistical probability of paternity that equals
 808 or exceeds 99 percent creates a presumption, as defined in s.
 809 90.304, that the alleged ~~putative~~ father is the biological
 810 father of the child. The presumption may be overcome only by
 811 clear and convincing evidence. The respondent or the Department
 812 ~~of Revenue~~ may call an expert witness to refute or support the

813 testing procedure or results or the mathematical theory on which
 814 they are based. Verified documentation of the chain of custody
 815 of the samples tested is competent evidence to establish the
 816 chain of custody.

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

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

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

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

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

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

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

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

856 (13) DUTY TO PROVIDE AND MAINTAIN CURRENT MAILING
 857 ADDRESS.—Until a proceeding that has been commenced under this
 858 section has ended, a respondent who is served with a notice of
 859 proceeding must inform the Department ~~of Revenue~~ in writing of
 860 any change in the respondent's mailing address and is deemed to
 861 have received any subsequent order, notice, or other paper
 862 mailed to that address, or the address at which the respondent
 863 was served, if the respondent has not provided a more recent
 864 address.

865 Section 8. Paragraph (b) of subsection (1), paragraph (d)
 866 of subsection (2), paragraphs (a), (d), (e), (g), (i), (l), and
 867 (o) of subsection (4), paragraph (b) of subsection (5),

868 paragraphs (d) and (e) of subsection (7), and subsection (13) of
 869 section 409.2563, Florida Statutes, are amended to read:

870 409.2563 Administrative establishment of child support
 871 obligations.—

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

873 (b) "Caregiver" ~~"Caretaker relative"~~ means a person, other
 874 than the mother, father or alleged father, who has physical
 875 custody of a child or with whom the child primarily resides ~~has~~
 876 ~~the same meaning ascribed in s. 414.0252(11).~~

877

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

880 (2) PURPOSE AND SCOPE.—

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

887 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
 888 SUPPORT ORDER.—To commence a proceeding under this section, the
 889 department shall provide to the parent from whom support is not
 890 being sought and serve the parent from whom support is being
 891 sought with a notice of proceeding to establish administrative
 892 support order and a blank financial affidavit form. The notice
 893 must state:

894 (a) The names of both parents, the name of the caregiver
 895 ~~caretaker relative~~, if any, and the name and date of birth of

896 the child or children;

897 (d) That both parents, or parent and caregiver ~~caretaker~~
 898 ~~relative~~ if applicable, are required to furnish to the
 899 department information regarding their identities and locations,
 900 as provided by paragraph (13)(b);

901 (e) That both parents, or parent and caregiver ~~caretaker~~
 902 ~~relative~~ if applicable, are required to promptly notify the
 903 department of any change in their mailing addresses to ensure
 904 receipt of all subsequent pleadings, notices, and orders, as
 905 provided by paragraph (13)(c);

906 (g) That the department will send by regular mail to both
 907 parents, or parent and caregiver ~~caretaker~~ ~~relative~~ if
 908 applicable, a copy of the proposed administrative support order,
 909 the department's child support worksheet, and any financial
 910 affidavits submitted by a parent or prepared by the department;

911 (i) That if the parent from whom support is being sought
 912 does not file a timely request for hearing after service of the
 913 proposed administrative support order, the department will issue
 914 an administrative support order that incorporates the findings
 915 of the proposed administrative support order, and will send by
 916 regular mail a copy of the administrative support order to both
 917 parents, or parent and caregiver ~~caretaker~~ ~~relative~~ if
 918 applicable;

919 (l) That either parent, or caregiver ~~caretaker~~ ~~relative~~ if
 920 applicable, may file at any time a civil action in a circuit
 921 court having jurisdiction and proper venue to determine parental
 922 support obligations, if any, and that a support order issued by
 923 a circuit court supersedes an administrative support order

924 rendered by the department;

925 (o) Information provided by the Office of State Courts
 926 Administrator concerning the availability and location of self-
 927 help programs for those who wish to file an action in circuit
 928 court but who cannot afford an attorney.

929
 930 The department may serve the notice of proceeding to establish
 931 administrative support order by certified mail, restricted
 932 delivery, return receipt requested. Alternatively, the
 933 department may serve the notice by any means permitted for
 934 service of process in a civil action. For purposes of this
 935 section, an authorized employee of the department may serve the
 936 notice and execute an affidavit of service. Service by certified
 937 mail is completed when the certified mail is received or refused
 938 by the addressee or by an authorized agent as designated by the
 939 addressee in writing. If a person other than the addressee signs
 940 the return receipt, the department shall attempt to reach the
 941 addressee by telephone to confirm whether the notice was
 942 received, and the department shall document any telephonic
 943 communications. If someone other than the addressee signs the
 944 return receipt, the addressee does not respond to the notice,
 945 and the department is unable to confirm that the addressee has
 946 received the notice, service is not completed and the department
 947 shall attempt to have the addressee served personally. The
 948 department shall provide the parent from whom support is not
 949 being sought or the caregiver ~~caretaker~~ ~~relative~~ with a copy of
 950 the notice by regular mail to the last known address of the
 951 parent from whom support is not being sought or caregiver

952 ~~caretaker.~~

953 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

962 (7) ADMINISTRATIVE SUPPORT ORDER.—

963 (d) The department shall send by regular mail a copy of
 964 the administrative support order, or the final order denying an
 965 administrative support order, to both parents, or a parent and
 966 caregiver ~~caretaker relative~~ if applicable. The parent from whom
 967 support is being sought shall be notified of the right to seek
 968 judicial review of the administrative support order in
 969 accordance with s. 120.68.

970 (e) An administrative support order must comply with ss.
 971 61.13(1) and 61.30. The department shall develop a standard form
 972 or forms for administrative support orders. An administrative
 973 support order must provide and state findings, if applicable,
 974 concerning:

- 975 1. The full name and date of birth of the child or
- 976 children;
- 977 2. The name of the parent from whom support is being
- 978 sought and the other parent or caregiver ~~caretaker relative~~;
- 979 3. The parent's duty and ability to provide support;

- 980 4. The amount of the parent's monthly support obligation;
 981 5. Any obligation to pay retroactive support;
 982 6. The parent's obligation to provide for the health care
 983 needs of each child, whether through health insurance,
 984 contribution towards the cost of health insurance, payment or
 985 reimbursement of health care expenses for the child, or any
 986 combination thereof;
 987 7. The beginning date of any required monthly payments and
 988 health insurance;
 989 8. That all support payments ordered must be paid to the
 990 Florida State Disbursement Unit as provided by s. 61.1824;
 991 9. That the parents, or caregiver ~~caretaker~~ relative if
 992 applicable, must file with the department when the
 993 administrative support order is rendered, if they have not
 994 already done so, and update as appropriate the information
 995 required pursuant to paragraph (13)(b);
 996 10. That both parents, or parent and caregiver ~~caretaker~~
 997 ~~relative~~ if applicable, are required to promptly notify the
 998 department of any change in their mailing addresses pursuant to
 999 paragraph (13)(c); and
 1000 11. That if the parent ordered to pay support receives
 1001 unemployment compensation benefits, the payor shall withhold,
 1002 and transmit to the department, 40 percent of the benefits for
 1003 payment of support, not to exceed the amount owed.
 1004
 1005 An income deduction order as provided by s. 61.1301 must be
 1006 incorporated into the administrative support order or, if not
 1007 incorporated into the administrative support order, the

1008 department or the Division of Administrative Hearings shall
 1009 render a separate income deduction order.

1010 (13) REQUIRED DISCLOSURES; PRESUMPTIONS; NOTICE SENT TO
 1011 ADDRESS OF RECORD.—In all proceedings pursuant to this section:

1012 (a) Each parent must execute and furnish to the
 1013 department, no later than 20 days after receipt of the notice of
 1014 proceeding to establish administrative support order, a
 1015 financial affidavit in the form prescribed by the department. An
 1016 updated financial affidavit must be executed and furnished to
 1017 the department at the inception of each proceeding to modify an
 1018 administrative support order. A caregiver ~~Caretaker relatives~~ is
 1019 ~~are~~ not required to furnish a financial affidavits.

1020 (b) Each parent and caregiver ~~caretaker relative~~ if
 1021 applicable, shall disclose to the department, no later than 20
 1022 days after receipt of the notice of proceeding to establish
 1023 administrative support order, and update as appropriate,
 1024 information regarding his or her identity and location,
 1025 including names he or she is known by; social security number;
 1026 residential and mailing addresses; telephone numbers; driver's
 1027 license numbers; and names, addresses, and telephone numbers of
 1028 employers. Pursuant to the federal Personal Responsibility and
 1029 Work Opportunity Reconciliation Act of 1996, each person must
 1030 provide his or her social security number in accordance with
 1031 this section. Disclosure of social security numbers obtained
 1032 through this requirement shall be limited to the purpose of
 1033 administration of the Title IV-D program for child support
 1034 enforcement.

1035 (c) Each parent and caregiver ~~caretaker relative~~, if

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1036 applicable, has a continuing obligation to promptly inform the
 1037 department in writing of any change in his or her mailing
 1038 address to ensure receipt of all subsequent pleadings, notices,
 1039 payments, statements, and orders, and receipt is presumed if
 1040 sent by regular mail to the most recent address furnished by the
 1041 person.

1042 Section 9. Subsection (7) of section 409.25635, Florida
 1043 Statutes, is amended to read:

1044 409.25635 Determination and collection of noncovered
 1045 medical expenses.—

1046 (7) COLLECTION ACTION; ADMINISTRATIVE REMEDIES.—Any
 1047 administrative remedy available for collection of support may be
 1048 used to collect noncovered medical expenses that are determined
 1049 or established under this section. The department may collect
 1050 noncovered medical expenses in installments by adding a periodic
 1051 payment to an income deduction notice issued by the department.

1052 Section 10. Effective November 1, 2010, subsections (4)
 1053 and (11) of section 409.2564, Florida Statutes, are amended to
 1054 read:

1055 409.2564 Actions for support.—

1056 (4) Whenever the Department of Revenue has undertaken an
 1057 action for enforcement of support, the Department of Revenue may
 1058 enter into an agreement with the obligor for the entry of a
 1059 judgment determining paternity, if applicable, and for periodic
 1060 child support payments based on the child support guidelines
 1061 schedule in s. 61.30. Prior to entering into this agreement, the
 1062 obligor shall be informed that a judgment will be entered based
 1063 on the agreement. The clerk of the court shall file the

1064 agreement without the payment of any fees or charges, and the
 1065 court, upon entry of the judgment, shall forward a copy of the
 1066 judgment to the parties to the action. ~~To encourage out of court~~
 1067 ~~settlement and promote support order compliance, if the obligor~~
 1068 ~~and the Department of Revenue agree on entry of a support order~~
 1069 ~~and its terms, the guideline amount owed for retroactive support~~
 1070 ~~that is permanently assigned to the state shall be reduced by 25~~
 1071 ~~percent.~~

1072 (11) (a) ~~The department Title IV-D agency~~ shall review
 1073 child support orders in IV-D cases at least every 3 years upon
 1074 request by either party, or the agency in cases where there is
 1075 an assignment of support to the state under s. 414.095(7), and
 1076 may seek modification ~~adjustment~~ of the order if appropriate
 1077 under the guidelines schedule established in s. 61.30. Not less
 1078 than once every 3 years the department ~~IV-D agency~~ shall provide
 1079 notice to the parties subject to the order informing them of
 1080 their right to request a review and, if appropriate,
 1081 modification ~~an adjustment~~ of the child support order. The said
 1082 notice requirement may be met by including appropriate language
 1083 in the initial support order or any subsequent orders.

1084 (b) If the department's review of a support order entered by
 1085 the circuit court indicates that the order should be modified,
 1086 the department, through counsel, shall file a petition to modify
 1087 the order with the court. Along with the petition, the
 1088 department shall file a child support guideline worksheet, any
 1089 financial affidavits received from the parties or completed by
 1090 the agency as part of the support order review, a proposed
 1091 modified order, and a notice that informs the parties of the

1092 requirement to file an objection or a request for hearing with
1093 the court if the party wants a court hearing on the petition to
1094 modify. A copy of the petition, proposed order, and other
1095 documents shall be served by regular mail on a party who
1096 requested support order review or who responded to the
1097 department during the review. A party who did not request
1098 support order review or respond to the department during the
1099 review shall be served by certified mail, return receipt
1100 requested, restricted delivery or served personally in any
1101 manner authorized by chapter 48.

1102 (c) To obtain a court hearing on a petition to modify, a
1103 party who is served by regular mail must file an objection to
1104 the proposed order or a request for hearing with the court
1105 within 30 days of the date of mailing of the petition, proposed
1106 order, and other documents. If a party is served personally or
1107 by certified mail, to obtain a court hearing the party must file
1108 an objection to the proposed order or a request for hearing with
1109 the court within 30 days of the date of receipt of the petition,
1110 proposed order, and other documents.

1111 (d) If a timely objection or request for hearing is not
1112 filed with the court, the court may modify the support order
1113 without a hearing in accordance with the terms of the proposed
1114 order.

1115 (e) If a support order does not provide for payment of
1116 noncovered medical expenses or require health insurance for the
1117 minor child and it is accessible to the child and available at
1118 reasonable cost, the department shall seek to have the order
1119 modified and any modification shall be made without a

1120 requirement for proof or showing of a change in circumstances.

1121 Section 11. Subsection (5) of section 409.2567, Florida
 1122 Statutes, is amended to read:

1123 409.2567 Services to individuals not otherwise eligible.-

1124 (5) The Department of Revenue may ~~shall~~ seek a waiver from
 1125 the Secretary of the United States Department of Health and
 1126 Human Services to authorize the Department of Revenue to provide
 1127 services in accordance with Title IV-D of the Social Security
 1128 Act to individuals who are owed support without need of an
 1129 application. The department may seek a waiver if it determines
 1130 that the estimated increase in federal funding to the state
 1131 would exceed any additional cost to the state if the waiver is

1132 granted If the waiver is granted, the Department of Revenue
 1133 shall adopt rules to implement the waiver and begin providing
 1134 Title IV-D services if support payments are not being paid as
 1135 ordered, except that the individual first must be given written
 1136 notice of the right to refuse Title IV-D services and a
 1137 reasonable opportunity to respond.

1138 Section 12. Subsection (3) of section 409.259, Florida
 1139 Statutes, is amended to read:

1140 409.259 Filing fees in Title IV-D cases; electronic filing
 1141 of pleadings, returns of service, and other papers.-

1142 (3) The clerks of the circuit court, chief judges through
 1143 the Office of the State Courts Administrator, sheriffs, Office
 1144 of the Attorney General, and Department of Revenue shall work
 1145 cooperatively to implement electronic filing of pleadings,
 1146 returns of service, and other papers with the clerks of the
 1147 circuit court in Title IV-D cases ~~by October 1, 2009~~ upon

1148 completion of the Child Support Automated Management System II.

1149 Section 13. Paragraph (a) of subsection (20) of section
1150 409.910, Florida Statutes, is amended to read:

1151 409.910 Responsibility for payments on behalf of Medicaid-
1152 eligible persons when other parties are liable.-

1153 (20) Entities providing health insurance as defined in s.
1154 624.603, health maintenance organizations and prepaid health
1155 clinics as defined in chapter 641, and, on behalf of their
1156 clients, third-party administrators and pharmacy benefits
1157 managers as defined in s. 409.901(27) shall provide such records
1158 and information as are necessary to accomplish the purpose of
1159 this section, unless such requirement results in an unreasonable
1160 burden.

1161 (a) The director of the agency and the Director of the
1162 Office of Insurance Regulation of the Financial Services
1163 Commission shall enter into a cooperative agreement for
1164 requesting and obtaining information necessary to effect the
1165 purpose and objective of this section.

1166 1. The agency shall request only that information
1167 necessary to determine whether health insurance as defined
1168 pursuant to s. 624.603, or those health services provided
1169 pursuant to chapter 641, could be, should be, or have been
1170 claimed and paid with respect to items of medical care and
1171 services furnished to any person eligible for services under
1172 this section.

1173 2. All information obtained pursuant to subparagraph 1. is
1174 confidential and exempt from s. 119.07(1). The agency shall
1175 provide the information obtained pursuant to subparagraph 1.of

1176 this subsection to the Department of Revenue for purposes of
 1177 administering the state Title IV-D program. The agency and the
 1178 department shall enter into a cooperative agreement for purposes
 1179 of implementing this requirement.

1180 3. The cooperative agreement or rules adopted under this
 1181 subsection may include financial arrangements to reimburse the
 1182 reporting entities for reasonable costs or a portion thereof
 1183 incurred in furnishing the requested information. Neither the
 1184 cooperative agreement nor the rules shall require the automation
 1185 of manual processes to provide the requested information.

1186 Section 14. Subsection (7) of section 414.095, Florida
 1187 Statutes, is amended to read:

1188 414.095 Determining eligibility for temporary cash
 1189 assistance.-

1190 (7) ASSIGNMENT OF RIGHTS TO SUPPORT.-As a condition of
 1191 receiving temporary cash assistance, the family must assign to
 1192 the ~~department~~ Department of Revenue any rights a member of a
 1193 family may have to support from any other person. This applies
 1194 to any family member; however, the assigned amounts must not
 1195 exceed the total amount of temporary cash assistance provided to
 1196 the family. The assignment of support does not apply if the
 1197 family leaves the program.

1198
 1199 Section 15. Subsection (1) of section 741.01, Florida
 1200 Statutes, is amended to read:

1201 741.01 County court judge or clerk of the circuit court to
 1202 issue marriage license; fee.-

1203 (1) Every marriage license shall be issued by a county

1204 court judge or clerk of the circuit court under his or her hand
 1205 and seal. The county court judge or clerk of the circuit court
 1206 shall issue such license, upon application for the license, if
 1207 there appears to be no impediment to the marriage. An
 1208 application for a marriage license must allow both parties to
 1209 the marriage to state under oath in writing if they are the
 1210 parents of a child born in Florida and to identify any such
 1211 child they have in common by name, date of birth, place of
 1212 birth, and, if available, birth certificate number. The name of
 1213 any child recorded by both parties must be transmitted to the
 1214 Department of Health with the original marriage license and
 1215 endorsements. The county court judge or clerk of the circuit
 1216 court shall collect and receive a fee of \$2 for receiving the
 1217 application for the issuance of a marriage license.

1218 Section 16. This act shall take effect upon becoming law
 1219 except as otherwise specified herein.

Workshop PCB HCS 10-02
APD Presentation



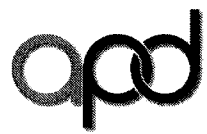
agency for persons with disabilities
State of Florida

**Agency for Persons with Disabilities
Tier Waiver System Update**

**House Health Care Services Policy Committee
February 16, 2010**

Jim DeBeaugrine, Director

Charlie Crist, Governor



Tier Waiver Background

- **In 2007, the Florida Legislature passed SB 1124 requiring a four-tiered waiver system for individuals receiving Medicaid Waiver services from APD.**
- **Three of these waiver programs have a cap on how much individuals may spend per year.**
- **Assignment to a tier is based on identified need and statutory eligibility criteria provided in s. 393.0661(3), Florida Statutes.**



Tier 1 Waiver

Formerly the Developmental Disabilities /Home and Community Based Waiver

- **Tier 1 has no spending cap and includes:**
 - ▶ **Individuals who have intensive medical or adaptive needs that are essential for avoiding institutionalization and cannot be met in Tier 2, 3, or 4.**
 - ▶ **Individuals with behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others, and these needs cannot be met in Tier 2, 3, or 4.**
- **Approximately 3,925 individuals are currently enrolled in Tier 1.**



Tier 1 Waiver

- ***Individual Profiles***

▶ Mental Retardation:	3,193 individuals
▶ Cerebral Palsy:	393 individuals
▶ Autism:	280 individuals
▶ Spina Bifida:	32 individuals
▶ Prader Willi:	27 individuals
▶ Total:	3,925 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$72,447
▶ Total expenditure for the 2008-2009 FY:	\$284,356,593



Tier 2 Waiver

- **Tier 2 is capped at \$55,000/year and includes:**
 - ▶ **Individuals whose service needs include placement in a licensed residential facility and authorization for a specified level of residential habilitation services.**
 - ▶ **Individuals in supported living settings who are authorized to receive more than six hours a day of in-home support services.**
- **Approximately 3,480 individuals are currently enrolled in Tier 2.**



Tier 2 Waiver

- ***Individual Profiles***

▶ Mental Retardation:	3,125 individuals
▶ Cerebral Palsy:	216 individuals
▶ Autism:	109 individuals
▶ Spina Bifida:	26 individuals
▶ Prader Willi:	4 individuals
▶ Total:	3,480 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$45,497
▶ Total expenditure for the 2008-2009 FY:	\$158,328,577

Tier 3 Waiver

- **Tier 3 is capped at \$35,000/year and includes persons who are not eligible for Tier 1 or 2 and who:**
 - ▶ **Require services provided in a licensed residential placement.**
 - ▶ **Reside in their own home and receive In-Home Support Services.**
 - ▶ **Are authorized to receive services from a behavior analyst and/or a behavior assistant and their needs cannot be met in Tier 4.**
 - ▶ **Are authorized to receive combined services from a behavior analyst and/or behavior assistant for more than 60 hours per month.**
 - ▶ **Are authorized to receive standard or moderate personal care assistant services.**
 - ▶ **Are authorized to receive skilled or private duty nursing services.**
 - ▶ **Are authorized to receive at least one of the following services: Occupational, Speech, Physical, or Respiratory Therapy.**
- **Approximately 5,261 individuals are currently enrolled in Tier 3.**

Tier 3 Waiver

- ***Individual Profiles***

▶ Mental Retardation:	4,427 individuals
▶ Cerebral Palsy:	482 individuals
▶ Autism:	226 individuals
▶ Spina Bifida:	123 individuals
▶ Prader Willi:	3 individuals
▶ Total:	5,261 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$24,000
▶ Total expenditure for the 2008-2009 FY:	\$126,268,546

Tier 4 Waiver

Formerly the Family and Supported Living Waiver (Capped at the same amount)

- **Tier 4 is capped at \$14,792/year and includes:**
 - ▶ **Individuals not eligible for assignment to Tier 1, 2, or 3.**
- **Approximately 12,188 individuals are currently enrolled in Tier 4.**



Tier 4 Waiver

- ***Individual Profiles***

▶ Mental Retardation:	8,564 individuals
▶ Cerebral Palsy:	1,608 individuals
▶ Autism:	1,531 individuals
▶ Spina Bifida:	459 individuals
▶ Prader Willi:	26 individuals
▶ Total:	12,188 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$8,938
▶ Total expenditure for the 2008-2009 FY:	\$108,940,579

"To Be Determined" Status*

- ***Individual Profiles***

▶ Mental Retardation:	3,804 individuals
▶ Cerebral Palsy:	340 individuals
▶ Autism:	234 individuals
▶ Spina Bifida:	61 individuals
▶ Prader Willi:	5 individuals
▶ Total:	4,444 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$39,461
▶ Total expenditure for the 2008-2009 FY:	\$175,366,821

*** *Due to appeals process***

Totals – All Categories (Tiers + TBD)

- ***Individual Profiles***

▶ Mental Retardation:	23,113 individuals
▶ Cerebral Palsy:	3,039 individuals
▶ Autism:	2,380 individuals
▶ Spina Bifida:	701 individuals
▶ Prader Willi:	65 individuals
▶ Total:	29,298 individuals

- ***Expenditures***

▶ Average per individual for the 2008-2009 FY:	\$29,123
▶ Total expenditure for the 2008-2009 FY:	\$853,261,118

Tier Waiver Challenges

Legal Updates

- **Washington v. APD**
- **Moreland v. APD**
- **Rulemaking**

QUESTIONS?

Draft Proposed Committee Bill on Developmental Disabilities

The following provides background and effects of proposed changes to statutes in the proposed committee bill which will be the subject of a workshop at the February 16, 2010, meeting of the Health Care Services Policy Committee.

Background

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities.¹ A developmental disability is defined in chapter 393, F.S. as "a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."² Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services.³

Services to Persons with Developmental Disabilities

APD provides an array of home and community based services through contract providers, as well as services in Developmental Disabilities Institutions and Forensic program services. APD administers home and community based services through 14 area offices that are responsible for day to day operations and report to central office. As of January 2010, APD was serving 53,216 persons in all programs.⁴

Four Tier Medicaid Waiver System

The 2007 Legislature directed APD to establish a four-tier waiver system to replace the current waiver program. APD currently serves 29,903⁵ people in the Medicaid waiver tier system and has a waitlist of over 18,800⁶ people for the program. Each of the Tier waivers target a specific group of people with certain needs. Three of the four Tier waivers have caps on annual expenditures per person and one of the Tier waivers has no cap and is reserved for individuals with the most intense needs⁷. The purpose of the tier system is to create a predictable spending model for the program and help control over utilization of services which has lead to significant program deficits in recent years. APD has had some success in controlling spending through the implementation of the tier legislation. When the tier legislation was passed, APD was projecting a deficit of over \$150 million for FY 2007-2008. This deficit was reduced to \$12 million for FY 2007-2008, in part by the implementing tier caps and other legislative actions.⁸ Delays have occurred in fully implementing the tiers as a result of 5,500 people in the waiver program requesting a hearing on their tier assignment. This in affect freezes their current services and cost to the program until their hearing outcome is decided. This delay in assigning

¹ s.20.197(3),F.S.

² s. 393.063(9), F.S.

³ "High-risk child" is defined in s. 393.063(19) F.S.

⁴ Email from Susan Chen, APD, dated 2-5-10, on file with committee.

⁵ Tier Waiver Enrollment Summary by Year and Month, December 2009.

⁶ APD Quarterly Report to the Legislature on Agency Services, February 2010

⁷ s. 393.0661(3), F.S.

⁸ APD Medicaid Expenditure ,Social Services Estimating Conference, , January 29, 2010

people to tiers has partially resulted in continued deficits in the waiver program including a \$26.7 million deficit for FY 2008-2009 and projected deficit of \$36 million for the current year.

Recent litigation has challenged elements of APD's implementation of the Tier program as directed in statute. In August 2009, the 1st District Court of Appeals (DCA) disagreed with a previous ruling by an Administrative Law Judge at the Division of Administrative Hearings and found the APD rules for implementing the Tier waivers invalid on three points.⁹ The ruling cited that APD failed to demonstrate adoption of a valid and reliable assessment instrument, improperly placed an age limit on client eligibility for Tier 3 and improperly placed people in Tier 4 without an assessment.

Medicaid Fair Hearings

State agencies administering the Medicaid program are required by federal and state law to grant an opportunity for a hearing to persons in the program under certain circumstances. This includes but is not limited to, applicants whose claim for services is denied or not acted upon promptly. Individuals may also request a hearing if they believe the state has taken erroneous action that affects them.¹⁰

The Department of Children and Families (DCF) is directed by statute to conduct fair hearings for public assistance programs including state Medicaid administered by the Agency for Health Care Administration.¹¹ Prior to August 2006, Medicaid fair hearings for participants in the APD Medicaid waiver programs were also conducted by the Department of Children and Families. Fair hearings conducted by the DCF for the Medicaid program are presided over by hearing officers who are impartial arbiters of the case. As a result of a 1st District Court of Appeals ruling¹² in 2007, the APD hearings were moved to the Division of Administrative Hearings (DOAH). The DOAH hearings are more expensive and include a formal process which is not required by federal law.¹³ The cost of APD hearings at DOAH performed during FY 2006-2007 was \$686,070 and the budgeted cost for hearings performed in FY 2007-2008 is \$728,683.¹⁴ APD estimates that hearing cost at DOAH for handling over 4,000 cases for hearing would be \$1.5 to \$2 million. In addition, APD cost for representation by the Office of the Attorney General could reach \$4 million. This is a total cost for APD hearings of nearly \$6 million.¹⁵

Waitlist Prioritization

APD maintains a waitlist of people seeking services from the Medicaid waiver program. As of February 2010, there were 18,883 people waiting for services.¹⁶ The waitlist is organized by the individual's date of eligibility for the waiver program. However, individuals experiencing a crisis or children from the child welfare system receive priority consideration. Due to funding

⁹ Moreland v. APD, Fla. 1st District Court of Appeals

¹⁰ 42CFR431.220, s.409.285,F.S.

¹¹ s.409.285,F.S

¹² J.M. v. Florida Agency for Persons with Disabilities, Case No. 1D06-0183.

¹³ Washington v. Debeaugrine, US District Court, N. District of Florida, Case no. 4:09cv189-RH/WCS, Order Granting Preliminary Injunction and Order Clarifying Preliminary Injunction.

¹⁴ APD report attached to email from Karen Fisher, APD, dated 2-5-10, on file with committee.

¹⁵ Email from K. Acuff, APD Senior Atty. Dated 2-8-10 on file with committee.

¹⁶ APD Quarterly Report to the Legislature on Agency Services, February 2010

constraints in the program, no individuals from the waitlist were offered Medicaid waiver services during the last two years.¹⁷ The 2009 Legislature directed APD to organize individuals on the waitlist into seven priority categories.¹⁸ Within each priority category the individuals are to be numbered in accordance with the date in which they were determined eligible for services. APD was directed by the legislation to implement this priority order on July 1, 2010.

Autism

APD currently serves 5,694 people with a diagnosis of Autism. Specifically, APD serves people with a diagnosis of Autistic disorder which is one of the pervasive developmental disorders included in the Diagnostic and Statistics Manual of the American Psychiatric Association.¹⁹ Autistic disorder is also considered as one of the Autism Spectrum Disorders. The Autism Spectrum Disorders also includes Asperger's syndrome and pervasive developmental disorders not otherwise specified. Autistic disorder is considered to be the most severe of the Autism Spectrum Disorders.²⁰

Licensure of Residential Facilities

APD is authorized in s.393.067, F.S., to set standards and license group homes, foster homes, residential habilitation centers and comprehensive transitional education programs. Individuals can apply for a license to operate a home through an APD area office. The agency currently licenses 1,683 of these homes or centers and one comprehensive transitional education program. APD serves 7,364 people with developmental disabilities in licensed residential settings and most receive services in group homes. APD estimates that approximately 6 licenses are either revoked or not renewed each year.²¹ As part of the licensure process, APD has statute authority to access the records of abuse, neglect and exploitation toward adults maintained by the Department of Children and Families. This information may be used by APD in the licensure review process which may include applicants and existing licenses holders.²² APD does not have this authority for records related to child abuse, abandonment or neglect.

Abuse of Persons with Disabilities

APD launched the Zero Tolerance Initiative in September 2003 as a means to address sexual violence committed against persons with developmental disabilities. The Zero Tolerance Initiative has expanded to now serve as APD's approach to dealing with the problem of all forms of abuse, neglect, and exploitation committed against persons with developmental disabilities.²³ Florida Statutes defines sexual misconduct toward person with developmental disabilities and sets penalties for the crime (2nd degree felony) and mandatory reporting requirements of sexual

¹⁷ Id.

¹⁸ 2009.056 LOF

¹⁹ Application and Determination of Eligibility for Services from, the Agency for Persons with Disabilities, APD 04-007, 2006.

²⁰ Autism Spectrum Disorders, Pervasive Developmental Disorders, National Institute of Mental Health, 2008. located at <http://www.nimh.nih.gov/health/publications/autism/nimhautismspectrum.pdf>.

²¹ Email from Logan McFaddin, APD, dated 2-5-10, on file with the committee.

²² s.415.107(3)(a)

²³ <http://apd.myflorida.com/zero-tolerance/index.htm#one>

abuse.²⁴ In addition, staff of facilities licensed by APD are required to receive training to detect and prevent sexual abuse of residents.²⁵

Medication Administration

Florida statutes provides authority for un-licensed direct service providers to administer medications to persons with developmental disabilities or to supervise the client performing self administration of medications. The administration of medications is limited to oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral or topical prescription medications.²⁶ Unlicensed providers who administer medications or supervise the self administration of medications must be assessed annually for competency in all allowed routes of administration before assisting with that route. Provider agencies such as group homes and Waiver Support Coordinators pay for these assessments by a registered nurse or medical doctor. When additional assessments/validations are needed to allow unlicensed providers to assist with medications the provider agency must bear the cost of the additional visits by the RN or MD. The topical, transdermal and otic routes are not used as often as some other routes. A client needing a medication by topical, transdermal or otic routes is less likely to be available at the same time a staff member needs initial validation or annual revalidation for competency in administration of these medications.²⁷

Effects of the Draft Bill

- This bill provides a clarification to the definition of autism used in s. 393.063(3), F.S., that Autism means autistic disorder as defined by the Diagnostic and Statistical Reference Manual, fourth edition. This clarification is consistent with current APD practice as the agency uses Autistic disorder as the eligibility criteria for receiving services under the diagnosis of Autism. Autistic Disorder is the most severe of the autism spectrum disorders.
- The bill implements the waitlist prioritization required in s. 393.065(5), F.S., for the clients in crisis (category 1) and children in child welfare system (category 2) effective July 1, 2010. These were existing priorities in law. The bill moves the implementation date for waitlist categories 3 through 7 to July 1, 2012.
- This bill provides clarifications to language in s.393.0661, F.S., related to the assignment of persons to a tier in the four tier Medicaid waiver system. This includes specification in statute the two assessment instruments which shall be used by APD in the process of assigning individuals in the four tier waiver system. In addition, the statute is made clear that the client characteristics which shall be used in the process of assigning clients to a tier includes but is not limited to "age of the client." Finally, the bill provides clarification that individuals enrolled in the Family and Supported Living waiver on July 1, 2007, were to be included in Tier Four of the Four Tier Medicaid waiver system.

²⁴ s.393.135, F.S.

²⁵ s.393.067, F.S.

²⁶ S.393.506(1)

²⁷ Agency for Persons with Disabilities, 2010 Agency Proposal for On-site Validation of Competency.

- The bill provides authority for APD to receive information from the Department of Children and Families central abuse hotline and abuse information system related to reports of child abuse, neglect or exploitation. APD is limited to use this information as part of the licensure process for residential facilities. APD already has authority to use similar information related to abuse of adults. The effect of this change is to provide access to information which will assist APD in making determinations about granting or renewing licenses to new applicants and existing license holders.
- The bill adds to the requirements of facility licensure a certification that staff of residential facilities are trained to report sexual abuse, abuse, neglect, exploitation and abandonment. APD is also directed to adopt rules to set standards for the new requirement and is granted authority to conduct unannounced inspections of certain licensed facilities to monitor compliance. Also, a clarification to statute is added to express that persons with developmental disabilities have the right to be free from abuse, neglect and exploitation.
- The bill increases APD's authority to deny applications for licensure, to revoke or suspend an existing license, and to fine a current licensee of a residential facility. The agency may exercise this authority when the agency determines that the applicant or licensee has committed one or more of the following violations:
 - Abused, sexually abused, neglected or abandoned a child;
 - Abused, sexually abused, neglected or exploited an adult;
 - Knowingly submitted false or inaccurate information in order to obtain payment for services;
 - Knowingly used the funds, property, or identity of a client for the purpose of self-gain;
 - Knowingly compromised the health, safety, or welfare of a client;
 - Knowingly violated the rights of a client as provided in s. 393.13; or
 - Denied access to clients by the client's guardian, a minor's parent, waiver support coordinator, an agency employee, or other authorized person.

The effect of this change is to grant the agency more specific authority and circumstances for denying, revoking or suspending a license and assessing fines to current license holders.

- The bill provides that requests for hearings for Medicaid programs administered by APD shall be in accordance with federal Medicaid law and rules and pursuant to specific sections of Florida's Administrative Procedures Act. (ss.120.569 and 120.57, F.S.) The bill also requires that hearings under Medicaid programs administered by APD will be provided by the Department of Children and Families (DCF). The effect of this change is to restore a DCF process that

existed prior to August 2006, when DCF provided these hearings for APD.²⁸ This change should provide an overall savings and cost avoidance to the state of \$2 to \$4 million in the first year.²⁹

- The bill provides that the assessment and validation of competency in supervision of self administration of medications and administration of medications for topical, transdermal and otic routes may be conducted through simulation. This validation may be done through a required training course and is not required to be revalidated annually. The effect of this change is to provide a practical and less costly process for validating staff competency in these less complicated routes of medication administration.

²⁸ The location of the hearings was changed to the Division of Administrative Hearings (DOAH) in 2007, as a result of a 1st DCA ruling: J.M. v. Florida Agency for Persons with Disabilities, Case No. 1D06-0183

²⁹ email from Logan McFaddin, APD, dated 2-8-10 on file with committee. Note this estimate is for moving hearings to APD. A move to DCF should have similar fiscal impact.

1 A bill to be entitled
 2 An act relating to Developmental Disabilities; amending
 3 s.39.201,F.S.; allowing the Agency for Persons with
 4 Disabilities use of information in the central abuse
 5 hotline and abuse information system for the licensure
 6 process; amending s.393.063,F.S.; defining autism as
 7 autistic disorder; amending s.393.065,F.S.: providing
 8 dates for implementation of waitlist prioritization;
 9 amending 393.0661,F.S.; specifying assessment instruments
 10 which may be used for home and community based services
 11 and assignments to tiers; providing that age is a client
 12 characteristic to be used as part of the tier assignment;
 13 providing which individuals are to be enrolled in tier
 14 four; amending s.393.067,F.S.; requiring facility staff
 15 training on reporting abuse, neglect and exploitation and
 16 giving the agency rule and facility inspection authority;
 17 amending s.393.0673,F.S.; providing violations which may
 18 be considered in procedures related to denial, suspension
 19 revocation of a license or an administrative fine;
 20 amending s.393.125,F.S.;-providing for hearings on
 21 Medicaid programs administered by the Agency for Persons
 22 with Disabilities; amending s.393.13,F.S.; providing
 23 rights for persons with developmental disabilities;
 24 amending s.393.506,F.S.; providing an exception and method
 25 for validation of certain routes of medication
 26 administration; providing an effective date.

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

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Section 1. Subsection (6) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.-

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Agency for Persons with Disabilities as part of the licensure process pursuant to s. 393.067 and s. 393.0673, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

Note.-Former ss. 828.041, 827.07(3), (4), (9), (13); s. 415.504.

Section 2. Subsection (3) of section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.-For the purposes of this chapter, the term:

(3) "Autism" means autistic disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders, by the American Psychiatric Association, which is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in

57 reciprocal social interaction, impairment in verbal and
 58 nonverbal communication and imaginative ability, and a markedly
 59 restricted repertoire of activities and interests.

60 Section 3. Subsection (5) of section 393.065, Florida
 61 Statutes, is amended to read:

62 393.065 Application and eligibility determination.—

63 (5) Except as otherwise directed by law, beginning July 1,
 64 2010, the agency shall assign and provide priority to clients
 65 waiting for waiver services in the following order for
 66 categories 1 and 2 in paragraph (a) and (b) and effective July
 67 1, 2012, for categories 3,4,5,6 and 7 in paragraphs (c)-(g):

68 (a) Category 1, which includes clients deemed to be in
 69 crisis as described in rule.

70 (b) Category 2, which includes children on the wait list
 71 who are from the child welfare system with an open case in the
 72 Department of Children and Family Services' statewide automated
 73 child welfare information system.

74 (c) Category 3, which includes, but is not required to be
 75 limited to, clients:

76 1. Whose caregiver has a documented condition that is
 77 expected to render the caregiver unable to provide care within
 78 the next 12 months and for whom a caregiver is required but no
 79 alternate caregiver is available;

80 2. At substantial risk of incarceration or court
 81 commitment without supports;

82 3. Whose documented behaviors or physical needs place them
 83 or their caregiver at risk of serious harm and other supports
 84 are not currently available to alleviate the situation; or

85 4. Who are identified as ready for discharge within the
 86 next year from a state mental health hospital or skilled nursing
 87 facility and who require a caregiver but for whom no caregiver
 88 is available.

89 (d) Category 4, which includes, but is not required to be
 90 limited to, clients whose caregivers are 70 years of age or
 91 older and for whom a caregiver is required but no alternate
 92 caregiver is available.

93 (e) Category 5, which includes, but is not required to be
 94 limited to, clients who are expected to graduate within the next
 95 12 months from secondary school and need support to obtain or
 96 maintain competitive employment, or to pursue an accredited
 97 program of postsecondary education to which they have been
 98 accepted.

99 (f) Category 6, which includes clients 21 years of age or
 100 older who do not meet the criteria for category 1, category 2,
 101 category 3, category 4, or category 5.

102 (g) Category 7, which includes clients younger than 21
 103 years of age who do not meet the criteria for category 1,
 104 category 2, category 3, or category 4.

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106 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
 107 wait list of clients placed in the order of the date that the
 108 client is determined eligible for waiver services.

109 Section 4. Subsections (1) and (3) of section 393.0661,
 110 Florida Statutes, are amended to read:

111 393.0661 Home and community-based services delivery
 112 system; comprehensive redesign.—The Legislature finds that the

113 home and community-based services delivery system for persons
 114 with developmental disabilities and the availability of
 115 appropriated funds are two of the critical elements in making
 116 services available. Therefore, it is the intent of the
 117 Legislature that the Agency for Persons with Disabilities shall
 118 develop and implement a comprehensive redesign of the system.

119 (1) The redesign of the home and community-based services
 120 system shall include, at a minimum, all actions necessary to
 121 achieve an appropriate rate structure, client choice within a
 122 specified service package, appropriate assessment strategies, an
 123 efficient billing process that contains reconciliation and
 124 monitoring components, a redefined role for support coordinators
 125 that avoids potential conflicts of interest, and ensures that
 126 family/client budgets are linked to levels of need.

127 (a) The agency shall use an assessment instrument which
 128 ~~that~~ is reliable and valid, including either the Individual Cost
 129 Guidelines or the Questionnaire for Situational Information. The
 130 agency may contract with an external vendor or may use support
 131 coordinators to complete client assessments if it develops
 132 sufficient safeguards and training to ensure ongoing inter-rater
 133 reliability.

134 (b) The agency, with the concurrence of the Agency for
 135 Health Care Administration, may contract for the determination
 136 of medical necessity and establishment of individual budgets.

137 (3) The Agency for Health Care Administration, in
 138 consultation with the agency, shall seek federal approval and
 139 implement a four-tiered waiver system to serve eligible clients
 140 through the developmental disabilities and family and supported

141 living waivers. The agency shall assign all clients receiving
 142 services through the developmental disabilities waiver to a tier
 143 based on an ~~valid~~ assessment instrument which is either the
 144 Individual Cost Guidelines or the Questionnaire for Situational
 145 Information, client characteristics including but not limited to
 146 age, and other appropriate assessment methods.

147 (a) Tier one is limited to clients who have service needs
 148 that cannot be met in tier two, three, or four for intensive
 149 medical or adaptive needs and that are essential for avoiding
 150 institutionalization, or who possess behavioral problems that
 151 are exceptional in intensity, duration, or frequency and present
 152 a substantial risk of harm to themselves or others.

153 (b) Tier two is limited to clients whose service needs
 154 include a licensed residential facility and who are authorized
 155 to receive a moderate level of support for standard residential
 156 habilitation services or a minimal level of support for behavior
 157 focus residential habilitation services, or clients in supported
 158 living who receive more than 6 hours a day of in-home support
 159 services. Total annual expenditures under tier two may not
 160 exceed \$55,000 per client each year.

161 (c) Tier three includes, but is not limited to, clients
 162 requiring residential placements, clients in independent or
 163 supported living situations, and clients who live in their
 164 family home. Total annual expenditures under tier three may not
 165 exceed \$35,000 per client each year.

166 (d) Tier four ~~is~~ includes individuals enrolled in the
 167 family and supported living waiver on July 1, 2007, who shall be
 168 assigned to this tier without the assessments required by this

169 section. ~~and~~ Tier four also includes, but is not limited to,
 170 clients in independent or supported living situations and
 171 clients who live in their family home. Total annual expenditures
 172 under tier four may not exceed \$14,792 per client each year.

173 (e) The Agency for Health Care Administration shall also
 174 seek federal approval to provide a consumer-directed option for
 175 persons with developmental disabilities which corresponds to the
 176 funding levels in each of the waiver tiers. The agency shall
 177 implement the four-tiered waiver system beginning with tiers
 178 one, three, and four and followed by tier two. The agency and
 179 the Agency for Health Care Administration may adopt rules
 180 necessary to administer this subsection.

181 (f) The agency shall seek federal waivers and amend
 182 contracts as necessary to make changes to services defined in
 183 federal waiver programs administered by the agency as follows:

184 1. Supported living coaching services may not exceed 20
 185 hours per month for persons who also receive in-home support
 186 services.

187 2. Limited support coordination services is the only type
 188 of support coordination service that may be provided to persons
 189 under the age of 18 who live in the family home.

190 3. Personal care assistance services are limited to 180
 191 hours per calendar month and may not include rate modifiers.
 192 Additional hours may be authorized for persons who have
 193 intensive physical, medical, or adaptive needs if such hours are
 194 essential for avoiding institutionalization.

195 4. Residential habilitation services are limited to 8
 196 hours per day. Additional hours may be authorized for persons

197 | who have intensive medical or adaptive needs and if such hours
 198 | are essential for avoiding institutionalization, or for persons
 199 | who possess behavioral problems that are exceptional in
 200 | intensity, duration, or frequency and present a substantial risk
 201 | of harming themselves or others. This restriction shall be in
 202 | effect until the four-tiered waiver system is fully implemented.

203 | 5. Chore services, nonresidential support services, and
 204 | homemaker services are eliminated. The agency shall expand the
 205 | definition of in-home support services to allow the service
 206 | provider to include activities previously provided in these
 207 | eliminated services.

208 | 6. Massage therapy, medication review, and psychological
 209 | assessment services are eliminated.

210 | 7. The agency shall conduct supplemental cost plan reviews
 211 | to verify the medical necessity of authorized services for plans
 212 | that have increased by more than 8 percent during either of the
 213 | 2 preceding fiscal years.

214 | 8. The agency shall implement a consolidated residential
 215 | habilitation rate structure to increase savings to the state
 216 | through a more cost-effective payment method and establish
 217 | uniform rates for intensive behavioral residential habilitation
 218 | services.

219 | 9. Pending federal approval, the agency may extend current
 220 | support plans for clients receiving services under Medicaid
 221 | waivers for 1 year beginning July 1, 2007, or from the date
 222 | approved, whichever is later. Clients who have a substantial
 223 | change in circumstances which threatens their health and safety
 224 | may be reassessed during this year in order to determine the

225 necessity for a change in their support plan.

226 10. The agency shall develop a plan to eliminate
 227 redundancies and duplications between in-home support services,
 228 companion services, personal care services, and supported living
 229 coaching by limiting or consolidating such services.

230 11. The agency shall develop a plan to reduce the
 231 intensity and frequency of supported employment services to
 232 clients in stable employment situations who have a documented
 233 history of at least 3 years' employment with the same company or
 234 in the same industry.

235 Section 5. Subsections (4), (7), and (9) of section
 236 393.067, Florida Statutes, are amended to read:

237 393.067 Facility licensure.—

238 (4) The application shall be under oath and shall contain
 239 the following:

240 (a) The name and address of the applicant, if an applicant
 241 is an individual; if the applicant is a firm, partnership, or
 242 association, the name and address of each member thereof; if the
 243 applicant is a corporation, its name and address and the name
 244 and address of each director and each officer thereof; and the
 245 name by which the facility or program is to be known.

246 (b) The location of the facility or program for which a
 247 license is sought.

248 (c) The name of the person or persons under whose
 249 management or supervision the facility or program will be
 250 conducted.

251 (d) The number and type of residents or clients for which
 252 maintenance, care, education, or treatment is to be provided by

253 the facility or program.

254 (e) The number and location of the component centers or
 255 units which will compose the comprehensive transitional
 256 education program.

257 (f) A description of the types of services and treatment
 258 to be provided by the facility or program.

259 (g) Information relating to the number, experience, and
 260 training of the employees of the facility or program.

261 (h) Certification that the staff of the facility or
 262 program will receive training to detect, report and prevent
 263 sexual abuse, abuse, neglect, exploitation and abandonment as
 264 defined in s. 39.01 and s. 415.102, of residents and clients.

265 (i) Such other information as the agency determines is
 266 necessary to carry out the provisions of this chapter.

267 (7) The agency shall adopt rules establishing minimum
 268 standards for facilities and programs licensed under this
 269 section, including rules requiring facilities and programs to
 270 train staff to detect, report and prevent sexual abuse, abuse,
 271 neglect, exploitation and abandonment, as defined in s. 39.01
 272 and s. 415.102, of residents and clients, minimum standards of
 273 quality and adequacy of client care, incident reporting
 274 requirements, and uniform firesafety standards established by
 275 the State Fire Marshal which are appropriate to the size of the
 276 facility or of the component centers or units of the program.

277 (9) The agency may conduct unannounced inspections to
 278 determine compliance by foster care facilities, group home
 279 facilities, residential habilitation centers, and comprehensive
 280 transitional education programs with the applicable provisions

281 of this chapter and the rules adopted pursuant hereto, including
 282 the rules adopted for training staff of a facility or a program
 283 to detect, report, and prevent sexual abuse, abuse, neglect,
 284 exploitation and abandonment, as defined in s. 39.01 and s.
 285 415.102, of residents and clients. The facility or program shall
 286 make copies of inspection reports available to the public upon
 287 request.

288 Section 6. Subsections (1) and (2) of section 393.0673,
 289 Florida Statutes, are amended to read:

290 393.0673 Denial, suspension, or revocation of license;
 291 moratorium on admissions; administrative fines; procedures.—

292 (1) The agency may revoke or suspend a license or ~~impose~~
 293 ~~an administrative fine~~ a licensee, not to exceed \$1,000 per
 294 violation per day, if the agency determines the licensee has
 295 committed one or more of the following violations:

296 ~~(a) The licensee has:~~

297 ~~1(a).~~ 1(a). Falsely represented or omitted a material fact in
 298 its license application submitted under s. 393.067;

299 ~~2(b).~~ 2(b). Had prior action taken against it under the Medicaid
 300 or Medicare program; ~~or~~

301 ~~3(c).~~ 3(c). Failed to comply with the applicable requirements of
 302 this chapter or rules applicable to the licensee; ~~or~~

303 ~~(bd) The Department of Children and Family Services has~~
 304 ~~verified that the licensee is responsible for the abuse,~~
 305 ~~neglect, or abandonment of~~ Abused, sexually abused, neglected or
 306 abandoned a child as defined in s. 39.01, F.S., or the abuse,
 307 ~~neglect, or exploitation of~~ abused, sexually abused, neglected
 308 or exploited a vulnerable adult as defined in s.415.102, F.S.;

309 (e) Knowingly submitted false or inaccurate information in
 310 order to obtain payment for services;

311 (f) Knowingly used the funds, property, or identity of a
 312 client for the purpose of self-gain;

313 (g) Knowingly compromised the health, safety, or welfare of
 314 a client;

315 (h) Knowingly violated the rights of a client as provided
 316 in s. 393.13; or

317 (i) Denied access to clients by the client's guardian, a
 318 minor's parent, waiver support coordinator, an agency employee,
 319 or other authorized person.

320 (2) The agency may deny an application for licensure
 321 submitted under s. 393.067 if:

322 (a) The applicant has:

323 1. Falsely represented or omitted a material fact in its
 324 license application submitted under s. 393.067;

325 2. Had prior action taken against it under the Medicaid or
 326 Medicare program;

327 3. Failed to comply with the applicable requirements of
 328 this chapter or rules applicable to the applicant; ~~or~~

329 4. Previously had a license to operate a residential
 330 facility revoked by the agency, the Department of Children and
 331 Family Services, or the Agency for Health Care Administration;
 332 ~~or~~

333 5. The Department of Children and Family Services has
 334 verified that the applicant is responsible for the abuse,
 335 neglect, or abandonment of Abused, sexually abused, neglected or
 336 abandoned a child as defined in s. 39.01, or the abuse, neglect,

337 ~~or exploitation of abused, sexually abused, neglected or~~
 338 ~~exploited a vulnerable adult as defined in s. 415.102, F.S.;~~

339 6. Knowingly submitted false or inaccurate information in
 340 order to obtain payment for services;

341 7. Knowingly used the funds, property, or identity of a
 342 client for the purpose of self-gain;

343 8. Knowingly compromised the health, safety, or welfare of a
 344 client;

345 9. Knowingly violated the rights of a client as provided in
 346 s. 393.13, F.S.; or

347 10. Denied access to clients by the client's guardian, a
 348 minor's parent, waiver support coordinator, an agency employee,
 349 or other authorized person.

350 Section 7. Subsection (1) of section 393.125, Florida
 351 Statutes, is amended to read:

352 393.125 Hearing rights.—

353 (1) REVIEW OF AGENCY DECISIONS.—

354 (a) For Medicaid programs administered by the agency, any
 355 developmental services applicant or client, or his or her
 356 parent, guardian, guardian advocate, or authorized
 357 representative, may request a hearing in accordance with federal
 358 Medicaid law and rules and shall request such a hearing pursuant
 359 to ss. 120.569 and 120.57. These hearings shall be provided by
 360 the Department of Children and Family Services pursuant to s.
 361 409.285 and shall follow procedures consistent with applicable
 362 federal Medicaid law and rules.

363 (b) Any other developmental services applicant or client,
 364 or his or her parent, guardian, guardian advocate, or authorized

365 representative, who has any substantial interest determined by
 366 the agency, has the right to request an administrative hearing
 367 pursuant to ss. 120.569 and 120.57, which hearing shall be
 368 conducted pursuant to s. 120.57(1), (2) or (3).

369 ~~(b)~~(c) Notice of the right to an administrative hearing
 370 shall be given, both verbally and in writing, to the applicant
 371 or client, and his or her parent, guardian, guardian advocate,
 372 or authorized representative, at the same time that the agency
 373 gives the applicant or client notice of the agency's action. The
 374 notice shall be given, both verbally and in writing, in the
 375 language of the client or applicant and in English.

376 (c) A request for a hearing under this section shall be
 377 made to the agency, in writing, within 30 days of the
 378 applicant's or client's receipt of the notice.

379 Section 8. Paragraph (a) of subsection (3) of section
 380 393.13, Florida Statutes, is amended to read:

381 393.13 Treatment of persons with developmental
 382 disabilities.-

383 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
 384 DISABILITIES.-The rights described in this subsection shall
 385 apply to all persons with developmental disabilities, whether or
 386 not such persons are clients of the agency.

387 (a) Persons with developmental disabilities shall have a
 388 right to dignity, privacy, and humane care, including the right
 389 to be free from abuse, including sexual abuse, neglect and
 390 exploitation. ~~in residential facilities.~~

391 Section 9. Paragraph (c) is added to subsection (2) of
 392 section 393.506, Florida Statutes, to read:

393 393.506 Administration of medication.-

394 (2) In order to supervise the self-administration of
 395 medication or to administer medications as provided in
 396 subsection (1), a direct service provider must satisfactorily
 397 complete a training course of not less than 4 hours in
 398 medication administration and be found competent to supervise
 399 the self-administration of medication by a client or to
 400 administer medication to a client in a safe and sanitary manner.
 401 Competency must be assessed and validated at least annually in
 402 an onsite setting and must include personally observing the
 403 direct service provider satisfactorily:

404 (c) Competency in all routes of medication administration
 405 as provided in subsection (1) must be assessed and validated at
 406 least annually in an onsite setting with an actual client except
 407 for the topical, transdermal, and otic routes, which may be
 408 validated by simulation during the required training course, and
 409 do not require annual revalidation.

410
 411 Section 10. This act shall take effect upon becoming law.
 412

413