# Future of Florida's Families Committee

**Wednesday, March 22, 2006**
**9:00 AM – NOON**
**12 House Office Building**

**Bill Galvano**
**Chair**

**Aaron Bean**
**Vice Chair**

# Florida House of Representatives

## Future of Florida's Families Committee

**Bill Galvano**

Chair

**AGENDA**
**March 22, 2006**
**9:00 AM – NOON**
**12 HOB**

Opening Remarks by Chair Galvano

Consideration of the following bill:

HB 761 - Trespass on the Property of a Certified Domestic Violence Center – by Rep. Carroll and others

Consideration of the following Proposed Committee Bills:

PCB FFF 06-01 – Welfare of Children
PCB FFF 06-02 – Child Support

Presentation of Child Support Guidelines Interim Project
Carol Preston, Chief Legislative Analyst

Closing Remarks by Chair Galvano

**214 House Office Building, 402 South Monroe Street Tallahassee, Florida 32399-1300 (850) 488-8315**

HB 761

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 761
**SPONSOR(S):** Carroll
**TIED BILLS:** None.

Trespass on the Property of a Certified Domestic Violence Center

**IDEN./SIM. BILLS:** SB 488

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Criminal Justice Committee | 6 Y, 0 N | Ferguson | Kramer |
| 2) Future of Florida's Families Committee | | Preston | Collins |
| 3) Criminal Justice Appropriations Committee | | | |
| 4) Justice Council | | | |
| 5) | | | |

## SUMMARY ANALYSIS


Trespass is the unauthorized entry onto the property of another. In prosecuting trespass, the state must prove that the offender knew, or should have known, that entry onto the property is unauthorized.

The bill amends section 810.09, F.S., to increase criminal penalties for trespassing upon a domestic violence center from a first degree misdemeanor to a third degree felony.

The effective date of this bill is July 1, 2006.

It is expected that the Criminal Justice Impact Conference will determine that the bill will have an insignificant prison bed impact.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Promote personal responsibility** – This bill increases criminal penalties for trespassing upon a domestic violence center from a first degree misdemeanor to a third degree felony.

B. EFFECT OF PROPOSED CHANGES:

**Background**

According to the Florida Department of Children and Families, "domestic violence is a pattern of behaviors that adults or adolescents use against their intimate partners or former partners to establish power and control. It may include physical abuse, sexual abuse, emotional abuse, and economic abuse. It may also include threats, isolation, pet abuse, using children and a variety of other behaviors used to maintain fear, intimidation and power over one's partner. Domestic violence knows no boundaries. It occurs in intimate relationships, regardless of race, religion, culture or socioeconomic status."[1]

**Domestic violence centers**

In 1998, "the Legislature recognize[d] that certain persons who assault, batter, or otherwise abuse their spouses and the persons subject to such domestic violence are in need of treatment and rehabilitation. It is the intent of the Legislature to assist in the development of domestic violence centers for the victims of domestic violence and to provide a place where the parties involved may be separated until they can be properly assisted."[2]

A domestic violence center is defined as an agency that provides services to victims of domestic violence, as its primary mission.[3]

Section 741.28, F.S., defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

Section 741.28, F.S., defines "family or household member" to mean spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

**Effect of bill**

Section 810.09, F.S., currently provides that it is a first degree misdemeanor to commit trespass on lands.[4] The offense level is increased to a third degree felony in certain circumstances. For example, it is a third degree felony if the offender is armed during the trespass; if the property trespassed is a posted construction site; if the property is posted as commercial property designated for horticultural products; if the property trespassed is posted as a designated agricultural site for testing or research

---

[1] Information found at http://www.dcf.state.fl.us/domesticviolence/whatisdv.shtml
[2] See section 39.901, F.S.
[3] *See* section 39.902(2), F.S.
[4] Trespass in a dwelling, structure or conveyance is considered a more serious offense.

purposes; or if a person knowingly propels any potentially lethal projectile over or across private land without authorization while taking, killing, or endangering specified animals.[5]

HB 761 amends section 810.09, F.S., to increase criminal penalties from a first degree misdemeanor to a third degree felony for trespassing upon a domestic violence center.[6] In order for the felony penalties to apply, the domestic violence center must be certified under section 39.905, F.S. and must be legally posted and identified in substantially the following manner: THIS AREA IS A DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.

C. SECTION DIRECTORY:

**Section 1.** Amends section 810.09, F.S., to provide criminal penalties for trespassing on a domestic violence center.

**Section 2.** Provides an effective date of July 1, 2006

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill creates a third degree felony offense. The offense is not ranked in the offense severity ranking chart. As such, it is expected that the conference will determine that the bill will have an insignificant prison bed impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

[5] See s. 810.09(2)(a)-(g), F.S.

[6] As a result, the maximum penalty for the offense will be increased from one year in county jail to five years in prison. See section 775.082, F.S.

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to trespass on the property of a certified
3 domestic violence center; amending s. 810.09, F.S.;
4 providing that a person commits a felony of the third
5 degree if he or she trespasses on the property of a
6 certified domestic violence center; providing a penalty;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (2) of section 810.09, Florida
12 Statutes, is amended to read:
13 810.09 Trespass on property other than structure or
14 conveyance.--
15 (2)(a) Except as provided in this subsection, trespass on
16 property other than a structure or conveyance is a misdemeanor
17 of the first degree, punishable as provided in s. 775.082 or s.
18 775.083.
19 (b) If the offender defies an order to leave, personally
20 communicated to the offender by the owner of the premises or by
21 an authorized person, or if the offender willfully opens any
22 door, fence, or gate or does any act that exposes animals,
23 crops, or other property to waste, destruction, or freedom;
24 unlawfully dumps litter on property; or trespasses on property
25 other than a structure or conveyance, the offender commits a
26 misdemeanor of the first degree, punishable as provided in s.
27 775.082 or s. 775.083.
28 (c) If the offender is armed with a firearm or other

29 dangerous weapon during the commission of the offense of
30 trespass on property other than a structure or conveyance, he or
31 she is guilty of a felony of the third degree, punishable as
32 provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or
33 person authorized by the owner may, for prosecution purposes,
34 take into custody and detain, in a reasonable manner, for a
35 reasonable length of time, any person when he or she reasonably
36 believes that a violation of this paragraph has been or is being
37 committed, and that the person to be taken into custody and
38 detained has committed or is committing the ~~such~~ violation. If
39 ~~In the event~~ a person is taken into custody, a law enforcement
40 officer shall be called as soon as is practicable after the
41 person has been taken into custody. The taking into custody and
42 detention in compliance with the requirements of this paragraph
43 does not result in criminal or civil liability for false arrest,
44 false imprisonment, or unlawful detention.
45 (d) The offender commits a felony of the third degree,
46 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
47 if the property trespassed is a construction site that is
48 legally posted and identified in substantially the following
49 manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
50 WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
51 (e) The offender commits a felony of the third degree,
52 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
53 if the property trespassed upon is commercial horticulture
54 property and the property is legally posted and identified in
55 substantially the following manner: "THIS AREA IS DESIGNATED
56 COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO

57 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
58 (f) The offender commits a felony of the third degree,
59 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
60 if the property trespassed upon is an agricultural site for
61 testing or research purposes that is legally posted and
62 identified in substantially the following manner: "THIS AREA IS
63 A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES,
64 AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
65 (g) The offender commits a felony of the third degree,
66 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
67 if the property trespassed upon is a domestic violence center
68 certified under s. 39.905 which is legally posted and identified
69 in substantially the following manner: "THIS AREA IS A
70 DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS
71 PROPERTY COMMITS A FELONY."
72 (h) ~~(g)~~ Any person who in taking or attempting to take any
73 animal described in s. 372.001(10) or (11), or in killing,
74 attempting to kill, or endangering any animal described in s.
75 585.01(13) knowingly propels or causes to be propelled any
76 potentially lethal projectile over or across private land
77 without authorization commits trespass, a felony of the third
78 degree, punishable as provided in s. 775.082, s. 775.083, or s.
79 775.084. For purposes of this paragraph, the term "potentially
80 lethal projectile" includes any projectile launched from any
81 firearm, bow, crossbow, or similar tensile device. This section
82 does ~~shall~~ not apply to any governmental agent or employee
83 acting within the scope of his or her official duties.
84 Section 2. This act shall take effect July 1, 2006.

PCB FFF 06-01

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB FFF 06-01 Welfare of Children
**SPONSOR(S):** Future of Florida's Families Committee
**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 2470, HB 1607, SB 1798

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| Orig. Comm.: Future of Florida's Families Committee | | Davis/Preston/Halperin | Collins |
| 1) | | | |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

## SUMMARY ANALYSIS


PCB FFF 06-01 establishes a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The bill also addresses the welfare of young adults aging out of the foster care system by expanding the eligibility pool, requiring the development of a plan for each community-base care (CBC) service area, providing for the direct deposit of funds, and authorizing CBCs to purchase housing and other services.

The bill makes public school employees subject to the reporting requirements of chapter 39, F.S., for purposes of making reports of alleged abuse to the central abuse hotline.

Because of an exemption from regulation by both the Department of Children and Family Services and the Department of Education, the bill requires boarding schools to be accredited.

Finally, Statewide and Local Advocacy Councils are designated as "health oversight agencies" for purposes of providing access to certain health records.

See Fiscal Comments section of analysis for discussion of the fiscal impact of bill.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** The bill creates the Office of Child Abuse Prevention (Office) for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The Office of Child Abuse prevention is created within the Executive Office of the Governor and the Governor shall appoint the director for the office who shall be subject to confirmation by the Senate.

**Safeguard Individual Liberty:** If the Statewide Advocacy Council were designated as a health oversight agency it would be entitled to obtain confidential client records without client consent.

B. EFFECT OF PROPOSED CHANGES:

**PRESENT SITUATION:**

In 1982, the Legislature required the Department of Health and Rehabilitative Services along with other state and local agencies to develop a state plan on the prevention of child abuse and neglect (chapter 82-62, Laws of Florida). The act required the plan to be submitted to the Legislature and Governor by January 1, 1983 and to be updated periodically. It was reported in 1982 that, "The impact that abuse and neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse and neglect shall be a priority of this state." Twenty-four years later, the Legislature is still seeking to address and identify ways to reduce incidence of abuse and neglect of children in Florida.

In 2002, Florida was among only three other states and the District of Columbia in having the highest national child maltreatment rate.[1] During the same year, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed. Approximately one-half of the investigations were substantiated or indicated the presence of abuse or neglect. In FY 2003-04, there were reportedly 32.3 victims of maltreatment per 1,000 children in Florida. At that time, the re-abuse and re-neglect rate in Florida was 9.67%, which is higher than state and federal standards of 7% and 6.1%, respectively. These rates are based on maltreatment recurrence within six (6) months.

There were over 130,000 confirmed victims of child abuse and neglect in Florida in 2003. The actual incidence of child abuse and neglect is estimated to be 3 times that number.[2] Child deaths are the most tragic consequences of abuse and neglect. Child neglect deaths are more frequent than abuse deaths as 52% of child deaths that occur are through neglect.

A Florida child is abused or neglected every 4 minutes.[3] Ten thousand Florida children are abused or neglected per month. During 2004, according to the Florida Child Abuse Death Review Team, at least 111 Florida children died from abuse or neglect at the hands of their parents or caretakers; that is a rate of about two children dying each week. They were smothered, slammed down on asphalt, beaten, shot or they drowned while unsupervised.

The cost of child maltreatment to society is tremendous. National estimates of direct and indirect impacts range from $67 to $94 billion each year and many argue that these estimates are likely to understate the true costs due to the difficulty in capturing the full range of indirect costs such as cash

---

[1] U.S. Department of Health and Human Services, 2004. Florida rate was 31.5 per 1,000 children.
[2] "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.
[3] "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.

and food assistance.[4] Prevention can save lives and precious resources. Despite the potential long-term benefit of preventing child abuse and neglect, only a small percentage of all resources specifically earmarked for child maltreatment in the State of Florida are actually devoted to prevention.[5]

In a study of primary prevention efforts in Florida, researchers found federal and state sources funded $1,360 per year, per child under age five, on primary prevention programs and concluded that Florida's investments in primary prevention programs for young children were at levels insufficient to significantly reduce expenditures on deep-end services. The costs of foregoing prevention include lost productivity, wasted human potential, and reduced quality of life associated with escalation of preventable conditions to chronic, debilitating, and destructive states.[6]The challenges of funding restraints and the requirement to address the immediate, critical needs of maltreated children limit the Legislature's ability to focus on primary prevention oriented efforts. Prevention works best when there are strong connections between state and local government, prevention providers, and community organizations. In order to ensure the well being and success of Florida's children and families, prevention must become a priority for the state's citizens and leaders.

Many programs for children and families continue to focus on "fixing" problems rather than preventing them. Quick fixes are preferred, often for budgetary reasons, and prevention efforts typically require more extensive and comprehensive investments.[7]

There are some notable exceptions to this trend. The Florida Legislature created Healthy Families Florida (HFF) in July 1998 in response to the increasing number of child deaths due to child maltreatment and the increasing rates of maltreatment. Healthy Families Florida, Inc., is a nationally credentialed community-based, voluntary home visiting program designed to enable families to raise healthy, safe and nurtured children. Healthy Families Florida participants had 20 percent less child maltreatment than all families in their target service areas, showing that children in families who completed or had long-term, intensive HFF intervention experienced significantly less child maltreatment than did comparison groups with little or no service.[8]

In 1998, the Legislature appropriated $10 million to HFF to establish the state and local operating infrastructures and to fund 24 community-based programs to begin operations in targeted areas within 26 counties. In FY 1999-2000, the Legislature more than doubled the base funding to $22.2 million, which funded 36 projects serving 43 counties. In FY 2003-2004, the base funding was increased to $28.3 million to expand two projects and create one new project serving four new counties for a total of 38 projects serving parts or all of 53 of Florida's 67 counties. By FY 2003-2004, communities were contributing $9.7 million per year in local in-kind or cash contributions. The 2005-06 General Appropriations Act includes $28.4 million for the HFF program and provides a total funding of $44 million for "Child Abuse Prevention and Intervention" within the Department of Children and Families -- that represents less than 2% of the department's budget.

Healthy Families Florida is one example of a program which has had a positive impact on preventing child maltreatment for the population it serves. There are hundreds of prevention programs statewide funded with local, state, and/or federal dollars; however, due to a lack of data, it is unknown how effective many of these programs are in reducing incidence of abuse, neglect, abandonment, and death of children.

---

[4] Fromm, S. (2001). *Total estimated cost of child abuse and neglect in the United States.* Chicago, IL: Prevent Child Abuse America.
[5] Thomas, D., Leicht, C., Hughes, C., Madigan, A., & Dowell, K. (2003). *Emerging practices in the prevention of child abuse and neglect.* www.dhhs.gov. Washington, D.C.: U.S. Department of Health and Human Services.
[6] Feaver, E. & Strickland, L. (2003). The Lawton Chiles Foundation Whole Child Project prevention policy paper. Tallahassee, FL: The Chiles Center.
[7] Lind, C. (2004). *Developing and supporting a continuum of child welfare services,* Welfare Information Network, 8 (6). www.financeprojectinfo.org/win/. Washington, D.C.: The Finance Project.
[8] Five-year Evaluation Results, Healthy Families Florida, March 2005. Sponsored by the Ounce of Prevention Fund of Florida and the State of Florida, Department of Children & Families.

On July 15, 2005, a letter was sent to all members of the Florida House of Representatives requesting the name(s) and contact information of prevention programs within their districts that have been successful in reducing the incidence of abuse or have resulted in children and families not entering the child welfare system. Over 30 legislators responded identifying approximately 75 programs within their districts that were successful. Still, it is reported by the Department of Children and Families that these programs have produced small improvements in the level of child abuse, neglect, and abandonment, mainly because "there remain far too many children and families at risk of and suffering from maltreatment."

Recognizing the importance of reducing maltreatment and the conditions that are likely to promote abuse, the Legislature mandated that the Department of Children and Families work with an interdisciplinary task force to develop a statewide plan for child abuse prevention.[9] This statewide plan was released in June 2005. Membership of the Florida Interprogram Task Force included the following representatives:

- Agency for Persons with Disabilities;
- Agency for Workforce Innovation;
- Community Alliances;
- Community-based Care;
- Department of Children and Families;
- Department of Education;
- Department of Health;
- Department of Juvenile Justice;
- Florida Department of Law Enforcement;
- Miccosukee Tribe;
- Prevent Child Abuse Florida; and
- Parents.

In response to these findings, the Future of Florida's Families Committee was granted authority to conduct an Interim Project to shed light on many of the problems being faced throughout the state in dealing with child maltreatment. While there are varying schools of thought on the origins of child maltreatment, most theories of child maltreatment recognize that the root causes can be organized into a framework of four principal systems: (1) the child; (2) the family; (3) the community; and (4) the society. The interim project examined many of the current prevention strategies that are operating throughout the state with the intent of outlining the prevention methods being used, the populations being served, and the outcomes and effectiveness of the current system.

Having the benefit of the background research, findings and recommendations of the Task Force, and in conjunction with an approved Interim Project, Speaker Allan Bense granted permission for the members of the Future of Florida's Families Committee to conduct a series of public hearings throughout the state with the primary objectives of:

- Bringing awareness to the impact on Florida's families of abuse, neglect, molestation, abandonment, and death of children;
- Enabling the members of the committee to dialogue with at-risk families and providers of prevention and child protective services; and
- Aiding in the development of legislation to reduce the incidence of abuse, neglect, and abandonment of children in Florida.

With the assistance of the various state agencies involved in abuse prevention efforts and state and local providers of services, the public hearings were planned and held in September and October 2005 in Jacksonville, Tampa, Miami, and West Palm Beach.

---

[9] "Florida's State Plan for the Prevention of Child Abuse, Abandonment, and Neglect: July 2005 through June 2010." Developed by The Florida Interprogram Task Force, June 2005.

At the conclusion of the hearings, stakeholders were asked to provide to the members of the Future of Florida's Families Committee a broad list of Policy Options that could be discussed and evaluated for possible inclusion in a proposed committee bill. Over 26 Policy Options were received. The options were reviewed and ranked by the members of the committee and on January 11, 2006, there was a consensus to incorporate the following recommendations into a Proposed Committee Bill:

- Establish an Office of Child Abuse Prevention within the Executive Office of the Governor.
- Require that some portion of child abuse prevention funding be dedicated to the controlled longitudinal evaluation of program effectiveness.
- Continue to support, strengthen, and expand the Healthy Families Florida Program statewide so that it is available to all families that are at risk of child abuse and neglect and other poor childhood outcomes.
- Identify the Florida Statewide Advocacy Council (FSAC) and the Florida Local Advocacy Councils (FLACs) as "Medicaid Oversight" regarding the release of recipient information in abuse reports.
- Require each school district to establish written procedures for the immediate reporting of suspected or known child abuse by an individual who is employed by or otherwise contracted by a public school.
- Address the needs of young adults in foster care and young adults who age out of foster care to help prevent the occurrence of abuse and neglect of their children.

**The Office of Child Abuse Prevention**

The fundamental foundation for the delivery of services by the Department of Children and Families (DCF) and the other involved state agencies regarding Abuse Prevention is fragmented. The result of this fragmentation and inefficiency has created a tangled maze of services that is not only un-navigable by the providers but also the recipients of services. This maze has created inefficiency and waste as well as confusion among communities as to what services are being offered and how to access those services.

One of the findings of the committee was that long-term Abuse Prevention can save the state millions if not billions of dollars, but it is not feasible to continue to pour more money into a system in which the foundation for success is flawed. Addressing "prevention" is an issue that must have long-range goals.

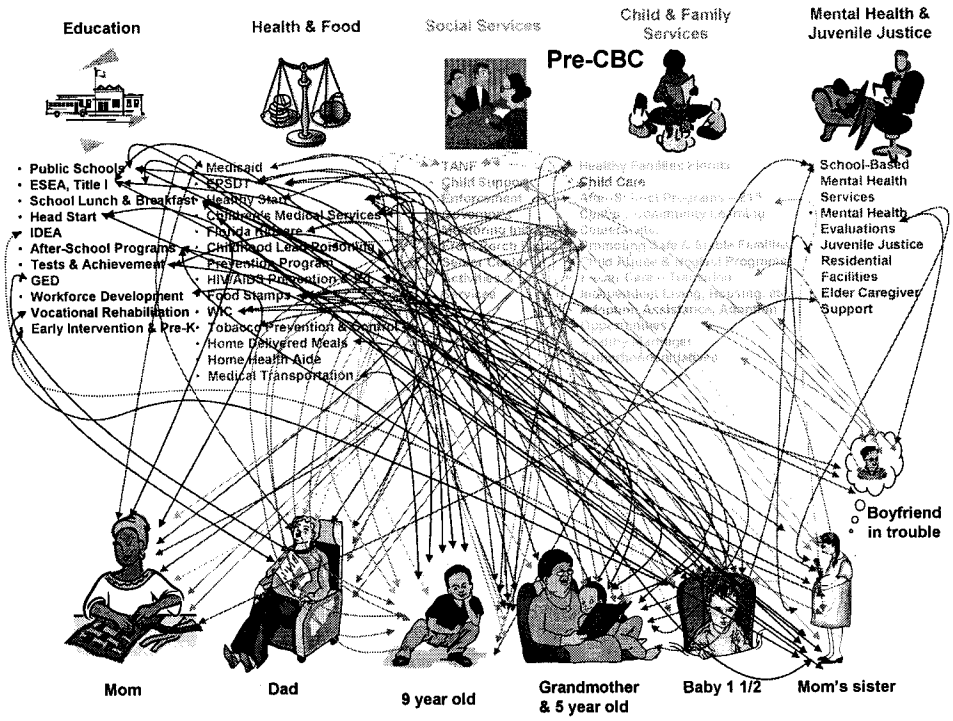
Child abuse, neglect, and abandonment cost the state millions of dollars each year, yet a centralized office to examine, oversee, and implement prevention services of abuse has yet to be put into place. Without an organized effort, it is worried that prevention will continue to fall through the cracks.

The current system is a tangled maze of services (See diagram below):

- Programs that focus on primary and secondary prevention of child abuse are offered by the Department of Children and Families (DCF) and at least six other state agencies, including the: Department of Education, Department of Health, Department of Juvenile Justice, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, and the Florida Department of Law Enforcement, and thousands of community organizations. This results in a tangled maze of services that providers and people trying to access the services must attempt to navigate.
- This uncoordinated system makes it unclear what services are being offered, how to access these services, duplication of services, and results in inefficiency and waste. An Office of Child Abuse Prevention would coordinate statewide prevention efforts and keep children out of the child welfare system.

- Coordination of services would improve delivery of child abuse prevention programs, decrease barriers between community providers and the families needing services, and connect private providers into a system that would result in a more efficient use of taxpayer monies.

**Tangled Maze of Services**




*Future of Florida's Families Committee, Prevention of Child Abuse and Neglect Public Hearing, Miami, Florida Commission on Marriage and Family Support Initiatives, 3 October 2005*

Florida's population is growing significantly, which will increase the number of children and families in the state. The American Community Survey (ACS) has been developed by the Census Bureau to provide population estimates annually. The percent change in growth of children in the United States is a 1.51% increase over the last five years. However, the percent change in growth in children in Florida over the last five years is a 9.87% increase. Therefore, over the last five years the percent increase of children in Florida is over six times the increase in the U.S. Furthermore, the growth in children in Florida accounts for almost one third of the increased number of children in the U.S. Therefore, simply by an increase in numbers, the volume of potential cases of children and families that may enter the child welfare system should increase. This means that there will be more children and families potentially at risk or involved in child abuse and neglect than ever before in the State of Florida.

**The Rationale for Prevention**

- No disease or social problem has ever been brought under control by providing after-the-fact treatment to the victims of the disease or problem.
- Preventive, proactive, before-the-fact interventions have, historically, been the only effective way to control or eliminate important diseases. Public health prevention programs to control smallpox and polio are prime examples.
- Prevention interventions are not only very effective they are remarkably cost effective – often costing only a small fraction of the expense of the treatment. Hence the phrase, "an once of prevention is worth a pound of cure."

Maximizing prevention opportunities may mean making difficult decisions about how organizations utilize their funding. Prevention services reduce costs in the long run and can provide families with services in a less stigmatized manner. The integration of the full range of family support services requires a re-conceptualization of the frame of mind as to which "prevention is applied." According to the Centers for Disease Control, the cost of not preventing child abuse and neglect in 2001 equaled $94 billion a year nationally. These direct costs include the utilization of the health care system, the mental health system, the child welfare system, the law enforcement, and the judicial system -- while the indirect costs include the provision of special education, mental health and health care, juvenile delinquency, lost productivity to society, and adult criminality. Therefore, prevention should be looked at as a sound investment.

**What other states are doing!**

Oklahoma:

In 1984, the Office of Child Abuse Prevention was created in the Oklahoma Child Abuse Prevention Act. Prior to 1984, the focus of child abuse and neglect was an "after the fact" intervention, preventing the recurrence of child abuse and neglect. The act declared that the prevention of child abuse and neglect was a priority in Oklahoma. In accordance with the Act, the Office of Child Abuse Prevention was created and placed within the Oklahoma State Department of Health to emphasize the focus of prevention. The mission of the office is to promote the health and safety of children and families by reducing family violence and child abuse, including neglect, through public health education, multidisciplinary training of professionals, and funding of community-based family resource and support programs.

California:

In 1977, the Office of Child Abuse Prevention was created in California. It has been reported by the office that having a coordinated streamlined approach to prevention has worked. The office in California has a very similar mission to the Oklahoma Office.

**Early History of Independent Living**

When they become 18, many young adults, a great number of whom have grown up in foster care, lose the support they received while in care. Without the support of a family, they are on their own to obtain further education and preparation for employment, as well as health care, mental health care, and housing. These young adults encounter tremendous obstacles that may put their emotional, economic, and personal security at risk.

Aftercare is defined as the period of time following discharge from foster care. It is that time when young individuals who have been preparing for self-sufficiency while in care must begin to operationalize the skills they have been working to master. Aftercare services are typically defined as a system of services and resources designed for those youth who are 16-21 years of age, in post placement who are living in an independent living arrangement. Historically, aftercare services have been difficult and challenging to provide, many times because they have been "relegated to an out-of-sight, out-of-mind status." It is now known that aftercare services should begin while the child is still in care.[10]

Federal funds for independent living initiatives were first made available in the United States under the Consolidated Omnibus Budget Reconciliation Act of 1985. This act authorized funds to states to establish independent living initiatives to assist eligible youth 16 years of age and

[10] See The John H. Chafee Foster Care Independence Program, Aftercare Services, The University of Oklahoma, National Resource Center for Youth Development, 2003.

older to make the transition from foster care to independent living.[11] A total of 45 million dollars was authorized for the program across the nation, with state shares based on the number of children/youth in foster care. The U.S. Department of Health and Human Services, Administration for Children, Youth and Families, issued the first set of program instructions to the states in early 1987. Each state was able to determine the nature and scope of their Independent Living Program, but guidelines from the federal government provided recommended specific program components. The recommended list included services such as GED or vocational training, daily living skills, job readiness and employability skills, and assistance obtaining higher education.

### John H. Chafee Foster Care Independence Program

In a further effort to increase services and strengthen state programs for teens in foster care, Congress passed the Foster Care Independence Act of 1999, which was signed into law as the John H. Chafee Foster Care Independence Program. The Chafee Program made substantial changes in federal efforts targeted toward youth and young adults up to age 21 in the foster care component of the child welfare system. The law significantly improved the ability of states to achieve the national goals of safety, permanence and well-being for youth and young adults in the child welfare system.[12] The new federal law doubled the appropriations nationally and increased Florida's allocation substantially.

The Chafee Program legislation included provisions that:

- Required states to make services available to youth up to 21 years of age;
- Required states to serve youth younger than 16 years of age for the first time;
- Permitted states to use up to 30% of their allocation for room and board costs and services for youth ages 18-21 who leave foster care on or after 18 years of age;
- Allowed states to provide Medicaid insurance to youth 18-21 years of age who leave foster care;
- Increased the limit on youth savings accounts from $1,000 to $10,000 so that youth in foster care can save and still be eligible for Title IV-E foster care benefits;
- Required states to develop outcome measures to assess state performance;
- Required states to use Title IV-E funds to train adoptive/foster care parents, workers in group homes, and case managers to help them address issues confronting adolescents preparing for independent living; and
- Authorized additional funds for adoption incentive payments to states that increased the number of children adopted from foster care.

### Education and Training Vouchers

In 2002, Title IV-E of the Social Security Act, related to the Foster Care Independent Living program, was again amended to provide for vouchers for education and training, including postsecondary training, and training for youths aging out of foster care.[13] Conditions required for a state educational and training voucher program under this legislation include, but are not limited to, the following:

- Vouchers may be available to youths otherwise eligible for services under the state independent living program;
- Youths adopted from foster care after attaining age 16 may be considered to be youths otherwise eligible for services under the state program;

---

[11] The Independent Living Program was initially authorized by Public Law 99-272, through the addition of section 477 to Title IV-E of the Social Security Act.
[12] See P.L. 106-169.
[13] See P.L. 107-133.

- States may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a post secondary education or training program and are making satisfactory progress toward completion of that program;
- Vouchers provided for an individual may be available for the cost of attendance at an institution of higher education[14] and shall not exceed the lesser of $5,000 per year or the total cost of attendance; and
- The amount of a voucher under this section shall be disregarded for the purposes of determining the recipient's eligibility for, or the amount of, any other federal or federally supported assistance, with some exceptions.

**Florida Law**

With the passage of the federal law and increased available funding, the 2002 Legislature established a new framework for Florida's independent living transition services to be provided to these older youth. Specifically provided for was a continuum of independent living transition services to enable older children who are 13 to 18 years of age and in foster care and young adults who are 18 to 23 years of age who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established include the following:

- Pre-independent living services which include life skills training, educational field trips and conferences for children in foster care who are 13 to 15 years of age;
- Life skills services which include independent living skills training, educational support, employment training and counseling for children in foster care who are 15 to 18 years of age; and
- Subsidized independent living services which are services provided in living arrangement that allow a child who is 16 to 18 years of age to live independently of adult supervision under certain specified circumstances.

A category of services for young adults formerly in foster care was also created to provide services, based on the availability of funds, which included aftercare support services, the Road to Independence Scholarship Program, and transitional support services. In addition, young adults who are awarded a Road to Independence Scholarship are exempt from the payment of tuition and fees for state universities, community colleges, and certain postsecondary career and technical programs and retain their Medicaid eligibility.[15]

The Department of Children and Family Services was directed to form an Independent Living Services Integration Workgroup for the purpose of assessing the barriers to the coordination of services and supporting the youths' transition to independent living with a report to be submitted to the Legislature by December 31, 2002.[16] In 2003, the Independent Living Services Integration Workgroup was replaced with the Independent Living Services Workgroup.[17] The representation on the workgroup remained the same with representatives from state agencies involved in service delivery to older foster children as well as representatives from the State Youth Advisory Board and foster parents. The charge to the workgroup was expanded to include assessing the implementation of the independent living transition services system, keeping the Department of Children and Families informed of the problems surfacing and successes experienced with the independent living transition services, and advising the department on strategies that would improve the ability of the system to meet its goals.

---

[14] See definition in section 102 of the Higher Education Act of 1965.
[15] See s. 409.1451, Florida Statutes.
[16] See Chapter 2002-19, Laws of Florida.
[17] See Chapter 2003-146, Laws of Florida.

The experiences of the independent living transition services program since its inception have pointed to the importance of effective and early service delivery to meet the goals of building the youths' ability to transition to independence and self-sufficiency. However, questions continue to be raised as to whether there is adequate attention being paid to preparing youth for adulthood and independent living, whether funding is sufficient to support the increasing requests for services, whether services should be more supportive of young adults not pursuing postsecondary education, and whether there is sufficient guidance and oversight being provided to the community-based care agencies that will ensure the effectiveness of the services and ensure that the goals of the program are met. As a result of continuing concerns, the Auditor General was directed to conduct an operational audit of the program and the Office of Program Policy Analysis and Government Accountability (OPPAGA) was directed to develop minimum standards for the program.[18] In addition, OPPAGA conducted another evaluation of the program in 2005.[19]

To date, it remains unclear whether any of the deficiencies identified in the reports have been corrected or whether the recommended minimum standards have been implemented.

**Mandatory Reporting Public School Personnel**

Florida law requires any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or **other person responsible for the child's welfare** to report such knowledge or suspicion to the Department of Children and Family Services' hotline as prescribed by law.[20]

Florida law also provides that reporters in the following occupation categories are required to provide their names to the hotline staff when reporting:

- Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.
- Health or mental health professional other than one listed above.
- Practitioner who relies solely on spiritual means for healing.
- School teacher or other school official or personnel.
- Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker.
- Law enforcement officer.
- Judge.

**Other Person Responsible for a Child's Welfare**

The term "other person responsible for a child's welfare" is defined as:

> "...the child's legal guardian, legal custodian, or foster parent; **an employee of a private school**, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law

[18] See Chapter 2004-362, Laws of Florida. Auditor General Report No. 2005-119 and OPPAGA Report No. 04-78, *Independent Living Minimum Standards Recommended for Children in Foster Care*, November 2004.
[19] OPPAGA Report No. 05-61, *Improvements in Independent Living Services Will Better Assist State's Struggling Youth,* December 2005.
[20] See s. 39.201, F.S.

enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity."[21]

### Failure to Report

Florida law provides that a person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.[22]

### Public School Personnel

Public school personnel are not currently included in the definition of "other person responsible for a child's welfare." They were removed from the definition in 1993.[23] By not being included in this definition or otherwise being referenced in s. 39.201, F.S., persons knowing or having reasonable cause to suspect that a child is being abused by a public school employee are not required to make a report to the central abuse hotline. Likewise, persons who have such knowledge or suspicion that abuse by a public school employee has occurred and does not report it, cannot be prosecuted for failure to report under s. 39.205, F.S. (State of Florida vs. Meyers, 9th Judicial Circuit, 2004, Case No. 03-MM-001038).

## Boarding Schools

A "boarding school" is defined as:

> "...a school which is registered with the Department of Education as a school. Its program must follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to foreign students. The parents of these children retain custody and planning and financial responsibility."[24]

A small military school in Fort Lauderdale, Florida closed during the summer of 2005 as a result of allegations that students were being abused. During the course of the investigation by Broward County law enforcement, it was determined that boarding schools are exempt from regulation by both the Department of Children and Family Services and the Department of Education:

- A person, family foster home, or residential child-caring agency shall not receive a child for continuing full-time care or custody unless such person, home, or agency has first procured a license from the department to provide such care.

This license requirement does not apply to boarding schools, recreation and summer camps, nursing homes, hospitals, or to persons who care for children of friends or neighbors in their homes for periods not to exceed 90 days or to persons who have received a child for adoption from a licensed child-placing agency.[25]

- It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be

---

[21] See s. 39.01(47), F.S.
[22] See s. 39.205, F.S.
[23] See Chapter 93-25, Laws of Florida.
[24] See s. 409.175, F.S.
[25] See s. 409.175, F.S.

obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.[26]

**Statewide and Local Advocacy Councils**

The Statewide Advocacy Council (SAC) and Local Advocacy Councils (LAC) (collectively, the "SAC") was created to serve as a volunteer network of councils that undertake to discover, monitor, and investigate the presence of conditions that constitute a threat to the rights, health, safety or welfare of persons who receive services from state agencies. The SAC is entitled to serve as an independent, third-party mechanism for protecting the constitutional and human rights of "clients" by entering into Interagency Agreements with agencies providing "client services" as defined under s. 402.164(2)(c), F.S. "Clients" are strictly limited under the statute to certain individuals receiving particular services at four state agencies: the Agency for Persons with Disabilities (APD), the Department of Children and Families (DCF), the Agency for Health Care Administration (AHCA), and the Department of Elder Affairs (DOEA).

Interagency Agreements[27] are written to address the coordination of efforts and identify the roles and responsibilities of the SAC and each agency in fulfillment of their responsibilities, including access to records. For these agencies, the SAC may:

(1) Monitor by site visit and through access to records the delivery and use of services, programs or facilities, in order to prevent the abuse or deprivation of rights;
(2) Receive, investigate, and resolve reports of abuse or deprivation referred to the council; and
(3) Review existing, new or revised programs of agencies and make recommendations based on how "clients" are affected.

**Access to Records**

With a few exceptions described below, s. 402.165(2), F.S., provides that the SAC may have access to all client records, files, and reports from any person, service, or facility that is operated, funded, or contracted by the agencies above. The SAC is further permitted to records that are considered "material to investigation" from agencies that do not provide "client services" to "clients;"[28] however, the SAC is not expressly entitled to form interagency agreements or receive records from these agencies.

The SAC's access to "client" records at "client services" agencies has been limited by the Legislature where:[29]

(1) Investigation or monitoring would impede or obstruct matters under investigation by law enforcement agencies or judicial authorities;
(2) There are federal laws and regulations that supersede state laws; and
(3) The records belong to a private licensed practitioner who is providing services outside the state agency or facility, and whose client is competent and refuses disclosure.

---

[26] See s. 1002.42(2)(h), F.S.
[27] Interagency Agreements are described in s. 402.165(7)(j), F.S.
[28] Agencies that do not provide "client services" to "clients" include the Department of Education (DOE), the Department of Health (DOH), the Department of Corrections (DOC), and the Department of Juvenile Justice (DJJ).
[29] Sections 402.165(8)(a)2. and 402.166(8)(a), F.S.

### Federal Regulations that Limit SAC Access to Records

Section 402.165(8)(a)2., F.S., limits the SAC's access to information where such information is protected by superseding federal law. The Social Security Act (SSA) and the Health Insurance Portability and Accountability Act (HIPAA) are examples of two such federal laws. As federal Medicaid law, the SSA makes confidential certain information such as names and addresses, medical services provided, social and economic conditions, agency evaluation of personal information, medical data, income eligibility information, etc., as provided in 42 C.F.R. 431.305. To obtain Medicaid recipient information:

(1) Disclosure must be directly related to the administration of the state Medicaid plan.
- Example: The SAC may request to see medical records of a foster child who receives Medicaid to determine if the child is actually receiving the medical services covered under the plan.

(2) The recipient must give permission for the disclosure.

(3) The disclosing entity must restrict access to persons who are subject to comparable standards of confidentiality.
- This presents some difficulty in some cases where the SAC requests access to mass data records for volunteer members to handle on unsecured home computers.

HIPAA further prohibits disclosure of a patient's personal health information ("PHI") without the consent of the patient. There are several exceptions to these requirements. One exception is disclosure of PHI to a "health oversight agency" (HOA) performing "health oversight activities." A HOA is defined as:[30]

> "...an agency or authority of the United States, a State, a territory, a political subdivision of a State or such public agency, including employees or agents of such public agency or its contracts or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant."

### Designation of "Health Oversight Agency"

Currently, the SAC is not a health oversight agency. According to an analysis by the Governor's General Counsel's Office, the SAC is not authorized by law to oversee Florida's health care system, or to oversee government programs in which health information is necessary to determine eligibility. The common usage of the term "oversee" and the types of activities it encompasses in HIPAA imply some authority to manage or supervise. The SAC's role is to "monitor" the delivery and use of services, programs or facilities; to make recommendations; and to receive and resolve reports of abuse. In other words, the SAC is designated to advocate, not oversee.

## EFFECT OF PROPOSED CHANGES:

### The Office of Child Abuse Prevention

As a result of the interim project, the public hearings, and research conducted, the Future of Florida's Families Committee recommended that an Office of Child Abuse Prevention (office) be created for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The Office of Child Abuse prevention is created

[30] 45 C.F.R. s. 164.051.

within the Executive Office of the Governor and the Governor shall appoint the director who shall be subject to confirmation by the Senate.

Before the state can fiscally increase new prevention efforts, a centralized statewide integrated service network needs to be created – similar to the Office of Drug Control housed in the Executive Office of the Governor. The purpose of this office would be to continue to address the prevention needs of this state but also to centralize a community network throughout the state to increase communication, to more efficiently deliver services, while providing easy access to the citizens of the State of Florida to those services. By bringing together all the programs in the state it should create an environment conducive to a more "Prevention Focused" state effort to better serve the children and families of Florida.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

**The Director:** The director's responsibilities include the following:

- Formulate and recommend rules pertaining to the implementation of child abuse prevention efforts.
- Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to child abuse prevention.
- Work to secure funding.
- Develop a strategic program and funding initiative.
- Advise the Governor on child abuse trends in the state.
- Develop child abuse prevention public awareness campaigns.

**The Office:** The office is authorized and directed to:

- Oversee the preparation and the implementation of a state plan and revise and update the plan as necessary.
- Conduct or provide for continuing professional education and training in the prevention of child abuse and neglect.
- Work to secure funding.
- Make recommendations pertaining to agreements or contracts towards child abuse and neglect for the establishment of programs and services, training programs, and multidisciplinary and discipline-specific training programs for professionals.
- Monitor, evaluate, and review the development and quality of local and statewide services and programs for the prevention of child abuse and neglect and distribute and publish an annual report of its findings before January 1 of each year.

The office shall develop a state plan for the prevention of child abuse, abandonment, and neglect of children. Appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan.

The office shall establish a Child Abuse Prevention Advisory Council, which will be composed of representatives from each appropriate state agency and appropriate local agencies and organizations. The Advisory Council will replace the Interprogram Task Force that is in current law and shall serve as the research arm of the office. Some of its responsibilities include:

- Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse.

- Assisting in providing a basic format to be utilized by districts in the preparation of local plans of action.
- Assisting in examining the local plans.
- Assisting in the preparing the state plan.
- At least biennially, the office shall review the state plan and make necessary revisions based on changing needs and program evaluation results.

**Conduct a feasibility study on the establishment of a Children's Cabinet:** The office shall conduct a feasibility study on the establishment of a Children's Cabinet. Several states, including Alaska, Arizona, Louisiana, Maine, New Jersey, New Mexico, Pennsylvania, Rhode Island, Tennessee, and West Virginia have Children's Cabinets. There are number of ways they can be set up, implemented and funded. According to the National Governors Association, important factors in determining the success of a Children's Cabinet are proper planning, support, and developing a proper mission to meet the needs of the state.

**District Plans:** Each district of the Department of Children and Families (DCF) shall develop a plan for its specific geographical region. The plan shall be submitted to the advisory council. In order to accomplish the development of the plan, the office shall establish a task force on the prevention of child abuse, abandonment, and neglect. The office shall appoint the members of the task force.

**Evaluation:** By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

**Independent Living**

The bill amends s. 409.1451, Florida Statutes, related to independent living transition services, to include a number of new provisions. Specifically, the bill:

- Makes young adults who were placed with a court-approved nonrelative or guardian after reaching age 16 and have spent a minimum of 6 months in foster care to be provided with independent living transition services;
- Requires the development of a plan by each community-based care service area to be approved and delivered to the Independent Living Services Advisory Council;
- Removes those individuals who are full time high school students or full time adult education students from eligibility for the Road to Independence Program (RTI);
- Provides for the direct deposit of RTI funds to the recipient with exceptions;
- Requires the development of a joint transition agreement and provides for access to a grievance process;
- Provides for community-based care lead agencies to purchase housing and other services in order to take advantage of economies of scale;
- Requires an annual report to the substantive committees of the Florida Senate and Florida House of Representatives related to performance measures and outcome measures; and
- Requires the Department of Children and Family Services to contract with a nonprofit entity operating within the state to coordinate and manage all independent living services.

The bill also amends s. 409.903, Florida Statutes, to require that any young adult who is eligible to receive independent living services under s. 409.1451(5), F.S., is eligible to receive Medicaid until the age of 21. The bill requires that for each child entered into the HomeSafenet system, AHCA is to transfer Medicaid data to include health care records and prescription drug information, on a daily basis, to the department and to privatized child welfare providers in a

format that will allow input into an electronic record by the department and privatized child welfare providers.

Additionally, the bill amends s.1009.25, Florida Statutes, to require that certain educational fee exemptions be granted to those individuals who, after spending at least 6 months in the custody of DCF after reaching age 16, was placed in a guardianship by the court.

**Public School Personnel**

The bill adds public school employees back into the definition of "other person responsible for a child's welfare." This makes public school personnel subject to the reporting requirements of Chapter 39, F.S.

**Boarding Schools**

The bill requires boarding schools to be accredited by either the Florida Council of Independent Schools or the Southern Association of Colleges and Schools. It also provides that a boarding school currently in existence or opening and seeking accreditation has three years to comply with the provisions of the bill. The bill provides sanctions for those schools not in compliance by failing to provide evidence of accreditation, documentation of an ongoing accreditation process or registration with the Department of Education.

**Statewide and Local Advocacy Councils**

The designation of the Statewide and Local Advocacy Councils ("SAC") as "health oversight agencies" would be a function of the Legislature, and would endow the SAC with oversight powers not currently enjoyed. If the SAC were identified as a health oversight agency, patient consent may not be required before patient health information is released to the SAC.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 39.001, F.S., revising legislative purposes and intent of the chapter to include child abuse prevention; creates the Office of Child Abuse Prevention.

**Section 2:** Amends s. 39.0014, F.S., requiring all public agencies to cooperate and provide information to the Office of Child Abuse Prevention to meet its responsibilities.

**Section 3:** Amends s. 39.0015, F.S., revising the definition of "child abuse."

**Section 4:** Amends s. 39.01, F.S., adding definition of "office" and revising definitions of "other person responsible for a child's welfare."

**Section 5:** Amends s. 39.302, F.S., providing a cross-reference.

**Section 6:** Amends s. 402.164, F.S., designating statewide and local advocacy councils as designated health oversight agencies.

**Section 7:** Amends s. 409.1451, F.S., revising duties of the department regarding independent living transition services.

**Section 8:** Amends s. 409.175, F.S., revising the definition of "boarding school."

**Section 9:** Amends s. 409.903, F.S., providing eligibility criteria for young adults formerly in foster care to receive certain services.

**Section 10:** Amends s. 39.013, F.S., conforming references.

**Section 11:** Amends s. 39.701, F.S., conforming references.

**Section 12:** Amends s. 1009.25, F.S., providing for fee exemptions.

**Section 13:** Provides the sum of $200,000 in recurring revenue appropriated from the General Revenue Fund to the Department of Children and Family Services for the Independent Living Advisory Council.

**Section 14:** Provides the sum of $11.4 million in recurring funds appropriated from the General Revenue Fund to the Ounce of Prevention Fund of Florida.

**Section 15:** Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section.

D. FISCAL COMMENTS:

The Department of Children and Family Services (DCF) provided the following Fiscal Comments on the Office of Child Abuse Prevention:

- The creation of this new office per the proposed bill language will require new appropriations. Three staff positions are needed to carry out the oversight, monitoring and analysis of the Prevention activities: Administration Director, Senior Management Analyst and a Administrative Assistant II. There will be a recurring budget need of **$228,180** for Salaries, Expense and Human Resources; and a non-recurring budget need of **$15,377** for Expense and Operating Capital Outlay. The salary numbers reflect a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

DCF provided the following Fiscal Comments on the Independent Living sections of the bill:

- The Independent Living Advisory Council recently decided to have no more than 34 members. Of that number, two are youth formerly in foster care and one or two have traditionally been foster parents. The department has covered travel costs for the foster parents and former foster

youth and is currently trying to have the youth paid an honorarium because they normally are giving up time from work or school or both to attend. Other members of the council have traditionally submitted travel paperwork to their own agencies for reimbursement. The department has not been approached by the council to ask for travel expenses reimbursement for these members.

Expansion of the foster care population eligible to receive independent living transition services:

- An ad hoc report provided by the department's data staff indicates that 188 youth turned age 18 during FY04/05 who were in an unlicensed setting for at least 6 months and placed at age 16 or after. Approximately 50% of the total number of young adults exiting foster care received services from the RTI scholarship services, transitional support services, and/or aftercare support services.

- If the equivalent percentage of young adults who age out of unlicensed placements, as mentioned above, became eligible for the Road to Independence Program award, the additional participants would equal 188 x .50 = 94. The maximum amount of funding that each young adult could receive per year through the Road to Independence Program is $5,000. The 94 additional participants would be potentially eligible for services until their 23rd birthday.

- Estimated costs per year to fund additional participants: 94 times $5,000 equals $470,000 x 5 years of participants (18, 19, 20, 21 and 22 year olds) not yet 23 years of age equals a total of **$2,350,000** per year.

Increase in Casework Staff for Expanded Population:

- A reasonable number of casework staff would be required in order to determine eligibility for services, provide outreach, and provide case management. A 1 to 20 caseload ratio would be reasonable to provide these services for young adults. As assumed previously, an additional 94 young adults may be served with young adult services each year until age 23. Ninety-four young adults times 5 years equals 470 recipients divided by 20 = 23.5 additional staff needed. Supervisory staff will also be needed at a 6 to 1 ratio for a total of 4 additional supervisors.

- 23.5 caseworkers at $44,531 per year = $1,046,477 for Salaries. There will be a recurring budget need of **$1,206,184** for Salaries, Expense and Human Resources; and a non-recurring budget need of **$123,211** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

- 2 supervisors at $49,579 per year = $198,316 for salaries. There will be a recurring budget need of **$225,500** for salaries, expense and human resources; and a non-recurring budget need of **$20,972** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

The Agency for Health Care Administration provided the following information related to the provisions that expands Medicaid coverage for young adults aging out of foster care:

- The fiscal impact of this proposed bill includes additional funding for coverage for an estimated 2,047 Medicaid recipients age 18 through 20. The amount of funding for these additional persons would be **$10,082,859** per fiscal year.

The bill also contains a $200,000 appropriation for the Independent Living Advisory Council to provide administrative support.

**Public School Personnel**

The Department of Children and Family Services estimates that it will cost the agency $215,404 in recurring costs for Salaries, Expense and Human Resources, and $20,972 in non-recurring costs for Expense and Operating Capital Outlay to implement this provision of the bill.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is provided to the Executive Office of the Governor for creation of the Office of Child Abuse Prevention.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the Department of Children and Family Services:

- The Florida Legislature, in 1982, in recognition of the importance of reducing maltreatment by addressing conditions that are likely to promote the prevention of abuse, mandated that the Department of Children and Families develop a statewide plan for child abuse prevention. Following the guidelines set forth in Florida statute, the Department of Children and Families established the Florida Interprogram Task Force to work at the state level and with local communities to develop a statewide plan for the prevention of child abuse, neglect and abandonment. Florida's Plan for Prevention of Child Abuse, Abandonment and Neglect: July 2005 - June 2010 was produced. Local communities also developed a local prevention of child abuse, neglect and abandonment plan.

- The Interprogram Task Force has provided technical assistance to the local planning coordinators for the development, implementation, and review of the local plans to assure implementation efforts are successful. The Interprogram Task Force provides technical assistance to the local planning coordinators, both as requested and on a monthly conference call with all state local planners.

- The Executive Committee of the Interprogram Task Force has met on a bi-monthly basis since September 2005 to assure compliance with state and local prevention plan implementation. In addition, the Task Force has seven subcommittees that meet at least monthly. The purpose of the subcommittees is to review quarterly progress reports received from the local planning teams, to provide recommendations on best practices to local planners and to assist with the development of the annual progress report to the Legislature due June 30th of each year.

- In collaboration with the Prevent Child Abuse America Florida Chapter, the Interprogram Task Force will be involved in the Prevention Month kick-off scheduled for April 4, 2006 at the State Capitol in Tallahassee. Prevent Child Abuse America Florida Chapter under contract with the Department of Children and Families provides the annual prevention campaign throughout the state. The theme this year is "Winds of Change."

- If this bill passes and creates an Office of Child Abuse Prevention within the Executive Office of the Governor, it would be replicating the responsibilities of the Department of Children and Families. A number of the proposed requirements are already being completed by the Department of Children and Families and community-based contract providers. Examples of these requirements that are already under way include:

    1. Annual reporting to the Governor, Legislatures, etc.
    2. Establishing a Child Abuse Prevention Advisory Board (this is the Interprogram Task Force).
    3. Providing statewide coordination or single state agency responsibility for oversight of these programs (the Department of Children and Families is the current agency responsible for coordination of programs).
    4. Developing a strategic program and funding initiative that links the separate jurisdictional activities of state agencies (this is planned for the future with the Executive Task Force).
    5. Developing a Child Abuse prevention public awareness campaign; this is done on a yearly basis in April (Child Abuse Prevention Month) under contract with the Ounce of Prevention.

The Office of Child Abuse Prevention may replicate efforts of the Department of Children and Families; however, the mission and purpose of the Department of Children and Family Services as stated in s. 20.19(1), F.S., is to "...work in partnership with local communities to ensure safety, well-being, and self-sufficiency of the people served, to develop a strategic plan for fulfilling its mission...to ensure that the department is accountable to the people of Florida, and to the extent allowed by law and within specific appropriations, the department shall deliver services by contract through private providers."

By having an Office of Child Abuse Prevention with its sole mission and focus towards prevention and intervention will create government efficiency:

- The current system targets all levels of child abuse: primary, secondary, and tertiary. Prevention programs are located at all levels of government and in many different state agencies. In our current system the primary focus is on "tertiary prevention," clinical services, for cases in which the child or family has experienced abuse. This is an appropriate focus because the children and their families need immediate help to deal with abuse, as is the role of the Department of Children and Family Services.

- However, the "after the fact" approach will not prevent child abuse in Florida – it may only prevent a recurrence. Primary prevention programs must not be a secondary thought if Florida wants to decrease the incidence of child abuse. In the long run, prevention reduces harm to children and increases state efficiency.

Statewide and Local Advocacy Councils (SAC)

The purpose for this section of the bill is to resolve difficulties faced by the SAC in obtaining "client" records in those cases where information may be entitled to them. It is increasingly clear that even when the SAC meets all state and federal requirements for obtaining "client" records from appropriate agencies, the SAC has been refused such records. Further, the SAC reports receiving records that have necessary information redacted from them, such as the address or name of the client for whom a report of abuse or neglect was filed. Some reasons for this include incomplete or out-of-date Interagency Agreements, or a lack of clarity on the part of both the SAC and agencies regarding what information is entitled to be shared.

Still, the SAC would need to meet other federal and state requirements before obtaining records, such as: SSA's requirement that the disclosure of information on Medicaid patients must be relevant to the administration of the state plan, and must have the consent of the

recipient; and HIPAA's requirement that access to records is only permitted for persons with comparable standards of confidentiality.

The designation of the SAC as a "health oversight agency" may not get to the root of problems that the SAC currently faces. When the SAC operates through prescribed channels, it is already given statutory permission to receive all information and records necessary to carry out its functions.

It is not necessary for SAC to be designated as a health oversight agency to obtain patient health information (PHI) from AHCA, DCF, APD, or DOEA; and an agency may turn over PHI without a "client's" authorization where the disclosure is required by other state law.[31]

Thus, the problems the SAC currently faces in obtaining any or complete "client" records may not be solved by redefining it as an HOA. These problems of access may be better addressed by restating the role of the SAC, clarifying the responsibilities of "client" agencies in cooperating with SAC requests, and standardizing the process through with Interagency Agreements and requests for records are generated.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[31] This is the conclusion of Richard M. Campanelli, Director of the Office of Civil Rights for the Department of Health and Human Services, quoted in the Governor's General Counsel's Memorandum regarding the SAC.

1 A bill to be entitled
2 An act relating to the welfare of children; amending s.
3 39.001, F.S.; providing additional purposes of ch. 39,
4 F.S.; revising legislative intent; creating the Office of
5 Child Abuse Prevention within the Executive Office of the
6 Governor; directing the Governor to appoint a director of
7 the office; providing duties and responsibilities of the
8 director; providing procedures for evaluation of child
9 abuse prevention programs; requiring a report to the
10 Governor, Legislature, secretaries of certain state
11 agencies, and certain committees of the Legislature;
12 providing for information to be included in the report;
13 providing for the development and implementation of a
14 state plan for the coordination of child abuse prevention
15 programs and services; establishing a Child Abuse
16 Prevention Advisory Council; providing for membership,
17 duties, and responsibilities; requiring requests for
18 funding to be based on the state plan; providing for
19 review and revision of the state plan; granting rulemaking
20 authority to the Executive Office of the Governor;
21 requiring the Legislature to evaluate the office by a
22 specified date; amending s. 39.0014, F.S.; providing
23 responsibilities of the office under ch. 39, F.S.;
24 amending s. 39.01, F.S.; providing and revising
25 definitions; amending ss. 39.0015 and 39.302, F.S.;
26 conforming cross-references; amending s. 402.164, F.S.;
27 designating statewide and local advocacy councils as
28 health oversight agencies for certain purposes; amending
29 s. 409.1451, F.S.; revising duties of the Department of

30 Children and Family Services regarding independent living
31 transition services; including additional parties in the
32 review of a child's academic performance; requiring the
33 department or a community-based care lead agency under
34 contract with the department to develop a plan for
35 delivery of such services; requiring additional aftercare
36 support services; requiring certain funds awarded as part
37 of the Road-to-Independence Program to be used in
38 accordance with specified federal regulations; providing
39 additional qualifications to receive an award; providing
40 procedures for the payment of awards; requiring the
41 department to conduct certain evaluations; requiring
42 collaboration between certain parties in the development
43 of an agreement regarding the provision of transitional
44 services; requiring a community-based care lead agency to
45 develop a plan for purchase and delivery of such services
46 and requiring department approval prior to implementation;
47 requiring a report to the Legislature; providing that
48 funding for aftercare and transitional support services be
49 determined based on availability of funds; permitting the
50 Independent Living Advisory Council to have access to
51 certain data held by the department and certain agencies;
52 authorizing the department to enter into certain
53 contracts; providing limitations on funds awarded;
54 amending s. 409.175, F.S.; revising the definition of the
55 term "boarding school" to require such schools to meet
56 certain standards within a specified timeframe; amending
57 s. 409.903, F.S.; providing eligibility criteria for young
58 adults formerly in foster care to receive certain

59 services; requiring the department to provide notice to
60 the Agency for Health Care Administration; requiring the
61 agency to make certain health care records available in
62 electronic format; amending ss. 39.013, 39.701, and
63 1009.25, F.S.; conforming references to changes made by
64 the act; providing appropriations; providing an effective
65 date.
66
67 WHEREAS, in 2002, Florida was among only three other states
68 and the District of Columbia to have the highest national child
69 maltreatment rate, and
70 WHEREAS, during 2002, 142,547 investigations of abuse or
71 neglect, involving 254,856 children, were completed,
72 approximately one-half of which were substantiated or indicated
73 the presence of abuse or neglect, and
74 WHEREAS, a Florida child is abused or neglected every 4
75 minutes and 10,000 Florida children are abused or neglected per
76 month, and
77 WHEREAS, in 2004, according to the Florida Child Abuse Death
78 Review Team, at least 111 Florida children died from abuse or
79 neglect at the hands of their parents or caretakers, an average
80 rate of two dead children each week, and
81 WHEREAS, according to the Centers for Disease Control and
82 Prevention, the cost of failing to prevent child abuse and
83 neglect in 2001 equaled $94 billion a year nationally, and
84 WHEREAS, the direct costs of failing to prevent child abuse
85 and neglect include the costs associated with the utilization of
86 law enforcement services, the health care system, the mental
87 health system, the child welfare system, and the judicial system,

88 while the indirect costs include the provision of special
89 education and mental health and health care, a rise in the
90 incidence of juvenile delinquency, lost productivity to society,
91 and adult criminality, and
92 WHEREAS, although prevention of child maltreatment will save
93 lives and conserve resources, and despite the potential long-term
94 benefit of preventing child abuse and neglect, only a small
95 percentage of all resources specifically earmarked for child
96 maltreatment in the state are actually devoted to the prevention
97 of child maltreatment, and
98 WHEREAS, the 2005-2006 General Appropriations Act provided a
99 total funding of $44 million for child abuse prevention and
100 intervention to the Department of Children and Family Services,
101 which amount represents less than 2 percent of the department's
102 budget, and
103 WHEREAS, Healthy Families Florida is a community-based,
104 voluntary home visiting program that received approximately $28.4
105 million for the 2005-2006 fiscal year from the Department of
106 Children and Family Services and contracts with 37 community-
107 based organizations to provide services in targeted high-risk
108 areas in 23 counties and to provide services in 30 total
109 counties, and
110 WHEREAS, Healthy Families Florida participants had 20
111 percent less child maltreatment than all families in the Healthy
112 Families Florida target service areas in spite of the fact that,
113 in general, participants are at a significantly higher risk for
114 child maltreatment than the overall population, and
115 WHEREAS, the Department of Children and Family Services, the
116 Department of Education, the Department of Health, the Department

117 of Juvenile Justice, the Department of Law Enforcement, the
118 Agency for Persons with Disabilities, and the Agency for
119 Workforce Innovation all have programs that focus on primary and
120 secondary prevention of child abuse and neglect, but there is no
121 statewide coordination or single state agency responsible for
122 oversight of these programs, and
123 WHEREAS, a statewide coordinated effort would result in
124 better communication among agencies and provide for easier access
125 and more efficiency in the delivery of abuse and neglect services
126 in the communities, NOW, THEREFORE,
127
128 Be It Enacted by the Legislature of the State of Florida:
129
130 Section 1. Subsections (1) and (6) of section 39.001,
131 Florida Statutes, are amended, subsections (7) and (8) are
132 renumbered as subsections (8) and (9) and amended, present
133 subsection (9) is renumbered as subsection (10), and new
134 subsections (7), (11), and (12) are added to that section, to
135 read:
136 39.001 Purposes and intent; personnel standards and
137 screening.--
138 (1) PURPOSES OF CHAPTER.--The purposes of this chapter are:
139 (a) To provide for the care, safety, and protection of
140 children in an environment that fosters healthy social,
141 emotional, intellectual, and physical development; to ensure
142 secure and safe custody; ~~and~~ to promote the health and well-being
143 of all children under the state's care<u>; and to prevent the</u>
144 <u>occurrence of child abuse, neglect, and abandonment</u>.

145 (b) To recognize that most families desire to be competent
146 caregivers and providers for their children and that children
147 achieve their greatest potential when families are able to
148 support and nurture the growth and development of their children.
149 Therefore, the Legislature finds that policies and procedures
150 that provide for prevention and intervention through the
151 department's child protection system should be based on the
152 following principles:
153 1. The health and safety of the children served shall be of
154 paramount concern.
155 2. The prevention and intervention should engage families
156 in constructive, supportive, and nonadversarial relationships.
157 3. The prevention and intervention should intrude as little
158 as possible into the life of the family, be focused on clearly
159 defined objectives, and take the most parsimonious path to remedy
160 a family's problems.
161 4. The prevention and intervention should be based upon
162 outcome evaluation results that demonstrate success in protecting
163 children and supporting families.
164 (c) To provide a child protection system that reflects a
165 partnership between the department, other agencies, and local
166 communities.
167 (d) To provide a child protection system that is sensitive
168 to the social and cultural diversity of the state.
169 (e) To provide procedures which allow the department to
170 respond to reports of child abuse, abandonment, or neglect in the
171 most efficient and effective manner that ensures the health and
172 safety of children and the integrity of families.

173 (f) To preserve and strengthen the child's family ties
174 whenever possible, removing the child from parental custody only
175 when his or her welfare cannot be adequately safeguarded without
176 such removal.
177 (g) To ensure that the parent or legal custodian from whose
178 custody the child has been taken assists the department to the
179 fullest extent possible in locating relatives suitable to serve
180 as caregivers for the child.
181 (h) To ensure that permanent placement with the biological
182 or adoptive family is achieved as soon as possible for every
183 child in foster care and that no child remains in foster care
184 longer than 1 year.
185 (i) To secure for the child, when removal of the child from
186 his or her own family is necessary, custody, care, and discipline
187 as nearly as possible equivalent to that which should have been
188 given by the parents; and to ensure, in all cases in which a
189 child must be removed from parental custody, that the child is
190 placed in an approved relative home, licensed foster home,
191 adoptive home, or independent living program that provides the
192 most stable and potentially permanent living arrangement for the
193 child, as determined by the court. All placements shall be in a
194 safe environment where drugs and alcohol are not abused.
195 (j) To ensure that, when reunification or adoption is not
196 possible, the child will be prepared for alternative permanency
197 goals or placements, to include, but not be limited to, long-term
198 foster care, independent living, custody to a relative on a
199 permanent basis with or without legal guardianship, or custody to
200 a foster parent or legal custodian on a permanent basis with or
201 without legal guardianship.

202 (k) To make every possible effort, when two or more
203 children who are in the care or under the supervision of the
204 department are siblings, to place the siblings in the same home;
205 and in the event of permanent placement of the siblings, to place
206 them in the same adoptive home or, if the siblings are separated,
207 to keep them in contact with each other.
208 (l) To provide judicial and other procedures to assure due
209 process through which children, parents, and guardians and other
210 interested parties are assured fair hearings by a respectful and
211 respected court or other tribunal and the recognition,
212 protection, and enforcement of their constitutional and other
213 legal rights, while ensuring that public safety interests and the
214 authority and dignity of the courts are adequately protected.
215 (m) To ensure that children under the jurisdiction of the
216 courts are provided equal treatment with respect to goals,
217 objectives, services, and case plans, without regard to the
218 location of their placement. It is the further intent of the
219 Legislature that, when children are removed from their homes,
220 disruption to their education be minimized to the extent
221 possible.
222 <u>(n) To create and maintain an integrated prevention</u>
223 <u>framework that enables local communities, state agencies, and</u>
224 <u>organizations to collaborate to implement efficient and properly</u>
225 <u>applied evidence-based child abuse prevention practices.</u>
226 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
227 ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known
228 child abuse, abandonment, and neglect has increased rapidly over
229 the past 5 years. The impact that abuse, abandonment, or neglect
230 has on the victimized child, siblings, family structure, and

231 inevitably on all citizens of the state has caused the
232 Legislature to determine that the prevention of child abuse,
233 abandonment, and neglect shall be a priority of this state. To
234 further this end, it is the intent of the Legislature that an
235 Office of Child Abuse Prevention be established ~~a comprehensive~~
236 ~~approach for the prevention of abuse, abandonment, and neglect of~~
237 ~~children be developed for the state and that this planned,~~
238 ~~comprehensive approach be used as a basis for funding~~.
239 (7) OFFICE OF CHILD ABUSE PREVENTION.--
240 (a) For purposes of establishing a comprehensive statewide
241 approach for the prevention of child abuse, abandonment, and
242 neglect, the Office of Child Abuse Prevention is created within
243 the Executive Office of the Governor. The Governor shall appoint
244 a director for the office who shall be subject to confirmation by
245 the Senate.
246 (b) The director shall:
247 1. Formulate and recommend rules pertaining to
248 implementation of child abuse prevention efforts.
249 2. Act as the Governor's liaison with state agencies, other
250 state governments, and the public and private sectors on matters
251 that relate to child abuse prevention.
252 3. Work to secure funding and other support for the state's
253 child abuse prevention efforts, including, but not limited to,
254 establishing cooperative relationships among state and private
255 agencies.
256 4. Develop a strategic program and funding initiative that
257 links the separate jurisdictional activities of state agencies
258 with respect to child abuse prevention. The office may designate
259 lead and contributing agencies to develop such initiatives.

260 5. Advise the Governor and the Legislature on child abuse
261 trends in this state, the status of current child abuse
262 prevention programs and services, the funding of those programs
263 and services, and the status of the office with regard to the
264 development and implementation of the state child abuse
265 prevention strategy.
266 6. Develop child abuse prevention public awareness
267 campaigns to be implemented throughout the state.
268 (c) The office is authorized and directed to:
269 1. Oversee the preparation and implementation of the state
270 plan established under subsection (8) and revise and update the
271 state plan as necessary.
272 2. Conduct, otherwise provide for, or make available
273 continuing professional education and training in the prevention
274 of child abuse and neglect.
275 3. Work to secure funding in the form of appropriations,
276 gifts, and grants from the state, the Federal Government, and
277 other public and private sources in order to ensure that
278 sufficient funds are available for prevention efforts.
279 4. Make recommendations pertaining to agreements or
280 contracts for the establishment and development of:
281 a. Programs and services for the prevention of child abuse
282 and neglect.
283 b. Training programs for the prevention of child abuse and
284 neglect.
285 c. Multidisciplinary and discipline-specific training
286 programs for professionals with responsibilities affecting
287 children, young adults, and families.

288 5. Monitor, evaluate, and review the development and
289 quality of local and statewide services and programs for the
290 prevention of child abuse and neglect and shall publish and
291 distribute an annual report of its findings on or before January
292 1 of each year to the Governor, the Speaker of the House of
293 Representatives, the President of the Senate, the secretary of
294 each state agency affected by the report, and the appropriate
295 substantive committees of the Legislature. The report shall
296 include:
297 a. A summary of the activities of the office.
298 b. A summary detailing the demographic and geographic
299 characteristics of families served by the prevention programs.
300 c. Recommendations, by state agency, for the further
301 development and improvement of services and programs for the
302 prevention of child abuse and neglect.
303 d. The budget requests and prevention program needs by
304 state agency.
305 (8) ~~(7)~~ PLAN FOR COMPREHENSIVE APPROACH.--
306 (a) The office ~~department~~ shall develop a state plan for
307 the prevention of abuse, abandonment, and neglect of children and
308 shall submit the state plan to the Speaker of the House of
309 Representatives, the President of the Senate, and the Governor no
310 later than December 31, 2007 ~~January 1, 1983~~. The Department of
311 Children and Family Services, the Department of Corrections, the
312 Department of Education, the Department of Health, the Department
313 of Juvenile Justice, the Department of Law Enforcement, the
314 Agency for Persons with Disabilities, and the Agency for
315 Workforce Innovation ~~The Department of Education and the Division~~
316 ~~of Children's Medical Services Prevention and Intervention of the~~

317 ~~Department of Health~~ shall participate and fully cooperate in the
318 development of the state plan at both the state and local levels.
319 Furthermore, appropriate local agencies and organizations shall
320 be provided an opportunity to participate in the development of
321 the state plan at the local level. Appropriate local groups and
322 organizations shall include, but not be limited to, community
323 mental health centers; guardian ad litem programs for children
324 under the circuit court; the school boards of the local school
325 districts; the Florida local advocacy councils; private or public
326 organizations or programs with recognized expertise in working
327 with children who are sexually abused, physically abused,
328 emotionally abused, abandoned, or neglected and with expertise in
329 working with the families of such children; private or public
330 programs or organizations with expertise in maternal and infant
331 health care; multidisciplinary child protection teams; child day
332 care centers; law enforcement agencies, and the circuit courts,
333 when guardian ad litem programs are not available in the local
334 area. The state plan to be provided to the Legislature and the
335 Governor shall include, as a minimum, the information required of
336 the various groups in paragraph (b).
337 (b) The development of the ~~comprehensive~~ state plan shall
338 be accomplished in the following manner:
339 1. The office shall establish a Child Abuse Prevention
340 Advisory Council composed of representatives from each state
341 agency and appropriate local agencies and organizations specified
342 in paragraph (a). The advisory council shall serve as the
343 research arm of the office and ~~The department shall establish an~~
344 ~~interprogram task force comprised of the Program Director for~~
345 ~~Family Safety, or a designee, a representative from the Child~~

346 ~~Care Services Program Office, a representative from the Family~~
347 ~~Safety Program Office, a representative from the Mental Health~~
348 ~~Program Office, a representative from the Substance Abuse Program~~
349 ~~Office, a representative from the Developmental Disabilities~~
350 ~~Program Office, and a representative from the Division of~~
351 ~~Children's Medical Services Prevention and Intervention of the~~
352 ~~Department of Health. Representatives of the Department of Law~~
353 ~~Enforcement and of the Department of Education shall serve as ex~~
354 ~~officio members of the interprogram task force. The interprogram~~
355 ~~task force~~ shall be responsible for:
356 a. Assisting in developing a plan of action for better
357 coordination and integration of the goals, activities, and
358 funding pertaining to the prevention of child abuse, abandonment,
359 and neglect conducted by the office ~~department~~ in order to
360 maximize staff and resources at the state level. The plan of
361 action shall be included in the state plan.
362 b. Assisting in providing a basic format to be utilized by
363 the districts in the preparation of local plans of action in
364 order to provide for uniformity in the district plans and to
365 provide for greater ease in compiling information for the state
366 plan.
367 c. Providing the districts with technical assistance in the
368 development of local plans of action, if requested.
369 d. Assisting in examining the local plans to determine if
370 all the requirements of the local plans have been met and, if
371 they have not, informing the districts of the deficiencies and
372 requesting the additional information needed.
373 e. Assisting in preparing the state plan for submission to
374 the Legislature and the Governor. Such preparation shall include

375 the incorporation into the state plan ~~collapsing~~ of information
376 obtained from the local plans, the cooperative plans with the
377 members of the advisory council ~~Department of Education~~, and the
378 plan of action for coordination and integration of state
379 departmental activities ~~into one comprehensive plan~~. The state
380 ~~comprehensive~~ plan shall include a section reflecting general
381 conditions and needs, an analysis of variations based on
382 population or geographic areas, identified problems, and
383 recommendations for change. In essence, the state plan shall
384 provide an analysis and summary of each element of the local
385 plans to provide a statewide perspective. The state plan shall
386 also include each separate local plan of action.
387 f. Conducting a feasibility study on the establishment of a
388 Children's Cabinet.
389 g.~~f.~~ Working with the specified state agency in fulfilling
390 the requirements of subparagraphs 2., 3., 4., and 5.
391 2. The office, the department, the Department of Education,
392 and the Department of Health shall work together in developing
393 ways to inform and instruct parents of school children and
394 appropriate district school personnel in all school districts in
395 the detection of child abuse, abandonment, and neglect and in the
396 proper action that should be taken in a suspected case of child
397 abuse, abandonment, or neglect, and in caring for a child's needs
398 after a report is made. The plan for accomplishing this end shall
399 be included in the state plan.
400 3. The office, the department, the Department of Law
401 Enforcement, and the Department of Health shall work together in
402 developing ways to inform and instruct appropriate local law
403 enforcement personnel in the detection of child abuse,

404 abandonment, and neglect and in the proper action that should be
405 taken in a suspected case of child abuse, abandonment, or
406 neglect.
407 4. Within existing appropriations, the office ~~department~~
408 shall work with other appropriate public and private agencies to
409 emphasize efforts to educate the general public about the problem
410 of and ways to detect child abuse, abandonment, and neglect and
411 in the proper action that should be taken in a suspected case of
412 child abuse, abandonment, or neglect. The plan for accomplishing
413 this end shall be included in the state plan.
414 5. The office, the department, the Department of Education,
415 and the Department of Health shall work together on the
416 enhancement or adaptation of curriculum materials to assist
417 instructional personnel in providing instruction through a
418 multidisciplinary approach on the identification, intervention,
419 and prevention of child abuse, abandonment, and neglect. The
420 curriculum materials shall be geared toward a sequential program
421 of instruction at the four progressional levels, K-3, 4-6, 7-9,
422 and 10-12. Strategies for encouraging all school districts to
423 utilize the curriculum are to be included in the ~~comprehensive~~
424 state plan for the prevention of child abuse, abandonment, and
425 neglect.
426 6. Each district of the department shall develop a plan for
427 its specific geographical area. The plan developed at the
428 district level shall be submitted to the advisory council
429 ~~interprogram task force~~ for utilization in preparing the state
430 plan. The district local plan of action shall be prepared with
431 the involvement and assistance of the local agencies and
432 organizations listed in this paragraph ~~(a)~~, as well as

433 representatives from those departmental district offices
434 participating in the treatment and prevention of child abuse,
435 abandonment, and neglect. In order to accomplish this, the office
436 ~~district administrator in each district~~ shall establish a task
437 force on the prevention of child abuse, abandonment, and neglect.
438 The office ~~district administrator~~ shall appoint the members of
439 the task force in accordance with the membership requirements of
440 this section. The office ~~In addition, the district administrator~~
441 ~~shall ensure that each subdistrict is represented on the task~~
442 ~~force; and, if the district does not have subdistricts, the~~
443 ~~district administrator~~ shall ensure that both urban and rural
444 areas are represented on the task force. The task force shall
445 develop a written statement clearly identifying its operating
446 procedures, purpose, overall responsibilities, and method of
447 meeting responsibilities. The district plan of action to be
448 prepared by the task force shall include, but shall not be
449 limited to:
450 a. Documentation of the magnitude of the problems of child
451 abuse, including sexual abuse, physical abuse, and emotional
452 abuse, and child abandonment and neglect in its geographical
453 area.
454 b. A description of programs currently serving abused,
455 abandoned, and neglected children and their families and a
456 description of programs for the prevention of child abuse,
457 abandonment, and neglect, including information on the impact,
458 cost-effectiveness, and sources of funding of such programs.
459 c. A continuum of programs and services necessary for a
460 comprehensive approach to the prevention of all types of child

461 abuse, abandonment, and neglect as well as a brief description of
462 such programs and services.
463 d. A description, documentation, and priority ranking of
464 local needs related to child abuse, abandonment, and neglect
465 prevention based upon the continuum of programs and services.
466 e. A plan for steps to be taken in meeting identified
467 needs, including the coordination and integration of services to
468 avoid unnecessary duplication and cost, and for alternative
469 funding strategies for meeting needs through the reallocation of
470 existing resources, utilization of volunteers, contracting with
471 local universities for services, and local government or private
472 agency funding.
473 f. A description of barriers to the accomplishment of a
474 comprehensive approach to the prevention of child abuse,
475 abandonment, and neglect.
476 g. Recommendations for changes that can be accomplished
477 only at the state program level or by legislative action.
478 (9) ~~(8)~~ FUNDING AND SUBSEQUENT PLANS.--
479 (a) All budget requests submitted by the office, the
480 department, the Department of Health, the Department of
481 Education, the Department of Juvenile Justice, the Department of
482 Corrections, the Agency for Persons with Disabilities, the Agency
483 for Workforce Innovation, or any other agency to the Legislature
484 for funding of efforts for the prevention of child abuse,
485 abandonment, and neglect shall be based on the state plan
486 developed pursuant to this section.
487 (b) The office ~~department at the state and district levels~~
488 and the other agencies and organizations listed in paragraph
489 (8)(a) ~~(7)(a)~~ shall readdress the state plan and make necessary

490 revisions every 5 years, at a minimum. Such revisions shall be
491 submitted to the Speaker of the House of Representatives and the
492 President of the Senate no later than June 30 of each year
493 divisible by 5. At least biennially, the office shall review the
494 state plan and make any necessary revisions based on changing
495 needs and program evaluation results. An annual progress report
496 shall be submitted to update the state plan in the years between
497 the 5-year intervals. In order to avoid duplication of effort,
498 these required plans may be made a part of or merged with other
499 plans required by either the state or Federal Government, so long
500 as the portions of the other state or Federal Government plan
501 that constitute the state plan for the prevention of child abuse,
502 abandonment, and neglect are clearly identified as such and are
503 provided to the Speaker of the House of Representatives and the
504 President of the Senate as required above.
505 (11) RULEMAKING.--The Executive Office of the Governor
506 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
507 implement the provisions of this section.
508 (12) EVALUATION.--By February 1, 2009, the Legislature
509 shall evaluate the office and determine whether it should
510 continue to be housed in the Executive Office of the Governor or
511 transferred to a state agency.
512 Section 2. Section 39.0014, Florida Statutes, is amended to
513 read:
514 39.0014 Responsibilities of public agencies.--All state,
515 county, and local agencies shall cooperate, assist, and provide
516 information to the Office of Child Abuse Prevention ~~department~~ as
517 will enable it to fulfill its responsibilities under this
518 chapter.

519 Section 3. Paragraph (b) of subsection (3) of section
520 39.0015, Florida Statutes, is amended to read:
521 39.0015 Child abuse prevention training in the district
522 school system.--
523 (3) DEFINITIONS.--As used in this section:
524 (b) "Child abuse" means those acts as defined in ss.
525 39.01(1), (2), (30), (43), (45), (53)~~(52)~~, and (64)~~(63)~~, 827.04,
526 and 984.03(1), (2), and (37).
527 Section 4. Subsections (47) through (72) of section 39.01,
528 Florida Statutes, are renumbered as subsections (48) through
529 (73), present subsections (10) and (47) are amended, and a new
530 subsection (47) is added to that section, to read:
531 39.01 Definitions.--When used in this chapter, unless the
532 context otherwise requires:
533 (10) "Caregiver" means the parent, legal custodian, adult
534 household member, or other person responsible for a child's
535 welfare as defined in subsection (48) ~~(47)~~.
536 (47) "Office" means the Office of Child Abuse Prevention
537 within the Executive Office of the Governor.
538 (48)~~(47)~~ "Other person responsible for a child's welfare"
539 includes the child's legal guardian, legal custodian, or foster
540 parent; an employee of any ~~a private~~ school, public or private
541 child day care center, residential home, institution, facility,
542 or agency; or any other person legally responsible for the
543 child's welfare in a residential setting; and also includes an
544 adult sitter or relative entrusted with a child's care. For the
545 purpose of departmental investigative jurisdiction, this
546 definition does not include law enforcement officers, or

547 employees of municipal or county detention facilities or the
548 Department of Corrections, while acting in an official capacity.
549 Section 5. Subsection (1) of section 39.302, Florida
550 Statutes, is amended to read:
551 39.302 Protective investigations of institutional child
552 abuse, abandonment, or neglect.--
553 (1) The department shall conduct a child protective
554 investigation of each report of institutional child abuse,
555 abandonment, or neglect. Upon receipt of a report that alleges
556 that an employee or agent of the department, or any other entity
557 or person covered by s. 39.01(31) or (48)~~(47)~~, acting in an
558 official capacity, has committed an act of child abuse,
559 abandonment, or neglect, the department shall initiate a child
560 protective investigation within the timeframe established by the
561 central abuse hotline pursuant to s. 39.201(5) and orally notify
562 the appropriate state attorney, law enforcement agency, and
563 licensing agency. These agencies shall immediately conduct a
564 joint investigation, unless independent investigations are more
565 feasible. When conducting investigations onsite or having face-
566 to-face interviews with the child, such investigation visits
567 shall be unannounced unless it is determined by the department or
568 its agent that such unannounced visits would threaten the safety
569 of the child. When a facility is exempt from licensing, the
570 department shall inform the owner or operator of the facility of
571 the report. Each agency conducting a joint investigation shall be
572 entitled to full access to the information gathered by the
573 department in the course of the investigation. A protective
574 investigation must include an onsite visit of the child's place
575 of residence. In all cases, the department shall make a full

576 written report to the state attorney within 3 working days after
577 making the oral report. A criminal investigation shall be
578 coordinated, whenever possible, with the child protective
579 investigation of the department. Any interested person who has
580 information regarding the offenses described in this subsection
581 may forward a statement to the state attorney as to whether
582 prosecution is warranted and appropriate. Within 15 days after
583 the completion of the investigation, the state attorney shall
584 report the findings to the department and shall include in such
585 report a determination of whether or not prosecution is justified
586 and appropriate in view of the circumstances of the specific
587 case.
588 Section 6. Subsection (3) is added section 402.164, Florida
589 Statutes, to read:
590 402.164 Legislative intent; definitions.--
591 (3) The statewide and local advocacy councils shall be
592 designated as health oversight agencies as defined in 45 C.F.R.
593 s. 164.501 for purposes of meeting the duties and
594 responsibilities of the councils as described in ss. 402.165(7)
595 and 402.166(7).
596 Section 7. Section 409.1451, Florida Statutes, is amended
597 to read:
598 409.1451 Independent living transition services.--
599 (1) SYSTEM OF SERVICES.--
600 (a) The Department of Children and Family Services, its
601 agents, or community-based providers operating pursuant to s.
602 409.1671 shall administer a system of independent living
603 transition services to enable older children in foster care and

604 young adults who exit foster care at age 18 to make the
605 transition to self-sufficiency as adults.
606 (b) The goals of independent living transition services are
607 to assist older children in foster care and young adults who were
608 formerly in foster care to obtain life skills and education for
609 independent living and employment, to have a quality of life
610 appropriate for their age, and to assume personal responsibility
611 for becoming self-sufficient adults.
612 (c) State funds for foster care or federal funds shall be
613 used to establish a continuum of services for eligible children
614 in foster care and eligible young adults who were formerly in
615 foster care which accomplish the goals for the system of
616 independent living transition services by providing services for
617 foster children, pursuant to subsection (4), and services for
618 young adults who were formerly in foster care, pursuant to
619 subsection (5).
620 (d) For children in foster care, independent living
621 transition services are not an alternative to adoption.
622 Independent living transition services may occur concurrently
623 with continued efforts to locate and achieve placement in
624 adoptive families for older children in foster care.
625 (2) ELIGIBILITY.--
626 (a) The department shall serve children who have reached 13
627 years of age but are not yet 18 years of age and who are in
628 foster care by providing services pursuant to subsection (4).
629 Children to be served must meet the eligibility requirements set
630 forth for specific services as provided in this section.
631 (b) The department shall serve young adults who have
632 reached 18 years of age <u>or were placed with a court-approved</u>

633 nonrelative or guardian after reaching 16 years of age and have
634 spent a minimum of 6 months in foster care ~~but are not yet 23~~
635 ~~years of age and who were in foster care when they turned 18~~
636 ~~years of age~~ by providing services pursuant to subsection (5).
637 Young adults are not entitled to be served but must meet the
638 eligibility requirements set forth for specific services in this
639 section.
640 (3) PREPARATION FOR INDEPENDENT LIVING.--
641 (a) It is the intent of the Legislature for the Department
642 of Children and Family Services to assist older children in
643 foster care and young adults who exit foster care at age 18 in
644 making the transition to independent living and self-sufficiency
645 as adults. The department shall provide such children and young
646 adults with opportunities to participate in life skills
647 activities in their foster families and communities which are
648 reasonable and appropriate for their respective ages or for any
649 special needs they may have~~,~~ and shall provide them with services
650 to build life ~~the~~ skills and increase their ability to live
651 independently and become self-sufficient. To support the
652 provision of opportunities for participation in age-appropriate
653 life skills activities, the department shall:
654 1. Develop a list of age-appropriate activities and
655 responsibilities to be offered to all children involved in
656 independent living transition services and their foster parents.
657 2. Provide training for staff and foster parents to address
658 the issues of older children in foster care in transitioning to
659 adulthood, which shall include information on high school
660 completion, grant applications, vocational school opportunities,

661 supporting education and employment opportunities, and ~~providing~~
662 opportunities to participate in appropriate daily activities.
663 3. Develop procedures to maximize the authority of foster
664 parents or caregivers to approve participation in age-appropriate
665 activities of children in their care. The age-appropriate
666 activities and the authority of the foster parent or caregiver
667 shall be developed into a written plan that the foster parent or
668 caregiver, the child, and the case manager all develop together,
669 sign, and follow. This plan must include specific goals and
670 objectives and be reviewed and updated no less than quarterly.
671 4. Provide opportunities for older children in foster care
672 to interact with mentors.
673 5. Develop and implement procedures similar to those in
674 sub-subparagraph (5)(b)5.1. for older children to directly access
675 and manage the personal allowance they receive from the
676 department in order to learn responsibility and participate in
677 age-appropriate life skills activities to the extent feasible.
678 6. Make a good faith effort to fully explain, prior to
679 execution of any signature, if required, any document, report,
680 form, or other record, whether written or electronic, presented
681 to a child or young adult pursuant to this chapter and allow for
682 the recipient to ask any appropriate questions necessary to fully
683 understand the document. It shall be the responsibility of the
684 person presenting the document to the child or young adult to
685 comply with this subparagraph.
686 (b) It is further the intent of the Legislature that each
687 child in foster care, his or her foster parents, if applicable,
688 and the department or community-based provider set early
689 achievement and career goals for the child's postsecondary

690 educational and work experience. The department and community-
691 based providers shall implement the model set forth in this
692 paragraph to help ensure that children in foster care are ready
693 for postsecondary education and the workplace.
694 1. For children in foster care who have reached 13 years of
695 age and are entering the 9th grade, their foster parents~~,~~ and the
696 department or community-based provider shall be active
697 participants in planning and executing an educational and career
698 path ~~choosing a post-high school goal~~ based upon both the
699 abilities and interests of each child. The path shall be reviewed
700 no less than annually; shall include a review of the child's
701 academic improvement plan pursuant to s. 1008.25, individual
702 educational plan, if applicable, and report card or student
703 portfolio; and ~~goal~~ shall accommodate the needs of children
704 served in exceptional education programs to the extent
705 appropriate for each individual. Such children may continue to
706 follow the courses outlined in the district school board student
707 progression plan. Children in foster care, with the assistance of
708 their foster parents, and the department or community-based
709 provider shall choose one of the following postsecondary goals:
710 a. Attending a 4-year college or university, a community
711 college plus university, or a military academy;
712 b. Receiving a 2-year postsecondary degree;
713 c. Attaining a postsecondary career and technical
714 certificate or credential; or
715 d. Beginning immediate employment, including
716 apprenticeship, after completion of a high school diploma or its
717 equivalent, or enlisting in the military.

718 2. In order to assist the child in foster care in achieving
719 his or her chosen goal, the department or community-based
720 provider shall, with the participation of the child and foster
721 parents, identify:
722 a. The core courses in the child's secondary school
723 necessary to qualify for a chosen goal.
724 b. Any elective courses which would provide additional help
725 in reaching a chosen goal.
726 c. The grade point requirement and any additional
727 information necessary to achieve a specific goal.
728 d. A teacher, other school staff member, employee of the
729 department or community-based care provider, or community
730 volunteer who would be willing to work with the child as an
731 academic advocate or mentor if foster parent involvement is
732 insufficient or unavailable.
733 3. In order to complement educational goals, the department
734 and community-based providers are encouraged to form partnerships
735 with the business community to support internships,
736 apprenticeships, or other work-related opportunities.
737 4. The department and community-based providers shall
738 ensure that children in foster care and their foster parents are
739 made aware of the postsecondary goals available and shall assist
740 in identifying the coursework necessary to enable the child to
741 reach the chosen goal.
742 (c) All children in foster care and young adults formerly
743 in foster care are encouraged to take part in learning
744 opportunities that result from participation in community service
745 activities.

746 (d) Children in foster care and young adults formerly in
747 foster care shall be provided with the opportunity to change from
748 one postsecondary goal to another, and each postsecondary goal
749 shall allow for changes in each individual's needs and
750 preferences. Any change, particularly a change that will result
751 in additional time required to achieve a goal, shall be made with
752 the guidance and assistance of the department or community-based
753 provider.
754 (4) SERVICES FOR CHILDREN IN FOSTER CARE.--The department
755 shall provide the following transition to independence services
756 to children in foster care who meet prescribed conditions and are
757 determined eligible by the department. The service categories
758 available to children in foster care which facilitate successful
759 transition into adulthood are:
760 (a) Preindependent living services.--
761 1. Preindependent living services include, but are not
762 limited to, life skills training, educational field trips, and
763 conferences. The specific services to be provided to a child
764 shall be determined using a preindependent living assessment.
765 2. A child who has reached 13 years of age but is not yet
766 15 years of age who is in foster care is eligible for such
767 services.
768 3. The department shall conduct an annual staffing for each
769 child who has reached 13 years of age but is not yet 15 years of
770 age to ensure that the preindependent living training and
771 services to be provided as determined by the preindependent
772 living assessment are being received and to evaluate the progress
773 of the child in developing the needed independent living skills.

774 4. At the first annual staffing that occurs following a
775 child's 14th birthday, and at each subsequent staffing, the
776 department, the child, and, to the greatest extent possible, his
777 or her foster parent or caregiver shall review the child's
778 academic improvement plan pursuant to s. 1008.25, individual
779 educational plan, if applicable, and report card or student
780 portfolio and shall provide to each child detailed personalized
781 information on services provided by the Road-to-Independence
782 ~~Scholarship~~ Program, including requirements for eligibility; on
783 other grants, scholarships, and waivers that are available and
784 should be sought by the child with assistance from the
785 department, including, but not limited to, the Bright Futures
786 Scholarship Program, as provided in ss. 1009.53-1009.538; on
787 application deadlines; and on grade requirements for such
788 programs.
789 5. Information related to both the preindependent living
790 assessment and all staffings, which shall be reduced to writing
791 and signed by the child participant, shall be included as a part
792 of the written report required to be provided to the court at
793 each judicial review held pursuant to s. 39.701.
794 (b) Life skills services.--
795 1. Life skills services may include, but are not limited
796 to, independent living skills training, including training to
797 develop banking and budgeting skills, interviewing skills,
798 parenting skills, and time management or organizational skills,
799 educational support, employment training, and counseling.
800 Children receiving these services should also be provided with
801 information related to social security insurance benefits and
802 public assistance. The specific services to be provided to a

803 child shall be determined using an independent life skills
804 assessment.
805 2. A child who has reached 15 years of age but is not yet
806 18 years of age who is in foster care is eligible for such
807 services.
808 3. The department shall conduct a staffing at least once
809 every 6 months for each child who has reached 15 years of age but
810 is not yet 18 years of age to ensure that the appropriate
811 independent living training and services as determined by the
812 independent life skills assessment are being received and to
813 evaluate the progress of the child in developing the needed
814 independent living skills.
815 4. The department shall provide to each child in foster
816 care during the calendar month following the child's 17th
817 birthday an independent living assessment to determine the
818 child's skills and abilities to live independently and become
819 self-sufficient. Based on the results of the independent living
820 assessment, services and training shall be provided in order for
821 the child to develop the necessary skills and abilities prior to
822 the child's 18th birthday.
823 5. Information related to both the independent life skills
824 assessment and all staffings, which shall be reduced to writing
825 and signed by the child participant, shall be included as a part
826 of the written report required to be provided to the court at
827 each judicial review held pursuant to s. 39.701.
828 (c) Subsidized independent living services.--
829 1. Subsidized independent living services are living
830 arrangements that allow the child to live independently of the

831 daily care and supervision of an adult in a setting that is not
832 required to be licensed under s. 409.175.
833 2. A child who has reached 16 years of age but is not yet
834 18 years of age is eligible for such services if he or she:
835 a. Is adjudicated dependent under chapter 39; has been
836 placed in licensed out-of-home care for at least 6 months prior
837 to entering subsidized independent living; and has a permanency
838 goal of adoption, independent living, or long-term licensed care;
839 and
840 b. Is able to demonstrate independent living skills, as
841 determined by the department, using established procedures and
842 assessments.
843 3. Independent living arrangements established for a child
844 must be part of an overall plan leading to the total independence
845 of the child from the department's supervision. The plan must
846 include, but need not be limited to, a description of the skills
847 of the child and a plan for learning additional identified
848 skills; the behavior that the child has exhibited which indicates
849 an ability to be responsible and a plan for developing additional
850 responsibilities, as appropriate; a plan for future educational,
851 vocational, and training skills; present financial and budgeting
852 capabilities and a plan for improving resources and ability; a
853 description of the proposed residence; documentation that the
854 child understands the specific consequences of his or her conduct
855 in the independent living program; documentation of proposed
856 services to be provided by the department and other agencies,
857 including the type of service and the nature and frequency of
858 contact; and a plan for maintaining or developing relationships

859 with the family, other adults, friends, and the community, as
860 appropriate.
861 4. Subsidy payments in an amount established by the
862 department may be made directly to a child under the direct
863 supervision of a caseworker or other responsible adult approved
864 by the department.
865 (5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--It
866 is the intent of the Legislature that assistance be provided so
867 that every young adult who exits foster care at age 18 has the
868 opportunity to obtain housing, finish high school, attend
869 postsecondary or vocational training, and obtain the skills
870 necessary to find a job or begin a career as he or she makes the
871 transition to complete independence. Aftercare support services,
872 the Road-to-Independence Program, and transitional support
873 services are established to accomplish this intent to the fullest
874 degree possible. Based on the availability of funds, the
875 department shall provide or arrange for the following services to
876 young adults formerly in foster care who meet the prescribed
877 conditions and are determined eligible by the department. The
878 department, or a community-based care lead agency when the agency
879 is under contract with the department to provide the services
880 described under this subsection, shall develop a plan to
881 implement those services. A plan shall be developed for each
882 community-based care service area in the state. An approved plan
883 shall be delivered to the Independent Living Services Advisory
884 Council within 10 business days after approval. Each plan shall
885 include the number of young adults to be served each month of the
886 fiscal year and specify the number of young adults who will reach
887 18 years of age who will be eligible for the plan and the number

888 of young adults who will reach 23 years of age and will be
889 ineligible for the plan or who are otherwise ineligible during
890 each month of the fiscal year; staffing requirements and all
891 related costs to administer the services and program;
892 expenditures to or on behalf of the eligible recipients; costs of
893 services provided to young adults through an approved plan for
894 housing, transportation, and employment; reconciliation of these
895 expenses and any additional related costs with the funds
896 allocated for these services; and an explanation of and a plan to
897 resolve any shortages or surpluses in order to end the fiscal
898 year with a balanced budget. The categories of services available
899 to assist a young adult formerly in foster care to achieve
900 independence are:
901 (a) Aftercare support services.--
902 1. Aftercare support services are available to assist young
903 adults who were formerly in foster care in their efforts to
904 continue to develop the skills and abilities necessary for
905 independent living. The aftercare support services available
906 include, but are not limited to, the following:
907 a. Mentoring and tutoring.
908 b. Mental health services and substance abuse counseling.
909 c. Life skills classes, including credit management and
910 preventive health activities.
911 d. Parenting classes.
912 e. Job and career skills training.
913 f. Counselor consultations.
914 g. Temporary financial assistance.
915 h. Banking and budgeting skills.
916

917 The specific services to be provided under this subparagraph
918 shall be determined by an aftercare services assessment and may
919 be provided by the department or through referrals in the
920 community. A young adult who opens a bank account at a financial
921 institution in this state satisfies the requirements of sub-
922 subparagraph h. if, when opening that account, he or she received
923 instructions on how to maintain that account, including the fee
924 structure of that institution, and he or she has established
925 direct deposit or a written waiver pursuant to sub-subparagraph
926 (b)5.1.
927 2. Temporary assistance provided to prevent homelessness
928 shall be provided as expeditiously as possible and is limited to
929 funds available ~~within the limitations defined by the department~~.
930 3.~~2.~~ A young adult who has reached 18 years of age but is
931 not yet 23 years of age who leaves foster care at 18 years of age
932 but who requests services prior to reaching 23 years of age is
933 eligible for such services.
934 (b) Road-to-Independence ~~Scholarship~~ Program.--Funds
935 awarded as part of the Road-to-Independence Program under the
936 John H. Chaffee Foster Care Independence Program shall be used in
937 accordance with the federal regulations found in 42 U.S.C. s.
938 677(i) for young adults formerly in foster care.
939 1. The Road-to-Independence ~~Scholarship~~ Program is intended
940 to help eligible students who are former foster children in this
941 state to receive the educational and vocational training needed
942 to achieve independence. The amount of the award shall be based
943 on the living and educational needs of the young adult ~~and may be~~
944 ~~up to, but may not exceed, the amount of earnings that the~~

945 ~~student would have been eligible to earn working a 40-hour-a-week~~
946 ~~federal minimum wage job~~.
947 2. A child in foster care or a young adult who has a high
948 school diploma or its equivalent ~~reached 18 years of age~~ but is
949 not yet 21 years of age is eligible for the initial award, and a
950 young adult participating in the program on his or her 21st
951 birthday may remain eligible for renewal awards until he or she
952 reaches ~~under~~ 23 years of age ~~is eligible for renewal awards~~, if
953 he or she:
954 a. Was a dependent child, under chapter 39, and was living
955 in licensed foster care or in subsidized independent living at
956 the time of his or her 18th birthday or is currently in licensed
957 foster care or subsidized independent living, was adopted from
958 foster care after reaching 16 years of age, or, after spending at
959 least 6 months in the custody of the department after reaching 16
960 years of age, was placed in a guardianship by the court;
961 b. Spent at least 6 months living in foster care before
962 reaching his or her 18th birthday or before obtaining his or her
963 high school diploma or its equivalent;
964 c. Is a resident of this state as defined in s. 1009.40;
965 and
966 ~~d. Meets one of the following qualifications:~~
967 d.~~(I)~~ Has earned a standard high school diploma or its
968 equivalent as described in s. 1003.43 or s. 1003.435, or has
969 earned a special diploma or special certificate of completion as
970 described in s. 1003.438, and has been admitted for part-time or
971 full-time enrollment in an eligible postsecondary education
972 institution as defined in s. 1009.533.~~;~~
973 ~~(II) Is enrolled full time in an accredited high school; or~~

974 ~~(III) Is enrolled full time in an accredited adult~~
975 ~~education program designed to provide the student with a high~~
976 ~~school diploma or its equivalent.~~
977 3. A young adult applying for the ~~a~~ Road-to-Independence
978 Program ~~Scholarship~~ must apply for any other grants and
979 scholarships for which he or she may qualify. The department
980 shall assist the young adult in the application process ~~and may~~
981 ~~use the federal financial aid grant process to determine the~~
982 ~~funding needs of the young adult~~.
983 4. An award shall be available to a young adult who is
984 considered a full-time student or its equivalent by the
985 educational institution in which he or she is enrolled, unless
986 that young adult is employed, has a recognized disability
987 preventing full-time attendance, or practices a vocation. The
988 amount of an award under this subparagraph may be disregarded for
989 purposes of determining the young adult's eligibility for, or the
990 amount of, any other federal or federally supported assistance
991 ~~The amount of the award, whether it is being used by a young~~
992 ~~adult working toward completion of a high school diploma or its~~
993 ~~equivalent or working toward completion of a postsecondary~~
994 ~~education program, shall be determined based on an assessment of~~
995 ~~the funding needs of the young adult. This assessment must~~
996 ~~consider the young adult's living and educational costs and other~~
997 ~~grants, scholarships, waivers, earnings, and other income to be~~
998 ~~received by the young adult. An award shall be available only to~~
999 ~~the extent that other grants and scholarships are not sufficient~~
1000 ~~to meet the living and educational needs of the young adult, but~~
1001 ~~an award may not be less than $25 in order to maintain Medicaid~~
1002 ~~eligibility for the young adult as provided in s. 409.903~~.

1003 5.a. The department must advertise the criteria,
1004 application procedures, and availability of the program to:
1005 (I) Children and young adults in, leaving, or formerly in
1006 foster care.
1007 (II) Case managers.
1008 (III) Guidance and family services counselors.
1009 (IV) Principals or other relevant school administrators ~~and~~
1010 ~~must ensure that the children and young adults leaving foster~~
1011 ~~care, foster parents, or family services counselors are informed~~
1012 ~~of the availability of the program and the application~~
1013 ~~procedures~~.
1014 ~~b. A young adult must apply for the initial award during~~
1015 ~~the 6 months immediately preceding his or her 18th birthday, and~~
1016 ~~the department shall provide assistance with the application~~
1017 ~~process. A young adult who fails to make an initial application,~~
1018 ~~but who otherwise meets the criteria for an initial award, may~~
1019 ~~make one application for the initial award if the application is~~
1020 ~~made before the young adult's 21st birthday. If the young adult~~
1021 ~~does not apply for an initial award before his or her 18th~~
1022 ~~birthday, the department shall inform that young adult of the~~
1023 ~~opportunity to apply before turning 21 years of age.~~
1024 b.~~c.~~ ~~If funding for the program is available,~~ The
1025 department shall issue awards from the ~~scholarship~~ program for
1026 each young adult who meets all the requirements of the program to
1027 the extent funding is available.
1028 c.~~d.~~ An award shall be issued at the time the eligible
1029 student reaches 18 years of age.
1030 d.~~e.~~ A young adult who is eligible for the Road-to-
1031 Independence Program, transitional support services, or aftercare

1032 services and who so desires shall be allowed to reside with the
1033 licensed foster family or group care provider with whom he or she
1034 was residing at the time of attaining his or her 18th birthday or
1035 to reside in another licensed foster home or with a group care
1036 provider arranged by the department.
1037 e.~~f.~~ If the award recipient transfers from one eligible
1038 institution to another and continues to meet eligibility
1039 requirements, the award must be transferred with the recipient.
1040 f.~~g.~~ ~~Scholarship~~ Funds awarded to any eligible young adult
1041 under this program are in addition to any other services or funds
1042 provided to the young adult by the department through
1043 transitional support services or aftercare services ~~its~~
1044 ~~independent living transition services~~.
1045 g.~~h.~~ The department shall provide information concerning
1046 young adults receiving funding through the Road-to-Independence
1047 Program ~~Scholarship~~ to the Department of Education for inclusion
1048 in the student financial assistance database, as provided in s.
1049 1009.94.
1050 h.~~i.~~ ~~Scholarship~~ Funds are intended to help eligible young
1051 adults ~~students~~ who are former foster children in this state to
1052 receive the educational and vocational training needed to become
1053 independent and self-supporting. The funds shall be terminated
1054 when the young adult has attained one of four postsecondary goals
1055 under subsection (3) or reaches 23 years of age, whichever occurs
1056 earlier. In order to initiate postsecondary education, to allow
1057 for a change in career goal, or to obtain additional skills in
1058 the same educational or vocational area, a young adult may earn
1059 no more than two diplomas, certificates, or credentials. A young
1060 adult attaining an associate of arts or associate of science

1061 degree shall be permitted to work toward completion of a bachelor
1062 of arts or a bachelor of science degree or an equivalent
1063 undergraduate degree. Road-to-Independence Program ~~Scholarship~~
1064 funds may not be used for education or training after a young
1065 adult has attained a bachelor of arts or a bachelor of science
1066 degree or an equivalent undergraduate degree.
1067 i.~~j.~~ The department shall evaluate and renew each award
1068 annually during the 90-day period before the young adult's
1069 birthday. In order to be eligible for a renewal award for the
1070 subsequent year, the young adult must:
1071 (I) Complete the number of hours, or the equivalent
1072 considered part time or full time by the educational institution,
1073 in the last academic year in which the young adult earned an
1074 award ~~a scholarship~~, except for a young adult who meets the
1075 requirements of s. 1009.41.
1076 (II) Maintain appropriate progress as required by the
1077 educational institution, except that, if the young adult's
1078 progress is insufficient to renew the award ~~scholarship~~ at any
1079 time during the eligibility period, the young adult may restore
1080 eligibility by improving his or her progress to the required
1081 level.
1082 j.~~k.~~ ~~Scholarship~~ Funds may be terminated during the interim
1083 between an award and the evaluation for a renewal award if the
1084 department determines that the award recipient is no longer
1085 enrolled in an educational institution as defined in sub-
1086 subparagraph 2.d., or is no longer a state resident. The
1087 department shall notify a recipient ~~student~~ who is terminated and
1088 inform the recipient ~~student~~ of his or her right to appeal.

1089 k.~~1.~~ An award recipient who does not qualify for a renewal
1090 award or who chooses not to renew the award may subsequently
1091 apply for reinstatement. An application for reinstatement must be
1092 made before the young adult reaches 21 ~~23~~ years of age, and a
1093 student may not apply for reinstatement more than once. In order
1094 to be eligible for reinstatement, the young adult must meet the
1095 eligibility criteria and the criteria for award renewal for the
1096 ~~scholarship~~ program.
1097 l. After the completion of aftercare support services that
1098 satisfy the requirements of sub-subparagraph (a)1.h., payment of
1099 awards under the Road-to-Independence Program shall be made by
1100 direct deposit to the recipient, unless the recipient requests in
1101 writing to the community-based care lead agency or the department
1102 that:
1103 (I) The payments be made directly to the recipient by check
1104 or warrant;
1105 (II) The payments or a portion of the payments be made
1106 directly on the recipient's behalf to institutions the recipient
1107 is attending to maintain eligibility under this section; or
1108 (III) The payments be made on a two-party check to a
1109 business or landlord for a legitimate expense, whether reimbursed
1110 or not. A legitimate expense for the purposes of this sub-sub-
1111 subparagraph shall include auto repair or maintenance;
1112 educational, job, or training expenses; and costs incurred,
1113 except legal costs, fines, or penalties, when applying for or
1114 executing a rental agreement for the purposes of securing a home
1115 or residence.
1116 m. The department shall evaluate the efficiency and cost-
1117 effectiveness of contracting the awards under the Road-to-

1118 Independence Program to an independent entity with expertise in
1119 the delivery and management of this service. If the department
1120 determines that better service can be provided to eligible young
1121 adults through an independent entity, the department shall
1122 contract with such an entity. Cost shall not be the sole factor
1123 in determining better service for the purposes of this sub-
1124 subparagraph, nor shall it be given extra weight over any other
1125 factor. This evaluation shall be completed by December 31, 2006.
1126 (c) Transitional support services.--
1127 1. In addition to any services provided through aftercare
1128 support or the Road-to-Independence Program ~~Scholarship~~, a young
1129 adult formerly in foster care may receive other appropriate
1130 short-term funding and services, which may include financial,
1131 housing, counseling, employment, education, mental health,
1132 disability, and other services, if the young adult demonstrates
1133 that the services are critical to the young adult's own efforts
1134 to achieve self-sufficiency and to develop a personal support
1135 system. The department or community-based care provider shall
1136 work with the young adult in developing a joint transition
1137 agreement that is consistent with a needs assessment identifying
1138 the specific need for transitional services to support the young
1139 adult's own efforts. The young adult must have specific tasks to
1140 complete or maintain included in the agreement and be accountable
1141 for the completion of or making progress towards the completion
1142 of these tasks. However, no task shall be forced upon a young
1143 adult and if the young adult and department or community-based
1144 care provider cannot come to agreement regarding any part of the
1145 plan, the young adult may access a grievance process to its full
1146 extent in an effort to resolve the disagreement.

1147 2. A young adult formerly in foster care is eligible to
1148 apply for transitional support services if he or she has reached
1149 18 years of age but is not yet 23 years of age, was a dependent
1150 child pursuant to chapter 39, was living in licensed foster care
1151 or in subsidized independent living at the time of his or her
1152 18th birthday, and had spent at least 6 months living in foster
1153 care before that date.
1154 3. If at any time the services are no longer critical to
1155 the young adult's own efforts to achieve self-sufficiency and to
1156 develop a personal support system, they shall be terminated.
1157 (d) Payment of aftercare, Road-to-Independence Program
1158 ~~scholarship~~, or transitional support funds.--Payment of
1159 aftercare, Road-to-Independence Program ~~scholarship~~, or
1160 transitional support funds shall be made directly to the
1161 recipient unless the recipient requests in writing to the
1162 community-based care lead agency, or the department, that the
1163 payments or a portion of the payments be made directly on the
1164 recipient's behalf in order to secure services such as housing,
1165 counseling, education, or employment training as part of the
1166 young adult's own efforts to achieve self-sufficiency. The
1167 community-based care lead agency may purchase housing,
1168 transportation, or employment services to ensure the availability
1169 and affordability of specific transitional services thereby
1170 allowing an eligible young adult to utilize these services in
1171 lieu of receiving a direct payment. Prior to purchasing such
1172 services, the community-based care lead agency must have a plan
1173 approved by the department describing the services to be
1174 purchased, the rationale for purchasing the services, and a
1175 specific range of expenses for each service that is less than the

1176 cost of purchasing the service by an individual young adult. The
1177 plan must include a description of the transition of a young
1178 adult using these services into independence and a timeframe for
1179 achievement of independence. An eligible young adult who can
1180 demonstrate an ability to obtain these services independently and
1181 prefers a direct payment shall receive such payment. The plan
1182 must be reviewed annually and evaluated for cost-efficiency and
1183 for effectiveness in assisting young adults in achieving
1184 independence, preventing homelessness among young adults, and
1185 enabling young adults to earn a livable wage in a permanent
1186 employment situation. The young adult who resides with a foster
1187 family may not be included as a child in calculating any
1188 licensing restriction on the number of children in the foster
1189 home.
1190 (e) Appeals process.--
1191 1. The Department of Children and Family Services shall
1192 adopt by rule a procedure by which a young adult may appeal an
1193 eligibility determination or the department's failure to provide
1194 aftercare, Road-to-Independence Program ~~scholarship~~, or
1195 transitional support services, or the termination of such
1196 services, if such funds are available.
1197 2. The procedure developed by the department must be
1198 readily available to young adults, must provide timely decisions,
1199 and must provide for an appeal to the Secretary of Children and
1200 Family Services. The decision of the secretary constitutes final
1201 agency action and is reviewable by the court as provided in s.
1202 120.68.
1203 (6) ACCOUNTABILITY.--The department shall maintain
1204 oversight by developing ~~develop~~ outcome measures ~~for the program~~

1205 and other performance measures and presenting these measures in
1206 an annual report to the appropriate substantive committees of the
1207 Senate and the House of Representatives. The report must include:
1208 (a) An evaluation of the goals and measures developed under
1209 this section as compared to the outcomes achieved by and the
1210 performance of the department.
1211 (b) A summary of data gathered pursuant to sub-subparagraph
1212 (5)(b)5.m.
1213 (c) Rules adopted or proposed under this section since the
1214 last report. For the purposes of the first report, any rules
1215 adopted or proposed under this section must be included.
1216 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.--The
1217 Secretary of Children and Family Services shall establish the
1218 Independent Living Services Advisory Council for the purpose of
1219 reviewing and making recommendations concerning the
1220 implementation and operation of the independent living transition
1221 services. This advisory council shall continue to function as
1222 specified in this subsection until the Legislature determines
1223 that the advisory council can no longer provide a valuable
1224 contribution to the department's efforts to achieve the goals of
1225 the independent living transition services.
1226 (a) Specifically, the advisory council shall assess the
1227 implementation and operation of the system of independent living
1228 transition services and advise the department on actions that
1229 would improve the ability of the independent living transition
1230 services to meet the established goals. The advisory council
1231 shall keep the department informed of problems being experienced
1232 with the services, barriers to the effective and efficient
1233 integration of services and support across systems, and successes

1234 that the system of independent living transition services has
1235 achieved. The department shall consider, but is not required to
1236 implement, the recommendations of the advisory council.
1237 (b) The advisory council shall report to the appropriate
1238 substantive committees of the Senate and the House of
1239 Representatives on the status of the implementation of the system
1240 of independent living transition services; efforts to publicize
1241 the availability of aftercare support services, the Road-to-
1242 Independence ~~Scholarship~~ Program, and transitional support
1243 services; ~~specific barriers to financial aid created by the~~
1244 ~~scholarship and possible solutions;~~ the success of the services;
1245 problems identified; recommendations for department or
1246 legislative action; and the department's implementation of the
1247 recommendations contained in the Independent Living Services
1248 Integration Workgroup Report submitted to the Senate and the
1249 House substantive committees December 31, 2002. This advisory
1250 council report shall be submitted by December 31 of each year
1251 that the council is in existence and shall be accompanied by a
1252 report from the department which identifies the recommendations
1253 of the advisory council and either describes the department's
1254 actions to implement these recommendations or provides the
1255 department's rationale for not implementing the recommendations.
1256 (c) Members of the advisory council shall be appointed by
1257 the secretary of the department. The membership of the advisory
1258 council must include, at a minimum, representatives from the
1259 headquarters and district offices of the Department of Children
1260 and Family Services, community-based care lead agencies, the
1261 Agency for Workforce Innovation, the Department of Education, the
1262 Agency for Health Care Administration, the State Youth Advisory

1263 Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem
1264 Office, foster parents, recipients of Road-to-Independence
1265 Program funding, and advocates for foster children. The secretary
1266 shall determine the length of the term to be served by each
1267 member appointed to the advisory council, which may not exceed 4
1268 years.
1269 (d) The advisory council shall have access to all
1270 appropriate data from the Department of Children and Family
1271 Services and the community-based care lead agencies or other
1272 relevant agencies to accomplish the tasks set forth in this
1273 section. This data shall not include any confidential information
1274 that would lead to the identity of a specific child or young
1275 adult.
1276 (8) PERSONAL PROPERTY.--Property acquired on behalf of
1277 clients of this program shall become the personal property of the
1278 clients and is not subject to the requirements of chapter 273
1279 relating to state-owned tangible personal property. Such property
1280 continues to be subject to applicable federal laws.
1281 (9) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN FOSTER
1282 CARE.--The department shall enroll in the Florida KidCare
1283 program, outside the open enrollment period, each young adult who
1284 is eligible as described in paragraph (2)(b) and who has not yet
1285 reached his or her 19th birthday.
1286 (a) A young adult who was formerly in foster care at the
1287 time of his or her 18th birthday and who is 18 years of age but
1288 not yet 19, shall pay the premium for the Florida KidCare program
1289 as required in s. 409.814.

1290 (b) A young adult who has health insurance coverage from a
1291 third party through his or her employer or who is eligible for
1292 Medicaid is not eligible for enrollment under this subsection.
1293 (10) RULEMAKING.--The department shall adopt by rule
1294 procedures to administer this section, including balancing the
1295 goals of normalcy and safety for the youth and providing the
1296 caregivers with as much flexibility as possible to enable the
1297 youth to participate in normal life experiences. The department
1298 shall not adopt rules relating to reductions in ~~scholarship~~
1299 awards. The department shall engage in appropriate planning to
1300 prevent, to the extent possible, a reduction in ~~scholarship~~
1301 awards after issuance. The department shall not establish, by
1302 rule or practice, a limit on the amount of aftercare or
1303 transitional support services funding an eligible young adult may
1304 receive. This amount shall be determined based on the specific
1305 needs of the young adult and the availability of funds.
1306 (11) CONTRACTS FOR SERVICES.--The department shall contract
1307 with a qualified nonprofit entity, legally operating within the
1308 state, to coordinate and manage all services described in this
1309 section and to manage all funds available to provide those
1310 services and related support services, including case management,
1311 administrative, and out-of-home care funds for children and young
1312 adults eligible for these services when they reach 16 years of
1313 age until they reach 23 years of age or are otherwise no longer
1314 eligible. The contract shall include funding for the current
1315 positions, associated expenses, and other administrative costs
1316 within the department's budget. The selected entity shall
1317 coordinate and manage the services and may not directly provide
1318 services unless the selected entity is currently providing these

1319 services within a community-based care project. The selected
1320 entity shall not increase the scope of the service area beyond
1321 the scope specified in the contract at the time of selection. The
1322 entity shall contract with community-based care lead agencies to
1323 provide the services or with local community provider agencies
1324 that have specific skills and experience with providing
1325 transitional support services to children and young adults and
1326 with which the lead agency has collaborated.
1327 (12) AWARD OF FUNDING.--The total amount of the funds
1328 awarded directly to an eligible young adult under paragraph
1329 (5)(b) shall be based upon the living and educational needs of
1330 the young adult and may equal, but not exceed, the amount of
1331 earnings that the young adult would have been eligible to earn
1332 working a 40-hour-a-week federal minimum wage job, excluding any
1333 funds provided for immediate need or emergency services as one-
1334 time payments.
1335 Section 8. Paragraph (b) of subsection (2) of section
1336 409.175, Florida Statutes, is amended to read:
1337 409.175 Licensure of family foster homes, residential
1338 child-caring agencies, and child-placing agencies; public records
1339 exemption.--
1340 (2) As used in this section, the term:
1341 (b) "Boarding school" means a school which is accredited by
1342 the Florida Council of Independent Schools or the Southern
1343 Association of Colleges and Schools and registered with the
1344 Department of Education as a school. Its program must follow
1345 established school schedules, with holiday breaks and summer
1346 recesses in accordance with other public and private school
1347 programs. The education programs provided by a boarding school

1348 shall meet the standards prescribed by the State Board of
1349 Education and the district school board. The children in
1350 residence must customarily return to their family homes or legal
1351 guardians during school breaks and must not be in residence year-
1352 round, except that this provision does not apply to foreign
1353 students. The parents of these children retain custody and
1354 planning and financial responsibility. A boarding school
1355 currently in existence and a boarding school opening and seeking
1356 accreditation has 3 years to comply with the requirements of this
1357 paragraph. A boarding school must provide proof of accreditation
1358 or documentation of the accreditation process upon request. A
1359 boarding school that cannot produce the required documentation or
1360 that has not registered with the Department of Education shall be
1361 considered to be providing residential group care without a
1362 license. The department may impose administrative sanctions or
1363 seek civil remedies as provided under paragraph (11)(a).
1364 Section 9. Section 409.903, Florida Statutes, is amended to
1365 read:
1366 409.903 Mandatory payments for eligible persons.--The
1367 agency shall make payments for medical assistance and related
1368 services on behalf of the following persons who the department,
1369 or the Social Security Administration by contract with the
1370 Department of Children and Family Services, determines to be
1371 eligible, subject to the income, assets, and categorical
1372 eligibility tests set forth in federal and state law. Payment on
1373 behalf of these Medicaid eligible persons is subject to the
1374 availability of moneys and any limitations established by the
1375 General Appropriations Act or chapter 216.

1376 (1) Low-income families with children are eligible for
1377 Medicaid provided they meet the following requirements:
1378 (a) The family includes a dependent child who is living
1379 with a caretaker relative.
1380 (b) The family's income does not exceed the gross income
1381 test limit.
1382 (c) The family's countable income and resources do not
1383 exceed the applicable Aid to Families with Dependent Children
1384 (AFDC) income and resource standards under the AFDC state plan in
1385 effect in July 1996, except as amended in the Medicaid state plan
1386 to conform as closely as possible to the requirements of the
1387 welfare transition program, to the extent permitted by federal
1388 law.
1389 (2) A person who receives payments from, who is determined
1390 eligible for, or who was eligible for but lost cash benefits from
1391 the federal program known as the Supplemental Security Income
1392 program (SSI). This category includes a low-income person age 65
1393 or over and a low-income person under age 65 considered to be
1394 permanently and totally disabled.
1395 (3) A child under age 21 living in a low-income, two-parent
1396 family, and a child under age 7 living with a nonrelative, if the
1397 income and assets of the family or child, as applicable, do not
1398 exceed the resource limits under the WAGES Program.
1399 (4) A child who is eligible under Title IV-E of the Social
1400 Security Act for subsidized board payments, foster care, or
1401 adoption subsidies, and a child for whom the state has assumed
1402 temporary or permanent responsibility and who does not qualify
1403 for Title IV-E assistance but is in foster care, shelter or
1404 emergency shelter care, or subsidized adoption. This category

1405 includes any young adult who is eligible to receive services
1406 under s. 409.1451(5) until he or she reaches age 21, without
1407 regard to any income, assets, or categorical eligibility tests
1408 set forth in federal and state law. If the young adult has other
1409 health insurance coverage, he or she shall not be eligible under
1410 this section ~~a child who was eligible under Title IV-E of the~~
1411 ~~Social Security Act for foster care or the state-provided foster~~
1412 ~~care, who exited foster care due to attaining the age of 18~~
1413 ~~years, and who has been awarded a Road-to-Independence~~
1414 ~~Scholarship~~.
1415 (5) A pregnant woman for the duration of her pregnancy and
1416 for the postpartum period as defined in federal law and rule, or
1417 a child under age 1, if either is living in a family that has an
1418 income which is at or below 150 percent of the most current
1419 federal poverty level, or, effective January 1, 1992, that has an
1420 income which is at or below 185 percent of the most current
1421 federal poverty level. Such a person is not subject to an assets
1422 test. Further, a pregnant woman who applies for eligibility for
1423 the Medicaid program through a qualified Medicaid provider must
1424 be offered the opportunity, subject to federal rules, to be made
1425 presumptively eligible for the Medicaid program.
1426 (6) A child born after September 30, 1983, living in a
1427 family that has an income which is at or below 100 percent of the
1428 current federal poverty level, who has attained the age of 6, but
1429 has not attained the age of 19. In determining the eligibility of
1430 such a child, an assets test is not required. A child who is
1431 eligible for Medicaid under this subsection must be offered the
1432 opportunity, subject to federal rules, to be made presumptively
1433 eligible. A child who has been deemed presumptively eligible for

1434 Medicaid shall not be enrolled in a managed care plan until the
1435 child's full eligibility determination for Medicaid has been
1436 completed.
1437 (7) A child living in a family that has an income which is
1438 at or below 133 percent of the current federal poverty level, who
1439 has attained the age of 1, but has not attained the age of 6. In
1440 determining the eligibility of such a child, an assets test is
1441 not required. A child who is eligible for Medicaid under this
1442 subsection must be offered the opportunity, subject to federal
1443 rules, to be made presumptively eligible. A child who has been
1444 deemed presumptively eligible for Medicaid shall not be enrolled
1445 in a managed care plan until the child's full eligibility
1446 determination for Medicaid has been completed.
1447 (8) A person who is age 65 or over or is determined by the
1448 agency to be disabled, whose income is at or below 100 percent of
1449 the most current federal poverty level and whose assets do not
1450 exceed limitations established by the agency. However, the agency
1451 may only pay for premiums, coinsurance, and deductibles, as
1452 required by federal law, unless additional coverage is provided
1453 for any or all members of this group by s. 409.904(1).
1454
1455 <u>The Department of Children and Family Services shall notify the</u>
1456 <u>Agency for Health Care Administration within 10 days after it</u>
1457 <u>opens a case for child welfare services in the HomeSafeNet system</u>
1458 <u>for a Medicaid recipient. If that Medicaid recipient is a member</u>
1459 <u>of a Medicaid prepaid heath plan, the agency shall notify the</u>
1460 <u>prepaid health plan within 10 days after it opens a case for</u>
1461 <u>child welfare services. When a child who is receiving health care</u>
1462 <u>benefits under Medicaid is placed in the care and custody or</u>

1463 under the supervision of the department, the agency shall make
1464 available all health care records, including behavioral health
1465 care records and all prescription drugs prescribed for the child
1466 on a continuous and daily basis. The agency shall make these
1467 records available in an electronic format to allow the department
1468 and the community-based care lead agencies to create an
1469 electronic health record or electronic medical passport for each
1470 child in the database of his or her choice and have it refreshed
1471 at least every 24 hours. The agency is not required to make this
1472 information available in multiple formats, but only in a format
1473 the department and the community-based care lead agencies can use
1474 for the purpose of creating the electronic medical passport.
1475 Section 10. Subsection (2) of section 39.013, Florida
1476 Statutes, is amended to read:
1477 39.013 Procedures and jurisdiction; right to counsel.--
1478 (2) The circuit court shall have exclusive original
1479 jurisdiction of all proceedings under this chapter, of a child
1480 voluntarily placed with a licensed child-caring agency, a
1481 licensed child-placing agency, or the department, and of the
1482 adoption of children whose parental rights have been terminated
1483 under this chapter. Jurisdiction attaches when the initial
1484 shelter petition, dependency petition, or termination of parental
1485 rights petition is filed or when a child is taken into the
1486 custody of the department. The circuit court may assume
1487 jurisdiction over any such proceeding regardless of whether the
1488 child was in the physical custody of both parents, was in the
1489 sole legal or physical custody of only one parent, caregiver, or
1490 some other person, or was in the physical or legal custody of no
1491 person when the event or condition occurred that brought the

1492 child to the attention of the court. When the court obtains
1493 jurisdiction of any child who has been found to be dependent, the
1494 court shall retain jurisdiction, unless relinquished by its
1495 order, until the child reaches 18 years of age. However, if a
1496 youth petitions the court at any time before his or her 19th
1497 birthday requesting the court's continued jurisdiction, the
1498 juvenile court may retain jurisdiction under this chapter for a
1499 period not to exceed 1 year following the youth's 18th birthday
1500 for the purpose of determining whether appropriate aftercare
1501 support, Road-to-Independence Program ~~Scholarship~~, transitional
1502 support, mental health, and developmental disability services, to
1503 the extent otherwise authorized by law, have been provided to the
1504 formerly dependent child who was in the legal custody of the
1505 department immediately before his or her 18th birthday. If a
1506 petition for special immigrant juvenile status and an application
1507 for adjustment of status have been filed on behalf of a foster
1508 child and the petition and application have not been granted by
1509 the time the child reaches 18 years of age, the court may retain
1510 jurisdiction over the dependency case solely for the purpose of
1511 allowing the continued consideration of the petition and
1512 application by federal authorities. Review hearings for the child
1513 shall be set solely for the purpose of determining the status of
1514 the petition and application. The court's jurisdiction terminates
1515 upon the final decision of the federal authorities. Retention of
1516 jurisdiction in this instance does not affect the services
1517 available to a young adult under s. 409.1451. The court may not
1518 retain jurisdiction of the case after the immigrant child's 22nd
1519 birthday.

1520 Section 11. Paragraph (a) of subsection (6) of section
1521 39.701, Florida Statutes, is amended to read:
1522 39.701 Judicial review.--
1523 (6)(a) In addition to paragraphs (1)(a) and (2)(a), the
1524 court shall hold a judicial review hearing within 90 days after a
1525 youth's 17th birthday and shall continue to hold timely judicial
1526 review hearings. In addition, the court may review the status of
1527 the child more frequently during the year prior to the youth's
1528 18th birthday if necessary. At each review held under this
1529 subsection, in addition to any information or report provided to
1530 the court, the foster parent, legal custodian, guardian ad litem,
1531 and the child shall be given the opportunity to address the court
1532 with any information relevant to the child's best interests,
1533 particularly as it relates to independent living transition
1534 services. In addition to any information or report provided to
1535 the court, the department shall include in its judicial review
1536 social study report written verification that the child:
1537 1. Has been provided with a current Medicaid card and has
1538 been provided all necessary information concerning the Medicaid
1539 program sufficient to prepare the youth to apply for coverage
1540 upon reaching age 18, if such application would be appropriate.
1541 2. Has been provided with a certified copy of his or her
1542 birth certificate and, if the child does not have a valid
1543 driver's license, a Florida identification card issued under s.
1544 322.051.
1545 3. Has been provided information relating to Social
1546 Security Insurance benefits if the child is eligible for these
1547 benefits. If the child has received these benefits and they are
1548 being held in trust for the child, a full accounting of those

1549 funds must be provided and the child must be informed about how
1550 to access those funds.
1551 4. Has been provided with information and training related
1552 to budgeting skills, interviewing skills, and parenting skills.
1553 5. Has been provided with all relevant information related
1554 to the Road-to-Independence Program ~~Scholarship~~, including, but
1555 not limited to, eligibility requirements, forms necessary to
1556 apply, and assistance in completing the forms. The child shall
1557 also be informed that, if he or she is eligible for the Road-to-
1558 Independence ~~Scholarship~~ Program, he or she may reside with the
1559 licensed foster family or group care provider with whom the child
1560 was residing at the time of attaining his or her 18th birthday or
1561 may reside in another licensed foster home or with a group care
1562 provider arranged by the department.
1563 6. Has an open bank account, or has identification
1564 necessary to open an account, and has been provided with
1565 essential banking skills.
1566 7. Has been provided with information on public assistance
1567 and how to apply.
1568 8. Has been provided a clear understanding of where he or
1569 she will be living on his or her 18th birthday, how living
1570 expenses will be paid, and what educational program or school he
1571 or she will be enrolled in.
1572 9. Has been provided with notice of the youth's right to
1573 petition for the court's continuing jurisdiction for 1 year after
1574 the youth's 18th birthday as specified in s. 39.013(2) and with
1575 information on how to obtain access to the court.
1576 10. Has been encouraged to attend all judicial review
1577 hearings occurring after his or her 17th birthday.

1578 Section 12. Paragraph (c) of subsection (2) of section
1579 1009.25, Florida Statutes, is amended to read:
1580 1009.25 Fee exemptions.--
1581 (2) The following students are exempt from the payment of
1582 tuition and fees, including lab fees, at a school district that
1583 provides postsecondary career programs, community college, or
1584 state university:
1585 (c) A student who ~~the state has determined is eligible for~~
1586 ~~the Road-to-Independence Scholarship, regardless of whether an~~
1587 ~~award is issued or not, or a student who~~ is or was at the time he
1588 or she reached 18 years of age in the custody of the Department
1589 of Children and Family Services or a relative under s. 39.5085,
1590 ~~or~~ who is adopted from the Department of Children and Family
1591 Services after May 5, 1997, or who, after spending at least 6
1592 months in the custody of the department after reaching 16 years
1593 of age, was placed in a guardianship by the court. Such exemption
1594 includes fees associated with enrollment in career-preparatory
1595 instruction and completion of the college-level communication and
1596 computation skills testing program. Such an exemption is
1597 available to any student who was in the custody of a relative
1598 under s. 39.5085 at the time he or she reached 18 years of age or
1599 was adopted from the Department of Children and Family Services
1600 after May 5, 1997; however, the exemption remains valid for no
1601 more than 4 years after the date of graduation from high school.
1602 Section 13. The sum of $200,000 in recurring revenue is
1603 appropriated from the General Revenue Fund to the Department of
1604 Children and Family Services for the 2006-2007 fiscal year
1605 specifically to contract with an agency selected by the
1606 Independent Living Advisory Council to provide the administrative

1607 support to the advisory council to accomplish the purposes of s.
1608 409.1451, Florida Statutes.
1609 Section 14. The sum of $11.4 million in recurring funds is
1610 appropriated from the General Revenue Fund to the Ounce of
1611 Prevention Fund of Florida for the 2006-2007 fiscal year to fund
1612 the expansion and enhancement of the Healthy Families Florida
1613 program statewide. Of that amount, $4.3 million shall be used for
1614 cost-of-living increases to retain home visiting staff, $3.1
1615 million shall be used to serve the 14 counties that are not
1616 presently served, and $4 million shall be used to add high-risk
1617 specialists to the core staffing model for each Healthy Families
1618 Florida project.
1619 Section 15. This act shall take effect July 1, 2006.

PCB FFF 06-02

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB FFF 06-02 Child Support
**SPONSOR(S):** Future of Florida's Families Committee
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1700

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| Orig. Comm.: Future of Florida's Families Committee | | Preston | Collins |
| 1) | | | |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

## SUMMARY ANALYSIS


The bill amends ss. 61.13 and 61.14, Florida Statutes, to provide for the reduction and termination of a child support order as children named in the order reach the age of majority or otherwise become emancipated and to provide for temporary modification of an order under certain specified circumstances.

The bill amends s. 61.30, Florida Statutes, relating to child support guidelines. Provisions of the bill include:

- New language that reflects Florida's use of the income shares model as the basis for its child support guidelines schedule and state the purposes of the guidelines;
- Simplification of the concept of rebuttable presumption and clarification of when the court must provide a written finding when deviating from the guideline amount of an award;
- New provisions relating to the imputation of income for purposes of determining the amount of a child support award;
- Clarification that child care costs and health care costs are not built into the guideline schedule and are expenses that are added on to the basic child support obligation;
- Elimination of an automatic reduction in child care costs related to the 25% federal child care credit;
- Elimination of the 40% threshold in shared parenting time for a setoff in the amount of a child support award;
- A formula for determining the amount of a child support award reflective of all levels of shared parenting time that results in a gradual adjustment rather than the current "cliff effect";
- An explanation of the term "split parenting arrangement" and direction for calculating child support awards when those arrangements exist; and
- The transfer of responsibility for the implementation and review of the child support guidelines from the Legislature to the court.

The bill amends s. 409.2564, Florida Statutes, relating to actions for support, to reduce the arrearage threshold for denial of a passport.

The bill also amends s. 409.25641, Florida Statutes, relating to automated administrative enforcement in interstate cases, to provide states with the option of establishing a corresponding case based on another state's administrative enforcement of an interstate case request.

There is no anticipated fiscal impact on either state or local government.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government –** The bill moves responsibility for the review and implementation of the child support guidelines from the Legislature to the court.

**Promote personal responsibility –** The bill lowers the threshold for the amount of arrearage owed by a child support obligor for purposes of passport denial.

**Empower families –** If child support award amounts better reflect shared parenting arrangements, collections may increase and noncustodial parents may spend more time with their children.

B. EFFECT OF PROPOSED CHANGES:

**Background**

In 1984, Congress recognized potential value in requiring states to implement guidelines to be used in the determination of the amount of the child support obligation. The federal Child Support Amendments of 1984 required states to establish non-binding child support guidelines either by law, or judicial or administrative action no later than October 1, 1987.[1] The Family Support Act of 1988 made state child support guidelines presumptive and required states to review their child support guidelines at least once every four years in order to ensure that their application results in child support award amounts that are appropriate. As a part of the review process, states must analyze case data related to the application of, and deviations from, the guidelines and they must also consider economic data related to the cost of raising children.[2] With the exception of these two requirements, states have broad discretion and latitude in conducting guideline reviews.

In requiring the adoption and use of presumptive guidelines, the federal government had four primary objectives:

- to enhance the adequacy of child support orders;
- to improve the equity of orders by assuring more comparable treatment for cases with similar circumstances;
- to increase compliance as a result of the perceived fairness of child support awards; and
- to improve the efficiency of adjudicating child support orders.

The Florida House of Representatives has traditionally taken the lead in completing the reviews to meet the federal mandate. In spite of timely guideline reviews and some statutory changes, the Florida Legislature has not adjusted the guidelines schedule since 1993. Since the underlying data for the current schedule enacted in 1993 is the 1972-1973 Consumer Expenditure Survey, the schedule is considerably out of date. In addition, other provisions of the guidelines may no longer adequately reflect the needs and circumstances of Florida families.

In preparation for the current review, the Legislature allocated funds for an economic review of the state's child support guidelines.[3] In February 2003, the Legislature contracted with the Department of Economics at Florida State University. The analysis undertaken by the researchers consisted of three tasks:

---

[1] Child Support Enforcement Amendments of 1984, 42 U.S.C. 657-662 (1984).
[2] Family Support Act of 1988, 42 U.S.C. 654, 666-667 (1988).
[3] See SB 2000 (2001) and HB 27E (2002).

- To update the existing Florida schedule of child support obligations based on the most recent data available on expenditures on children;
- To review three special issues relating to child support guidelines and to make recommendations for changes in Florida's treatment of these issues. The three issues are the treatment of low-income parents, provisions for visitation and alternative custody arrangements, and the treatment of prior and subsequent children; and
- To review alternative models for the development of child support guidelines and possibly recommend a different model for use in Florida.

In addition, two issues that were not a part of the original scope of work but were addressed in the report: the treatment in the guidelines of the tax benefits associated with children, and the treatment of child care related expenses.[4]

The final report was delivered to the Legislature in March 2004 and presentations were made on findings and recommendations to the Future of Florida's Families Committee during the 2004 and 2005 legislative sessions. Work continued during the interims in preparation for the development of proposed legislation for possible introduction during the 2006 legislative session. Findings in the report centered around three major issues: the support schedule, the treatment of low income obligors, and the treatment of various parental sharing arrangements.

- **Updating Florida's Child Support Guidelines Schedule**

Florida's current schedule of child support guidelines is based on the income shares model. The income shares model determines the amount of child support obligations from estimated average expenditures on children in an intact family as a function of the combined income of the parents. The model was developed by Robert Williams from an analysis of expenditures on children by Thomas Espenshade.[5] Espenshade based his analysis on Ernst Engel's[6] approach to comparing living standards among families.

In the schedule proposed in the FSU report, the basic support obligations are lower at most income levels than those in the current schedule, with differences being relatively small except at the higher income levels. However, the amounts in the proposed guidelines are greater than those in the existing guidelines for families with low incomes and multiple children.

Using a representative sample of Florida child support cases, it was determined that for approximately 60% of the Title IV-D cases in the sample the average child support payment changes very little from the current schedule. Only for the 20% of cases in the IV-D sample with the highest incomes would the average payment change substantially. Similarly, in 40% of the private cases there is almost no change in the average child support payment. For the top 20% the average payment decreases substantially, and the average payment for the middle 40% decreases slightly. Applying the proposed schedule of basic child support obligations to the actual distribution of the child support cases in Florida indicates that the effect of the proposed schedule would be minimal for most cases. Only the top 20% of cases ranked by income would see a significant change in the amount of child support payments. In those cases, payments would decrease substantially.

---

[4] See Updating Florida's Schedule of Child Support Obligations, Final Report to the Florida Legislature, Department of Economics, Florida State University, March 5, 2004.

[5] See Espenshade, T. J. (1973). The Cost of Children in Urban United States. Westport, Connecticut: Greenwood Press and Espenshade, T. J. (1984). Investing in Children: New Estimates of Parental Expenditures. Washington, D.C.: The Urban Institute Press.

[6] The underlying assumption of the Engel approach is that families of a different size that spend equal proportions of their incomes on food are equally well-off. The Engel approach assumes that as total spending increases, the budget share or percent devoted to food should decrease, freeing up expenditures for other goods, and that as family size increases, the food share of the budget should also increase.

- **Low-Income Parents**

Child support obligations that are derived from the income shares methodology typically include an adjustment for low-income parents to ensure that parents owing child support are not living in poverty due to the obligation to provide support. The low-income adjustment in Florida's current guidelines applies to only about one percent of cases and is therefore ineffective at preventing or mitigating poverty among low-income parents. This ineffectiveness is primarily a result of four features of the current guidelines:

- The use of combined income of both parents with the single person poverty threshold;
- The application of the low-income provisions to the basic obligation rather than to the total obligation;
- The failure to update the child support schedule on a regular basis to reflect increases in the poverty guideline; and
- The imputation of income.

In addition, Florida's current schedule of child support obligations is regressive, which penalizes noncustodial parents who earn additional income and therefore serves as a disincentive to work. By imposing a very high marginal rate on additional earnings, it also discourages compliance. In fact, the compliance rate among low-income noncustodial parents is very low, which in turn presents a barrier to the involvement of the noncustodial parent with the children.

- **Visitation and Custody**

Florida law currently provides that in shared parenting arrangements where a child spends less than 40 percent of overnights per year with the noncustodial parent, the court may use that arrangement as grounds for an adjustment in the amount of the child support obligation. A shared parenting arrangement where the number of overnights spent with the noncustodial parent exceeds 40 percent requires the court to adjust the noncustodial parent's support obligation to reflect the additional costs of maintaining two households for the child.

Failure to provide any adjustment where time spent with the noncustodial parent does not equal or exceed 40 percent may act as a disincentive for regular visitation with the noncustodial parent. Further, setting a threshold results in very large changes in the noncustodial parent's child support obligation in response to very small changes in the amount of visitation. For this reason, the existence of a threshold can be a source of excessive dispute and litigation between parents.

Currently, Florida's child support guidelines are silent regarding split custody arrangements. As a result, determination of the amount of the basic support obligation in such cases is left to the discretion of the courts without any statutory guidance on dealing with this type of living arrangement. This gives rise to disparate treatment of these cases in different judicial districts, and can also be a source of dispute and litigation over living arrangements. Failure to provide explicitly for split custody may discourage parents from adopting this arrangement even when it is in the best interests of the child.

**The Bill**

With regard to the three major sets of findings resulting from the FSU study, the bill retains the existing child support guidelines schedule, it continues the current treatment of low income families, it eliminates the 40% threshold for shared parenting arrangements by providing for a continuous adjustment to child support award amounts, and it defines split shared parenting arrangements and provides direction for calculating the amount of an award in such circumstances. The bill also contains the following provisions related to child support guidelines and orders:

- New language that reflects Florida's use of the income shares model as the basis for its child support guidelines schedule and states the purposes of the guidelines schedule;

- Simplification of the concept of rebuttable presumption and clarification of when the court must have a written finding when deviating from the guideline amount of an award;
- New provisions relating to the imputation of income for purposes of determining the amount of a child support award;
- Clarification that child care costs and health care costs are not built into the guideline schedule and are expenses that are added on to the basic child support obligation;
- Elimination of an automatic reduction in child care costs related to the 25% federal child care credit; and
- Direction for transferring responsibility for the implementation and review of the child support guidelines from the legislature to the court.

In addition, the bill contains two provisions related to the enforcement of child support orders:

- Reduction of the arrearage threshold for denial of a passport; and
- Giving states the option of establishing a corresponding case based on another state's administrative enforcement of an interstate case request.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 61.13, F.S., relating to custody and support of children, visitation rights, and the powers of the court in making orders.

**Section 2.** Amends s. 61.14, F.S., relating to enforcement and modification of support, maintenance, or alimony agreements.

**Section 3.** Amends s. 61.30, F.S., relating to the child support guidelines and retroactive support.

**Section 4.** Amends s. 409.2564, F.S., relating to actions for support.

**Section 5.** Amends s. 409.25641, F.S., relating to procedures for processing automated administrative enforcement requests.

**Section 6.** Amends s. 409.2563, F.S., relating to administrative establishment of child support obligations, to conform cross references.

**Section 7.** Amends s. 742.031, F.S., relating to hearings, court orders for support, hospital expenses, and fee related to paternity actions, to conform

**Section 8.** Provides an effective date of October 1, 2006, unless otherwise provided.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to child support; amending s. 61.13, F.S.;
3 providing for automatic termination of support for a child
4 when the child is no longer eligible for support;
5 specifying conditions that render a child ineligible;
6 requiring either or both parents who owe support to secure
7 or object to the termination of a child support award;
8 requiring certain notice to a parent; authorizing the
9 court to retroactively terminate or modify a child support
10 award under certain circumstances; amending s. 61.14,
11 F.S.; providing for a temporary reduction in child support
12 under specified circumstances; authorizing the court to
13 grant certain forms of temporary relief; amending s.
14 61.30, F.S.; providing for use of the income shares model;
15 providing legislative findings; providing purposes of the
16 child support guidelines; providing that the amount of a
17 child support award resulting from the application of the
18 child support guidelines schedule creates a rebuttable
19 presumption of correctness; providing circumstances in
20 which specified variances in awards require a written
21 finding; providing for the determination of gross income;
22 providing for the imputation of income under certain
23 circumstances; providing for the determination of net
24 income; providing the child support guidelines schedule;
25 providing for determination of the amount of child support
26 for low-income and high-income parents; providing for
27 child care costs and health care costs to be added to the
28 minimum obligation; deleting provisions relating to
29 calculation of each parent's share of the child support

30 need; revising factors to be considered by the court in
31 adjusting child support awards; providing for shared
32 parenting arrangements; providing for calculation of child
33 support orders in cases of split parenting arrangements;
34 specifying the method for determining a child support
35 order amount; providing for modification of existing
36 orders; requiring submission of financial affidavits;
37 providing for the consideration of subsequent children;
38 providing for income information in the event of
39 noncooperation by a public assistance recipient for
40 purposes of child support; providing for review of the
41 child support guidelines; providing for retroactive child
42 support; amending s. 409.2564, F.S.; providing a threshold
43 for arrearages before passport restrictions apply;
44 amending s. 409.25641, F.S.; requiring the Department of
45 Revenue to employ automated administrative enforcement of
46 support orders in interstate cases; authorizing the
47 department to establish a corresponding case under certain
48 circumstances; amending ss. 409.2563 and 742.031, F.S.;
49 conforming cross-references; providing effective dates.
50
51 Be It Enacted by the Legislature of the State of Florida:
52
53 Section 1. Paragraphs (a) and (c) of subsection (1) of
54 section 61.13, Florida Statutes, are amended to read:
55 61.13 Custody and support of children; visitation rights;
56 power of court in making orders.--
57 (1)(a) In a proceeding under this chapter, the court may at
58 any time order either or both parents who owe a duty of support

59 to a child to pay support in accordance with the child support
60 guidelines in s. 61.30.
61 1. The order shall provide a schedule, based upon the
62 financial circumstances in existence at the time of the order,
63 setting forth the amount of child support owed for the remaining
64 minor children for whom support will be owed when each child
65 reaches majority or is no longer eligible for support. The
66 support obligation for each child shall automatically terminate
67 when that child is no longer eligible to receive support as set
68 forth in the order or in s. 743.07(2) or when the child is fully
69 emancipated, is married, or is deceased. When a child is no
70 longer eligible for support, either parent shall send a notice by
71 certified mail, return receipt requested, to the address of the
72 other parent and to the child support enforcement agency and file
73 the notice with the court along with the return receipt. The
74 other parent shall have 10 days after receipt of the notice to
75 object to the termination of support. The objection shall provide
76 the reasons for the objection, shall be sent by certified mail,
77 return receipt requested, to the address of the parent who sent
78 the original notice and to the child support enforcement agency,
79 and shall be filed with the court along with the return receipt.
80 Until the dispute is resolved and the court enters an order
81 terminating or modifying the child support obligation, the parent
82 shall continue to pay child support. If no objection is timely
83 filed with the court, the parent who sent the original notice
84 shall file a notification of termination or modification of child
85 support with the court and the clerk of the court shall forward
86 the court file to the judge who shall enter an order either
87 retroactively terminating the child support obligation, if there

88 are no other minor children, or retroactively amending the child
89 support obligation and entering a new income deduction order to
90 reflect the appropriate amount of support for the remaining minor
91 children, based upon the most recently entered support order. The
92 court shall send a copy of such orders to the obligor, obligee,
93 and child support enforcement agency. The court order terminating
94 or modifying child support deductions and the new income
95 deduction order shall be provided by certified mail, return
96 receipt requested, by the obligee to the obligor's employer
97 instructing the employer to either cease deducting the child
98 support or to modify the amount deducted from the obligor's
99 income based on the new income deduction order.
100 2. The court initially entering an order requiring one or
101 both parents to make child support payments shall have continuing
102 jurisdiction after the entry of the initial order to modify the
103 amount and terms and conditions of the child support payments
104 when the modification is found necessary by the court in the best
105 interests of the child, when the child reaches majority, or when
106 there is a substantial change in the circumstances of the
107 parties, notwithstanding the automatic termination set forth in
108 subparagraph 1. If the child support obligation does not
109 automatically terminate as set forth in subparagraph 1. and the
110 obligor is forced to file an action to terminate support for a
111 child no longer entitled to receive support, the termination
112 shall be retroactive to the date the child was no longer eligible
113 to receive support, regardless of when the action is filed. If
114 the obligee receives support for a child who is no longer
115 eligible to receive support, the obligee is required to reimburse
116 the obligor the amount of the overpayment, which may be ordered

117 to be paid in one lump sum or in installments over a period of
118 time, at the discretion of the court based on the financial
119 circumstances of the party who is responsible for the repayment.
120 3. The court initially entering a child support order shall
121 also have continuing jurisdiction to require the obligee to
122 report to the court on terms prescribed by the court regarding
123 the disposition of the child support payments.
124 (c) To the extent necessary to protect an award of child
125 support, the court may order either or both parents who owe a
126 duty of support to a child ~~the obligor~~ to purchase or maintain a
127 life insurance policy or a bond~~,~~ or to otherwise secure the child
128 support award with any other assets which may be suitable for
129 that purpose.
130 Section 2. Paragraph (a) of subsection (1) and paragraph
131 (b) of subsection (11) of section 61.14, Florida Statutes, are
132 amended to read:
133 61.14 Enforcement and modification of support, maintenance,
134 or alimony agreements or orders.--
135 (1)(a)1. When the parties enter into an agreement for
136 payments for, or instead of, support, maintenance, or alimony,
137 whether in connection with a proceeding for dissolution or
138 separate maintenance or with any voluntary property settlement,
139 or when a party is required by court order to make any payments,
140 and the circumstances or the financial ability of either party
141 changes or the child who is a beneficiary of an agreement or
142 court order as described herein reaches majority after the
143 execution of the agreement or the rendition of the order, either
144 party may apply to the circuit court of the circuit in which the
145 parties, or either of them, resided at the date of the execution

146 of the agreement or reside at the date of the application, or in
147 which the agreement was executed or in which the order was
148 rendered, by filing a supplemental petition for an order
149 decreasing or increasing the amount of support, maintenance, or
150 alimony, and the court has jurisdiction to make orders as equity
151 requires, with due regard to the changed circumstances or the
152 financial ability of the parties or the child, decreasing,
153 increasing, or confirming the amount of separate support,
154 maintenance, or alimony provided for in the agreement or order.
155 2. A finding that medical insurance is reasonably available
156 or the child support guidelines in s. 61.30 may constitute
157 changed circumstances.
158 3.a. When the involuntary change of circumstances or
159 financial ability has not yet been established as being permanent
160 in nature, or when the change in circumstances is readily
161 acknowledged as only temporary in nature, a party may file a
162 motion for temporary relief, as opposed to a supplemental
163 petition for modification as provided in subparagraph 1. This
164 motion must be served in the same manner as a supplemental
165 petition. In response to the motion, the court may grant, as
166 appropriate, the following forms of temporary relief:
167 (I) A temporary reduction, abatement, or suspension of
168 child support, with the option to enforce payment of the accrued
169 shortfall, if appropriate, between the regular child support and
170 the temporary obligation;
171 (II) An abatement or suspension of contempt or enforcement
172 proceedings; or
173 (III) Such other temporary relief that the court deems just
174 and proper.

175 b. As a condition of entitlement to temporary relief under
176 this subparagraph, the movant must demonstrate that he or she:
177 (I) Has not precipitated the change of circumstances or
178 financial ability to avoid meeting the existing court-ordered
179 child support obligation.
180 (II) Is trying diligently to attain his or her previous
181 income level.
182 c. If a subsequent modification action is filed, the court
183 may modify an order of child support retroactively to the date of
184 the filing of the motion.
185 4. Except as otherwise provided in subparagraph 3. and s.
186 61.30(11)(d)~~(e)~~, the court may modify an order of support,
187 maintenance, or alimony by increasing or decreasing the support,
188 maintenance, or alimony retroactively to the date of the filing
189 of the action or supplemental action for modification as equity
190 requires, giving due regard to the changed circumstances or the
191 financial ability of the parties or the child.
192 (11)
193 (b) The modification of the temporary support order may be
194 retroactive to the date of the initial entry of the temporary
195 support order; to the date of filing of the initial petition for
196 dissolution of marriage, initial petition for support, initial
197 petition determining paternity, or supplemental petition for
198 modification; or to a date prescribed in paragraph (1)(a) or s.
199 61.30(11)(d)~~(e)~~ or (18)~~(17)~~, as applicable.
200 Section 3. Section 61.30, Florida Statutes, is amended to
201 read:
202 61.30 Child support guidelines; guidelines schedule;
203 retroactive child support.--

204 (1) INCOME SHARES MODEL.--
205 (a) The state child support guidelines are based on the
206 income shares model, which presumes that a child should receive
207 the same proportion of parental income as he or she would have
208 received if the parents lived together.
209 (b) The Legislature finds that child support is a
210 continuous obligation of both parents, children are entitled to
211 share in the current income of both parents, and a child's
212 standard of living should not, to the degree possible, be
213 negatively affected because a child's parents are not living
214 together in the same household. The Legislature finds that
215 children of families living in two households should be afforded
216 the same opportunities that are available to children in families
217 living in one household with parents who have financial resources
218 similar to the resources of the parents who are living in two
219 households.
220 (c) The Legislature finds that child support shall provide
221 for the needs of the child. The needs of the child include, but
222 are not limited to, direct expenses for food, clothing, school,
223 and entertainment. The Legislature finds that child support shall
224 also be used to provide for housing, utilities, transportation,
225 and other indirect expenses related to the day-to-day care and
226 well-being of the child.
227 (d) The Legislature further finds that in intact families
228 the income of both parents is combined and spent for the benefit
229 of all household members, including the children. The amount each
230 parent contributes to the total income of the family represents
231 his or her relative share of household expenses. This same income
232 sharing principle is used by the income shares model to determine

233 how parents will share a child support award. The child support
234 guidelines schedule as provided in subsection (6) calculates a
235 child support award as the estimated share of each parent's
236 income that would have been spent on the child if the parents and
237 child were living in the same household. The amount calculated to
238 be spent by the custodial parent on child-rearing expenses is
239 retained by the custodial parent and is to be spent directly for
240 the benefit of the child. The amount calculated to be spent by
241 the noncustodial parent on child-rearing expenses represents the
242 amount of support that is paid to the custodial parent for the
243 benefit of the child. The amount of a child support award shall
244 be determined without regard to the gender of the custodial
245 parent.
246 (2) PURPOSES OF CHILD SUPPORT GUIDELINES.--The primary
247 purposes of the child support guidelines are:
248 (a) To provide uniform procedures for establishing an
249 adequate level of support for children, subject to the parents'
250 ability to pay.
251 (b) To make child support awards more equitable by ensuring
252 the consistent treatment of persons in similar circumstances.
253 (c) To reduce the adversarial nature of child support
254 proceedings by increasing voluntary settlements due to greater
255 predictability in the process to determine the amount of a child
256 support award.
257 (d) To increase the level of compliance with child support
258 orders as a result of the perceived fairness of the amounts of
259 child support ordered to be paid.
260 (e) To improve the efficiency of the judicial process by
261 giving courts, the child support enforcement agency, attorneys,

262 and parents guidance in determining the amount of child support
263 awards.
264 (f) To comply with federal law.
265 (3) REBUTTABLE PRESUMPTION.--
266 (a) There shall be a rebuttable presumption in any judicial
267 or administrative proceeding to establish a temporary or
268 permanent order for child support, to decide whether to approve a
269 settlement agreement for child support, or to consider requests
270 for modifications of existing orders that the amount of child
271 support that would result from the application of the guidelines
272 schedule provided in subsection (6) is the correct amount of
273 child support to be awarded. The presumption may be rebutted and
274 the minimum child support award, or either or both parents' share
275 of the minimum child support award, may be adjusted upward or
276 downward upon evidence that the application of the guidelines
277 schedule would be unjust or inappropriate in a particular case.
278 (b)~~(1)(a)~~ A ~~The child support guideline amount as~~
279 ~~determined by this section presumptively establishes the amount~~
280 ~~the trier of fact shall order as child support in an initial~~
281 ~~proceeding for such support or in a proceeding for modification~~
282 ~~of an existing order for such support, whether the proceeding~~
283 ~~arises under this or another chapter. The trier of fact may order~~
284 ~~payment of~~ child support award which varies, plus or minus 5
285 percent, from the guideline amount may be ordered without a
286 written finding~~, after considering all relevant factors,~~
287 ~~including the needs of the child or children, age, station in~~
288 ~~life, standard of living, and the financial status and ability of~~
289 ~~each parent~~. A ~~The trier of fact may order payment of~~ child
290 support award in an amount which varies more than 5 percent from

291 the ~~such~~ guideline amount may be ordered only upon a written
292 finding explaining why ordering payment of the ~~such~~ guideline
293 amount would be unjust or inappropriate. In determining whether
294 the application of the guidelines schedule would be unjust or
295 inappropriate and in determining whether to vary from the
296 presumptive child support amount in a particular case, the court
297 shall consider all of the factors provided in subsection (10)
298 ~~Notwithstanding the variance limitations of this section, the~~
299 ~~trier of fact shall order payment of child support which varies~~
300 ~~from the guideline amount as provided in paragraph (11)(b)~~
301 ~~whenever any of the children are required by court order or~~
302 ~~mediation agreement to spend a substantial amount of time with~~
303 ~~the primary and secondary residential parents. This requirement~~
304 ~~applies to any living arrangement, whether temporary or~~
305 ~~permanent~~.
306 ~~(b) The guidelines may provide the basis for proving a~~
307 ~~substantial change in circumstances upon which a modification of~~
308 ~~an existing order may be granted. However, the difference between~~
309 ~~the existing monthly obligation and the amount provided for under~~
310 ~~the guidelines shall be at least 15 percent or $50, whichever~~
311 ~~amount is greater, before the court may find that the guidelines~~
312 ~~provide a substantial change in circumstances.~~
313 ~~(c) For each support order reviewed by the department as~~
314 ~~required by s. 409.2564(11), if the amount of the child support~~
315 ~~award under the order differs by at least 10 percent but not less~~
316 ~~than $25 from the amount that would be awarded under s. 61.30,~~
317 ~~the department shall seek to have the order modified and any~~
318 ~~modification shall be made without a requirement for proof or~~
319 ~~showing of a change in circumstances.~~

320 (4)~~(2)~~ DETERMINATION OF GROSS INCOME.--Income shall be
321 determined on a monthly basis for each parent. ~~the obligor and~~
322 ~~for the obligee as follows:~~
323 (a) Gross income shall include, but is not limited to, the
324 following ~~items~~:
325 1. Salary or wages.
326 2. Bonuses, commissions, allowances, overtime, tips, and
327 other similar payments.
328 3. Business income from sources such as self-employment,
329 partnership, close corporations, and independent contracts.
330 "Business income" means gross receipts minus ordinary and
331 necessary expenses required to produce income.
332 4. Disability benefits.
333 5. All workers' compensation benefits and settlements.
334 6. Unemployment compensation.
335 7. Pension, retirement, or annuity payments.
336 8. Social security benefits.
337 9. Spousal support received from a previous marriage or
338 court ordered in the marriage before the court.
339 10. Interest and dividends.
340 11. Rental income, which is gross receipts minus ordinary
341 and necessary expenses required to produce the income.
342 12. Income from royalties, trusts, or estates.
343 13. Reimbursed expenses or in kind payments to the extent
344 that they reduce living expenses.
345 14. Gains derived from dealings in property, unless the
346 gain is nonrecurring.
347 (b)1. Income on a monthly basis shall be imputed to an
348 unemployed or underemployed parent when such employment or

349 underemployment is found by the court to be voluntary on that
350 parent's part, absent a finding of fact by the court of physical
351 or mental incapacity or other circumstances over which the parent
352 has no control. In the event of such voluntary unemployment or
353 underemployment, the employment potential and probable earnings
354 level of the parent shall be determined based upon his or her
355 recent work history, occupational qualifications, and prevailing
356 earnings level in the community as provided in this paragraph;
357 however, the court may refuse to impute income to a primary
358 residential parent if the court finds it necessary for the parent
359 to stay home with the child who is the subject of the child
360 support calculation to care for that child.
361 2. In order for the court to impute income under
362 subparagraph 1., the court must make specific findings of fact
363 consistent with the requirements of this paragraph. The party
364 seeking to impute income has the burden to present competent,
365 substantial evidence:
366 a. That the unemployment or underemployment is voluntary.
367 b. That identifies the amount and source of the imputed
368 income, including, but not limited to, an identification of a job
369 for which the party is suitably qualified by education,
370 experience, current licensure, and geographic location, with due
371 consideration being given to the parties' current existing
372 parental responsibility and time-sharing plan and their
373 historical compliance with the plan.
374 3. A rebuttable presumption shall exist, which entitles the
375 court to impute Florida minimum wage to a parent if no other
376 evidentiary basis or mechanism for establishing a parent's gross
377 income is available, absent a finding by the court that:

378 a. The parent has a physical or mental incapacity that
379 renders the parent unemployable or underemployed;
380 b. The parent is obliged to stay home with a child who is
381 the subject of the child support calculation proceedings and care
382 for that child, thereby preventing the parent's employment or
383 rendering the parent underemployed; or
384 c. There are other circumstances over which the parent has
385 no control, except for penal incarceration, which prevents the
386 parent from earning an income.
387
388 If evidence is produced that demonstrates that the parent is a
389 resident of another state, the state minimum wage applicable to
390 the parent's state of residence shall apply if it is greater than
391 the Florida minimum wage. In the absence of a state minimum wage
392 or if the other state's minimum wage is lower than the Florida
393 minimum wage, the federal minimum wage shall apply.
394 4. Income may not be imputed beyond minimum wage
395 requirements in subparagraph 3. based upon:
396 a. Income records that are more than 5 years old at the
397 time of the hearing or trial at which imputation is sought.
398 b. Income at a level that a party has not previously ever
399 earned in the past, unless recently degreed, licensed, certified,
400 relicensed, or recertified and thus qualified for, subject to
401 geographic location, with due consideration being given to the
402 parties' current existing parental responsibility and time-
403 sharing plan and their historical compliance with the plan.
404 (c) Public assistance as defined in s. 409.2554 shall be
405 excluded from gross income.

406 (d) If recurring income is not sufficient to meet the needs
407 of the child, the court may order child support to be paid from
408 nonrecurring income or assets.
409 (5) ~~(3)~~ DETERMINATION OF NET INCOME.--
410 (a) Net income is obtained by subtracting allowable
411 deductions from gross income. Allowable deductions shall include:
412 1. ~~(a)~~ Federal, state, and local income tax deductions,
413 adjusted for actual filing status and allowable dependents and
414 income tax liabilities.
415 2. ~~(b)~~ Federal insurance contributions or self-employment
416 tax.
417 3. ~~(c)~~ Mandatory union dues.
418 4. ~~(d)~~ Mandatory retirement payments.
419 5. ~~(e)~~ Health insurance payments, excluding payments for
420 coverage of the minor child.
421 6. ~~(f)~~ Court-ordered support for other children which is
422 actually paid.
423 7. ~~(g)~~ Spousal support paid pursuant to a court order from a
424 previous marriage or the marriage before the court.
425 (b) ~~(4)~~ Net income for each parent ~~the obligor and net~~
426 ~~income for the obligee~~ shall be computed by subtracting allowable
427 deductions from gross income.
428 (c) ~~(5)~~ Net income for each parent ~~the obligor and net~~
429 ~~income for the obligee~~ shall be added together for a combined net
430 income.
431 (6) CHILD SUPPORT GUIDELINES SCHEDULE.--The following
432 schedule ~~schedules~~ shall be applied to the combined net income to
433 determine the minimum child support amount ~~need~~:
434

| Combined Monthly Net ~~Available~~ Income | Child or Children | | | | | |
|---|---|---|---|---|---|---|
| | One | Two | Three | Four | Five | Six |
| 650.00 | 74 | 75 | 75 | 76 | 77 | 78 |
| 700.00 | 119 | 120 | 121 | 123 | 124 | 125 |
| 750.00 | 164 | 166 | 167 | 169 | 171 | 173 |
| 800.00 | 190 | 211 | 213 | 216 | 218 | 220 |
| 850.00 | 202 | 257 | 259 | 262 | 265 | 268 |
| 900.00 | 213 | 302 | 305 | 309 | 312 | 315 |
| 950.00 | 224 | 347 | 351 | 355 | 359 | 363 |
| 1000.00 | 235 | 365 | 397 | 402 | 406 | 410 |
| 1050.00 | 246 | 382 | 443 | 448 | 453 | 458 |
| 1100.00 | 258 | 400 | 489 | 495 | 500 | 505 |
| 1150.00 | 269 | 417 | 522 | 541 | 547 | 553 |
| 1200.00 | 280 | 435 | 544 | 588 | 594 | 600 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 449 | 1250.00 | 290 | 451 | 565 | 634 | 641 | 648 |
| 450 | 1300.00 | 300 | 467 | 584 | 659 | 688 | 695 |
| 451 | 1350.00 | 310 | 482 | 603 | 681 | 735 | 743 |
| 452 | 1400.00 | 320 | 498 | 623 | 702 | 765 | 790 |
| 453 | 1450.00 | 330 | 513 | 642 | 724 | 789 | 838 |
| 454 | 1500.00 | 340 | 529 | 662 | 746 | 813 | 869 |
| 455 | 1550.00 | 350 | 544 | 681 | 768 | 836 | 895 |
| 456 | 1600.00 | 360 | 560 | 701 | 790 | 860 | 920 |
| 457 | 1650.00 | 370 | 575 | 720 | 812 | 884 | 945 |
| 458 | 1700.00 | 380 | 591 | 740 | 833 | 907 | 971 |
| 459 | 1750.00 | 390 | 606 | 759 | 855 | 931 | 996 |
| 460 | 1800.00 | 400 | 622 | 779 | 877 | 955 | 1022 |
| 461 | 1850.00 | 410 | 638 | 798 | 900 | 979 | 1048 |
| 462 | 1900.00 | 421 | 654 | 818 | 923 | 1004 | 1074 |
| | 1950.00 | 431 | 670 | 839 | 946 | 1029 | 1101 |

463
2000.00 442 686 859 968 1054 1128
464
2050.00 452 702 879 991 1079 1154
465
2100.00 463 718 899 1014 1104 1181
466
2150.00 473 734 919 1037 1129 1207
467
2200.00 484 751 940 1060 1154 1234
468
2250.00 494 767 960 1082 1179 1261
469
2300.00 505 783 980 1105 1204 1287
470
2350.00 515 799 1000 1128 1229 1314
471
2400.00 526 815 1020 1151 1254 1340
472
2450.00 536 831 1041 1174 1279 1367
473
2500.00 547 847 1061 1196 1304 1394
474
2550.00 557 864 1081 1219 1329 1420
475
2600.00 568 880 1101 1242 1354 1447
476
2650.00 578 896 1121 1265 1379 1473
477

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 478 | 2700.00 | 588 | 912 | 1141 | 1287 | 1403 | 1500 |
| 479 | 2750.00 | 597 | 927 | 1160 | 1308 | 1426 | 1524 |
| 480 | 2800.00 | 607 | 941 | 1178 | 1328 | 1448 | 1549 |
| 481 | 2850.00 | 616 | 956 | 1197 | 1349 | 1471 | 1573 |
| 482 | 2900.00 | 626 | 971 | 1215 | 1370 | 1494 | 1598 |
| 483 | 2950.00 | 635 | 986 | 1234 | 1391 | 1517 | 1622 |
| 484 | 3000.00 | 644 | 1001 | 1252 | 1412 | 1540 | 1647 |
| 485 | 3050.00 | 654 | 1016 | 1271 | 1433 | 1563 | 1671 |
| 486 | 3100.00 | 663 | 1031 | 1289 | 1453 | 1586 | 1695 |
| 487 | 3150.00 | 673 | 1045 | 1308 | 1474 | 1608 | 1720 |
| 488 | 3200.00 | 682 | 1060 | 1327 | 1495 | 1631 | 1744 |
| 489 | 3250.00 | 691 | 1075 | 1345 | 1516 | 1654 | 1769 |
| 490 | 3300.00 | 701 | 1090 | 1364 | 1537 | 1677 | 1793 |
| 491 | 3350.00 | 710 | 1105 | 1382 | 1558 | 1700 | 1818 |
| | 3400.00 | 720 | 1120 | 1401 | 1579 | 1723 | 1842 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 3450.00 | 729 | 1135 | 1419 | 1599 | 1745 | 1867 |
| 3500.00 | 738 | 1149 | 1438 | 1620 | 1768 | 1891 |
| 3550.00 | 748 | 1164 | 1456 | 1641 | 1791 | 1915 |
| 3600.00 | 757 | 1179 | 1475 | 1662 | 1814 | 1940 |
| 3650.00 | 767 | 1194 | 1493 | 1683 | 1837 | 1964 |
| 3700.00 | 776 | 1208 | 1503 | 1702 | 1857 | 1987 |
| 3750.00 | 784 | 1221 | 1520 | 1721 | 1878 | 2009 |
| 3800.00 | 793 | 1234 | 1536 | 1740 | 1899 | 2031 |
| 3850.00 | 802 | 1248 | 1553 | 1759 | 1920 | 2053 |
| 3900.00 | 811 | 1261 | 1570 | 1778 | 1940 | 2075 |
| 3950.00 | 819 | 1275 | 1587 | 1797 | 1961 | 2097 |
| 4000.00 | 828 | 1288 | 1603 | 1816 | 1982 | 2119 |
| 4050.00 | 837 | 1302 | 1620 | 1835 | 2002 | 2141 |
| 4100.00 | 846 | 1315 | 1637 | 1854 | 2023 | 2163 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 4150.00 | 854 | 1329 | 1654 | 1873 | 2044 | 2185 |
| 4200.00 | 863 | 1342 | 1670 | 1892 | 2064 | 2207 |
| 4250.00 | 872 | 1355 | 1687 | 1911 | 2085 | 2229 |
| 4300.00 | 881 | 1369 | 1704 | 1930 | 2106 | 2251 |
| 4350.00 | 889 | 1382 | 1721 | 1949 | 2127 | 2273 |
| 4400.00 | 898 | 1396 | 1737 | 1968 | 2147 | 2295 |
| 4450.00 | 907 | 1409 | 1754 | 1987 | 2168 | 2317 |
| 4500.00 | 916 | 1423 | 1771 | 2006 | 2189 | 2339 |
| 4550.00 | 924 | 1436 | 1788 | 2024 | 2209 | 2361 |
| 4600.00 | 933 | 1450 | 1804 | 2043 | 2230 | 2384 |
| 4650.00 | 942 | 1463 | 1821 | 2062 | 2251 | 2406 |
| 4700.00 | 951 | 1477 | 1838 | 2081 | 2271 | 2428 |
| 4750.00 | 959 | 1490 | 1855 | 2100 | 2292 | 2450 |
| 4800.00 | 968 | 1503 | 1871 | 2119 | 2313 | 2472 |
| 4850.00 | 977 | 1517 | 1888 | 2138 | 2334 | 2494 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 4900.00 | 986 | 1530 | 1905 | 2157 | 2354 | 2516 |
| 4950.00 | 993 | 1542 | 1927 | 2174 | 2372 | 2535 |
| 5000.00 | 1000 | 1551 | 1939 | 2188 | 2387 | 2551 |
| 5050.00 | 1006 | 1561 | 1952 | 2202 | 2402 | 2567 |
| 5100.00 | 1013 | 1571 | 1964 | 2215 | 2417 | 2583 |
| 5150.00 | 1019 | 1580 | 1976 | 2229 | 2432 | 2599 |
| 5200.00 | 1025 | 1590 | 1988 | 2243 | 2447 | 2615 |
| 5250.00 | 1032 | 1599 | 2000 | 2256 | 2462 | 2631 |
| 5300.00 | 1038 | 1609 | 2012 | 2270 | 2477 | 2647 |
| 5350.00 | 1045 | 1619 | 2024 | 2283 | 2492 | 2663 |
| 5400.00 | 1051 | 1628 | 2037 | 2297 | 2507 | 2679 |
| 5450.00 | 1057 | 1638 | 2049 | 2311 | 2522 | 2695 |
| 5500.00 | 1064 | 1647 | 2061 | 2324 | 2537 | 2711 |
| 5550.00 | 1070 | 1657 | 2073 | 2338 | 2552 | 2727 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 536 | 5600.00 | 1077 | 1667 | 2085 | 2352 | 2567 | 2743 |
| 537 | 5650.00 | 1083 | 1676 | 2097 | 2365 | 2582 | 2759 |
| 538 | 5700.00 | 1089 | 1686 | 2109 | 2379 | 2597 | 2775 |
| 539 | 5750.00 | 1096 | 1695 | 2122 | 2393 | 2612 | 2791 |
| 540 | 5800.00 | 1102 | 1705 | 2134 | 2406 | 2627 | 2807 |
| 541 | 5850.00 | 1107 | 1713 | 2144 | 2418 | 2639 | 2820 |
| 542 | 5900.00 | 1111 | 1721 | 2155 | 2429 | 2651 | 2833 |
| 543 | 5950.00 | 1116 | 1729 | 2165 | 2440 | 2663 | 2847 |
| 544 | 6000.00 | 1121 | 1737 | 2175 | 2451 | 2676 | 2860 |
| 545 | 6050.00 | 1126 | 1746 | 2185 | 2462 | 2688 | 2874 |
| 546 | 6100.00 | 1131 | 1754 | 2196 | 2473 | 2700 | 2887 |
| 547 | 6150.00 | 1136 | 1762 | 2206 | 2484 | 2712 | 2900 |
| 548 | 6200.00 | 1141 | 1770 | 2216 | 2495 | 2724 | 2914 |
| 549 | 6250.00 | 1145 | 1778 | 2227 | 2506 | 2737 | 2927 |
| | 6300.00 | 1150 | 1786 | 2237 | 2517 | 2749 | 2941 |

550

| | | | | | | |
|---|---|---|---|---|---|---|
| 6350.00 | 1155 | 1795 | 2247 | 2529 | 2761 | 2954 |
| 6400.00 | 1160 | 1803 | 2258 | 2540 | 2773 | 2967 |
| 6450.00 | 1165 | 1811 | 2268 | 2551 | 2785 | 2981 |
| 6500.00 | 1170 | 1819 | 2278 | 2562 | 2798 | 2994 |
| 6550.00 | 1175 | 1827 | 2288 | 2573 | 2810 | 3008 |
| 6600.00 | 1179 | 1835 | 2299 | 2584 | 2822 | 3021 |
| 6650.00 | 1184 | 1843 | 2309 | 2595 | 2834 | 3034 |
| 6700.00 | 1189 | 1850 | 2317 | 2604 | 2845 | 3045 |
| 6750.00 | 1193 | 1856 | 2325 | 2613 | 2854 | 3055 |
| 6800.00 | 1196 | 1862 | 2332 | 2621 | 2863 | 3064 |
| 6850.00 | 1200 | 1868 | 2340 | 2630 | 2872 | 3074 |
| 6900.00 | 1204 | 1873 | 2347 | 2639 | 2882 | 3084 |
| 6950.00 | 1208 | 1879 | 2355 | 2647 | 2891 | 3094 |
| 7000.00 | 1212 | 1885 | 2362 | 2656 | 2900 | 3103 |

551
552
553
554
555
556
557
558
559
560
561
562
563
564

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 565 | 7050.00 | 1216 | 1891 | 2370 | 2664 | 2909 | 3113 |
| 566 | 7100.00 | 1220 | 1897 | 2378 | 2673 | 2919 | 3123 |
| 567 | 7150.00 | 1224 | 1903 | 2385 | 2681 | 2928 | 3133 |
| 568 | 7200.00 | 1228 | 1909 | 2393 | 2690 | 2937 | 3142 |
| 569 | 7250.00 | 1232 | 1915 | 2400 | 2698 | 2946 | 3152 |
| 570 | 7300.00 | 1235 | 1921 | 2408 | 2707 | 2956 | 3162 |
| 571 | 7350.00 | 1239 | 1927 | 2415 | 2716 | 2965 | 3172 |
| 572 | 7400.00 | 1243 | 1933 | 2423 | 2724 | 2974 | 3181 |
| 573 | 7450.00 | 1247 | 1939 | 2430 | 2733 | 2983 | 3191 |
| 574 | 7500.00 | 1251 | 1945 | 2438 | 2741 | 2993 | 3201 |
| 575 | 7550.00 | 1255 | 1951 | 2446 | 2750 | 3002 | 3211 |
| 576 | 7600.00 | 1259 | 1957 | 2453 | 2758 | 3011 | 3220 |
| 577 | 7650.00 | 1263 | 1963 | 2461 | 2767 | 3020 | 3230 |
| 578 | 7700.00 | 1267 | 1969 | 2468 | 2775 | 3030 | 3240 |
| | 7750.00 | 1271 | 1975 | 2476 | 2784 | 3039 | 3250 |

579

| | | | | | | |
|---|---|---|---|---|---|---|
| 7800.00 | 1274 | 1981 | 2483 | 2792 | 3048 | 3259 |

580

| | | | | | | |
|---|---|---|---|---|---|---|
| 7850.00 | 1278 | 1987 | 2491 | 2801 | 3057 | 3269 |

581

| | | | | | | |
|---|---|---|---|---|---|---|
| 7900.00 | 1282 | 1992 | 2498 | 2810 | 3067 | 3279 |

582

| | | | | | | |
|---|---|---|---|---|---|---|
| 7950.00 | 1286 | 1998 | 2506 | 2818 | 3076 | 3289 |

583

| | | | | | | |
|---|---|---|---|---|---|---|
| 8000.00 | 1290 | 2004 | 2513 | 2827 | 3085 | 3298 |

584

| | | | | | | |
|---|---|---|---|---|---|---|
| 8050.00 | 1294 | 2010 | 2521 | 2835 | 3094 | 3308 |

585

| | | | | | | |
|---|---|---|---|---|---|---|
| 8100.00 | 1298 | 2016 | 2529 | 2844 | 3104 | 3318 |

586

| | | | | | | |
|---|---|---|---|---|---|---|
| 8150.00 | 1302 | 2022 | 2536 | 2852 | 3113 | 3328 |

587

| | | | | | | |
|---|---|---|---|---|---|---|
| 8200.00 | 1306 | 2028 | 2544 | 2861 | 3122 | 3337 |

588

| | | | | | | |
|---|---|---|---|---|---|---|
| 8250.00 | 1310 | 2034 | 2551 | 2869 | 3131 | 3347 |

589

| | | | | | | |
|---|---|---|---|---|---|---|
| 8300.00 | 1313 | 2040 | 2559 | 2878 | 3141 | 3357 |

590

| | | | | | | |
|---|---|---|---|---|---|---|
| 8350.00 | 1317 | 2046 | 2566 | 2887 | 3150 | 3367 |

591

| | | | | | | |
|---|---|---|---|---|---|---|
| 8400.00 | 1321 | 2052 | 2574 | 2895 | 3159 | 3376 |

592

| | | | | | | |
|---|---|---|---|---|---|---|
| 8450.00 | 1325 | 2058 | 2581 | 2904 | 3168 | 3386 |

593

| | | | | | | |
|---|---|---|---|---|---|---|
| 8500.00 | 1329 | 2064 | 2589 | 2912 | 3178 | 3396 |
| 8550.00 | 1333 | 2070 | 2597 | 2921 | 3187 | 3406 |
| 8600.00 | 1337 | 2076 | 2604 | 2929 | 3196 | 3415 |
| 8650.00 | 1341 | 2082 | 2612 | 2938 | 3205 | 3425 |
| 8700.00 | 1345 | 2088 | 2619 | 2946 | 3215 | 3435 |
| 8750.00 | 1349 | 2094 | 2627 | 2955 | 3224 | 3445 |
| 8800.00 | 1352 | 2100 | 2634 | 2963 | 3233 | 3454 |
| 8850.00 | 1356 | 2106 | 2642 | 2972 | 3242 | 3464 |
| 8900.00 | 1360 | 2111 | 2649 | 2981 | 3252 | 3474 |
| 8950.00 | 1364 | 2117 | 2657 | 2989 | 3261 | 3484 |
| 9000.00 | 1368 | 2123 | 2664 | 2998 | 3270 | 3493 |
| 9050.00 | 1372 | 2129 | 2672 | 3006 | 3279 | 3503 |
| 9100.00 | 1376 | 2135 | 2680 | 3015 | 3289 | 3513 |
| 9150.00 | 1380 | 2141 | 2687 | 3023 | 3298 | 3523 |
| 9200.00 | 1384 | 2147 | 2695 | 3032 | 3307 | 3532 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 608 9250.00 | 1388 | 2153 | 2702 | 3040 | 3316 | 3542 |
| 609 9300.00 | 1391 | 2159 | 2710 | 3049 | 3326 | 3552 |
| 610 9350.00 | 1395 | 2165 | 2717 | 3058 | 3335 | 3562 |
| 611 9400.00 | 1399 | 2171 | 2725 | 3066 | 3344 | 3571 |
| 612 9450.00 | 1403 | 2177 | 2732 | 3075 | 3353 | 3581 |
| 613 9500.00 | 1407 | 2183 | 2740 | 3083 | 3363 | 3591 |
| 614 9550.00 | 1411 | 2189 | 2748 | 3092 | 3372 | 3601 |
| 615 9600.00 | 1415 | 2195 | 2755 | 3100 | 3381 | 3610 |
| 616 9650.00 | 1419 | 2201 | 2763 | 3109 | 3390 | 3620 |
| 617 9700.00 | 1422 | 2206 | 2767 | 3115 | 3396 | 3628 |
| 618 9750.00 | 1425 | 2210 | 2772 | 3121 | 3402 | 3634 |
| 619 9800.00 | 1427 | 2213 | 2776 | 3126 | 3408 | 3641 |
| 620 9850.00 | 1430 | 2217 | 2781 | 3132 | 3414 | 3647 |
| 621 9900.00 | 1432 | 2221 | 2786 | 3137 | 3420 | 3653 |
| 622 | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 9950.00 | 1435 | 2225 | 2791 | 3143 | 3426 | 3659 |
| 10000.00 | 1437 | 2228 | 2795 | 3148 | 3432 | 3666 |

(7) LOW-INCOME PARENTS.--For combined monthly available income less than the amount set out in the schedule provided in subsection (6) ~~on the above schedules~~, the parent should be ordered to pay a child support amount, determined on a case-by-case basis, to establish the principle of payment and lay the basis for increased orders should the parent's income increase in the future.

(8) HIGH-INCOME PARENTS.--For combined monthly available income greater than the amount set out in the schedule provided in subsection (6) ~~above schedules~~, the obligation shall be the minimum amount of support provided by the guidelines schedule plus the following percentages multiplied by the amount of income over $10,000:

Child or Children

| One | Two | Three | Four | Five | Six |
|---|---|---|---|---|---|
| 5.0% | 7.5% | 9.5% | 11.0% | 12.0% | 12.5% |

(9) EXPENSES TO BE ADDED.--Some expenditures related to raising children represent either large expenses or expenses that may vary greatly from child to child and, for that reason, are not built into the child support guidelines schedule. However, these types of expenditures are typically incurred by most

647 children involved in child support proceedings and shall be
648 considered expenditures that are to be added to the basic child
649 support obligation, as follows:
650 (a) ~~(7)~~ Child care costs incurred on behalf of the children
651 due to employment, job search, or education calculated to result
652 in employment or to enhance income of current employment of
653 either parent shall be ~~reduced by 25 percent and then shall be~~
654 added to the basic obligation. After the ~~adjusted~~ child care
655 costs are added to the basic obligation, any moneys prepaid by
656 the noncustodial parent for child care costs for the child or
657 children of this action shall be deducted from that noncustodial
658 parent's child support obligation for that child or those
659 children. Child care costs shall not exceed the level required to
660 provide quality care from a licensed source for the children.
661 (b) ~~(8)~~ Health insurance costs resulting from coverage
662 ordered pursuant to s. 61.13(1)(b), and any noncovered medical,
663 dental, and prescription medication expenses of the child, shall
664 be added to the basic obligation unless these expenses have been
665 ordered to be separately paid on a percentage basis. After the
666 health insurance costs are added to the basic obligation, any
667 moneys prepaid by the noncustodial parent for health-related
668 costs for the child or children of this action shall be deducted
669 from that noncustodial parent's child support obligation for that
670 child or those children.
671 ~~(9) Each parent's percentage share of the child support~~
672 ~~need shall be determined by dividing each parent's net income by~~
673 ~~the combined net income.~~

674 ~~(10) Each parent's actual dollar share of the child support~~
675 ~~need shall be determined by multiplying the minimum child support~~
676 ~~need by each parent's percentage share.~~
677 (10)~~(11)(a)~~ FACTORS TO BE CONSIDERED FOR VARIATION.--The
678 court may adjust the minimum child support award, or either or
679 both parents' share of the minimum child support award, based
680 upon the following considerations:
681 (a)~~1.~~ Extraordinary medical, psychological, educational, or
682 dental expenses.
683 (b)~~2.~~ Independent income of the child, not to include
684 moneys received by a child from supplemental security income.
685 (c)~~3.~~ The payment of support for a parent which regularly
686 has been paid and for which there is a demonstrated need.
687 (d)~~4.~~ Seasonal variations in one or both parents' incomes
688 or expenses.
689 (e)~~5.~~ The age of the child, taking into account the greater
690 needs of older children.
691 (f)~~6.~~ Special needs, such as costs that may be associated
692 with the disability of a child, that have traditionally been met
693 within the family budget even though the fulfilling of those
694 needs will cause the support to exceed the amount proposed in the
695 guidelines schedule.
696 (g)~~7.~~ Total available assets of the obligee, obligor, and
697 the child.
698 (h)~~8.~~ The impact of the Internal Revenue Service dependency
699 exemption and waiver of that exemption and the impact of any
700 federal child care tax credit. The court may order the primary
701 residential parent to execute a waiver of the Internal Revenue

702 Service dependency exemption if the noncustodial parent is
703 current in support payments.
704 (i)~~9.~~ When application of the child support guidelines
705 requires a person to pay another person more than 55 percent of
706 his or her gross income for a child support obligation for
707 current support resulting from a single support order.
708 (j)~~10.~~ The particular shared parental arrangement~~, such as~~
709 ~~where the child spends a significant amount of time, but less~~
710 ~~than 40 percent of the overnights, with the noncustodial parent,~~
711 ~~thereby reducing the financial expenditures incurred by the~~
712 ~~primary residential parent; or the refusal of the noncustodial~~
713 ~~parent to become involved in the activities of the child~~.
714 (k)~~11.~~ Any other adjustment which is needed to achieve an
715 equitable result which may include, but not be limited to, a
716 reasonable and necessary existing expense or debt. Such expense
717 or debt may include, but is not limited to, a reasonable and
718 necessary expense or debt which the parties jointly incurred
719 during the marriage.
720 ~~(b) Whenever a particular shared parental arrangement~~
721 ~~provides that each child spend a substantial amount of time with~~
722 ~~each parent, the court shall adjust any award of child support,~~
723 ~~as follows:~~
724 ~~1. In accordance with subsections (9) and (10), calculate~~
725 ~~the amount of support obligation apportioned to the noncustodial~~
726 ~~parent without including day care and health insurance costs in~~
727 ~~the calculation and multiply the amount by 1.5.~~
728 ~~2. In accordance with subsections (9) and (10), calculate~~
729 ~~the amount of support obligation apportioned to the custodial~~

730 ~~parent without including day care and health insurance costs in~~
731 ~~the calculation and multiply the amount by 1.5.~~
732 ~~3. Calculate the percentage of overnight stays the child~~
733 ~~spends with each parent.~~
734 ~~4. Multiply the noncustodial parent's support obligation as~~
735 ~~calculated in subparagraph 1. by the percentage of the custodial~~
736 ~~parent's overnight stays with the child as calculated in~~
737 ~~subparagraph 3.~~
738 ~~5. Multiply the custodial parent's support obligation as~~
739 ~~calculated in subparagraph 2. by the percentage of the~~
740 ~~noncustodial parent's overnight stays with the child as~~
741 ~~calculated in subparagraph 3.~~
742 ~~6. The difference between the amounts calculated in~~
743 ~~subparagraphs 4. and 5. shall be the monetary transfer necessary~~
744 ~~between the custodial and noncustodial parents for the care of~~
745 ~~the child, subject to an adjustment for day care and health~~
746 ~~insurance expenses.~~
747 ~~7. Pursuant to subsections (7) and (8), calculate the net~~
748 ~~amounts owed by the custodial and noncustodial parents for the~~
749 ~~expenses incurred for day care and health insurance coverage for~~
750 ~~the child. Day care shall be calculated without regard to the 25-~~
751 ~~percent reduction applied by subsection (7).~~
752 ~~8. Adjust the support obligation owed by the custodial or~~
753 ~~noncustodial parent pursuant to subparagraph 6. by crediting or~~
754 ~~debiting the amount calculated in subparagraph 7. This amount~~
755 ~~represents the child support which must be exchanged between the~~
756 ~~custodial and noncustodial parents.~~
757 ~~9. The court may deviate from the child support amount~~
758 ~~calculated pursuant to subparagraph 8. based upon the~~

759 ~~considerations set forth in paragraph (a), as well as the~~
760 ~~custodial parent's low income and ability to maintain the basic~~
761 ~~necessities of the home for the child, the likelihood that the~~
762 ~~noncustodial parent will actually exercise the visitation granted~~
763 ~~by the court, and whether all of the children are exercising the~~
764 ~~same shared parental arrangement.~~
765 ~~10. For purposes of adjusting any award of child support~~
766 ~~under this paragraph, "substantial amount of time" means that the~~
767 ~~noncustodial parent exercises visitation at least 40 percent of~~
768 ~~the overnights of the year.~~
769 (11) SHARED PARENTING AND SPLIT PARENTING ARRANGEMENTS.--
770 (a) In an intact family, the children reside in one
771 household with both parents and no visitation is needed. The
772 minimum child support amounts in the child support guidelines
773 schedule provided in subsection (6) represent spending on
774 children by intact families. Therefore, the child support amounts
775 in the guidelines schedule are appropriate only if the child
776 resides in the custodial parent's household 100 percent of the
777 time. In shared parenting situations, each parent incurs expenses
778 for the child while the child is with that parent. To accommodate
779 shared parenting situations, each parent's income share of the
780 minimum child support award may be adjusted based on expenses
781 assumed to be duplicated or shifted and the amount of time spent
782 with the child. Although these guidelines are designed to
783 accommodate shared parenting arrangements when appropriate,
784 shared parenting adjustments or awards are not presumptive but
785 are subject to the discretion of the court in accordance with the
786 factors listed in subsection (10).

787 (b) Unless the parties otherwise agree, the final child
788 support order shall not be based on a calculated shared parenting
789 award if:
790 1. The monthly net income of the custodial parent plus the
791 shared parenting child support award is less than two times the
792 then-current poverty guidelines prescribed by the United States
793 Department of Health and Human Services for the size of the
794 household; or
795 2. In any case, the court finds that the net income of the
796 custodial parent remaining after the calculation of the shared
797 parenting award is not sufficient to maintain the household for
798 the child.
799 (c) A shared parenting calculation shall be determined
800 according to the following formula:
801 1. The child support payment to be made equals (the basic
802 support obligation) multiplied by (1 plus Parent A's percentage
803 of the shared parenting time) multiplied by [(Parent A's share of
804 the combined monthly net income) minus (Parent A's percentage of
805 the shared parenting time)].
806 2. If the two parents do not have an equal amount of
807 parenting time, Parent A is the parent with the smaller
808 percentage of time.
809 3. If the two parents have an equal amount of parenting
810 time, Parent A is the parent with the larger income.
811 (d) ~~(c)~~ A noncustodial parent's failure to regularly exercise
812 court-ordered or agreed visitation not caused by the custodial
813 parent which resulted in the adjustment of the amount of child
814 support as provided in subsection (12) ~~pursuant to subparagraph~~
815 ~~(a)10. or paragraph (b)~~ shall be deemed a substantial change of

816 circumstances for purposes of modifying the child support award.
817 A modification pursuant to this paragraph shall be retroactive to
818 the date the noncustodial parent first failed to regularly
819 exercise court-ordered or agreed visitation.
820 (e) A split parenting arrangement exists when there is more
821 than one child in common and each parent provides primary
822 residential care for at least one of the children. In cases
823 involving split parenting arrangements, the court shall calculate
824 and issue a separate child support order for each parent based on
825 the number of children in that parent's custody, and the
826 difference between the two orders is the amount to be paid by the
827 parent with the higher child support order amount.
828 (12) DETERMINATION OF CHILD SUPPORT ORDER AMOUNT.--
829 (a) Calculations shall be made to determine the amount of
830 child support contained in the support order, as follows:
831 1. Gross income shall be determined on a monthly basis for
832 each parent as provided in subsection (4).
833 2. Net income for each parent shall be determined by
834 subtracting allowable deductions from gross income as provided in
835 subsection (5).
836 3. Net income for each parent shall be added together for a
837 combined net income.
838 4. The combined net income shall be applied to the
839 child support guidelines schedule as provided in subsection (6)
840 to determine the minimum child support amount.
841 5. Each parent's percentage share of the minimum child
842 support amount shall be determined by dividing each parent's net
843 income by the combined net income.

844 6. Each parent's actual dollar share of the minimum child
845 support amount shall be determined by multiplying the minimum
846 child support amount by each parent's percentage share.
847 7. Any adjustment as a result of a particular shared
848 parenting arrangement as provided in subsection (11) shall be
849 factored in.
850 8. Any child care costs related to employment or education
851 calculated pursuant to subsection (9) shall be added to the basic
852 child support obligation.
853 9. Any costs related to health insurance premiums for the
854 child determined pursuant to subsection (9) shall be added to the
855 basic child support obligation.
856 10. The amount of the child support order is determined by
857 adding the basic child support obligation, any offset for a
858 particular parenting time arrangement, net child care costs
859 related to employment or education, and health insurance costs
860 for the child.
861 (b) Calculations shall be rounded to the nearest one-tenth
862 of a percent for percentages and to the nearest dollar in all
863 instances. When the parents' combined net income falls halfway or
864 more than halfway between the two income figures on the schedule,
865 the higher figure shall be used. When the parents' combined net
866 income falls less than halfway between two income figures, the
867 lower figure shall be used.
868 (13) MODIFICATION OF EXISTING ORDERS.--
869 (a) The guidelines schedule provided in subsection (6) may
870 provide the basis for proving a substantial change in
871 circumstances upon which a modification of an existing order may
872 be granted. However, the difference between the existing monthly

873 obligation and the amount provided for under the guidelines
874 schedule shall be at least 15 percent or $50, whichever amount is
875 greater, before the court may find that the guidelines schedule
876 provides a substantial change in circumstances.
877 (b) For each child support order reviewed by the department
878 as required by s. 409.2564(11), if the amount of the child
879 support award under the order differs by at least 10 percent but
880 not less than $25 from the amount that would be awarded under
881 this section, the department shall seek to have the order
882 modified and any modification shall be made without a requirement
883 for proof or showing of a change in circumstances.
884 (14) FINANCIAL AFFIDAVIT.--Every petition for child support
885 or for modification of child support shall be accompanied by an
886 affidavit which shows the party's income, allowable deductions,
887 and net income computed in accordance with this section. The
888 affidavit shall be served at the same time that the petition is
889 served. The respondent, whether or not a stipulation is entered,
890 shall make an affidavit which shows the party's income, allowable
891 deductions, and net income computed in accordance with this
892 section. The respondent shall include his or her affidavit with
893 the answer to the petition or as soon thereafter as is
894 practicable, but in any case at least 72 hours prior to any
895 hearing on the finances of either party.
896 (15) ~~(12)~~ EXISTENCE OF SUBSEQUENT CHILDREN.--
897 (a) A parent with a support obligation may have other
898 children living with him or her who were born or adopted after
899 the support obligation arose. If such subsequent children exist,
900 the court, when considering an upward modification of an existing
901 award, may disregard the income from secondary employment

902 obtained in addition to the parent's primary employment if the
903 court determines that the employment was obtained primarily to
904 support the subsequent children.
905 (b) Except as provided in paragraph (a), the existence of
906 such subsequent children should not as a general rule be
907 considered by the court as a basis for disregarding the amount
908 provided in the guidelines schedule. The parent with a support
909 obligation for subsequent children may raise the existence of
910 such subsequent children as a justification for deviation from
911 the guidelines schedule. However, if the existence of such
912 subsequent children is raised, the income of the other parent of
913 the subsequent children shall be considered by the court in
914 determining whether or not there is a basis for deviation from
915 the guideline amount.
916 (c) The issue of subsequent children under paragraph (a) or
917 paragraph (b) may only be raised in a proceeding for an upward
918 modification of an existing award and may not be applied to
919 justify a decrease in an existing award.
920 ~~(13) If the recurring income is not sufficient to meet the~~
921 ~~needs of the child, the court may order child support to be paid~~
922 ~~from nonrecurring income or assets.~~
923 (16)~~(15)~~ COOPERATION RELATED TO PUBLIC ASSISTANCE.--For
924 purposes of establishing an obligation for support in accordance
925 with this section, if a person who is receiving public assistance
926 is found to be noncooperative as defined in s. 409.2572, the IV-D
927 agency is authorized to submit to the court an affidavit
928 attesting to the income of the custodial parent based upon
929 information available to the IV-D agency.

930 (17) ~~(16)~~ REVIEW OF GUIDELINES.--The child support
931 guidelines shall be reviewed and revised, if necessary, at least
932 once every 4 years by a committee to be appointed by the Chief
933 Justice of the Supreme Court to ensure that the support amounts
934 are appropriate for child support awards. The Supreme Court shall
935 approve the child support guidelines upon revision by the
936 committee for use in this state and shall publish the guidelines
937 through per curiam order of the court ~~The Legislature shall~~
938 ~~review the guidelines established in this section at least every~~
939 ~~4 years beginning in 1997~~.
940 (18) ~~(17)~~ RETROACTIVE CHILD SUPPORT.--In an initial
941 determination of child support, whether in a paternity action,
942 dissolution of marriage action, or petition for support during
943 the marriage, the court has discretion to award child support
944 retroactive to the date when the parents did not reside together
945 in the same household with the child, not to exceed a period of
946 24 months preceding the filing of the petition, regardless of
947 whether that date precedes the filing of the petition. In
948 determining the retroactive award in such cases, the court shall
949 consider the following:
950 (a) The court shall apply the guidelines schedule in effect
951 at the time of the hearing subject to the obligor's demonstration
952 of his or her actual income, as defined by subsection (4) ~~(2)~~,
953 during the retroactive period. Failure of the obligor to so
954 demonstrate shall result in the court using the obligor's income
955 at the time of the hearing in computing child support for the
956 retroactive period.

957 (b) All actual payments made by the noncustodial parent to
958 the custodial parent or the child or third parties for the
959 benefit of the child throughout the proposed retroactive period.
960 (c) The court should consider an installment payment plan
961 for the payment of retroactive child support.
962 Section 4. Subsection (10) of section 409.2564, Florida
963 Statutes, is amended to read:
964 409.2564 Actions for support.--
965 (10) For the purposes of denial, revocation, or limitation
966 of an individual's United States passport, consistent with 42
967 U.S.C. s. 652(k)(1), the Title IV-D agency shall have procedures
968 to certify to the Secretary of the United States Department of
969 Health and Human Services, in the format and accompanied by such
970 supporting documentation as the secretary may require, a
971 determination that an individual owes arrearages of support in an
972 amount exceeding $2,500 ~~$5,000~~. Said procedures shall provide
973 that the individual be given notice of the determination and of
974 the consequence thereof and that the individual shall be given an
975 opportunity to contest the accuracy of the determination.
976 Section 5. Effective July 1, 2006, section 409.25641,
977 Florida Statutes, is amended to read:
978 409.25641 Procedures for processing automated
979 administrative enforcement requests.--
980 (1) The department ~~Title IV-D agency~~ shall use automated
981 administrative enforcement, as defined in Title IV-D of the
982 Social Security Act, in response to a request from another state
983 to enforce a support order and shall promptly report the results
984 of enforcement action to the requesting state.
985 (2) This request:

986 (a) May be transmitted from the other state by electronic
987 or other means.~~;~~
988 (b) Shall contain sufficient identifying information to
989 allow comparison with the databases within the state which are
990 available to the department. ~~Title IV-D agency; and~~
991 (c) Shall constitute a certification by the requesting
992 state:
993 1. Of the amount of arrearage accrued under the order; and
994 2. That the requesting state has complied with all
995 procedural due process requirements applicable to the case.
996 (3) If assistance is provided by the department ~~Title IV-D~~
997 ~~agency~~ to another state as prescribed above, the department may
998 not ~~neither state shall~~ consider the case to be transferred from
999 the caseload of the other state to the caseload of the
1000 department, but the department may establish a corresponding case
1001 based on the other state's request for assistance ~~Title IV-D~~
1002 ~~agency~~.
1003 (4) The department ~~Title IV-D agency~~ shall maintain a
1004 record of:
1005 (a) The number of requests received;
1006 (b) The number of cases for which the department ~~Title IV-D~~
1007 ~~agency~~ collected support in response to such a request; and
1008 (c) The amount of such collected support.
1009 (5) The department shall have authority to adopt rules to
1010 implement this section.
1011 Section 6. Paragraph (g) of subsection (1) and paragraph
1012 (a) of subsection (5) of section 409.2563, Florida Statutes, are
1013 amended to read:

1014 409.2563 Administrative establishment of child support
1015 obligations.--
1016 (1) DEFINITIONS.--As used in this section, the term:
1017 (g) "Retroactive support" means a child support obligation
1018 established pursuant to s. 61.30(18)~~(17)~~.
1019
1020 Other terms used in this section have the meanings ascribed in
1021 ss. 61.046 and 409.2554.
1022 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--
1023 (a) After serving notice upon the noncustodial parent in
1024 accordance with subsection (4), the department shall calculate
1025 the noncustodial parent's child support obligation under the
1026 child support guidelines schedule as provided by s. 61.30, based
1027 on any timely financial affidavits received and other information
1028 available to the department. If either parent fails to comply
1029 with the requirement to furnish a financial affidavit, the
1030 department may proceed on the basis of information available from
1031 any source, if such information is sufficiently reliable and
1032 detailed to allow calculation of guideline amounts under s.
1033 61.30. If the custodial parent receives public assistance and
1034 fails to submit a financial affidavit, the department may submit
1035 a financial affidavit for the custodial parent pursuant to s.
1036 61.30(16)~~(15)~~. If there is a lack of sufficient reliable
1037 information concerning a parent's actual earnings for a current
1038 or past period, it shall be presumed for the purpose of
1039 establishing a support obligation that the parent had an earning
1040 capacity equal to the federal minimum wage during the applicable
1041 period.

1042 Section 7. Paragraph (b) of subsection (4) of section
1043 742.031, Florida Statutes, is amended to read:
1044 742.031 Hearings; court orders for support, hospital
1045 expenses, and attorney's fee.--
1046 (4)
1047 (b) The modification of the temporary support order may be
1048 retroactive to the date of the initial entry of the temporary
1049 support order; to the date of filing of the initial petition for
1050 dissolution of marriage, petition for support, petition
1051 determining paternity, or supplemental petition for modification;
1052 or to a date prescribed in s. 61.14(1)(a) or s. 61.30(11)(d)~~(e)~~
1053 or (18)~~(17)~~, as applicable.
1054 Section 8. Except as otherwise expressly provided in this
1055 act, this act shall take effect October 1, 2006.

# Child Support Guidelines Report

# Future of Florida's Families Committee
# Interim Project

# Child Support Guidelines

**The Honorable Bill Galvano, Chair**
**February 2006**

# Future of Florida's Families Committee
# Interim Project

# Child Support Guidelines

**Staff Contact: Carol Preston, Legislative Analyst**
**Staff Director: Lucretia Shaw Collins**

# THE FLORIDA HOUSE OF REPRESENTATIVES

## Interim Project Report

### February 2006

### Future of Florida's Families Committee

# REVIEW OF FLORIDA'S CHILD SUPPORT GUIDELINES

## SUMMARY

During the 1970s and 1980s, federal law and regulations became increasingly focused on collecting unpaid child support, while remaining relatively silent on determining the amount of a child support obligation. Historically, the amount of a child support award was determined solely at the discretion of a trier of fact. Anecdotal reports indicated that allowing judges or other decisionmakers to subjectively determine the amount of child support obligations routinely resulted in judgments that were not adequate to provide for the needs of children and judgments that were considerably different in cases with similar circumstances.

In 1984, Congress recognized potential value in requiring states to implement guidelines to be used in the determination of the amount of the child support obligation. The federal Child Support Amendments of 1984 required states to establish non-binding child support guidelines either by law, or judicial or administrative action no later than October 1, 1987.[1] The Family Support Act of 1988 made state child support guidelines presumptive and required states to review their child support guidelines at least once every four years in order to ensure that their application results in child support award amounts that are appropriate. As a part of the review process, states must analyze case data related to the application of, and deviations from, the guidelines, and they must also consider economic data related to the cost of raising children.[2] With the exception of these two requirements, states have broad discretion and latitude in conducting guideline reviews.

The Florida House of Representatives has traditionally taken the lead in completing the reviews to meet the federal mandate. In spite of timely guideline reviews and some statutory changes, the Florida Legislature has not adjusted the guidelines schedule since 1993. Since the underlying data for the current schedule enacted in 1993 is the 1972-1973 Consumer Expenditure Survey, the schedule is considerably out of date. In addition, other provisions of the guidelines may no longer adequately reflect the needs and circumstances of Florida families.

---

[1] Child Support Enforcement Amendments of 1984, 42 U.S.C. 657-662 (1984).
[2] Family Support Act of 1988, 42 U.S.C. 654, 666-667 (1988).

# BACKGROUND

## Federal Law Related to Child Support Guidelines Review

Almost 10 years after the creation of the Child Support Enforcement Program in 1975, a report issued by the Senate Finance Committee noted that while federal law required states to have effective programs for establishing paternity, securing court orders for child support, and enforcing those orders, the adequacy or reasonableness of the amount of support ordered was left entirely to the discretion of the state and its courts. The child support enforcement program had unquestionably increased the number of support orders established and money collected. However, in many cases the amount of support ordered was lower than what was necessary to meet the needs of the child, while taking into consideration the ability of the absent parent to pay. In other cases awards were unrealistically high. Available data showed that in the limited number of states where guidelines were being voluntarily used, award levels tended to be higher than in those states where the amount of the award remained entirely discretionary with each judge.

As a result of information gathered by the Finance Committee, the Child Support Amendments of 1984 required states to adopt non-binding child support guidelines. The exact nature of the guidelines was to be determined by each state and were to be established by law or by a judicial conference or other mechanism considered appropriate in that state.[3] The Family Support Act of 1988 subsequently required those guidelines to be presumptive rather than advisory.[4] Almost all states, including Florida, complied with this mandate by the congressional deadline of October 13, 1989. In requiring the adoption and use of presumptive guidelines, the federal government had four primary objectives:

- to enhance the adequacy of child support orders;
- to improve the equity of orders by assuring more comparable treatment for cases with similar circumstances;
- to increase compliance as a result of the perceived fairness of child support awards; and
- to improve the efficiency of adjudicating child support orders.

In order to help ensure that state child support guidelines led to the determination of adequate awards, the Family Support Act also required states to review, and revise, if appropriate, their guidelines at least once every four years. The final implementing regulations related to the review process contained the following requirements:

> As part of the review of a State's guidelines ... a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited. [5]

---

[3] See Senate Report No. 98-387, 1984, p. 2436.

[4] The Family Support Act was enacted to restructure the basic program of public assistance for families through measures that emphasized the importance of parental responsibility, including the enforcement of child support, as well as expanded opportunities for education and training.

[5] See 45 CFR 302.56, Guidelines for setting child support awards.

## Florida Child Support Guidelines Reviews

In keeping with the requirements of the federal Child Support Enforcement Amendments of 1984, Florida adopted child support guidelines for the first time during the 1987 legislative session and the guidelines were given advisory status as permitted at that time by federal law.[6] The child support guidelines adopted by the 1987 Legislature were patterned after those already in use in New Jersey which were based on the Income Shares Model developed by Dr. Robert Williams.[7] The fundamental principle of the model is the premise that both parents have a shared duty to support their children based on their respective contribution to the combined family income. The model also assumes that a child should receive the same proportion of parental income that he or she would have received if the parents lived together in an intact household.[8]

In response to the requirements of the Family Support Act of 1988, Florida's guidelines became presumptive in 1989,[9] and the state reviews can be summarized as follows:

- **The 1992-1993 Review –** The House Committee on Judiciary conducted the first guidelines review as an interim project in 1992 and issued a report in December 1992. To satisfy the economic data requirement of the guidelines review, the Legislature contracted with Policy Studies, Inc. of Denver, Colorado, to update the Florida child support guidelines schedule. Policy Studies, Inc., provided the Florida Legislature with proposed support schedules and a table of support proportions upon which the schedules were built.[10] The new schedules were based on the Espenshade estimates[11] and adjusted for changes in the Consumer Price Index and the built-in self support reserve. In addition, the committee surveyed Florida case law and requested input from interested parties on the committee's child support mailing list.

As a result of this review process, the Florida Legislature enacted legislation that incorporated numerous changes to the child support guidelines. The child support guidelines schedule, while still using the Espenshade estimates based on the 1972-73 Consumer Expenditure Survey, was updated to reflect changes in the Consumer Price Index through 1992. The legislation also contained provisions to remedy problems

---

[6] See CS/SB 631 (Chapter 87-95, Laws of Florida).

[7] See Williams, R. G. (1987). Development of guidelines for child support orders, Advisory Panel recommendations and final report. Washington, D.C.: U.S. Department of Health and Human Services, Office of Child Support Enforcement.

[8] The schedule contained in the guidelines was based on economic estimates of child rearing expenditures derived by Thomas Espenshade by using national data on household expenditures from the 1972-1973 Consumer Expenditure Survey. A formula was established which provided that the adjusted net or gross income of both parents was to be combined and the support amount determined by reference to a table or schedule of support amounts. Each parent was then to be assessed his or her pro rata share of the support obligation. See Espenshade, T. J. (1984). Investing in Children: New Estimates of Parental Expenditures. Washington, D.C.: The Urban Institute Press.

[9] See CS/HB 258 (Chapter 89-183, Laws of Florida)

[10] See Letter with attachments to Edward Montanaro, Director, Joint Legislative Management Committee, January 20, 1993, on file with the House Future of Florida's Families Committee.

[11] See Espenshade, T. J. (1984). Investing in Children: New Estimates of Parental Expenditures. Washington, D.C.: The Urban Institute Press.

perceived as a result of reviewing applicable case law between 1989 and 1992, and addressed concerns raised by a variety of stakeholders in the child support process.[12]

- **The 1996-1997 Review** – The House Committee on Judiciary undertook the second child support guidelines review as an interim project in 1996. The Legislature again contracted with Policy Studies, Inc., to develop a new economic table for the Florida child support guidelines. The schedule that was proposed was developed using the economic findings of David Betson and using a methodology similar to the one used in the development of the guidelines that were in use at the time.[13] In addition, committee staff requested the assistance of the Department of Revenue in compiling case data on the application of guidelines and the amount, direction, and extent of deviations from guidelines. Circuit court judges, hearing officers and special masters hearing child support cases were also surveyed. The Committee on Family Law and Children issued a final report in March 1997, which stated:

> Since the last review in 1993, Florida courts have rendered numerous decisions discussing the application of the guidelines. Many issues have been raised by these decisions. These issues include, among others, application of the guidelines when there are multiple families; application of the guidelines when there is substantial secondary parenting; and application of the guidelines when primary residence is split ... Many issues which have emerged from this review should be addressed by the Legislature. These concerns affect the well being of Florida's children and are a significant concern to the affected parties. [14]

During the 1997 legislative session a number of substantive changes were made to the support guidelines, but they did not include recommendations resulting from the 1996-1997 guidelines review. The legislation did, however, in preparation for the next review, contain a provision requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study and analyze case data, gathered through a statistically valid random sample of established child support enforcement orders on the application of, and deviations from, the existing child support guidelines.[15]

The case data analysis that was provided for in 1997 legislation was completed by OPPAGA. The final report was released in March 1998 and contained a number of findings and recommendations.[16] The House Committee on Family Law and Children introduced a Proposed Committee Bill (PCB) during the 1998 session that would have implemented the updated child support guidelines schedule prepared for Florida by Policy Studies, Inc., during the 1996-1997 review process. The bill died in committee.[17]

---

[12] See CS/HB 707, Chapter 93-208, Laws of Florida.

[13] Williams, R.G., Price, D.A., & Venohr, J.C. (1997). Economic Basis for Updated Child Support Schedule, State of Florida, Policy Studies, Inc.

[14] See Florida House of Representatives, Committee on Family Law and Children. (1997). Child Support Guidelines, Interim Project Report. (When the child support guidelines review was planned and initiated, the House Committee on Judiciary had jurisdiction over child support issues. At the time the review was completed, the House of Representatives had reorganized and jurisdiction of child support issues was placed with the House Committee on Family Law and Children).

[15] See HB 2031 (Chapter 97-170, Laws of Florida).

[16] See Florida Office of Program Policy Analysis and Government Accountability. (1998). Review of Adherence to Child Support Guidelines (Report No. 97-63).

[17] See PCB FLC 98-02.

• **The 2000-2001 Review** – As required by state law, OPPAGA issued a follow up to their 1998 report in December 2000. The report provided information related to actions taken relevant to the findings and recommendations of the 1998 report. It also outlined information regarding the need to update the child support guidelines schedule and compared options available for revising the economic data on which the schedule is based.

The House Committee on Family Law and Children introduced legislation during the 2000 legislative session that contained a number of proposed changes to the child support guidelines that were based on findings from the case data analyses done by OPPAGA, the updated schedules proposed by Policy Studies, Inc., in 1997, input from stakeholders, and the results of surveys sent to circuit court judges, hearing officers, and special masters. The bill died in committee and the guidelines schedule remained unchanged.[18]

• **The 2004-2006 Review** – In preparation for the current review, the Legislature allocated funds for an economic review of the state's child support guidelines.[19] In February 2003, the Legislature contracted with the Department of Economics at Florida State University. The analysis undertaken by the researchers consisted of three tasks:

- To update the existing Florida schedule of child support obligations based on the most recent data available on expenditures on children;
- To review three special issues relating to child support guidelines and to make recommendations for changes in Florida's treatment of these issues. The three issues are the treatment of low-income parents, provisions for visitation and alternative custody arrangements, and the treatment of prior and subsequent children; and
- To review alternative models for the development of child support guidelines and possibly recommend a different model for use in Florida.[20]

In addition, two issues that were not a part of the original scope of work but that came up during the course of the project were addressed: the treatment in the guidelines of the tax benefits associated with children, and the treatment of child care related expenses.

The final report was delivered to the Legislature in March 2004 and presentations were made on findings and recommendations to the Future of Florida's Families Committee during the 2004 and 2005 legislative sessions. Work continued during the interims in preparation for the development of proposed legislation for possible introduction during the 2006 legislative session.

---

[18] See HB 2421 (2000).
[19] See SB 2000 (2001) and HB 27E (2002).
[20] See Updating Florida's Schedule of Child Support Obligations, Final Report to the Florida Legislature, Department of Economics, Florida State University, March 5, 2004.

## FINDINGS

Florida continues to have one of the highest divorce rates in the country, with over half of the state's marriages ending in divorce. In addition, it has been estimated that at least half of the state's children will witness the breakup of a parent's marriage and live at least part of their childhood in a single-parent family. Of these, close to half will also see the breakup of a parent's second marriage.[21] Given the number of children whose parents are divorced, along with those children whose parents never married, it follows that the child support guidelines affect many of the state's children and families. [22]

The development of child support guidelines that were fair was not perceived as an easy task in the 1980s. At that time, there were several competing theories on the most appropriate way to determine the amount of child support obligations. All states were dealing with the reality that any set of guidelines must adequately contend with public policy issues such as how to calculate parental income; how to treat obligations to subsequent families; how to treat income from second spouses; whether to consider actual earnings or earning capacity; how to treat child care costs incurred by a working custodial parent; how to handle visitation time and expenses; how to handle cost of living differences within a state; and how to best apply guidelines at the upper and lower ends of the income scale.

Almost 20 years have elapsed since Florida first implemented child support guidelines. Economic conditions are different, newer guideline models have emerged, the structure and needs of families have changed, and yet it appears current provisions in the Florida guidelines still have not adequately addressed a number of these issues.

### Updating Florida's Child Support Guidelines Schedule

Florida's current schedule of child support guidelines is based on the income shares model. The income shares model determines the amount of child support obligations from estimated average expenditures on children in an intact family as a function of the combined income of the parents. The model was developed by Robert Williams from an analysis of expenditures on children by Thomas Espenshade.[23] Espenshade based his analysis on Ernst Engel's approach[24] to comparing living standards among families.

If the Legislature decides to retain the income shares model, the update of the Florida schedule proposed by Florida State University adheres closely to the methodology of the current schedule, except that it incorporates data from the 1999-2001 Consumer

---

[21] U.S. Census Bureau, National Center for Health Statistics, and Americans for Divorce Reform.

[22] The child support guidelines are required to be used for the determination of all child support obligations, whether initial awards or subsequent modifications, and whether the parents of a child are separating, divorcing, or have never married.

[23] See Espenshade, T. J. (1973). The Cost of Children in Urban United States. Westport, Connecticut: Greenwood Press and Espenshade, T. J. (1984). Investing in Children: New Estimates of Parental Expenditures. Washington, D.C.: The Urban Institute Press.

[24] The underlying assumption of the Engel approach is that families of a different size that spend equal proportions of their incomes on food are equally well-off. The Engel approach assumes that as total spending increases, the budget share or percent devoted to food should decrease, freeing up expenditures for other goods, and that as family size increases, the food share of the budget should also increase.

Expenditure Survey and applies the 2002 federal poverty guideline for a single-person household. In the proposed schedule, the basic support obligations are lower at most income levels than those in the current schedule, with differences being relatively small except at the higher income levels. However, the amounts in the proposed guidelines are greater than those in the existing guidelines for families at moderately low income levels with multiple children.

Using a representative sample of Florida child support cases, it was determined that for approximately 60% of the IV-D cases[25] in the sample the average child support payment changes very little from the current schedule. Only for the 20% of cases in the IV-D sample with the highest incomes would the average payment change substantially. Similarly, in 40% of the private cases there is almost no change in the average child support payment. For the top 20% the average payment decreases substantially, and the average payment for the middle 40% decreases slightly. Applying the proposed schedule of basic child support obligations to the actual distribution of the child support cases in Florida indicates that the effect of the proposed schedule would be minimal for most cases. Only the top 20% of cases ranked by income would see a significant change in the amount of child support payments. In those cases, payments would decrease substantially.[26]

**Low-Income Parents**

Child support obligations that are derived from the income shares methodology typically include an adjustment for low-income parents to ensure that parents owing child support are not living in poverty due to the obligation to provide support. The low-income adjustment in Florida's current guidelines applies to only about one percent of cases and is, therefore, ineffective at preventing or mitigating poverty among low-income parents. This ineffectiveness is primarily a result of four features of the current guidelines:

- The use of combined income of both parents with the single person poverty threshold;
- The application of the low-income provisions to the basic obligation rather than to the total obligation;
- The failure to update the child support schedule on a regular basis to reflect increases in the poverty guideline; and
- The imputation of income.[27]

In addition, Florida's current schedule of child support obligations is regressive,[28] which penalizes noncustodial parents who earn additional income and, therefore, serves as a disincentive to work. Imposing a very high marginal rate on additional earnings also

---

[25] Families who either receive public assistance payments or request state assistance from the Department of Revenue with collecting and enforcing child support orders are classified as Title IV-D cases. Families who use private attorneys in child support cases and do not receive public assistance or request state assistance are referred to as private cases.

[26] See Updating Florida's Schedule of Child Support Obligations, Deliverable 1, Department of Economics, Florida State University, August 29, 2003.

[27] See Updating Florida's Schedule of Child Support Obligations, Deliverable 2, Department of Economics, Florida State University, October 31, 2003.

[28] The child support payment as a percentage of income is higher for parents with low incomes than it is for parents with higher incomes. As a percent of income, the child support payment gets smaller as income gets larger.

discourages compliance. In fact, the compliance rate among low-income noncustodial parents is very low, which in turn presents a barrier to the involvement of the noncustodial parent with the children.[29]

**Visitation and Custody**

Florida law currently provides that in shared parenting arrangements where a child spends less than 40 percent of overnights per year with the noncustodial parent, the court may use that arrangement as grounds for an adjustment in the amount of the child support obligation. A shared parenting arrangement where the number of overnights spent with the noncustodial parent exceeds 40 percent requires the court to adjust the noncustodial parent's support obligation to reflect the additional costs of maintaining two households for the child.[30]

Failure to provide any adjustment where time spent with the noncustodial parent does not equal or exceed 40 percent may act as a disincentive for regular visitation with the noncustodial parent. Further, setting a threshold results in very large changes in the noncustodial parent's child support obligation in response to very small changes in the amount of visitation. For this reason, the existence of a threshold can be a source of excessive dispute and litigation between parents.

Currently, Florida's child support guidelines are silent regarding split custody arrangements.[31] As a result, determination of the amount of the basic support obligation in such cases is left to the discretion of the courts without any statutory guidance on dealing with this type of living arrangement. This gives rise to disparate treatment of these cases in different judicial districts, and can also be a source of dispute and litigation over living arrangements. Failure to provide explicitly for split custody may discourage parents from adopting this arrangement even when it is in the best interest of the child.[32]

**Prior and Subsequent Children**

Florida's current child support guidelines permit a deduction from the noncustodial parent's net income for pre-existing child support orders if the support is actually paid. If such a deduction were not allowed, prior children would be unaffected and existing children would be only marginally impacted, but the child support obligation of the noncustodial parent would increase significantly. An alternative approach would be to prorate the child support obligation among all children, prior and existing. Prorating the obligation would have a significant adverse affect on prior children without greatly improving the status of existing children. Neither of the alternatives appears to be clearly superior to the current policy.[33]

---

[29] See Updating Florida's Schedule of Child Support Obligations, Deliverable 2, Department of Economics, Florida State University, October 31, 2003.
[30] See §61.30(1), Florida Statutes.
[31] Split custody occurs when parents have two or more children and each parent has residential custody of one or more of the children.
[32] See Updating Florida's Schedule of Child Support Obligations, Deliverable 2, Department of Economics, Florida State University, October 31, 2003.
[33] See Updating Florida's Schedule of Child Support Obligations, Deliverable 2, Department of Economics, Florida State University, October 31, 2003.

## Alternative Child Support Guidelines Models

The literature related to child support guidelines typically discusses six different models that can be used to determine the amount of child support obligations. Four of those models are currently being used by states, and the remaining two have not been adopted by any state.

When child support payments calculated using Florida's current schedule are compared with those determined by using four of the alternative models—the Melson formula, the hybrid model, the American Law Institute (ALI) formula, and the cost shares model – it appears that any of the models can produce child support awards that are both relatively high or low and that the choice of a model is less important than the specific provisions of the child support guidelines and the specific numbers or percentages used in the schedule. Similar results can be obtained from any model depending on the specific provisions of the guidelines as a whole.

While theoretically the income shares model produces an award that is reflective of the income of both parents, the actual child support payment is not very responsive to variations in the custodial parent's income. The alternative models often generate payment amounts that are more responsive to the custodial parent's income than are the payments generated by the income shares model. This limited degree of responsiveness inherent in the income shares model is accompanied by significant additional complexity and lack of transparency in the determination of child support payments. Including the custodial parent's income in the calculation of the child support payment complicates the determination of child support and creates odd anomalies and problems especially in the treatment of low-income parents. If it is important to make the noncustodial parent's payment dependent on the custodial parent's income, then the alternative models all provide greater responsiveness than the income shares model. [34]

## Issues Warranting Further Consideration

Finally, input from numerous stakeholders in the child support process, including, but not limited to, custodial and non-custodial parents, members of the judiciary, representatives from the Family Law Section of the Florida Bar, the American Academy of Matrimonial Lawyers, the former Commission on Responsible Fatherhood, the Commission on Marriage and Family Support Initiatives, the Office of the State Courts Administrator, Florida Legal Services, the Supreme Court Steering Committee on Families and Children in the Court, the Family Section of the Florida Conference of Circuit Judges, Visions of Manhood, and the Department of Revenue, have yielded the following issues that may or not need to be included in a review of the child support guidelines:

- The current statutes contain no basic information on the federal requirements, purposes, and the economic principles and assumptions that are either built in to or otherwise used in the determination of a child support award;

---

[34] Updating Florida's Schedule of Child Support Obligations, Final Report to the Florida Legislature, Department of Economics, Florida State University, March 5, 2004.

- There is no clear explanation of the meaning of, or definition of, the term "rebuttable presumption" used in s. 61.30, Florida Statutes;
- There is no explanation of child care costs that includes clarifying information about the use of federal child care tax credit and the limitations on its usage;
- The current statutes contain no explanation of the treatment of health insurance premiums, unreimbursed health care costs, and extraordinary medical costs. There is no indication that the guideline schedule includes $250 per year per child of unreimbursed expenses related to health care;
- Florida law currently results in child support being terminated in some cases while a child is still in high school;
- The statutes contain no resolution of the "race to the courthouse" issue;
- There has been no recent discussion as to whether the statutes are the best placement for child support guidelines; and
- There is no statutory guidance related to the support guidelines review mandated by the federal government.