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<th>Tab 1</th>
<th>SB 590 by Brandes (CO-INTRODUCERS) Stargel; Child Support and Parenting Time Plans</th>
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<td>Tab 2</td>
<td>SB 702 by Campbell; (Identical to H 00341) Child Support</td>
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<td>Tab 3</td>
<td>SB 714 by Garcia; (Similar to H 00899) Comprehensive Transitional Education Programs</td>
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The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair
Senator Torres, Vice Chair

MEETING DATE: Monday, March 6, 2017
TIME: 1:30—3:30 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

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

<table>
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<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
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<tr>
<td>1</td>
<td>SB 590 Brandes</td>
<td>Child Support and Parenting Time Plans; Authorizing the Department of Revenue to establish parenting time plans agreed to by both parents in Title IV-D child support actions; providing the purpose and requirements for Title IV-D Standard Parenting Time Plans; requiring the department to refer parents who do not agree on a parenting time plan to a circuit court; authorizing the department to incorporate either an agreed-upon parenting time plan or a Title IV-D Standard Parenting Time Plan in a child support order, etc.</td>
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<td>2</td>
<td>SB 702 Campbell (Identical H 341)</td>
<td>Child Support; Requiring a court to suspend an order requiring a parent to pay child support under certain circumstances; requiring a court to suspend an order requiring a parent to pay child support and to deny an order of contempt under certain circumstances, etc.</td>
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<td>3</td>
<td>SB 714 Garcia (Similar H 899)</td>
<td>Comprehensive Transitional Education Programs; Authorizing the Agency for Persons with Disabilities to petition a court for the appointment of a receiver for a comprehensive transitional education program under certain circumstances; providing that no new comprehensive transitional education programs may be licensed after a specified date, etc.</td>
<td>Favorable Yeas 6 Nays 0</td>
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Consideration of proposed bill:
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<td>4</td>
<td>SPB 7020</td>
<td>Ratification of a Department of Elder Affairs Rule; Ratifying a specific rule relating to the practice for Professional Guardians for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs, etc.</td>
<td>Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0</td>
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5 Other Related Meeting Documents
I. **Summary:**

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

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

II. **Present Situation:**

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

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

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1 s. 409.2557(1), F.S.
enforcement, and collection of support obligations.\(^2\) According to the department’s website, as of federal fiscal year 2014, the department collected $1.57 billion in child support whereby 98% went to the families. The remaining 2% reimbursed public assistance dollars. Additionally, $1.02 billion in child support was collected through income withholding from the parent’s paycheck. For every dollar spent the child support program collects $5.75\(^3\).

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

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

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

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\(^2\) Section 409.2557(2), F.S.


\(^5\) Id.

\(^6\) Id.

\(^7\) Id.

\(^8\) Id. at page 2.

\(^9\) Id.

\(^10\) Id.

\(^11\) Id. at page 3.

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

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

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

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

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

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

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

\textsuperscript{14} Key, \textit{supra} note 4, at 111.
\textsuperscript{15} Key, \textit{supra} at 261.
\textsuperscript{16} See 45 C.F.R., Section 304.20(b) (1982).
\textsuperscript{17} Key, \textit{supra} at 263.
\textsuperscript{18} See Tex. Fam. Code Section 201.007(b)
\textsuperscript{19} Key, \textit{supra} at 263.
\textsuperscript{20} section 409.2568(2)(a), F.S.
sharing. In Title IV-D cases, if parents want to establish a shared parenting time schedule that is enforceable by the courts, they have to file a separate cause of action in the circuit court.

III. Effect of Proposed Changes:

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

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

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

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

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

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

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

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

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21 section 409.2568(2)(b), F.S.
appropriate jurisdiction to establish a parenting time plan. The department must also provide information to the parents on the process to establish such plan.

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

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

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

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

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

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.
V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

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

C. **Government Sector Impact:**

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

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

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

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

VI. **Technical Deficiencies:**

None.
VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

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

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**
   (Summarizing differences between the Committee Substitute and the prior version of the bill.)

   None.

B. **Amendments:**

   None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Be It Enacted by the Legislature of the State of Florida:

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

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

409.2551 Legislative intent.—Common-law and statutory procedures governing the remedies for enforcement of support for financially dependent children by persons responsible for their support have not proven sufficiently effective or efficient to cope with the increasing incidence of financial dependency. The increasing workload of courts, prosecuting attorneys, and the Attorney General has resulted in a growing burden on the financial resources of the state, which is constrained to provide public assistance for basic maintenance requirements when parents fail to meet their primary obligations. The state, therefore, exercising its police and sovereign powers, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of dependent children shall be augmented by additional remedies directed to the resources of the responsible parents. In order to render resources more immediately available to meet the needs of dependent children, it is the legislative intent that the remedies provided herein are in addition to, and not in lieu of, existing remedies. It is declared to be the public policy of this state that this act be construed and administered to the end that children shall be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs. It is also the public policy of this state to encourage frequent contact between a child and each parent to optimize the development of a close and continuing relationship between each parent and the child. There is no presumption for or against the father or
"Public assistance" means money assistance paid on the basis of Title IV-E and Title XIX of the Social Security Act, temporary cash assistance, or food assistance benefits received on behalf of a child under 18 years of age who has an absent parent.

"Program attorney" means an attorney employed by the department, under contract with the department, or employed by a contractor of the department, to provide legal representation for the department in a proceeding related to the determination of paternity or the establishment, modification, or enforcement of support brought pursuant to law.

"Prosecuting attorney" means any private attorney, county attorney, city attorney, state attorney, program attorney, or an attorney employed by an entity of a local political subdivision who engages in legal action related to the determination of paternity or the establishment, modification, or enforcement of support brought pursuant to this act.

"State Case Registry" means the automated registry maintained by the Title IV-D agency, containing records of each Title IV-D case and of each support order established or modified in the state on or after October 1, 1998. Such records must consist of data elements as required by the United States Secretary of Health and Human Services.

"State Disbursement Unit" means the unit established and operated by the Title IV-D agency to provide one central address for collection and disbursement of child support payments made in cases enforced by the department pursuant to Title IV-D of the Social Security Act and in cases not being enforced by the department in which the support order was

"Court order" means any judgment or order of any court of appropriate jurisdiction of the state, or an order of a court of competent jurisdiction of another state, ordering payment of a set or determinable amount of support money.

"Health insurance" means coverage under a fee-for-service arrangement, health maintenance organization, or preferred provider organization, and other types of coverage available to either parent, under which medical services could be provided to a dependent child.

"Obligee" means the person to whom support payments are made pursuant to an alimony or child support order.

"Obligor" means a person who is responsible for making support payments pursuant to an alimony or child support order.

"Department" means the Department of Revenue.

"Program attorney" means an attorney employed by the department, under contract with the department, or employed by a contractor of the department, to provide legal representation for the department in a proceeding related to the determination of paternity or the establishment, modification, or enforcement of support brought pursuant to law.

"Prosecuting attorney" means any private attorney, county attorney, city attorney, state attorney, program attorney, or an attorney employed by an entity of a local political subdivision who engages in legal action related to the determination of paternity or the establishment, modification, or enforcement of support brought pursuant to this act.

"State Case Registry" means the automated registry maintained by the Title IV-D agency, containing records of each Title IV-D case and of each support order established or modified in the state on or after October 1, 1998. Such records must consist of data elements as required by the United States Secretary of Health and Human Services.

"State Disbursement Unit" means the unit established and operated by the Title IV-D agency to provide one central address for collection and disbursement of child support payments made in cases enforced by the department pursuant to Title IV-D of the Social Security Act and in cases not being enforced by the department in which the support order was
initially issued in this state on or after January 1, 1994, and
in which the obligor’s child support obligation is being paid
through income deduction order.
(16) “Title IV-D Standard Parenting Time Plan” means a
document which may be agreed to by the parents to govern the
relationship between the parents and to provide the parent who
owes support a reasonable minimum amount of time with his or her
child. The plans set forth in s. 409.25633 include timetables
that specify the time, including overnights and holidays, that a
minor child 3 years of age or older may spend with each parent.
(15) “Support,” unless otherwise specified, means:
(a) Child support, and, when the child support obligation
is being enforced by the Department of Revenue, spousal support
or alimony for the spouse or former spouse of the obligor with
whom the child is living.
(b) Child support only in cases not being enforced by the
Department of Revenue.
(14) “Administrative costs” means any costs, including
attorney’s fees, clerk’s filing fees, recording fees and other
expenses incurred by the clerk of the circuit court, service of
process fees, or mediation costs, incurred by the Title IV-D
agency in its effort to administer the Title IV-D program. The
administrative costs that must be collected by the
department shall be assessed on a case-by-case basis based upon
a method for determining costs approved by the Federal
Government. The administrative costs shall be assessed
periodically by the department. The methodology for determining
administrative costs shall be made available to the judge or any
party who requests it. Only those amounts ordered independent of

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

CODING: Words [ ] are deletions; words underlined are additions.
409.2563, Florida Statutes, are amended to read:

409.2563 Administrative establishment of child support obligations.—

(2) PURPOSE AND SCOPE.—

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

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

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

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

(e) The administrative procedure set forth in this paragraph notwithstanding, the department and the Division of Administrative Hearings may make findings of fact that are necessary for a proper determination of a parent’s support obligation as authorized by this section.

(f) If there is no support order for a child in a Title IV-D case whose paternity has been established or is presumed by law, or whose paternity is the subject of a proceeding under s. 409.256, the department may establish a parent’s child support obligation pursuant to this section, s. 61.30, and other relevant provisions of state law. The administrative support order will include a parenting time plan or Title IV-D Standard Parenting Time Plan as agreed to by both parents. The parent’s obligation determined by the department may include any obligation to pay retroactive support and any obligation to provide for health care for a child, whether through insurance coverage, reimbursement of expenses, or both. The department may
proceed on behalf of:

1. An applicant or recipient of public assistance, as provided by ss. 409.2561 and 409.2567;
2. A former recipient of public assistance, as provided by s. 409.2569;
3. An individual who has applied for services as provided for in chapter 88.

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

4. The names of both parents, the name of the caregiver, if any, and the name and date of birth of the child or children;
5. A state or local government of another state or Title IV-D case that has jurisdiction to award or change child custody or rights of parental contact. The department or the Division of Administrative Hearings will incorporate a parenting time plan or Title IV-D Standard Parenting Time Plan as agreed to by both parents into the administrative support order. If both parents, or a caregiver if applicable, agree to the administrative support order, the department may at any time file a civil action in a circuit court having jurisdiction and proper venue for a determination of child custody and rights of parental contact.

(i) The department shall terminate the administrative proceeding and file an action in circuit court to determine support if within 20 days after receipt of the initial notice, as provided by paragraph (13)(a);

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

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

(a) The names of both parents, the name of the caregiver, if any, and the name and date of birth of the child or children;
(b) That the department intends to establish an administrative support order as defined in this section;

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

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

(e) That both parents, or parent and caregiver if applicable, are required to furnish to the department...
incorporated parenting time plan to both parents, or parent and
caregiver if applicable;

  (k) That after an administrative support order is
rendered incorporating any agreed-upon parenting time plan, the
department will file a copy of the order with the clerk of the

circuit court;

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

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

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

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

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

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

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

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

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

That if the parent from whom support is being sought
files an action in circuit court and serves the department with
a copy of the petition within 20 days after being served notice
under this subsection, the administrative process ends without
prejudice and the action must proceed in circuit court;
Administrator concerning the availability and location of self-
help programs for those who wish to file an action in circuit
court but who cannot afford an attorney.

The department may serve the notice of proceeding to establish
an administrative support order and Title IV-D Standard
Parenting Time Plan by certified mail, restricted delivery,
return receipt requested. Alternatively, the department may
serve the notice by any means permitted for service of process
in a civil action. For purposes of this section, an authorized
employee of the department may serve the notice and execute an
affidavit of service. Service by certified mail is completed
when the certified mail is received or refused by the addressee
or by an authorized agent as designated by the addressee in
writing. If a person other than the addressee signs the return
receipt, the department shall attempt to reach the addressee by
telephone to confirm whether the notice was received, and the
department shall document any telephonic communications. If
someone other than the addressee signs the return receipt, the
addressee does not respond to the notice, and the department is
unable to confirm that the addressee has received the notice,
service is not completed and the department shall attempt to
have the addressee served personally. The department shall
provide the parent from whom support is not being sought or the
caregiver with a copy of the notice by regular mail to the last
known address of the parent from whom support is not being sought or caregiver.

(5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

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

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

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

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

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

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

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

5. The parent from whom support is being sought may, within 10 days after the date of mailing or other service of the proposed administrative support order, contact a department representative, at the address or telephone number specified in the notice, to informally discuss the proposed administrative support order and, if informal discussions are requested timely, the time for requesting a hearing will be extended until 10 days after the department notifies the parent that the informal discussions have been concluded; and
6. If an administrative support order that establishes a parent’s support obligation and incorporates either a parenting time plan or Title IV-D Standard Parenting Time Plan agreed to by both parents is rendered, whether after a hearing or without a hearing, the department may enforce the administrative support order by any lawful means. The department does not have the jurisdiction or authority to enforce a parenting time plan.

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

   (7) ADMINISTRATIVE SUPPORT ORDER.—

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
A Title IV-D Standard Parenting Time Plan must be rendered, if they have not already done so, and update as appropriate the information required pursuant to paragraph (13)(b);

10. That both parents, or parent and caregiver if applicable, are required to promptly notify the department of any change in their mailing addresses pursuant to paragraph (13)(c); and

11. That if the parent ordered to pay support receives reemployment assistance or unemployment compensation benefits, the payor shall withhold, and transmit to the department, 40 percent of the benefits for payment of support, not to exceed the amount owed.

An income deduction order as provided by s. 61.1301 must be incorporated into the administrative support order or, if not incorporated into the administrative support order, the department or the Division of Administrative Hearings shall render a separate income deduction order.

Section 5. Section 409.25633, Florida Statutes, is created to read:

409.25633. Title IV-D Standard Parenting Time Plans.—
(1) A Title IV-D Standard Parenting Time Plan must be included in any administrative action to establish child support taken by the Title IV-D program to determine paternity, establish or modify support if the parents agree upon it. If the parents do not agree to a Title IV-D Standard Parenting Time Plan or if an agreed-upon parenting time plan is not included, the Department of Revenue must enter an administrative support order and refer the parents to the court of appropriate jurisdiction to establish a parenting time plan. The department must note on the referral that an administrative support order has been entered. If a parenting time plan is not included in the administrative support order entered under s. 409.2563, the department must provide information to the parents on the process to establish such plan.

(2) If the parents live within 100 miles of each other and the child is 3 years of age or older, the parent who owes support shall have parenting time with the child:

(a) Every other weekend.—The second and fourth full weekend of the month from 6 p.m. on Friday through 6 p.m. on Sunday. The weekends may begin upon the child’s release from school on Friday and end on Sunday at 6 p.m. or when the child returns to school on Monday morning. The weekend may be extended by holidays that fall on Friday or Monday;

(b) One evening per week.—One weekday beginning at 6 p.m. and ending at 8 p.m. or if both parents agree, from when the child is released from school until 8 p.m.;

(c) Thanksgiving break.—In even-numbered years, the Thanksgiving break from 6 p.m. on the Wednesday before Thanksgiving until 6 p.m. on the Sunday following Thanksgiving.

If both parents agree, the Thanksgiving break parenting time may...
begin upon the child’s release from school and end upon the child’s return to school the following Monday;

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

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

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

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

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

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

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

(4) If the child is under 1 years of age, the parents may agree on a parenting time plan that includes more frequent visitation with shorter timeframes, gradually leading into overnight visits and either a parenting time plan agreed to by both parents or the Title IV-D Standard Parenting Time Plan set out in this section.

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

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

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

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

(9) The parents will not be required to pay a fee to file the petition to establish a parenting plan.
(10) The department may adopt rules to implement and administer this section.

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

409.2564 Actions for support.—

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

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not require any additional investigation or supervision by the department. 669

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

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serving the respondent with a notice as provided in this section. An order to appear for genetic testing may be served at the same time as a notice of the proceeding or may be served separately. A copy of the affidavit or written declaration upon which the proceeding is based shall be provided to the respondent when notice is served. A notice or order to appear for genetic testing shall be served by certified mail, restricted delivery, return receipt requested, or in accordance with the requirements for service of process in a civil action. Service by certified mail is completed when the certified mail is received or refused by the addressee or by an authorized agent as designated by the addressee in writing. If a person other than the addressee signs the return receipt, the department shall attempt to reach the addressee by telephone to confirm whether the notice was received, and the department shall document any telephonic communications. If someone other than the addressee signs the return receipt, the addressee does not respond to the notice, and the department is unable to confirm that the addressee has received the notice, service is not completed and the department shall attempt to have the addressee served personally. For purposes of this section, an employee or an authorized agent of the department may serve the notice or order to appear for genetic testing and execute an affidavit of service. The department may serve an order to appear for genetic testing on a caregiver. The department shall provide a copy of the notice or order to appear by regular mail to the mother and caregiver, if they are not respondents.

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

1. That the department has commenced an administrative proceeding to establish whether the putative father is the biological father of the child named in the notice.
2. The name and date of birth of the child and the name of the child’s mother.
3. That the putative father has been named in an affidavit or written declaration that states the putative father is or may be the child’s biological father.
4. That the respondent is required to submit to genetic testing.
5. That genetic testing will establish either a high degree of probability that the putative father is the biological father of the child or that the putative father cannot be the biological father of the child.
6. That if the results of the genetic test do not indicate a statistical probability of paternity that equals or exceeds 99 percent, the paternity proceeding in connection with that child shall cease unless a second or subsequent test is required.
7. That if the results of the genetic test indicate a statistical probability of paternity that equals or exceeds 99 percent, the department may:
   a. Issue a proposed order of paternity that the respondent may consent to or contest at an administrative hearing; or
   b. Commence a proceeding, as provided in s. 409.2563, to establish an administrative support order for the child. Notice of the proceeding shall be provided to the respondent by regular mail.
8. That, if the genetic test results indicate a statistical probability of paternity that equals or exceeds 99 percent and a
proceeding to establish an administrative support order is commenced, the department shall issue a proposed order that addresses paternity and child support. The respondent may consent to or contest the proposed order at an administrative hearing.

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

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

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

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

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

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

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

409.2572 Cooperation.—

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

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

Section 10. This act shall take effect January 1, 2018.
2017 Regular Session

The Florida Senate

COMMITTEE VOTE RECORD

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

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

REPORTING INSTRUCTION: Publish

S-010 (10/10/09)
I. Summary:

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

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

There is an effective date of July 1, 2017.

II. Present Situation:

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

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

1 Section 61.29, F.S.
support due. At the contempt hearing, the obligor has the burden of proof that he or she has the ability to pay the child support that is due. The creation of this presumption is to implement the public policy of the state that children should be supported from the resources of their parents. If the court finds that payments due under the support order are delinquent or overdue and that the obligor is unemployed, underemployed, or has no income but is able to work or participate in job training, the court may order the obligor to seek employment. The court may also require the obligor to file reports detailing his or her efforts to seek and obtain employment, notify the court when employment, income, or property is obtained and participate in job training, job placement, or other work programs that may be available.

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

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

**Incarceration with Child Support Order**

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

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Section 61.14(5)(a), F.S.

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

Id.

Id.

Id.

Id.


Id at page 4.

Id.
**Modification during Incarceration**

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

**Effect of Child Support Debt on Successful Re-entry**

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

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

**III. Effect of Proposed Changes:**

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

\(^\text{11}\) Id at page 5.
\(^\text{12}\) Id.
\(^\text{13}\) Id.
\(^\text{14}\) Id.
\(^\text{16}\) Id. at page 16.
\(^\text{17}\) Id.
\(^\text{18}\) Id.
Section 2 amends s. 61.13(14)(5)(a), F.S., to require a court to deny a motion for contempt for failure to pay a child support obligation while the obligor parent is involuntarily unemployed due to incarceration lasting longer than 30 days or during the 30 days after being release from incarceration.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

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

C. Government Sector Impact:

The bill allows for the suspension of a child support obligation if the obligor parent is incarcerated for at least 30 days. There is no mention in the proposed language which state agency may be responsible for filing requests for modifications and subsequent requests for reinstatement of child support payments. The short term incarceration period
could substantially increase the number of petitions for modifications filed with the clerks of court and create a corresponding increase in hearings scheduled with the courts.

VI. Technical Deficiencies:

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

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

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
   (Summarizing differences between the Committee Substitute and the prior version of the bill.)
   None.

B. Amendments:
   None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Children, Families, and Elder Affairs (Campbell) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 47 - 112
and insert:

3. An order requiring a parent to make child support payments must be suspended in accordance with s. 61.31 while the obligor is involuntarily unemployed as a result of his or her incarceration for more than 1 year. The suspension must continue for at least 30 days after such parent is released from incarceration.
Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 61.14, Florida Statutes, are amended to read:

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

(1)(a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments, and the circumstances or the financial ability of either party changes or the child who is a beneficiary of an agreement or court order as described herein reaches majority after the execution of the agreement or the rendition of the order, either party may apply to the circuit court of the circuit in which the parties, or either of them, resided at the date of the execution of the agreement or reside at the date of the application, or in which the agreement was executed or in which the order was rendered, for an order decreasing or increasing the amount of support, maintenance, or alimony, and the court has jurisdiction to make orders as equity requires, with due regard to the changed circumstances or the financial ability of the parties or the child, decreasing, increasing, or confirming the amount of separate support, maintenance, or alimony provided for in the agreement or order. A finding that medical insurance is reasonably available or the child support guidelines schedule in s. 61.30 may constitute changed circumstances. The court shall suspend an order requiring a parent to make child support payments while that parent is involuntarily unemployed as a
result of his or her incarceration for more than 1 year. The suspension must continue for at least 30 days after the parent is released from incarceration. Except as otherwise provided in s. 61.30(11)(c), the court may modify an order of support, maintenance, or alimony by increasing or decreasing the support, maintenance, or alimony retroactively to the date of the filing of the action or supplemental action for modification as equity requires, giving due regard to the changed circumstances or the financial ability of the parties or the child.

(5)(a) When a court of competent jurisdiction enters an order for the payment of alimony or child support or both, the court shall make a finding of the obligor’s imputed or actual present ability to comply with the order. If the obligor subsequently fails to pay alimony or support and a contempt hearing is held, the original order of the court creates a presumption that the obligor has the present ability to pay the alimony or support and to purge himself or herself from the contempt. At the contempt hearing, the obligor shall have the burden of proof to show that he or she lacks the ability to purge himself or herself from the contempt. This presumption is adopted as a presumption under s. 90.302(2) to implement the public policy of this state that children shall be maintained from the resources of their parents and as provided for in s. 409.2551, and that spouses be maintained as provided for in s. 61.08. The court shall state in its order the reasons for granting or denying the contempt. The court shall deny the contempt if the obligor failed to make child support payments while he or she was involuntarily unemployed as a result of his or her incarceration lasting longer than 1 year or during the 30
Section 3. Section 61.31, Florida Statutes, is created to read:

61.31 Suspension of order of child support during incarceration.—

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

(a) “Incarcerated” includes, but is not limited to, involuntary confinement in a state prison.

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

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

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

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

(3) The Department of Corrections shall provide monthly to the state courts a file that contains information on individuals who are identified as having a child support obligation during the intake process of the state prison system. A court, or the
department in a Title IV-D case, must suspend the child support
obligation during the period of incarceration.

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

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

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

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

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

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

409.2564 Actions for support.—

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

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

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

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

And the title is amended as follows:

Delete line 8 and insert:

certain circumstances; creating s. 61.31, F.S.;
defining terms; providing that an order for support of a child must be suspended under certain circumstances; providing exceptions; requiring the Department of Corrections to submit a monthly file to the state courts that identifies individuals that have child support obligations; requiring a court or the Department of Revenue to suspend the child support obligation for a specified period; requiring the notify the Department of Revenue to notify the obligee of the suspension of support payments due to the incarceration of the obligor; providing that a court or the department may establish paternity for a child with an incarcerated parent; providing that a court or the department may not establish a child support payment obligation for an incarcerated parent;
amending s. 409.2564, F.S.; providing that s. 61.31, F.S. applies in Title IV-D cases; authorizing the department to administratively adjust account balances for a child support order under certain circumstances; providing an effective date.
A bill to be entitled An act relating to child support; amending s. 61.13, F.S.; requiring a court to suspend an order requiring a parent to pay child support under certain circumstances; amending s. 61.14, F.S.; requiring a court to suspend an order requiring a parent to pay child support and to deny an order of contempt under certain circumstances; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 61.13, Florida Statutes, is amended to read:
61.13 Support of children; parenting and time-sharing;

powers of court.—

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

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

a. For child support to terminate on a child’s 18th birthday unless the court finds or previously found that s.

743.07(2) applies, or is otherwise agreed to by the parties;

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

c. The month, day, and year that the reduction or suspension of child support becomes effective.

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

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

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

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

(1)(a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments,
and the circumstances or the financial ability of either party
changes or the child who is a beneficiary of an agreement or
court order as described herein reaches majority after the
execution of the agreement or the rendition of the order, either
during the time that agreement or order is in effect or the
school or the child who is a beneficiary of an agreement or
court order as described herein reaches majority after the
execution of the agreement or the rendition of the order, either
party may apply to the circuit court of the circuit in which the
parties, or either of them, resided at the date of the execution
of the agreement or reside at the date of the application, or in
which the agreement was executed or in which the order was
rendered, for an order decreasing or increasing the amount of
support, maintenance, or alimony, and the court has jurisdiction
to make orders as equity requires, with due regard to the
changed circumstances or the financial ability of the parties or
the child, decreasing, increasing, or confirming the amount of
separate support, maintenance, or alimony provided for in the
agreement or order. A finding that medical insurance is
reasonably available or the child support guidelines schedule in
s. 61.30 may constitute changed circumstances. The court shall
suspend an order requiring a parent to make child support
payments while such parent is involuntarily unemployed as a
result of his or her incarceration lasting longer than 30 days.
The suspension must continue for at least 30 days after such
parent is released from incarceration. Except as otherwise
provided in s. 61.30(11)(c), the court may modify an order of
support, maintenance, or alimony by increasing or decreasing the
support, maintenance, or alimony retroactively to the date of
the filing of the action or supplemental action for modification
as equity requires, giving due regard to the changed
circumstances or the financial ability of the parties or the
child.

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

Section 3. This act shall take effect July 1, 2017.
I. Summary:

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

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

II. Present Situation:

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

In s. 393.062, F.S., the legislature has expressed its intent that community-based programs and services for individuals with developmental disabilities are preferred to programs operated directly by the state.\(^1\) Pursuant to the recently issued federal Medicaid waiver guidelines, there has been a shift to provide person-centered care and for care to be provided in home and community-based settings, moving away from institutionalized settings as currently utilized.\(^2\) The new Medicaid waiver guidelines become effective March 2019.\(^3\)

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\(^1\) Agency for Persons with Disabilities legislative analysis dated February 23, 2017.

\(^2\) Id.

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

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

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

III. Effect of Proposed Changes:

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

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

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

5 section 393.0678(1)(a)-(d), F.S.
C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled
An act relating to comprehensive transitional education programs; amending s. 393.0678, F.S.; authorizing the Agency for Persons with Disabilities to petition a court for the appointment of a receiver for a comprehensive transitional education program under certain circumstances; amending s. 393.18, F.S.; providing that no new comprehensive transitional education programs may be licensed after a specified date; providing that no licenses may be renewed for comprehensive transitional education programs after a certain specified date; providing an effective date.

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

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

393.0678 Receivership proceedings.—
(1) The agency may petition a court of competent jurisdiction for the appointment of a receiver for a residential habilitation center, or a group home facility owned and operated by a corporation or partnership when any of the following conditions exist:

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

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

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

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

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

393.18 Comprehensive transitional education program.—A comprehensive transitional education program serves individuals who have developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. Services provided by the program must be temporary in nature and delivered in a manner designed to achieve the primary goal of incorporating the principles of self-determination and person-centered planning to transition individuals to the most appropriate, least restrictive community living option of their choice which is not operated as a comprehensive transitional education program. The supervisor of the clinical director of the program licensee must hold a
doctorate degree with a primary focus in behavior analysis from
an accredited university, be a certified behavior analyst
pursuant to s. 393.17, and have at least 1 year of experience in
providing behavior analysis services for individuals in
developmental disabilities. The staff must include behavior
analysts and teachers, as appropriate, who must be available to
provide services in each component center or unit of the
program. A behavior analyst must be certified pursuant to s.
393.17.

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

Section 3. This act shall take effect July 1, 2017.
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6 0 TOTALS

Yea Nay Yea Nay Yea Nay Yea Nay

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

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

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

This act takes effect upon becoming law.

II. Present Situation:

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

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\(^1\) Section 120.52(16), F.S.
\(^2\) Section 120.52(17), F.S.
\(^3\) See ss. 120.52(8) and 120.536(1), F.S.
authority for rulemaking must be specific enough to guide an agency’s rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.\textsuperscript{4}

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

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

**SERC Requirements**

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

A SERC must include estimates of:

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

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

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

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

\textsuperscript{5} Section 120.54(3)(a)2., F.S.

\textsuperscript{6} Section 120.54(3)(a)1., F.S.

\textsuperscript{7} Sections 120.54(3)(b) and 120.541(1)(b), F.S.

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

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

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

\textsuperscript{11} Section 120.541(2)(a), F.S.
If the economic analysis results in an adverse impact or regulatory costs in excess of $1 million within 5 years after implementation of the rule, then the rule must be ratified by the Legislature in order to take effect.12

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

III. Effect of Proposed Changes:

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

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

13 Section 120.54(3)(e)6., F.S.
V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

   None.

B. **Private Sector Impact:**

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

C. **Government Sector Impact:**

   None.

VI. **Technical Deficiencies:**

   None.

VII. **Related Issues:**

   None.

VIII. **Statutes Affected:**

   This bill creates an undesignated section of Florida law.

IX. **Additional Information:**

   A. **Committee Substitute – Statement of Changes:**

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

      None.

   B. **Amendments:**

      None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled
An act relating to the ratification of a Department of Elder Affairs rule; ratifying a specific rule relating to the practice for Professional Guardians for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability; providing an effective date.

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

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

(2) This act serves no other purpose and shall not be codified in the Florida Statutes. After this act becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This act does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This act does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

Section 2. This act shall take effect upon becoming law.
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SPB 7020  
**FINAL ACTION:** Submitted and Reported Favorably as Committee Bill  
**MEETING DATE:** Monday, March 6, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

**FINAL VOTE**

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**SENATORS**

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**TOTALS**

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