

Tab 1	SB 590 by Brandes (CO-INTRODUCERS) Stargel ; Child Support and Parenting Time Plans
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Tab 2	SB 702 by Campbell ; (Identical to H 00341) Child Support
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Tab 3	SB 714 by Garcia ; (Similar to H 00899) Comprehensive Transitional Education Programs
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Tab 4	SPB 7020 by CF ; Ratification of a Department of Elder Affairs Rule
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair
Senator Torres, Vice Chair

MEETING DATE: Monday, March 6, 2017

TIME: 1:30—3:30 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Garcia, Chair; Senator Torres, Vice Chair; Senators Artiles, Broxson, Campbell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 590 Brandes	Child Support and Parenting Time Plans; Authorizing the Department of Revenue to establish parenting time plans agreed to by both parents in Title IV-D child support actions; providing the purpose and requirements for Title IV-D Standard Parenting Time Plans; requiring the department to refer parents who do not agree on a parenting time plan to a circuit court; authorizing the department to incorporate either an agreed-upon parenting time plan or a Title IV-D Standard Parenting Time Plan in a child support order, etc. CF 03/06/2017 Favorable JU AGG AP	Favorable Yeas 6 Nays 0
2	SB 702 Campbell (Identical H 341)	Child Support; Requiring a court to suspend an order requiring a parent to pay child support under certain circumstances; requiring a court to suspend an order requiring a parent to pay child support and to deny an order of contempt under certain circumstances, etc. CF 03/06/2017 Temporarily Postponed JU AGG AP	Temporarily Postponed
3	SB 714 Garcia (Similar H 899)	Comprehensive Transitional Education Programs; Authorizing the Agency for Persons with Disabilities to petition a court for the appointment of a receiver for a comprehensive transitional education program under certain circumstances; providing that no new comprehensive transitional education programs may be licensed after a specified date, etc. CF 03/06/2017 Favorable AHS AP	Favorable Yeas 6 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Monday, March 6, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7020	Ratification of a Department of Elder Affairs Rule; Ratifying a specific rule relating to the practice for Professional Guardians for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
5	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 590

INTRODUCER: Senator Brandes

SUBJECT: Child Support and Parenting Time Plans

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____

I. Summary:

SB 590 authorizes the Department of Revenue (department) to establish parenting time plans agreed to by both parents in Title IV-D child support actions. The department will be required to provide parents Title IV-D Parenting Time Plans with a proposed administrative support order. The bill also creates a standard Title IV-D Parenting Time Plan that may be used by parents. In the event the parents cannot agree on a parenting time plan, they will be referred to the circuit court for the establishment of a plan. In these instances, parents will not pay a fee to file a petition to determine a parenting time plan.

The bill has an effective date of January 1, 2018, and will have a fiscal impact on the Department of Revenue and the state court system.

II. Present Situation:

Chapter 61, Florida Statutes, addresses the issues of dissolution of marriage, child support, and parenting time plans. In a dissolution of marriage, matters relating to the marriage are settled as part of the judicial proceeding or through the adoption of a marital settlement agreement. If the parties to the dissolution cannot agree then the circuit court has the jurisdiction to resolve outstanding issues.

The Florida Legislature designated the Department of Revenue as the state agency responsible for the administration of the child support enforcement program, Title IV-D of the Social Security Act, 42 USC. ss. 651 et seq.¹ As the state Title IV-D agency, the department has the authority to take actions to carry out the public policy of ensuring children are maintained from the resources of their parents to the extent possible. The department's authority includes, but is not limited to, the establishment of paternity or support obligations, as well as modifications,

¹ s. 409.2557(1), F.S.

enforcement, and collection of support obligations.² According to the department's website, as of federal fiscal year 2014, the department collected \$1.57 billion in child support whereby 98% went to the families. The remaining 2% reimbursed public assistance dollars. Additionally, \$1.02 billion in child support was collected through income withholding from the parent's paycheck. For every dollar spent the child support program collects \$5.75³.

The Title IV-D program plays a critical role in assuring that parents who live apart from their children meet their financial obligations.⁴ Child well-being is improved by positive and consistent emotional and financial support from both parents.⁵ Engaged fathering significantly enhances children's social, cognitive, and academic behavior in a positive manner.⁶

There is no systematic, efficient mechanism for families to establish parenting time agreements for children whose parents were not married at the time of their birth.⁷ While divorcing parents often establish parenting time agreements as part of the divorce proceedings in circuit court, child support systems require unmarried parents to participate in multiple, often overlapping, legal proceedings in order to resolve issues of child support and parenting time.⁸ Addressing both the calculation of child support and the amount of parenting time as part of the same process increases efficiency and reduces the burdens on parents of being involved in multiple administrative or judicial processes. A structured, formal approach to parenting time helps both parents manage their co-parenting relationship and reduce conflict, ambiguity, unpredictability about parenting time arrangements, and may increase child support compliance.⁹

A handful of states or jurisdictions (Michigan, Texas, Orange County, California, Hennepin County, Minnesota) have child support initiatives that incorporate parenting time agreements into initial child support orders, many focusing on parenting agreements where the parents already agree on the division of time.¹⁰ Texas is the most standardized, statewide program incorporating parenting time agreements into child support orders.¹¹ The Texas Family Code requires that a final order that stems from a suit affecting a parent-child relationship must include a parenting plan.¹² Unlike other states, Texas provides a statutory "standard possession order" that is presumed to provide a noncustodial parent with reasonable minimum time with his or her child and to be in the best interest of the child.¹³

² section 409.2557(2), F.S.

³ Florida Department of Revenue, Child Support Enforcement website, *available at* <http://floridarevenue.com/dor/childsupport/pdf/cs1001x.pdf> and last visited March 1, 2017.

⁴ U.S. Department of Health and Human Services, Administration for Children & Families, *Promoting Child Well-Being & Family Self-Sufficiency, Child Support and Parenting Time: Improving Coordination to Benefit Children*, Child Support Fact Sheet Series, Number 13, on file with the Senate Committee on Children, Families & Elder Affairs.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at page 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at page 3.

¹² Alicia G. Key, *Parenting Time in Texas Child Support Cases*, Family Court Review, Vol 53 No. 2, April 2015 258-266, on file with the Senate Committee on Children, Families & Elder Affairs.

¹³ See Tex. Fam. Code Section 153.252 (West 2013).

In 1989, the Texas legislature moved forward with not only the required child support guidelines as required by the federal government, but also with statutory presumptive visitation guidelines in the form of a standard order.¹⁴ If there is a history of domestic violence or sexual abuse, the standard possession order may be inapplicable. The court must consider the commission of family violence or sexual abuse in determining whether to deny, restrict, or limit the possession of a child by a noncustodial parent.¹⁵

In the initial creation of the Title IV-D program, Congress provided financial subsidies for the operation of state Title IV-D programs through financial incentives based on support collections. Because the activities that are eligible for federal funding are limited to those required to establish paternity, establish and enforce child support obligations, collect and distribute payment, and locate absent parents, most states have taken the position that child support orders obtained or issued by IV-D programs not include provisions regarding parenting time, at the risk of jeopardizing federal funding for their programs.¹⁶

Texas has managed to include parenting plans in its support order for the last 30 years by maintaining that the cost of establishing a visitation order, coinciding with the establishment of paternity and/or a support obligation is a reasonable and minimal expense that must be incurred as part of the support order establishment process. Texas has argued that its success is based on:

- the existence in Texas law of the standard possession order,
- simple child support guidelines,
- agency policies and practices with dealing with cases where any dispute regarding parenting time, and
- the agency's successful public educational and outreach activities.¹⁷

The Texas Office of Attorney General (the Title IV-D agency in Texas) has adopted policies and practices to make the visitation order establishment process highly efficient. The agency is not involved in the resolution of any disputed possession issue between the parties. Disputed cases are referred to the appropriate trial court for a final resolution of visitation disputes.¹⁸ However, the parties do not need to file additional pleadings or incur additional expense at the second hearing for a decision on the visitation issues that may be in dispute.¹⁹

In s. 409.2563, F.S., the legislative intent is clear that the jurisdiction of the circuit courts to hear and determine issues regarding child support were not limited. The intent was to provide the department with an alternative procedure to establish child support obligations in Title IV-D cases in a fair and expeditious manner when there is no court order of support.²⁰ The Legislature did not grant the department the jurisdiction to hear or determine issues of dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, disputed paternity except as otherwise provided in statute, or award of or change of time-

¹⁴ Key, *supra* note 4, at 111.

¹⁵ Key, *supra* at 261.

¹⁶ See 45 C.F.R., Section 304.20(b) (1982).

¹⁷ Key, *supra* at 263.

¹⁸ See Tex. Fam. Code Section 201.007(b)

¹⁹ Key, *supra* at 263.

²⁰ section 409.2568(2)(a), F.S.

sharing.²¹ In Title IV-D cases, if parents want to establish a shared parenting time schedule that is enforceable by the courts, they have to file a separate cause of action in the circuit court.

III. Effect of Proposed Changes:

Section 1 amends s. 409.2551, F.S., to provide that it is the public policy of the state to encourage frequent contact between and child and each parent and that there is no presumption against the father or mother or for or against any specific time-sharing schedule.

Section 2 amends s. 409.2554, F.S., to provide definitions for “State Case Registry”, State Disbursement Unit” and “Title IV-D Standard Parenting Time Plans”.

Section 3 amends s. 409.2557, F.S., to provide the department the authority, in addition to the establishment of paternity or support obligations, to establish Title IV-D Standard Parenting Time Plans or any other parenting time plan agreed to by the parents.

Section 4 amends s. 409.2563, F.S., to allow the department to establish parenting time plans only if the parents are in agreement. This section also provides that if the parents do not have a parenting time plan and do not agree to a Title IV-D Standard Parenting Time Plan one will not be included in the initial administrative order setting child support. A statement explaining the absence of the parenting time plan will be included with the initial administrative order setting child support.

Any notifications by the department to parents will not include a Title IV-D Standard Parenting Time Plan if Florida is not the child’s home state, when one parent does not reside in Florida, if either parent has requested nondisclosure for fear of harm from the other parent, or when the parent who owes child support is incarcerated.

The bill also provides that if both parents have agreed to a parenting time plan before the administrative support order is established, the plan will be incorporated into the administrative support order. However, the department does not have the jurisdiction to enforce any parenting time plan that is incorporated into an administrative support order.

When the department provides notice of proceeding to establish an administrative support order it shall include a copy of the Title IV-D Standard Parenting Time Plans. Copies of proposed administrative support orders provided to parents will include a copy of the Title IV-D Standard Parenting Time Plan, along with other required documents. If a hearing is held, an administrative support order will include a parenting time plan or Title IV-D Standard Parenting Time Plan agreed to by both parents.

Section 5 creates s. 409.25633, F.S., to provide that a Title IV-D Standard Parenting Time Plan must be included in any administrative action to establish child support taken by the department if the parents agree to the plan. If there is no agreement as to a parenting time plan, then the department must enter an administrative order for child support and refer the parents to a court of

²¹ section 409.2568(2)(b), F.S.

appropriate jurisdiction to establish a parenting time plan. The department must also provide information to the parents on the process to establish such plan.

This section also creates a Title IV-D Standard Parenting Time Plan for a parent that owes child support and the parents live within 100 miles of each other and the child is 3 years of age or older; for a parent that owes child support and the parents live more than 100 miles of each other and the child is 3 years of age or older. For children under the age of 3, the parents may agree on a time plan that includes more frequent visitation with shorter timeframes, gradually leading into overnight visits. The Title IV-D Standard Parenting Time Plans are not intended for use by parents and families with domestic or family violence concerns.

The department is directed to create and provide a form for a petition to establish a parenting time plan for parents who have not agreed to a parenting schedule at the time of the child support hearing. The department will provide the form to the parents but will not file the petition or represent either parent at a hearing to establish parenting time. The parents will not be required to pay a file to file the petition to establish a parenting time plan.

Section 6 amends s. 409.2564, F.S., to provide that when the department institutes an action to secure the payment of current support or any arrearage that may have accrued under an existing order of support, and a parenting time plan was not incorporated into the existing order of support and is appropriate, the department will include either an agreed-upon parenting time plan or Title IV-D Standard Parenting Time Plan.

Section 7 amends s. 409.256, F.S., to correct cross-referencing.

Section 8 amends s. 409.2572, F.S., to correct cross-referencing.

Section 9 provides a nonrecurring general revenue appropriation for contracted services to the Department of Revenue for the fiscal year 2017-2018 in the amount of \$419,520 for the purpose of implementing this act. Recurring general revenue is appropriated in the amount of \$20,729 for expenses, and \$91,127 for salaries and benefits for the fiscal year 2017-2018.

Section 10 provides an effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This legislation would provide parents who have children but never married the opportunity to establish an agreed upon parenting time plan and child support order at the same time. Additionally, if the parents cannot agree to a parenting time plan, the parents would be provided a form petition by the department, referred to the appropriate court and not be charged a filing fee to file the petition. The legislation also provides parents with a standard parenting time plan for parents living less than 100 miles apart, more than 100 miles apart and with children less than 3 years old, that if agreed to will be incorporated into the child support order. With more clear visitation, custodial parents may receive more child support.

C. Government Sector Impact:

The department will have to modify the Child Support Automated Management System to conform to the new requirements and develop new forms, procedures, and training. Additional resources will be required to allow time for team members to confer with parents and incorporate agreed upon parenting time plans into support orders. It is also estimated by the department that hearing times may be increased by approximately 15 minutes due to the inclusion of parenting time plans in support orders.

The department provided an updated fiscal impact than the amount stated in the bill. The initial fiscal impact was based on a fewer number of cases. The department's updated determination anticipates a nonrecurring cost for fiscal year 2017-2018 of \$690,650 for the modification of the Child Support Automated Management System to conform to the new requirements and developing new forms, procedures, and training. The department's updated fiscal impact for recurring costs are \$33,373 for expenses and \$159,012 for salaries and benefits for fiscal year 2017-2018.

The waiver of filing fees for petitions to establish parenting time schedules would impact the clerks of the courts; however, the number of cases that would require a petition to be filed is indeterminate.

The filing of a petition to establish parenting time plans by parents that cannot agree to a parenting time plan could increase the number of hearings before the courts; however, the number of hearings required is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.2551, 409.2554, 409.2557, 409.2563, 409.2564, 409.256, 409.2572
This bill creates section 409.25633 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Brandes

24-00597B-17

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A bill to be entitled

An act relating to child support and parenting time plans; amending s. 409.2551, F.S.; stating legislative intent to encourage frequent contact between a child and each parent; amending s. 409.2554, F.S.; defining terms; amending s. 409.2557, F.S.; authorizing the Department of Revenue to establish parenting time plans agreed to by both parents in Title IV-D child support actions; amending s. 409.2563, F.S.; requiring the department to mail Title IV-D Standard Parenting Time Plans with proposed administrative support orders; providing requirements for including parenting time plans in certain administrative orders; creating s. 409.25633, F.S.; providing the purpose and requirements for Title IV-D Standard Parenting Time Plans; requiring the department to refer parents who do not agree on a parenting time plan to a circuit court; requiring the department to create and provide a form for a petition to establish a parenting time plan under certain circumstances; specifying that the parents are not required to pay a fee to file the petition; authorizing the department to adopt rules; amending s. 409.2564, F.S.; authorizing the department to incorporate either an agreed-upon parenting time plan or a Title IV-D Standard Parenting Time Plan in a child support order; amending ss. 409.256 and 409.2572, F.S.; conforming cross-references; providing an appropriation; providing an effective date.

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

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Section 1. Section 409.2551, Florida Statutes, is amended to read:

409.2551 Legislative intent.—Common-law and statutory procedures governing the remedies for enforcement of support for financially dependent children by persons responsible for their support have not proven sufficiently effective or efficient to cope with the increasing incidence of financial dependency. The increasing workload of courts, prosecuting attorneys, and the Attorney General has resulted in a growing burden on the financial resources of the state, which is constrained to provide public assistance for basic maintenance requirements when parents fail to meet their primary obligations. The state, therefore, exercising its police and sovereign powers, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of dependent children shall be augmented by additional remedies directed to the resources of the responsible parents. In order to render resources more immediately available to meet the needs of dependent children, it is the legislative intent that the remedies provided herein are in addition to, and not in lieu of, existing remedies. It is declared to be the public policy of this state that this act be construed and administered to the end that children shall be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs. It is also the public policy of this state to encourage frequent contact between a child and each parent to optimize the development of a close and continuing relationship between each parent and the child. There is no presumption for or against the father or

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62 mother of the child or for or against any specific time-sharing
 63 schedule when a parenting time plan is created.

64 Section 2. Section 409.2554, Florida Statutes, is reordered
 65 and amended to read:

66 409.2554 Definitions; ss. 409.2551-409.2598.—As used in ss.
 67 409.2551-409.2598, the term:

68 (5)(1) “Department” means the Department of Revenue.

69 (6)(2) “Dependent child” means any unemancipated person
 70 under the age of 18, any person under the age of 21 and still in
 71 school, or any person who is mentally or physically
 72 incapacitated when such incapacity began before ~~prior to~~ such
 73 person reaching the age of 18. This definition may ~~shall~~ not be
 74 construed to impose an obligation for child support beyond the
 75 child’s attainment of majority except as imposed in s. 409.2561.

76 (3) “Court” means the circuit court.

77 (4) “Court order” means any judgment or order of any court
 78 of appropriate jurisdiction of the state, or an order of a court
 79 of competent jurisdiction of another state, ordering payment of
 80 a set or determinable amount of support money.

81 (7)(5) “Health insurance” means coverage under a fee-for-
 82 service arrangement, health maintenance organization, or
 83 preferred provider organization, and other types of coverage
 84 available to either parent, under which medical services could
 85 be provided to a dependent child.

86 (8)(6) “Obligee” means the person to whom support payments
 87 are made pursuant to an alimony or child support order.

88 (9)(7) “Obligor” means a person who is responsible for
 89 making support payments pursuant to an alimony or child support
 90 order.

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91 (12)(8) “Public assistance” means money assistance paid on
 92 the basis of Title IV-E and Title XIX of the Social Security
 93 Act, temporary cash assistance, or food assistance benefits
 94 received on behalf of a child under 18 years of age who has an
 95 absent parent.

96 (10)(9) “Program attorney” means an attorney employed by
 97 the department, under contract with the department, or employed
 98 by a contractor of the department, to provide legal
 99 representation for the department in a proceeding related to the
 100 determination of paternity or the establishment, modification,
 101 or enforcement of support brought pursuant to law.

102 (11)(10) “Prosecuting attorney” means any private attorney,
 103 county attorney, city attorney, state attorney, program
 104 attorney, or an attorney employed by an entity of a local
 105 political subdivision who engages in legal action related to the
 106 determination of paternity or the establishment, modification,
 107 or enforcement of support brought pursuant to this act.

108 (13) “State Case Registry” means the automated registry
 109 maintained by the Title IV-D agency, containing records of each
 110 Title IV-D case and of each support order established or
 111 modified in the state on or after October 1, 1998. Such records
 112 must consist of data elements as required by the United States
 113 Secretary of Health and Human Services.

114 (14) “State Disbursement Unit” means the unit established
 115 and operated by the Title IV-D agency to provide one central
 116 address for collection and disbursement of child support
 117 payments made in cases enforced by the department pursuant to
 118 Title IV-D of the Social Security Act and in cases not being
 119 enforced by the department in which the support order was

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120 initially issued in this state on or after January 1, 1994, and
 121 in which the obligor's child support obligation is being paid
 122 through income deduction order.

123 (16) "Title IV-D Standard Parenting Time Plan" means a
 124 document which may be agreed to by the parents to govern the
 125 relationship between the parents and to provide the parent who
 126 owes support a reasonable minimum amount of time with his or her
 127 child. The plans set forth in s. 409.25633 include timetables
 128 that specify the time, including overnights and holidays, that a
 129 minor child 3 years of age or older may spend with each parent.

130 (15)(11) "Support," unless otherwise specified, means:

131 (a) Child support, and, when the child support obligation
 132 is being enforced by the Department of Revenue, spousal support
 133 or alimony for the spouse or former spouse of the obligor with
 134 whom the child is living.

135 (b) Child support only in cases not being enforced by the
 136 Department of Revenue.

137 (1)(12) "Administrative costs" means any costs, including
 138 attorney's fees, clerk's filing fees, recording fees and other
 139 expenses incurred by the clerk of the circuit court, service of
 140 process fees, or mediation costs, incurred by the Title IV-D
 141 agency in its effort to administer the Title IV-D program. The
 142 administrative costs ~~that~~ which must be collected by the
 143 department shall be assessed on a case-by-case basis based upon
 144 a method for determining costs approved by the Federal
 145 Government. The administrative costs shall be assessed
 146 periodically by the department. The methodology for determining
 147 administrative costs shall be made available to the judge or any
 148 party who requests it. Only those amounts ordered independent of

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149 current support, arrears, or past public assistance obligation
 150 shall be considered and applied toward administrative costs.

151 (2)(13) "Child support services" includes any civil,
 152 criminal, or administrative action taken by the Title IV-D
 153 program to determine paternity, establish, modify, enforce, or
 154 collect support.

155 (17)(14) "Undistributable collection" means a support
 156 payment received by the department which the department
 157 determines cannot be distributed to the final intended
 158 recipient.

159 (18)(15) "Unidentifiable collection" means a payment
 160 received by the department for which a parent, depository or
 161 circuit civil numbers, or source of the payment cannot be
 162 identified.

163 Section 3. Subsection (2) of section 409.2557, Florida
 164 Statutes, is amended to read:

165 409.2557 State agency for administering child support
 166 enforcement program.—

167 (2) The department in its capacity as the state Title IV-D
 168 agency ~~has~~ shall have the authority to take actions necessary to
 169 carry out the public policy of ensuring that children are
 170 maintained from the resources of their parents to the extent
 171 possible. The department's authority ~~includes~~ shall include, but
 172 ~~is not~~ be limited to, the establishment of paternity or support
 173 obligations, the establishment of a Title IV-D Standard
 174 Parenting Time Plan or any other parenting time plan agreed to
 175 by the parents, and ~~as well as~~ the modification, enforcement,
 176 and collection of support obligations.

177 Section 4. Subsections (2), (4), (5), and (7) of section

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178 409.2563, Florida Statutes, are amended to read:

179 409.2563 Administrative establishment of child support
180 obligations.—

181 (2) PURPOSE AND SCOPE.—

182 (a) It is not the Legislature's intent to limit the
183 jurisdiction of the circuit courts to hear and determine issues
184 regarding child support or parenting time. This section is
185 intended to provide the department with an alternative procedure
186 for establishing child support obligations and establishing a
187 parenting time plan only if the parents are in agreement, in
188 Title IV-D cases in a fair and expeditious manner when there is
189 no court order of support. The procedures in this section are
190 effective throughout the state and shall be implemented
191 statewide.

192 (b) If the parents do not have an existing time sharing
193 schedule or parenting time plan and do not agree to a parenting
194 time plan, a parenting time plan will not be included in the
195 initial administrative order, only a statement explaining its
196 absence.

197 (c) If the parents have a judicially established parenting
198 time plan, the plan will not be included in the administrative
199 or initial judicial order.

200 (d) Any notification provided by the department will not
201 include Title IV-D Standard Parenting Time Plans if Florida is
202 not the child's home state, when one parent does not reside in
203 Florida, if either parent has requested nondisclosure for fear
204 of harm from the other parent, or when the parent who owes
205 support is incarcerated.

206 (e) ~~(b)~~ The administrative procedure set forth in this

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207 section concerns only the establishment of child support
208 obligations and, if agreed to by both parents, a parenting time
209 plan or Title IV-D Standard Parenting Time Plan. This section
210 does not grant jurisdiction to the department or the Division of
211 Administrative Hearings to hear or determine issues of
212 dissolution of marriage, separation, alimony or spousal support,
213 termination of parental rights, dependency, disputed paternity,
214 except for a determination of paternity as provided in s.
215 409.256, ~~or award of~~ or change of time-sharing. If both parents
216 have agreed to a parenting time plan before the establishment of
217 the administrative support order, the department or the Division
218 of Administrative Hearings will incorporate the agreed-upon
219 parenting time plan into the administrative support order. This
220 paragraph notwithstanding, the department and the Division of
221 Administrative Hearings may make findings of fact that are
222 necessary for a proper determination of a parent's support
223 obligation as authorized by this section.

224 (f) ~~(e)~~ If there is no support order for a child in a Title
225 IV-D case whose paternity has been established or is presumed by
226 law, or whose paternity is the subject of a proceeding under s.
227 409.256, the department may establish a parent's child support
228 obligation pursuant to this section, s. 61.30, and other
229 relevant provisions of state law. The administrative support
230 order will include a parenting time plan or Title IV-D Standard
231 Parenting Time Plan as agreed to by both parents. The parent's
232 obligation determined by the department may include any
233 obligation to pay retroactive support and any obligation to
234 provide for health care for a child, whether through insurance
235 coverage, reimbursement of expenses, or both. The department may

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236 proceed on behalf of:

- 237 1. An applicant or recipient of public assistance, as
 238 provided by ss. 409.2561 and 409.2567;
 239 2. A former recipient of public assistance, as provided by
 240 s. 409.2569;
 241 3. An individual who has applied for services as provided
 242 by s. 409.2567;
 243 4. Itself or the child, as provided by s. 409.2561; or
 244 5. A state or local government of another state, as
 245 provided by chapter 88.

246 (g)~~(d)~~ Either parent, or a caregiver if applicable, may at
 247 any time file a civil action in a circuit court having
 248 jurisdiction and proper venue to determine parental support
 249 obligations, if any. A support order issued by a circuit court
 250 prospectively supersedes an administrative support order
 251 rendered by the department.

252 (h)~~(e)~~ Pursuant to paragraph (e) ~~(b)~~, neither the
 253 department nor the Division of Administrative Hearings has
 254 jurisdiction to ~~award or~~ change child custody or rights of
 255 parental contact. The department or the Division of
 256 Administrative Hearings will incorporate a parenting time plan
 257 or Title IV-D Standard Parenting Time Plan as agreed to by both
 258 parents into the administrative support order. Either parent may
 259 at any time file a civil action in a circuit having jurisdiction
 260 and proper venue for a determination of child custody and rights
 261 of parental contact.

262 (i)~~(f)~~ The department shall terminate the administrative
 263 proceeding and file an action in circuit court to determine
 264 support if within 20 days after receipt of the initial notice

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265 the parent from whom support is being sought requests in writing
 266 that the department proceed in circuit court or states in
 267 writing his or her intention to address issues concerning time-
 268 sharing or rights to parental contact in court and if within 10
 269 days after receipt of the department's petition and waiver of
 270 service the parent from whom support is being sought signs and
 271 returns the waiver of service form to the department.

272 (j)~~(g)~~ The notices and orders issued by the department
 273 under this section shall be written clearly and plainly.

274 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
 275 SUPPORT ORDER.—To commence a proceeding under this section, the
 276 department shall provide to the parent from whom support is not
 277 being sought and serve the parent from whom support is being
 278 sought with a notice of proceeding to establish administrative
 279 support order, a copy of the Title IV-D Standard Parenting Time
 280 Plans, and a blank financial affidavit form. The notice must
 281 state:

282 (a) The names of both parents, the name of the caregiver,
 283 if any, and the name and date of birth of the child or children;

284 (b) That the department intends to establish an
 285 administrative support order as defined in this section;

286 (c) That the department will incorporate a parenting time
 287 plan or Title IV-D Standard Parenting Time Plan, as agreed to by
 288 both parents, into the administrative support order;

289 (d)~~(e)~~ That both parents must submit a completed financial
 290 affidavit to the department within 20 days after receiving the
 291 notice, as provided by paragraph (13) (a);

292 (e)~~(d)~~ That both parents, or parent and caregiver if
 293 applicable, are required to furnish to the department

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294 information regarding their identities and locations, as
 295 provided by paragraph (13) (b);

296 ~~(f)-(e)~~ That both parents, or parent and caregiver if
 297 applicable, are required to promptly notify the department of
 298 any change in their mailing addresses to ensure receipt of all
 299 subsequent pleadings, notices, and orders, as provided by
 300 paragraph (13) (c);

301 ~~(g)-(f)~~ That the department will calculate support
 302 obligations based on the child support guidelines schedule in s.
 303 61.30 and using all available information, as provided by
 304 paragraph (5) (a), and will incorporate such obligations into a
 305 proposed administrative support order;

306 ~~(h)-(g)~~ That the department will send by regular mail to
 307 both parents, or parent and caregiver if applicable, a copy of
 308 the proposed administrative support order, the department's
 309 child support worksheet, and any financial affidavits submitted
 310 by a parent or prepared by the department;

311 ~~(i)-(h)~~ That the parent from whom support is being sought
 312 may file a request for a hearing in writing within 20 days after
 313 the date of mailing or other service of the proposed
 314 administrative support order or will be deemed to have waived
 315 the right to request a hearing;

316 ~~(j)-(i)~~ That if the parent from whom support is being sought
 317 does not file a timely request for hearing after service of the
 318 proposed administrative support order, the department will issue
 319 an administrative support order that incorporates the findings
 320 of the proposed administrative support order, and any agreed-
 321 upon parenting time plan. The department will send by regular
 322 mail a copy of the administrative support order and any

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323 incorporated parenting time plan to both parents, or parent and
 324 caregiver if applicable;

325 ~~(k)-(j)~~ That after an administrative support order is
 326 rendered incorporating any agreed-upon parenting time plan, the
 327 department will file a copy of the order with the clerk of the
 328 circuit court;

329 ~~(l)-(k)~~ That after an administrative support order is
 330 rendered, the department may enforce the administrative support
 331 order by any lawful means. The department does not have
 332 jurisdiction to enforce any parenting time plan that is
 333 incorporated into an administrative support order;

334 ~~(m)-(i)~~ That either parent, or caregiver if applicable, may
 335 file at any time a civil action in a circuit court having
 336 jurisdiction and proper venue to determine parental support
 337 obligations, if any, and that a support order issued by a
 338 circuit court supersedes an administrative support order
 339 rendered by the department;

340 ~~(n)-(m)~~ That neither the department nor the Division of
 341 Administrative Hearings has jurisdiction to ~~award or~~ change
 342 child custody or rights of parental contact or time-sharing, and
 343 these issues may be addressed only in circuit court. The
 344 department or the Division of Administrative Hearings may
 345 incorporate, if agreed to by both parents, a parenting time plan
 346 or Title IV-D Standard Parenting Time Plan when the
 347 administrative support order is established.

348 1. The parent from whom support is being sought may request
 349 in writing that the department proceed in circuit court to
 350 determine his or her support obligations.

351 2. The parent from whom support is being sought may state

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352 in writing to the department his or her intention to address
 353 issues concerning custody or rights to parental contact in
 354 circuit court.

355 3. If the parent from whom support is being sought submits
 356 the request authorized in subparagraph 1., or the statement
 357 authorized in subparagraph 2. to the department within 20 days
 358 after the receipt of the initial notice, the department shall
 359 file a petition in circuit court for the determination of the
 360 parent's child support obligations, and shall send to the parent
 361 from whom support is being sought a copy of its petition, a
 362 notice of commencement of action, and a request for waiver of
 363 service of process as provided in the Florida Rules of Civil
 364 Procedure.

365 4. If, within 10 days after receipt of the department's
 366 petition and waiver of service, the parent from whom support is
 367 being sought signs and returns the waiver of service form to the
 368 department, the department shall terminate the administrative
 369 proceeding without prejudice and proceed in circuit court.

370 5. In any circuit court action filed by the department
 371 pursuant to this paragraph or filed by a parent from whom
 372 support is being sought or other person pursuant to paragraph
 373 (m) (1) or paragraph (o) (1), the department shall be a party
 374 only with respect to those issues of support allowed and
 375 reimbursable under Title IV-D of the Social Security Act. It is
 376 the responsibility of the parent from whom support is being
 377 sought or other person to take the necessary steps to present
 378 other issues for the court to consider:-

379 (o) (1) That if the parent from whom support is being sought
 380 files an action in circuit court and serves the department with

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381 a copy of the petition within 20 days after being served notice
 382 under this subsection, the administrative process ends without
 383 prejudice and the action must proceed in circuit court;

384 (p) (e) Information provided by the Office of State Courts
 385 Administrator concerning the availability and location of self-
 386 help programs for those who wish to file an action in circuit
 387 court but who cannot afford an attorney.

388
 389 The department may serve the notice of proceeding to establish
 390 an administrative support order and Title IV-D Standard
 391 Parenting Time Plans by certified mail, restricted delivery,
 392 return receipt requested. Alternatively, the department may
 393 serve the notice by any means permitted for service of process
 394 in a civil action. For purposes of this section, an authorized
 395 employee of the department may serve the notice and execute an
 396 affidavit of service. Service by certified mail is completed
 397 when the certified mail is received or refused by the addressee
 398 or by an authorized agent as designated by the addressee in
 399 writing. If a person other than the addressee signs the return
 400 receipt, the department shall attempt to reach the addressee by
 401 telephone to confirm whether the notice was received, and the
 402 department shall document any telephonic communications. If
 403 someone other than the addressee signs the return receipt, the
 404 addressee does not respond to the notice, and the department is
 405 unable to confirm that the addressee has received the notice,
 406 service is not completed and the department shall attempt to
 407 have the addressee served personally. The department shall
 408 provide the parent from whom support is not being sought or the
 409 caregiver with a copy of the notice by regular mail to the last

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410 known address of the parent from whom support is not being
411 sought or caregiver.

412 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

413 (a) After serving notice upon a parent in accordance with
414 subsection (4), the department shall calculate that parent's
415 child support obligation under the child support guidelines
416 schedule as provided by s. 61.30, based on any timely financial
417 affidavits received and other information available to the
418 department. If either parent fails to comply with the
419 requirement to furnish a financial affidavit, the department may
420 proceed on the basis of information available from any source,
421 if such information is sufficiently reliable and detailed to
422 allow calculation of guideline schedule amounts under s. 61.30.
423 If a parent receives public assistance and fails to submit a
424 financial affidavit, the department may submit a financial
425 affidavit or written declaration for that parent pursuant to s.
426 61.30(15). If there is a lack of sufficient reliable information
427 concerning a parent's actual earnings for a current or past
428 period, it shall be presumed for the purpose of establishing a
429 support obligation that the parent had an earning capacity equal
430 to the federal minimum wage during the applicable period.

431 (b) The department shall send by regular mail to both
432 parents, or to a parent and caregiver if applicable, copies of
433 the proposed administrative support order, a copy of the Title
434 IV-D Standard Parenting Time Plans, its completed child support
435 worksheet, and any financial affidavits submitted by a parent or
436 prepared by the department. The proposed administrative support
437 order must contain the same elements as required for an
438 administrative support order under paragraph (7)(e).

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

442 1. The parent from whom support is being sought may, within
443 20 days after the date of mailing or other service of the
444 proposed administrative support order, request a hearing by
445 filing a written request for hearing in a form and manner
446 specified by the department;

447 2. If the parent from whom support is being sought files a
448 timely request for a hearing, the case shall be transferred to
449 the Division of Administrative Hearings, which shall conduct
450 further proceedings and may enter an administrative support
451 order;

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

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

459 5. The parent from whom support is being sought may, within
460 10 days after the date of mailing or other service of the
461 proposed administrative support order, contact a department
462 representative, at the address or telephone number specified in
463 the notice, to informally discuss the proposed administrative
464 support order and, if informal discussions are requested timely,
465 the time for requesting a hearing will be extended until 10 days
466 after the department notifies the parent that the informal
467 discussions have been concluded; and

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468 6. If an administrative support order that establishes a
 469 parent's support obligation and incorporates either a parenting
 470 time plan or Title IV-D Standard Parenting Time Plan agreed to
 471 by both parents is rendered, whether after a hearing or without
 472 a hearing, the department may enforce the administrative support
 473 order by any lawful means. The department does not have the
 474 jurisdiction or authority to enforce a parenting time plan.

475 (d) If, after serving the proposed administrative support
 476 order but before a final administrative support order is
 477 rendered, the department receives additional information that
 478 makes it necessary to amend the proposed administrative support
 479 order, it shall prepare an amended proposed administrative
 480 support order, with accompanying amended child support
 481 worksheets and other material necessary to explain the changes,
 482 and follow the same procedures set forth in paragraphs (b) and
 483 (c).

484 (7) ADMINISTRATIVE SUPPORT ORDER.—

485 (a) If a hearing is held, the administrative law judge of
 486 the Division of Administrative Hearings shall issue an
 487 administrative support order that will include a parenting time
 488 plan or Title IV-D Standard Parenting Time Plan agreed to by
 489 both parents, or a final order denying an administrative support
 490 order, which constitutes final agency action by the department.
 491 The Division of Administrative Hearings shall transmit any such
 492 order to the department for filing and rendering.

493 (b) If the parent from whom support is being sought does
 494 not file a timely request for a hearing, the parent will be
 495 deemed to have waived the right to request a hearing.

496 (c) If the parent from whom support is being sought waives

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497 the right to a hearing, or consents in writing to the entry of
 498 an order without a hearing, the department may render an
 499 administrative support order that will include a parenting time
 500 plan or Title IV-D Standard Parenting Time Plan agreed to by
 501 both parents.

502 (d) The department shall send by regular mail a copy of the
 503 administrative support order that will include a parenting time
 504 plan or Title IV-D Standard Parenting Time Plan agreed to by
 505 both parents, or the final order denying an administrative
 506 support order, to both parents, or a parent and caregiver if
 507 applicable. The parent from whom support is being sought shall
 508 be notified of the right to seek judicial review of the
 509 administrative support order in accordance with s. 120.68.

510 (e) An administrative support order must comply with ss.
 511 61.13(1) and 61.30. The department shall develop a standard form
 512 or forms for administrative support orders. An administrative
 513 support order must provide and state findings, if applicable,
 514 concerning:

- 515 1. The full name and date of birth of the child or
- 516 children;
- 517 2. The name of the parent from whom support is being sought
- 518 and the other parent or caregiver;
- 519 3. The parent's duty and ability to provide support;
- 520 4. The amount of the parent's monthly support obligation;
- 521 5. Any obligation to pay retroactive support;
- 522 6. The parent's obligation to provide for the health care
- 523 needs of each child, whether through health insurance,
- 524 contribution toward the cost of health insurance, payment or
- 525 reimbursement of health care expenses for the child, or any

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526 combination thereof;

527 7. The beginning date of any required monthly payments and
528 health insurance;529 8. That all support payments ordered must be paid to the
530 ~~Florida~~ State Disbursement Unit as provided by s. 61.1824;531 9. That the parents, or caregiver if applicable, must file
532 with the department when the administrative support order is
533 rendered, if they have not already done so, and update as
534 appropriate the information required pursuant to paragraph
535 (13) (b);536 10. That both parents, or parent and caregiver if
537 applicable, are required to promptly notify the department of
538 any change in their mailing addresses pursuant to paragraph
539 (13) (c); and540 11. That if the parent ordered to pay support receives
541 reemployment assistance or unemployment compensation benefits,
542 the payor shall withhold, and transmit to the department, 40
543 percent of the benefits for payment of support, not to exceed
544 the amount owed.545
546 An income deduction order as provided by s. 61.1301 must be
547 incorporated into the administrative support order or, if not
548 incorporated into the administrative support order, the
549 department or the Division of Administrative Hearings shall
550 render a separate income deduction order.551 Section 5. Section 409.25633, Florida Statutes, is created
552 to read:553 409.25633. Title IV-D Standard Parenting Time Plans.-554 (1) A Title IV-D Standard Parenting Time Plan must be

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555 included in any administrative action to establish child support
556 taken by the Title IV-D program to determine paternity,
557 establish or modify support if the parents agree upon it. If the
558 parents do not agree to a Title IV-D Standard Parenting Time
559 Plan or if an agreed-upon parenting time plan is not included,
560 the Department of Revenue must enter an administrative support
561 order and refer the parents to the court of appropriate
562 jurisdiction to establish a parenting time plan. The department
563 must note on the referral that an administrative support order
564 has been entered. If a parenting time plan is not included in
565 the administrative support order entered under s. 409.2563, the
566 department must provide information to the parents on the
567 process to establish such plan.568 (2) If the parents live within 100 miles of each other and
569 the child is 3 years of age or older, the parent who owes
570 support shall have parenting time with the child:571 (a) Every other weekend.-The second and fourth full weekend
572 of the month from 6 p.m. on Friday through 6 p.m. on Sunday. The
573 weekends may begin upon the child's release from school on
574 Friday and end on Sunday at 6 p.m. or when the child returns to
575 school on Monday morning. The weekend time may be extended by
576 holidays that fall on Friday or Monday;577 (b) One evening per week.-One weekday beginning at 6 p.m.
578 and ending at 8 p.m. or if both parents agree, from when the
579 child is released from school until 8 p.m.;580 (c) Thanksgiving break.-In even-numbered years, the
581 Thanksgiving break from 6 p.m. on the Wednesday before
582 Thanksgiving until 6 p.m. on the Sunday following Thanksgiving.
583 If both parents agree, the Thanksgiving break parenting time may

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584 begin upon the child's release from school and end upon the
 585 child's return to school the following Monday;

586 (d) Winter break.—In odd-numbered years, the first half of
 587 winter break, from the day school is released, beginning at 6
 588 p.m. or, if both parents agree, upon the child's release from
 589 school, until noon on December 26. In even-numbered years, the
 590 second half of winter break from noon on December 26 until 6
 591 p.m. on the day before school resumes or, if both parents agree,
 592 upon the child's return to school;

593 (e) Spring break.—In even-numbered years, the week of
 594 spring break from 6 p.m. the day that school is released until 6
 595 p.m. the night before school resumes. If both parents agree, the
 596 spring break parenting time may begin upon the child's release
 597 from school and end upon the child's return to school the
 598 following Monday; and

599 (f) Summer break.—For 2 weeks in the summer beginning at 6
 600 p.m. the first Sunday following the last day of school.

601 (3) If the parents live more than 100 miles from each other
 602 and the child is 3 years of age or older, the parties may agree
 603 to follow the schedule set forth in subsection (2), or else the
 604 parent who owes child support has parenting time with the child:

605 (a) One weekend per month.—The second or fourth full
 606 weekend of the month throughout the year beginning Friday at 6
 607 p.m. through Sunday at 6 p.m. The parent who owes child support
 608 can choose the one weekend per month within 90 days after the
 609 parents begin to live more than 100 miles apart; and

610 (b) Summer break.—Forty-two days of parenting time during
 611 the summer months. The parent who is owed child support will
 612 have parenting time one weekend beginning on Friday at 6 p.m.

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613 through Sunday at 6 p.m. during any one extended period during
 614 the summer.

615 (4) If the child is under 3 years of age, the parents may
 616 agree on a parenting time plan that includes more frequent
 617 visitation with shorter timeframes, gradually leading into
 618 overnight visits and either a parenting time plan agreed to by
 619 both parents or the Title IV-D Standard Parenting Time Plan set
 620 out in this section.

621 (5) In the event the parents have not agreed on a parenting
 622 schedule at the time of the child support hearing, the
 623 department will enter an administrative support order and refer
 624 the parents to a court of appropriate jurisdiction for the
 625 establishment of a parenting time plan.

626 (6) The Title IV-D Standard Parenting Time Plans are not
 627 intended for use by parents and families with domestic or family
 628 violence concerns.

629 (7) If after the incorporation of an agreed-upon parenting
 630 time plan into an administrative support order, a parent becomes
 631 concerned about the safety of the child during the child's time
 632 with the other parent, a modification of the parenting time plan
 633 may be sought through a court of appropriate jurisdiction.

634 (8) The department will create and provide a form for a
 635 petition to establish a parenting time plan for parents who have
 636 not agreed on a parenting schedule at the time of the child
 637 support hearing. The department will provide the form to the
 638 parents but will not file the petition or represent either
 639 parent at the hearing.

640 (9) The parents will not be required to pay a fee to file
 641 the petition to establish a parenting plan.

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642 (10) The department may adopt rules to implement and
 643 administer this section.

644 Section 6. Subsections (1) and (2) of section 409.2564,
 645 Florida Statutes, are amended to read:

646 409.2564 Actions for support.—

647 (1) In each case in which regular support payments are not
 648 being made as provided herein, the department shall institute,
 649 within 30 days after determination of the obligor's reasonable
 650 ability to pay, action as is necessary to secure the obligor's
 651 payment of current support, and any arrearage that which may
 652 have accrued under an existing order of support, and if a
 653 parenting time plan was not incorporated into the existing order
 654 of support and is appropriate, include either an agreed-upon
 655 parenting time plan or Title IV-D Standard Parenting Time Plan.
 656 The department shall notify the program attorney in the judicial
 657 circuit in which the recipient resides setting forth the facts
 658 in the case, including the obligor's address, if known, and the
 659 public assistance case number. Whenever applicable, the
 660 procedures established under ~~the provisions of~~ chapter 88,
 661 Uniform Interstate Family Support Act, chapter 61, Dissolution
 662 of Marriage; Support; Time-sharing, chapter 39, Proceedings
 663 Relating to Children, chapter 984, Children and Families in Need
 664 of Services, and chapter 985, Delinquency; Interstate Compact on
 665 Juveniles, may govern actions instituted under ~~the provisions of~~
 666 this act, except that actions for support under chapter 39,
 667 chapter 984, or chapter 985 brought pursuant to this act shall
 668 not require any additional investigation or supervision by the
 669 department.

670 (2) The order for support entered pursuant to an action

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671 instituted by the department under ~~the provisions of~~ subsection
 672 (1) shall require that the support payments be made periodically
 673 to the department through the depository. An order for support
 674 entered under the provisions of subsection (1) must include
 675 either an agreed-upon parenting time plan or Title IV-D Standard
 676 Parenting Time Plan, if appropriate. Upon receipt of a payment
 677 made by the obligor pursuant to any order of the court, the
 678 depository shall transmit the payment to the department within 2
 679 working days, except those payments made by personal check which
 680 shall be disbursed in accordance with s. 61.181. Upon request,
 681 the depository shall furnish to the department a certified
 682 statement of all payments made by the obligor. Such statement
 683 shall be provided by the depository at no cost to the
 684 department.

685 Section 7. Paragraph (g) of subsection (2) and paragraph
 686 (a) of subsection (4) of section 409.256, Florida Statutes, are
 687 amended to read:

688 409.256 Administrative proceeding to establish paternity or
 689 paternity and child support; order to appear for genetic
 690 testing.—

691 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO
 692 THE COURTS.—

693 (g) Section 409.2563(2)(h), (i), and (j) ~~409.2563(2)(e),~~
 694 ~~(f), and (g)~~ apply to a proceeding under this section.

695 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR
 696 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC
 697 TESTING; MANNER OF SERVICE; CONTENTS.—The Department of Revenue
 698 shall commence a proceeding to determine paternity, or a
 699 proceeding to determine both paternity and child support, by

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700 serving the respondent with a notice as provided in this
 701 section. An order to appear for genetic testing may be served at
 702 the same time as a notice of the proceeding or may be served
 703 separately. A copy of the affidavit or written declaration upon
 704 which the proceeding is based shall be provided to the
 705 respondent when notice is served. A notice or order to appear
 706 for genetic testing shall be served by certified mail,
 707 restricted delivery, return receipt requested, or in accordance
 708 with the requirements for service of process in a civil action.
 709 Service by certified mail is completed when the certified mail
 710 is received or refused by the addressee or by an authorized
 711 agent as designated by the addressee in writing. If a person
 712 other than the addressee signs the return receipt, the
 713 department shall attempt to reach the addressee by telephone to
 714 confirm whether the notice was received, and the department
 715 shall document any telephonic communications. If someone other
 716 than the addressee signs the return receipt, the addressee does
 717 not respond to the notice, and the department is unable to
 718 confirm that the addressee has received the notice, service is
 719 not completed and the department shall attempt to have the
 720 addressee served personally. For purposes of this section, an
 721 employee or an authorized agent of the department may serve the
 722 notice or order to appear for genetic testing and execute an
 723 affidavit of service. The department may serve an order to
 724 appear for genetic testing on a caregiver. The department shall
 725 provide a copy of the notice or order to appear by regular mail
 726 to the mother and caregiver, if they are not respondents.

727 (a) A notice of proceeding to establish paternity must
 728 state:

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- 729 1. That the department has commenced an administrative
 730 proceeding to establish whether the putative father is the
 731 biological father of the child named in the notice.
 732 2. The name and date of birth of the child and the name of
 733 the child's mother.
 734 3. That the putative father has been named in an affidavit
 735 or written declaration that states the putative father is or may
 736 be the child's biological father.
 737 4. That the respondent is required to submit to genetic
 738 testing.
 739 5. That genetic testing will establish either a high degree
 740 of probability that the putative father is the biological father
 741 of the child or that the putative father cannot be the
 742 biological father of the child.
 743 6. That if the results of the genetic test do not indicate
 744 a statistical probability of paternity that equals or exceeds 99
 745 percent, the paternity proceeding in connection with that child
 746 shall cease unless a second or subsequent test is required.
 747 7. That if the results of the genetic test indicate a
 748 statistical probability of paternity that equals or exceeds 99
 749 percent, the department may:
 750 a. Issue a proposed order of paternity that the respondent
 751 may consent to or contest at an administrative hearing; or
 752 b. Commence a proceeding, as provided in s. 409.2563, to
 753 establish an administrative support order for the child. Notice
 754 of the proceeding shall be provided to the respondent by regular
 755 mail.
 756 8. That, if the genetic test results indicate a statistical
 757 probability of paternity that equals or exceeds 99 percent and a

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758 proceeding to establish an administrative support order is
 759 commenced, the department shall issue a proposed order that
 760 addresses paternity and child support. The respondent may
 761 consent to or contest the proposed order at an administrative
 762 hearing.

763 9. That if a proposed order of paternity or proposed order
 764 of both paternity and child support is not contested, the
 765 department shall adopt the proposed order and render a final
 766 order that establishes paternity and, if appropriate, an
 767 administrative support order for the child.

768 10. That, until the proceeding is ended, the respondent
 769 shall notify the department in writing of any change in the
 770 respondent's mailing address and that the respondent shall be
 771 deemed to have received any subsequent order, notice, or other
 772 paper mailed to the most recent address provided or, if a more
 773 recent address is not provided, to the address at which the
 774 respondent was served, and that this requirement continues if
 775 the department renders a final order that establishes paternity
 776 and a support order for the child.

777 11. That the respondent may file an action in circuit court
 778 for a determination of paternity, child support obligations, or
 779 both.

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

785 13. That, if paternity is established, the putative father
 786 may file a petition in circuit court for a determination of

24-00597B-17

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787 matters relating to custody and rights of parental contact.

788

789 A notice under this paragraph must also notify the respondent of
 790 the provisions in s. 409.2563(4)(n) and (p) ~~s. 409.2563(4)(m)~~
 791 ~~and (e)~~.

792 Section 8. Subsection (5) of section 409.2572, Florida
 793 Statutes, is amended to read:

794 409.2572 Cooperation.—

795 (5) As used in this section only, the term "applicant for
 796 or recipient of public assistance for a dependent child" refers
 797 to such applicants and recipients of public assistance as
 798 defined in s. 409.2554(12) ~~s. 409.2554(8)~~, with the exception of
 799 applicants for or recipients of Medicaid solely for the benefit
 800 of a dependent child.

801 Section 9. The sum of \$419,520 in nonrecurring general
 802 revenue is appropriated for contracted services to the
 803 Department of Revenue for the fiscal year 2017-2018 for the
 804 purpose of implementing this act. The sum of \$20,729 in
 805 recurring general revenue is appropriated for expenses, and the
 806 sum of \$91,127 in recurring general revenue is appropriated for
 807 salaries and benefits to the Department of Revenue for the
 808 fiscal year 2017-2018 for the purpose of implementing this act.

809 Section 10. This act shall take effect January 1, 2018.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 590
FINAL ACTION: Favorable
MEETING DATE: Monday, March 6, 2017
TIME: 1:30—3:30 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
X		Campbell						
X		Stargel						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 702

INTRODUCER: Senator Campbell

SUBJECT: Child Support

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Pre-meeting
2.			JU	
3.			AGG	
4.			AP	

I. Summary:

SB 702 requires a court to suspend an order requiring a parent to pay child support while such parent is incarcerated for more than 30 days. The suspension of the child support order must remain in effect for at least 30 days after the parent is released from incarceration. Additionally, a court could not hold a parent in contempt for failure to pay child support if the parent is incarcerated for more than 30 days or during the 30 days after the parent is released from incarceration.

This bill is expected to have a fiscal impact on the Department of Revenue and the state court system.

There is an effective date of July 1, 2017.

II. Present Situation:

Chapter 61, F.S., addresses dissolution of marriage proceedings. It is the public policy of the state that each parent has a fundamental obligation to support his or her minor or legally dependent child. Based on this policy, the state created child support guidelines in s. 61.30, F.S., The guidelines encourage fair and efficient settlement of support issues between parents, minimizes the need for litigation and is based on the parent's combined income estimated to have been allocated to the child as if the parents and children were living in an intact household.¹

Section 61.14, F.S., provides that when a parent that is obligated to pay child support (obligor) subsequently fails to do so, the court can hold a contempt hearing; however, the original order of child support creates a presumption that the obligor has the present ability to pay the child

¹ Section 61.29, F.S.

support due. At the contempt hearing, the obligor has the burden of proof that he or she has the ability to pay the child support that is due. The creation of this presumption is to implement the public policy of the state that children should be supported from the resources of their parents.² If the court finds that payments due under the support order are delinquent or overdue and that the obligor is unemployed, underemployed, or has no income but is able to work or participate in job training, the court may order the obligor to seek employment. The court may also require the obligor to file reports detailing his or her efforts to seek and obtain employment, notify the court when employment, income, or property is obtained and participate in job training, job placement, or other work programs that may be available.

When a party is required by court order to make child support payments and the circumstances or the financial ability of either party changes or the child who is a beneficiary of the agreement reaches majority, either party may apply to the court for an order decreasing or increasing the amount of support.

Currently, there is no statutory requirement for suspension of support obligations if a paying parent is incarcerated. In Department of Revenue v. Jackson, 846 So.2d 486 (Fla. 2003), the Florida Supreme Court held that, for an incarcerated parent seeking to modify a child support order based solely on reduced income due to incarceration, there is no automatic reduction in the support obligation.³ Under Jackson, if an incarcerated parent files a petition to modify a child support obligation, the trial court shall hold the petition in abeyance and place the matter on its inactive calendar for the term of the obligor parent's incarceration.⁴ When the obligor parent is released, any party may schedule a hearing on the petition for modification at which time the court must consider repayment of any arrearages, taking into account the obligor's ability to pay.⁵ While the trial court has some discretion to modify support retroactively to the date of the filing of the petition, generally support accrued during incarceration should not be reduced.⁶ Additionally, there is no statutory requirement that contempt be denied if failure to pay support resulted from incarceration.⁷

Incarceration with Child Support Order

There is a population of incarcerated noncustodial parents in prison for criminal offenses who have current and/or delinquent child support orders.⁸ On average, an incarcerated parent with a child support order has the potential to leave prison with nearly \$20,000 in child support debt, having entered prison with around half that amount owed.⁹ According to 2013 data from the Bureau of Justice about two-thirds of people in prison or jail were employed at least part time before arrest with a median income less than \$1,000 per month.¹⁰

² Section 61.14(5)(a), F.S.

³ 2017 Legislative Bill Analysis, Department of Revenue, dated February 10, 2017

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ National Conference of State Legislatures, *Child Support and Incarceration*, February 10, 2016, available at <http://www.ncsl.org/research/human-services/child-support-and-incarceration.aspx>

⁹ *Id.* at page 4.

¹⁰ *Id.*

Modification during Incarceration

In a majority of states, a material change in circumstances is required before a child support order may be modified. Some states allow incarceration to be considered a material change in circumstances while others do not allow incarceration alone to be a sufficient reason to modify.¹¹ A significant reduction in income due to a job loss or job change is generally considered a material and substance change for modification as long as the reduction or change was involuntary.¹² Most states treat incarceration as involuntary unemployment which would allow the obligor to request a modification except if it is determined the incarceration is related to the failure to pay or avoidance of child support.¹³ A small number of states, including Florida, treat incarceration as voluntary unemployment because the crime, which led to the inability to work or pay child support, is considered a voluntary act and modification of child support during incarceration is not allowed.¹⁴

Effect of Child Support Debt on Successful Re-entry

Upon release from incarceration, primarily low-income fathers are faced with a myriad of issues, such as housing, employment, possible health issues and family relationships to restore.¹⁵ Noncustodial parents released from prison often find their credit rating is negatively affected, the possible revocation of a driver's license and if employment is found, the garnishment of wages to pay current and past due child support at a level that leaves little for living expenses.¹⁶ Persons convicted of crimes often have restitution, fines, and other court costs to pay.

The noncustodial parent with child support debt faces the challenge of federal tax intercept which allows that if a parent has ever received welfare, the state may intercept federal tax refunds to repay the family's previously incurred welfare costs, even after they leave welfare.¹⁷ For many fathers whose debt is out of proportion to their ability to pay, the intercept does not benefit their family. The intercept has become a substantial portion of child support collections that are retained by the government.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 61.13(1)(a)3, F.S., to require the court to suspend a child support order requiring payment while the obligor parent is involuntarily unemployed due to incarceration lasting longer than 30 days. The suspension of the order must continue for at least 30 days after the parent is released from incarceration.

¹¹ *Id* at page 5.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Rebecca May, *The Effect of Child Support and Criminal Justice Systems on Low-Income Noncustodial Parents*, available at <http://www.cffpp.org/publications/Effect%20of%20Child%20Support.pdf> and on file with the Senate Committee on Children, Families and Elder Affairs.

¹⁶ *Id.* at page 16.

¹⁷ *Id.*

¹⁸ *Id.*

Section 2 amends s. 61.13(14)(5)(a), F.S., to require a court to deny a motion for contempt for failure to pay a child support obligation while the obligor parent is involuntarily unemployed due to incarceration lasting longer than 30 days or during the 30 days after being release from incarceration.

Section 3 provides for an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact on the private sector could be positive in that the obligor parent would not incur child support arrearages during his or her incarceration. This would allow the obligor parent to re-enter society without excessive child support debt, avoid contempt proceedings for failure to pay child support during incarceration and to attempt to create a meaningful relationship with his or her child(ren).

The suspension of child support obligations during a parent's incarceration can negatively impact the custodial parent. Without any support payments, the custodial parent could be required to register with the state child support enforcement agency and sign over rights to future child support payments to reimburse the state for any welfare funds paid during the non-custodial parent's incarceration. The funds, if any, collected as part of the repayment of welfare received is intercepted by the state and does not benefit the obligor parent's family.

C. Government Sector Impact:

The bill allows for the suspension of a child support obligation if the obligor parent is incarcerated for at least 30 days. There is no mention in the proposed language which state agency may be responsible for filing requests for modifications and subsequent requests for reinstatement of child support payments. The short term incarceration period

could substantially increase the number of petitions for modifications filed with the clerks of court and create a corresponding increase in hearings scheduled with the courts.

VI. Technical Deficiencies:

The proposed bill does not include any direction regarding the communication to the appropriate entity that an obligor parent is incarcerated for more than 30 days and any child support obligations he or she may have should be suspended. Additionally, there is no direction regarding who the appropriate entity would be that child support obligations should be reinstated.

The requirement in the proposed legislation that child support obligations be suspended for an obligor parent incarcerated for at least 30 days is a very short timeframe. The suspension of the child support payments may take most of 30 days to work its way through the court system only to have the obligor parent released. The court proceedings would then have to begin again to reinstate the child support payments. Such a short timeframe could create an administrative challenge for any entity charged with modifying such support orders, clerks required to file and provide proper notice to custodial parents of impending modifications and the judicial system for scheduling, hearing evidence and then ruling on such modifications.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.13 and 61.14. This bill creates s. 61.13(1)(a)3 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



124452

LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
03/06/2017	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs
(Campbell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 47 - 112

and insert:

3. An order requiring a parent to make child support payments must be suspended in accordance with s. 61.31 while the obligor is involuntarily unemployed as a result of his or her incarceration for more than 1 year. The suspension must continue for at least 30 days after such parent is released from incarceration.



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11 Section 2. Paragraph (a) of subsection (1) and paragraph
12 (a) of subsection (5) of section 61.14, Florida Statutes, are
13 amended to read:

14 61.14 Enforcement and modification of support, maintenance,
15 or alimony agreements or orders.—

16 (1) (a) When the parties enter into an agreement for
17 payments for, or instead of, support, maintenance, or alimony,
18 whether in connection with a proceeding for dissolution or
19 separate maintenance or with any voluntary property settlement,
20 or when a party is required by court order to make any payments,
21 and the circumstances or the financial ability of either party
22 changes or the child who is a beneficiary of an agreement or
23 court order as described herein reaches majority after the
24 execution of the agreement or the rendition of the order, either
25 party may apply to the circuit court of the circuit in which the
26 parties, or either of them, resided at the date of the execution
27 of the agreement or reside at the date of the application, or in
28 which the agreement was executed or in which the order was
29 rendered, for an order decreasing or increasing the amount of
30 support, maintenance, or alimony, and the court has jurisdiction
31 to make orders as equity requires, with due regard to the
32 changed circumstances or the financial ability of the parties or
33 the child, decreasing, increasing, or confirming the amount of
34 separate support, maintenance, or alimony provided for in the
35 agreement or order. A finding that medical insurance is
36 reasonably available or the child support guidelines schedule in
37 s. 61.30 may constitute changed circumstances. The court shall
38 suspend an order requiring a parent to make child support
39 payments while that parent is involuntarily unemployed as a



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40 result of his or her incarceration for more than 1 year. The
41 suspension must continue for at least 30 days after the parent
42 is released from incarceration. Except as otherwise provided in
43 s. 61.30(11)(c), the court may modify an order of support,
44 maintenance, or alimony by increasing or decreasing the support,
45 maintenance, or alimony retroactively to the date of the filing
46 of the action or supplemental action for modification as equity
47 requires, giving due regard to the changed circumstances or the
48 financial ability of the parties or the child.

49 (5)(a) When a court of competent jurisdiction enters an
50 order for the payment of alimony or child support or both, the
51 court shall make a finding of the obligor's imputed or actual
52 present ability to comply with the order. If the obligor
53 subsequently fails to pay alimony or support and a contempt
54 hearing is held, the original order of the court creates a
55 presumption that the obligor has the present ability to pay the
56 alimony or support and to purge himself or herself from the
57 contempt. At the contempt hearing, the obligor shall have the
58 burden of proof to show that he or she lacks the ability to
59 purge himself or herself from the contempt. This presumption is
60 adopted as a presumption under s. 90.302(2) to implement the
61 public policy of this state that children shall be maintained
62 from the resources of their parents and as provided for in s.
63 409.2551, and that spouses be maintained as provided for in s.
64 61.08. The court shall state in its order the reasons for
65 granting or denying the contempt. The court shall deny the
66 contempt if the obligor failed to make child support payments
67 while he or she was involuntarily unemployed as a result of his
68 or her incarceration lasting longer than 1 year or during the 30



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69 days after the obligor was released from incarceration.

70 Section 3. Section 61.31, Florida Statutes, is created to
71 read:

72 61.31 Suspension of order of child support during
73 incarceration.-

74 (1) As used in this section, the term:

75 (a) "Incarcerated" includes, but is not limited to,
76 involuntary confinement in a state prison.

77 (b) "Suspend" means to set to \$0, by operation of law
78 pursuant to this section, the payment due on the current child
79 support order, an arrears payment on a preexisting arrears
80 balance, or interest on arrears created during a qualifying
81 period of incarceration for the period during which the obligor
82 is incarcerated.

83 (2) An order for support of a child shall be suspended for
84 any period exceeding 1 calendar year during which the person
85 ordered to pay support is incarcerated, unless one of the
86 following conditions exists:

87 (a) The obligor has the means to make child support
88 payments during his or her incarceration.

89 (b) The obligor is incarcerated for an offense constituting
90 domestic violence against the obligee parent or supported child,
91 or for an offense that could be enjoined by a protective order,
92 or as a result of his or her failure to comply with a court
93 order to pay child support.

94 (3) The Department of Corrections shall provide monthly to
95 the state courts a file that contains information on individuals
96 who are identified as having a child support obligation during
97 the intake process of the state prison system. A court, or the



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98 department in a Title IV-D case, must suspend the child support
99 obligation during the period of incarceration.

100 (4) A child support payment that has been suspended under
101 this section will resume on the first day of the first full
102 month after the release of the obligor in the amount previously
103 ordered.

104 (5) The court or the department, as appropriate, shall
105 notify the obligee of the suspension of child support payments
106 during the period of incarceration.

107 (6) If a child support order has not been entered before a
108 parent's incarceration, a court or the department may establish
109 paternity of a child with an incarcerated parent but may not
110 enter an order of child support until the obligor is released
111 from the state prison system.

112 (7) This section does not preclude a parent from seeking a
113 modification of the child support order.

114 (8) The department may adopt rules to implement and
115 administer this section.

116 Section 4. Present subsection (13) of section 409.2564,
117 Florida Statutes, is redesignated as subsection (14), and new
118 subsection (13) is added to that section, to read:

119 409.2564 Actions for support.—

120 (13) In cases in which the obligor is involuntarily
121 unemployed as a result of his or her incarceration for more than
122 1 year, the department must act in accordance with s. 61.31. The
123 department may, upon written notice of the proposed adjustment
124 to the obligor and obligee, administratively adjust account
125 balances for a child support order suspended pursuant to this
126 section if all of the following occur:



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127 (a) The agency verifies that arrears and interest have
128 accrued in violation of this section.

129 (b) The agency verifies that the conditions set forth in s.
130 61.31(2) do not exist.

131 (c) The obligor and obligee do not object within 30 days of
132 receipt of the notice of the proposed adjustment to the
133 administrative adjustment by the department.

134 Section 5. This act shall take effect January 1, 2018.

135
136 ===== T I T L E A M E N D M E N T =====

137 And the title is amended as follows:

138 Delete line 8

139 and insert:

140 certain circumstances; creating s. 61.31, F.S.;

141 defining terms; providing that an order for support of

142 a child must be suspended under certain circumstances;

143 providing exceptions; requiring the Department of

144 Corrections to submit a monthly file to the state

145 courts that identifies individuals that have child

146 support obligations; requiring a court or the

147 Department of Revenue to suspend the child support

148 obligation for a specified period; requiring the

149 notify the Department of Revenue to notify the obligee

150 of the suspension of support payments due to the

151 incarceration of the obligor; providing that a court

152 or the department may establish paternity for a child

153 with an incarcerated parent; providing that a court or

154 the department may not establish a child support

155 payment obligation for an incarcerated parent;



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156 amending s. 409.2564, F.S.; providing that s. 61.31,
157 F.S. applies in Title IV-D cases; authorizing the
158 department to administratively adjust account balances
159 for a child support order under certain circumstances;
160 providing an effective date.

By Senator Campbell

38-01146-17

2017702__

A bill to be entitled

An act relating to child support; amending s. 61.13, F.S.; requiring a court to suspend an order requiring a parent to pay child support under certain circumstances; amending s. 61.14, F.S.; requiring a court to suspend an order requiring a parent to pay child support and to deny an order of contempt under certain circumstances; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 61.13, Florida Statutes, is amended to read:

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

(1) (a) In a proceeding under this chapter, the court may at any time order either or both parents who owe a duty of support to a child to pay support to the other parent or, in the case of both parents, to a third party who has custody in accordance with the child support guidelines schedule in s. 61.30.

1. All child support orders and income deduction orders entered on or after October 1, 2010, must provide:

a. For child support to terminate on a child's 18th birthday unless the court finds or previously found that s. 743.07(2) applies, or is otherwise agreed to by the parties;

b. A schedule, based on the record existing at the time of the order, stating the amount of the monthly child support obligation for all the minor children at the time of the order and the amount of child support that will be owed for any remaining children after one or more of the children are no longer entitled to receive child support; and

c. The month, day, and year that the reduction or

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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termination of child support becomes effective.

2. The court initially entering an order requiring one or both parents to make child support payments has continuing jurisdiction after the entry of the initial order to modify the amount and terms and conditions of the child support payments if the modification is found by the court to be in the best interests of the child; when the child reaches majority; if there is a substantial change in the circumstances of the parties; if s. 743.07(2) applies; or when a child is emancipated, marries, joins the armed services, or dies. The court initially entering a child support order has continuing jurisdiction to require the obligee to report to the court on terms prescribed by the court regarding the disposition of the child support payments.

3. The court shall suspend an order requiring a parent to make child support payments while such parent is involuntarily unemployed as a result of his or her incarceration lasting longer than 30 days. The suspension must continue for at least 30 days after such parent is released from incarceration.

Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 61.14, Florida Statutes, are amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(1) (a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments,

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62 and the circumstances or the financial ability of either party
 63 changes or the child who is a beneficiary of an agreement or
 64 court order as described herein reaches majority after the
 65 execution of the agreement or the rendition of the order, either
 66 party may apply to the circuit court of the circuit in which the
 67 parties, or either of them, resided at the date of the execution
 68 of the agreement or reside at the date of the application, or in
 69 which the agreement was executed or in which the order was
 70 rendered, for an order decreasing or increasing the amount of
 71 support, maintenance, or alimony, and the court has jurisdiction
 72 to make orders as equity requires, with due regard to the
 73 changed circumstances or the financial ability of the parties or
 74 the child, decreasing, increasing, or confirming the amount of
 75 separate support, maintenance, or alimony provided for in the
 76 agreement or order. A finding that medical insurance is
 77 reasonably available or the child support guidelines schedule in
 78 s. 61.30 may constitute changed circumstances. The court shall
 79 suspend an order requiring a parent to make child support
 80 payments while such parent is involuntarily unemployed as a
 81 result of his or her incarceration lasting longer than 30 days.
 82 The suspension must continue for at least 30 days after such
 83 parent is released from incarceration. Except as otherwise
 84 provided in s. 61.30(11)(c), the court may modify an order of
 85 support, maintenance, or alimony by increasing or decreasing the
 86 support, maintenance, or alimony retroactively to the date of
 87 the filing of the action or supplemental action for modification
 88 as equity requires, giving due regard to the changed
 89 circumstances or the financial ability of the parties or the
 90 child.

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91 (5) (a) When a court of competent jurisdiction enters an
 92 order for the payment of alimony or child support or both, the
 93 court shall make a finding of the obligor's imputed or actual
 94 present ability to comply with the order. If the obligor
 95 subsequently fails to pay alimony or support and a contempt
 96 hearing is held, the original order of the court creates a
 97 presumption that the obligor has the present ability to pay the
 98 alimony or support and to purge himself or herself from the
 99 contempt. At the contempt hearing, the obligor shall have the
 100 burden of proof to show that he or she lacks the ability to
 101 purge himself or herself from the contempt. This presumption is
 102 adopted as a presumption under s. 90.302(2) to implement the
 103 public policy of this state that children shall be maintained
 104 from the resources of their parents and as provided for in s.
 105 409.2551, and that spouses be maintained as provided for in s.
 106 61.08. The court shall state in its order the reasons for
 107 granting or denying the contempt. The court shall deny the
 108 contempt if the obligor failed to make child support payments
 109 while he or she was involuntary unemployed as a result of his or
 110 her incarceration lasting longer than 30 days or during the 30
 111 days after the obligor was released from incarceration.

112 Section 3. This act shall take effect July 1, 2017.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 714

INTRODUCER: Senator Garcia

SUBJECT: Comprehensive Transitional Education Programs

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

I. Summary:

The proposed legislation authorizes the Agency for Persons with Disabilities (APD) to petition a court for the appointment of a receiver for a comprehensive transitional education program under certain circumstances. The bill also provides that a new comprehensive transitional education program license may not be granted after July 1, 2017, under s. 393.18, F.S., and a license may not be renewed for an existing comprehensive transitional education program after December 31, 2019.

The bill has an effective date of July 1, 2017, and has no fiscal impact.

II. Present Situation:

A comprehensive transitional education program (CTEP) serves individuals with developmental disabilities and also have severe or moderate maladaptive behaviors. In Florida, there are only two CTEPs licensed and both are held by Advoserv, Inc. CTEP licenses are issued for a 12-month period. No fees are charged for the initial application or any renewal.

In s. 393.062, F.S., the legislature has expressed its intent that community-based programs and services for individuals with developmental disabilities are preferred to programs operated directly by the state.¹ Pursuant to the recently issued federal Medicaid waiver guidelines, there has been a shift to provide person-centered care and for care to be provided in home and community-based settings, moving away from institutionalized settings as currently utilized.² The new Medicaid waiver guidelines become effective March 2019.³

¹ Agency for Persons with Disabilities legislative analysis dated February 23, 2017.

² *Id.*

³ Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers; Final Rule 79 Fed. Reg. 2948 (Jan. 16, 2014). The effective date of the final

Receivership

A receiver is “[an] indifferent person between the parties appointed by a court to collect and receive the rents, issues and profits of land, or the produce or person estate, or other things which it does not seem reasonable to the court that either party should do; or where a party is incompetent to do so.”⁴ Pursuant to s. 393.0678, F.S., APD may petition a court for the appointment of a receiver for a residential habilitation center or a group home facility owned and operated by a corporation or partnership when certain conditions exist:

- A person is operating a facility without a license and refuses to make an application for a license;
- The licensee is closing the facility or has informed the department that it intends to close the facility, and adequate arrangements have not been made for relocation of the residents within seven days, exclusive of weekends and holidays, of the closing of the facility;
- The agency determines that conditions exist in the facility which presents an imminent danger to the health, safety, or welfare of the residents of the facility or which present a substantial probability that death or serious physical harm would result; or
- the licensee cannot meet its financial obligations to provide food, shelter, care, and utilities.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 393.0678(1), F.S., to add Comprehensive Transitional Education Programs to the list of entities for which receivership proceedings may be initiated by APD.

Section 2 amends s. 393.18, F.S., to provide that new CTEPs may not be licensed in Florida after July 1, 2017, and existing licenses may not be renewed after December 31, 2019. Currently, CTEP licenses are renewed at the end of each calendar year. This will allow APD to comply with the federal guidelines, effective March 2019, related to the provision of Medicaid home and community-based services in residential settings.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

regulations was March 14, 2014, and the regulations allow states up to five years to bring its home and community-based programs into compliance with the home and community-based settings requirements.

⁴ *Black's Law Dictionary* (Online Dictionary 2nd Ed.)

⁵ section 393.0678(1)(a)-(d), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The transition from the current large group home operated by Advoserv, Inc., to smaller group homes will require all clients, including those with private insurance, to move into a new group home. The location and expense of the smaller group homes are not known at this time.

C. Government Sector Impact:

APD will be required to provide assessments and transition plans to current group home residents. APD will also be required to provide the licensing and oversight of the smaller group homes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.0678 and 393.18.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Garcia

36-01178-17

2017714__

1 A bill to be entitled
2 An act relating to comprehensive transitional
3 education programs; amending s. 393.0678, F.S.;
4 authorizing the Agency for Persons with Disabilities
5 to petition a court for the appointment of a receiver
6 for a comprehensive transitional education program
7 under certain circumstances; amending s. 393.18, F.S.;
8 providing that no new comprehensive transitional
9 education programs may be licensed after a specified
10 date; providing that no licenses may be renewed for
11 comprehensive transitional education programs after a
12 certain specified date; providing an effective date.

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

16 Section 1. Subsection (1) of section 393.0678, Florida
17 Statutes, is amended to read:

18 393.0678 Receivership proceedings.—

19 (1) The agency may petition a court of competent
20 jurisdiction for the appointment of a receiver for a
21 comprehensive transitional education program, a residential
22 habilitation center, or a group home facility owned and operated
23 by a corporation or partnership when any of the following
24 conditions exist:

25 (a) Any person is operating a facility or program without a
26 license and refuses to make application for a license as
27 required by s. 393.067.

28 (b) The licensee is closing the facility or has informed
29 the department that it intends to close the facility; and
30 adequate arrangements have not been made for relocation of the
31 residents within 7 days, exclusive of weekends and holidays, of
32 the closing of the facility.

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33 (c) The agency determines that conditions exist in the
34 facility which present an imminent danger to the health, safety,
35 or welfare of the residents of the facility or which present a
36 substantial probability that death or serious physical harm
37 would result therefrom. Whenever possible, the agency shall
38 facilitate the continued operation of the program.

39 (d) The licensee cannot meet its financial obligations to
40 provide food, shelter, care, and utilities. Evidence such as the
41 issuance of bad checks or the accumulation of delinquent bills
42 for such items as personnel salaries, food, drugs, or utilities
43 constitutes prima facie evidence that the ownership of the
44 facility lacks the financial ability to operate the home in
45 accordance with the requirements of this chapter and all rules
46 promulgated thereunder.

47 Section 2. Subsection (7) is added to section 393.18,
48 Florida Statutes, to read:

49 393.18 Comprehensive transitional education program.—A
50 comprehensive transitional education program serves individuals
51 who have developmental disabilities, severe maladaptive
52 behaviors, severe maladaptive behaviors and co-occurring complex
53 medical conditions, or a dual diagnosis of developmental
54 disability and mental illness. Services provided by the program
55 must be temporary in nature and delivered in a manner designed
56 to achieve the primary goal of incorporating the principles of
57 self-determination and person-centered planning to transition
58 individuals to the most appropriate, least restrictive community
59 living option of their choice which is not operated as a
60 comprehensive transitional education program. The supervisor of
61 the clinical director of the program licensee must hold a

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62 doctorate degree with a primary focus in behavior analysis from
63 an accredited university, be a certified behavior analyst
64 pursuant to s. 393.17, and have at least 1 year of experience in
65 providing behavior analysis services for individuals in
66 developmental disabilities. The staff must include behavior
67 analysts and teachers, as appropriate, who must be available to
68 provide services in each component center or unit of the
69 program. A behavior analyst must be certified pursuant to s.
70 393.17.

71 (7) After July 1, 2017, a license may not be granted under
72 this section to a new comprehensive transitional education
73 program. After December 31, 2019, a license may not be renewed
74 for an existing comprehensive transitional education program.

75 Section 3. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 7020

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Ratification of a Department of Elder Affairs Rule

DATE: March 3, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Crosier	Hendon		Submitted as Comm. Bill/Fav

I. Summary:

SB 7020 ratifies Rule 58M-2.009, F.A.C., adopted by the Department of Elder Affairs (department). The adopted rule establishes standards of practice to provide a level of accountability for professional guardians while avoiding the imposition of unnecessary regulations on the industry.

The Statement of Estimated Regulatory Costs (SERC) developed by the department determined that the proposed rule will likely increase regulatory costs by more than \$1 million in the aggregate over the next five years. Accordingly, the rule must be ratified by the Legislature before it may go into effect.

This act takes effect upon becoming law.

II. Present Situation:

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy.¹ Rulemaking authority is delegated by the Legislature to an agency in law, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.² An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.³ The statutory

¹ Section 120.52(16), F.S.

² Section 120.52(17), F.S.

³ See ss. 120.52(8) and 120.536(1), F.S.

authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.⁴

Prior to the adoption, amendment, or repeal of any rule an agency must file a notice of the proposed rule in the Florida Administrative Register (F.A.R.).⁵ The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule;
- A summary of the agency's SERC, if one is prepared; and
- Whether legislative ratification is required.⁶

SERC Requirements

Agencies must prepare a SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 in the aggregate within 1 year after implementation of the rule.⁷

A SERC must include estimates of:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement and enforce the proposed rule;
- Transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.⁸

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first 5 years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,⁹ productivity, or innovation; or
- Regulatory costs, including any transactional costs.^{10,11}

⁴ See *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla 1st DCA 2000).

⁵ Section 120.54(3)(a)2., F.S.

⁶ Section 120.54(3)(a)1., F.S.

⁷ Sections 120.54(3)(b) and 120.541(1)(b), F.S.

⁸ Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less. See ss. 120.52(18), (19), and 288.703(6), respectively.

⁹ Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹⁰ Transactional costs are direct costs that are readily ascertainable based upon standard business practices. They include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed to comply with the rule, additional operating costs, the cost of monitoring and reporting, and any other costs necessary to comply with the rules.

¹¹ Section 120.541(2)(a), F.S.

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within 5 years after implementation of the rule, then the rule must be ratified by the Legislature in order to take effect.¹²

In 2016, the Legislature passed and the Governor signed CS/SB 232 by Senator Detert. The bill directed that the Statewide Public Guardianship Office be renamed the Office of Public and Professional Guardians. The department was directed to establish, by rule, standards of practice for professional guardians.

III. Effect of Proposed Changes:

The proposed bill ratifies Rul 58M-2.009, F.A.C., Standards of Practice for Professional Guardians solely to meet the condition for effectiveness of the rule imposed by s. 120.541(3), F.S.

The proposed bill also:

- Directs that the act shall not be codified in the F.S.;
- Requires that after the act becomes law, its enactment and effective date shall be noted in the Florida Administrative Code, the F.A.R., or both, as appropriate;
- Provides that the act does not alter rulemaking authority or constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule and is intended to preserve the status of the rule; and
- Does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of requirements governing adoption of the rule.

The act is effective upon becoming a law. At that time, the rule becomes effective.¹³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. *See* s. 120.541(4), F.S.

¹³ Section 120.54(3)(e)6., F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The proposed bill enables a rule to go into effect that would impose requirements on professional guardians. However, any additional costs necessary to meet the proposed requirements would be passed on to the wards.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-01814A-17

20177020pb

1 A bill to be entitled
 2 An act relating to the ratification of a Department of
 3 Elder Affairs rule; ratifying a specific rule relating
 4 to the practice for Professional Guardians for the
 5 sole and exclusive purpose of satisfying any condition
 6 on effectiveness pursuant to s. 120.541(3), F.S.,
 7 which requires ratification of any rule exceeding the
 8 specified thresholds for likely adverse impact or
 9 increase in regulatory costs; providing applicability;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. (1) The following rule is ratified for the sole
 15 and exclusive purpose of satisfying any condition on
 16 effectiveness imposed under s. 120.541(3), Florida Statutes:
 17 Rule 58M-2.009, Florida Administrative Code, as filed for
 18 adoption with the Department of State pursuant to the
 19 certification package dated February 9, 2017.

20 (2) This act serves no other purpose and shall not be
 21 codified in the Florida Statutes. After this act becomes law,
 22 its enactment and effective dates shall be noted in the Florida
 23 Administrative Code, the Florida Administrative Register, or
 24 both, as appropriate. This act does not alter rulemaking
 25 authority delegated by prior law, does not constitute
 26 legislative preemption of or exception to any provision of law
 27 governing adoption or enforcement of the rule cited, and is
 28 intended to preserve the status of any cited rule as a rule
 29 under chapter 120, Florida Statutes. This act does not cure any

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30 rulemaking defect or preempt any challenge based on a lack of
 31 authority or a violation of the legal requirements governing the
 32 adoption of any rule cited.

33 Section 2. This act shall take effect upon becoming law.

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