

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

586-1471-07

1 A bill to be entitled
2 An act relating to the Department of Children
3 and Family Services; amending ss.110.152 and
4 409.166, F.S.; redefining the term "special
5 needs child"; revising provisions relating to
6 the adoption of children with special needs;
7 revising and adding definitions; distinguishing
8 between subsidies and adoption assistance;
9 providing for an adoption-assistance agreement;
10 repealing s. 414.32(1), F.S.; eliminating the
11 requirement that a parent or caretaker relative
12 receiving food stamps or temporary cash
13 assistance cooperate with the child support
14 enforcement program; amending s. 414.41, F.S.;
15 providing that the department may waive
16 recovery of Medicaid overpayments that are
17 caused by error on the part of the department;
18 amending s. 409.2572, F.S.; conforming a
19 cross-reference; providing an effective date.
20

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

23 Section 1. Subsection (1) of section 110.152, Florida
24 Statutes, is amended to read:

25 110.152 Adoption benefits for state employees;
26 parental leave.--

27 (1)~~(a)~~ Any full-time or part-time employee of the
28 state who is paid from regular salary appropriations and who
29 adopts a special-needs child, as defined in s. 409.166
30 ~~paragraph (b)~~, is eligible to receive a monetary benefit in
31 the amount of \$10,000 per child, which is payable in equal

1 monthly installments over a 1-year period. Any employee of the
2 state who adopts a child whose permanent custody has been
3 awarded to the Department of Children and Family Services or
4 to a Florida-licensed child-placing agency, other than a
5 special-needs child ~~as defined in paragraph (b)~~, shall be
6 eligible to receive a monetary benefit in the amount of \$5,000
7 per child, which is payable in equal monthly installments over
8 a 1-year period. Benefits paid under this subsection to a
9 part-time employee must be prorated based on the employee's
10 full-time-equivalency status at the time of applying for the
11 benefits.

12 ~~(b) For purposes of this section, a "special needs~~
13 ~~child" is a child whose permanent custody has been awarded to~~
14 ~~the Department of Children and Family Services or to a~~
15 ~~Florida licensed child placing agency and who is not likely to~~
16 ~~be adopted because he or she is:~~

- 17 ~~1. Eight years of age or older.~~
- 18 ~~2. A person with a developmental disability.~~
- 19 ~~3. A person with a physical or emotional handicap.~~
- 20 ~~4. Of a minority race or of a racially mixed heritage.~~
- 21 ~~5. A member of a sibling group of any age, provided~~
22 ~~that two or more members of a sibling group remain together~~
23 ~~for the purposes of adoption.~~

24 Section 2. Section 409.166, Florida Statutes, is
25 amended to read:

26 409.166 Special needs children; ~~subsidized~~ adoption
27 assistance program.--

28 (1) LEGISLATIVE INTENT.--It is the intent of the
29 Legislature to protect and promote each every child's right to
30 the security and stability of a permanent family home. The
31 Legislature intends to make adoption assistance, including

1 financial aid, available to prospective adoptive parents to
2 ~~financial aid which will~~ enable them to adopt a child in the
3 state's foster care system who, because of his or her special
4 needs, has proven difficult to place in an adoptive home. In
5 providing such assistance ~~subsidies for children with special~~
6 ~~needs in foster homes~~, it is the intent of the Legislature to
7 reduce state expenditures for long-term foster care. ~~It is~~
8 ~~also the intent of the Legislature that placement without~~
9 ~~subsidy be the placement of choice unless it can be shown that~~
10 ~~such placement is not in the best interest of the child.~~

11 (2) DEFINITIONS.--As used in this section, the term:

12 (a) "Special needs child" means:

13 1. A child whose permanent custody has been awarded to
14 the department or to a licensed child-placing agency; ~~and~~

15 ~~2.1.~~ A child who has established significant emotional
16 ties with his or her foster parents; or

17 ~~2.~~ is not likely to be adopted because he or she is:

18 a. Eight years of age or older;

19 b. Developmentally disabled ~~Mentally retarded~~;

20 c. Physically or emotionally handicapped;

21 d. Of black or racially mixed parentage; or

22 e. A member of a sibling group of any age, provided

23 two or more members of a sibling group remain together for

24 purposes of adoption; ~~and~~

25 3. Except when the child is being adopted by the
26 child's foster parents or relative caregivers, a reasonable,
27 but unsuccessful effort has been made to place the child
28 without providing a maintenance subsidy.

29 (b) "Adoption assistance" means financial assistance
30 and services provided to a special needs child and his or her
31 adoptive family. Such assistance may include a maintenance

1 subsidy, medical assistance, Medicaid assistance, and
2 reimbursement of nonrecurring expenses associated with the
3 legal adoption. The term also includes a tuition exemption at
4 a postsecondary career program, community college, or state
5 university, and a state employee adoption benefit under s.
6 110.152.

7 ~~(c)(b)~~ "Department" means the Department of Children
8 and Family Services.

9 (d) "Licensed child-placing agency" has the same
10 meaning as in s. 39.01.

11 ~~(e)(c)~~ "Maintenance subsidy" means a monthly payment
12 as provided in subsection (4) ~~special services or money~~
13 payments.

14 (3) ADMINISTRATION OF PROGRAM.--

15 (a) The department shall establish and administer an
16 adoption program for special needs children to be carried out
17 by the department or by contract with a licensed child-placing
18 agency. The program shall attempt to increase the number of
19 persons seeking to adopt special needs children and the number
20 of finalized adoptions ~~adoption placements~~ and shall extend
21 adoption assistance subsidies and services, when needed, to
22 the adopting parents of a special needs child.

23 (b) The department shall collect and maintain the
24 necessary data and records to evaluate the effectiveness of
25 the program in encouraging and promoting the adoption of
26 special needs children.

27 (4) MAINTENANCE SUBSIDY.--

28 (a) A maintenance subsidy shall

29 ~~(b) Authorization for subsidized adoption placement is~~
30 ~~to~~ be granted only when all other resources available to a
31 ~~place the child in question~~ have been thoroughly explored and

1 ~~when~~ it can be clearly established that this is the most
2 acceptable plan for providing permanent placement for the
3 child. The maintenance ~~Adoption~~ subsidy must ~~will~~ not be used
4 as a substitute for adoptive parent recruitment or as an
5 inducement to adopting ~~adopt~~ a child who might be placed
6 without providing a subsidy through nonsubsidized means.
7 However, it shall be the policy of the department that no
8 child be denied adoption if providing a maintenance ~~when~~
9 subsidy would make adoption possible. The best interest of the
10 child must ~~shall~~ be the deciding factor in every case. This
11 section does not ~~Nothing contained herein shall~~ prohibit
12 foster parents from applying to adopt a special needs child
13 placed in their care. Foster parents or relative caregivers
14 must be asked if they would adopt without a maintenance
15 subsidy.

16 ~~(c) The department shall keep the necessary records to~~
17 ~~evaluate the effectiveness of the program in encouraging and~~
18 ~~promoting the adoption of special needs children.~~

19 ~~(4) ELIGIBILITY FOR SERVICES.~~

20 ~~(b)(a)~~ The department may pay either one or both of
21 the following maintenance subsidies to the adopting parents:

22 1. A monthly payment for the ~~For~~ support and
23 maintenance of a special needs child until the 18th birthday
24 of such child, ~~a monthly payment~~ in an amount determined
25 through agreement between the adoptive parents and the
26 department. The agreement shall take into consideration the
27 circumstances of the adopting parents and the needs of the
28 child being adopted, ~~and~~ The amount of the subsidy may be
29 adjusted ~~readjusted periodically~~ based upon changes in the
30 needs of the child or circumstances of the adoptive parents.
31 Changes may not be made without the concurrence of the

1 ~~adoptive parents. those circumstances.~~ However, in no case
2 ~~shall~~ the amount of the ~~adoption subsidy~~ monthly payment may
3 not exceed the foster care maintenance payment ~~that which~~
4 would have been paid during the same period if the child had
5 been in a foster family home. ~~Such payment shall be negotiated~~
6 ~~yearly between the parents and the department.~~

7 2. A maintenance subsidy initiated after the adoption
8 of the child for medical, surgical, hospital, and related
9 services needed as a result of a physical or mental condition
10 of the child which existed before the adoption. Such, ~~a~~
11 subsidy ~~which~~ may be initiated at any time but shall terminate
12 on or before the child's 18th birthday.

13 (5) ELIGIBILITY FOR SERVICES.--

14 (a)(b) As a condition of providing adoption assistance
15 under this section for continuation of the subsidy, the
16 adoptive parents must enter into an adoption-assistance
17 agreement with the department which specifies the financial
18 assistance and other services to be provided ~~shall file a~~
19 ~~sworn statement with the department at least once each year to~~
20 ~~include any social or financial conditions which may have~~
21 ~~changed.~~

22 (b)(c) A child who is handicapped at the time of
23 adoption shall be eligible for services through ~~of~~ the
24 ~~Division of Children's Medical Services network~~ established
25 under part I of chapter 391 if the child was eligible for such
26 services prior to the adoption.

27 (6)(5) WAIVER OF ADOPTION FEES.--The adoption fees
28 shall be waived for all adoptive parents who ~~participate in~~
29 ~~the program who~~ adopt special needs children in the custody of
30 the department. Fees may be waived for families who adopt
31 children in the custody of a licensed child-placing agency

1 ~~agencies~~ or who adopt children through independent adoptions,
2 and who receive or may be eligible for maintenance subsidies
3 through the department. Retroactive reimbursement of fees is
4 ~~may~~ not ~~be~~ required for families who adopt children in the
5 custody of licensed child-placing agencies.

6 ~~(7)(6)~~ REIMBURSEMENT FOR EXPENSES.--The department is
7 authorized to reimburse, retroactive to January 1, 1987, up to
8 \$1,000 in nonrecurring expenses related to the adoption of a
9 special needs child which have been incurred by adoptive
10 parents who participate in the program for up to \$1,000 in
11 nonrecurring expenses the parents incurred relating to the
12 adoption. For purposes of this subsection, "nonrecurring
13 expenses" means one-time expenses, such as attorney's fees,
14 court costs, birth certificate fees, travel expenses, agency
15 fees, and physical examination fees.

16 ~~(8)(7)~~ RULES.--The department shall adopt ~~promulgate~~
17 ~~all necessary~~ rules to administer ~~implement the provisions of~~
18 this section.

19 Section 3. Subsection (1) of section 414.32, Florida
20 Statutes, is repealed.

21 Section 4. Subsection (1) of section 414.41, Florida
22 Statutes, is amended to read:

23 414.41 Recovery of payments made due to mistake or
24 fraud.--

25 (1) Whenever it becomes apparent that any person or
26 provider has received any public assistance under this chapter
27 to which she or he is not entitled, through either simple
28 mistake or fraud on the part of the department or on the part
29 of the recipient or participant, the department shall take all
30 necessary steps to recover the overpayment. Recovery may
31 include Federal Income Tax Refund Offset Program collections

1 activities in conjunction with Food and Consumer Service and
2 the Internal Revenue Service to intercept income tax refunds
3 due to clients who owe food stamp or WAGES debt to the state.
4 The department will follow the guidelines in accordance with
5 federal rules and regulations and consistent with the Food
6 Stamp Program. The department may make appropriate settlements
7 and shall establish a policy and cost-effective rules to be
8 used in the computation and recovery of such overpayments. The
9 department may waive the recovery of Medicaid overpayments
10 that are due to a mistake on the part of the department.

11 (a) The department will consider an individual who has
12 willfully provided false information or omitted information to
13 become or remain eligible for temporary cash assistance to
14 have committed an intentional program violation.

15 (b) When the intentional program violation or case
16 facts do not warrant criminal prosecution for fraud as defined
17 in s. 414.39, the department will initiate an administrative
18 disqualification hearing. ~~The administrative disqualification~~
19 ~~hearing will be initiated~~ regardless of the individual's
20 current eligibility.

21 (c) Upon a finding through the administrative
22 disqualification hearing process that the individual did
23 commit an intentional program violation, the department will
24 impose a disqualification period consistent with those
25 established for food stamp program purposes.

26 Section 5. Subsection (4) of section 409.2572, Florida
27 Statutes, is amended to read:

28 409.2572 Cooperation.--

29 (4) ~~Except as provided for in s. 414.32,~~ The Title
30 IV-D agency shall determine whether an applicant for or
31 recipient of public assistance for a dependent child has good

1 cause for failing to cooperate with the Title IV-D agency as
2 required by this section.

3 Section 6. This act shall take effect upon becoming a
4 law.

5
6 *****

7 SENATE SUMMARY

8 Revises provisions relating to the adoption of children
9 with special needs to comply with federal requirements.
10 Distinguishes between maintenance subsidies and adoption
11 assistance. Provides for an adoption-assistance
12 agreement. Eliminates the requirement for cooperation
13 between the Food Stamp program and Child Support
14 Enforcement. Provides that the Department of Children and
15 Family Services may waive recovery of Medicaid
16 overpayments that are caused by error on the part of the
17 department.
18
19
20
21
22
23
24
25
26
27
28
29
30
31