

## NOTICE OF PROPOSED RULE

### DEPARTMENT OF REVENUE

#### CHILD SUPPORT ENFORCEMENT PROGRAM OFFICE RULE

##### NOS.: RULE TITLES:

12E-1.012	Consumer Reporting Agencies
12E-1.023	Suspension of Driver License; Suspension of Motor Vehicle Registration
12E-1.030	Administrative Establishment of Child Support Obligations
12E-1.036	Administrative Establishment of Paternity and Support Obligations
12E-1.037	Notification to Withhold Support from Reemployment Assistance
12E-1.039	Request for Services
12E-1.040	Intergovernmental Forms

**PURPOSE AND EFFECT:** The purpose of the proposed amendment of Rule 12E-1.012, F.A.C. (Consumer Reporting Agencies) is to update the criteria for reporting past-due support to consumer reporting agencies by changing the delinquent support criterion and adding new criteria, and to adjust the time allowed for informal reviews, including an additional five days for mailing.

The effect of the amendment is to amend the criteria for reporting past-due support to consumer reporting agencies, to adjust the delinquent support amount criterion, add new criteria, and to clarify the time frame associated with the informal review process.

The purpose of the proposed amendment of Rule 12E-1.023, F.A.C. (Suspension of Driver License; Suspension of Motor Vehicle Registration), is to provide additional criteria for initiating an action to suspend a parent's driver license, including a delinquent support criterion, and to clarify the conditions when the Program terminates a pending suspension action or reinstates a suspended driver license.

The effect of the amendment is to add new criteria for initiating license suspensions, including a delinquent support amount criterion, and to clarify the license reinstatement process. The rule specifies the suspension criteria and reinstatement conditions that apply to suspending a license for non-payment of support, and distinguishes them from the suspension criteria and reinstatement conditions that apply when the license suspension or reinstatement is for failure to comply with a subpoena or order relating to a paternity or support proceeding.

The purpose of creating proposed Rule 12E-1.030, F.A.C. (Administrative Establishment of Child Support Obligations), is to inform the public of how the Department establishes administrative support orders.

The effect of creating the proposed rule is to provide the public with the steps used by the Department when it seeks to administratively establish a child support child support obligations as well as the rights and responsibilities of the parties involved in an administrative support obligation.

The purpose of the proposed amendment to Rule 12E-1.036, F.A.C. (Administrative Establishment of Paternity and Support Obligations), is to align the rule with Rule 12E-1.030 (Administrative Establishment of Child Support Obligations). The amendment updates the rule for how the alleged father may opt-out of the administrative process, how the Department calculates support obligations for support orders, and updates information about how the Department determines cooperation for the mother.

The effect of the amendment is to clarify the alleged father's right to opt-out of the administrative process, to clarify how the Department determines support obligations, and to clarify what actions constitute cooperation with this process.

The purpose of creating proposed Rule 12E-1.037, F.A.C. (Notification to Withhold Support from Reemployment Assistance), is to describe the process used to implement the requirement in section 443.051, Florida Statutes, to notify the Department of Economic Opportunity to withhold support payments from the reemployment assistance (formerly known as unemployment compensation) of parents who owe support obligations.

The effect of creating proposed Rule 12E-1.037, F.A.C., is to define the term "support obligations" as used in the rule, describe how the Department uses data received from the Department of Economic Opportunity, provide a limit for the amount to be withheld from a parent's reemployment assistance, provide for refunding withheld amounts that exceed a parent's total support obligation, provide for adjusting future withholdings to avoid excess withholding, and describe how the Department of Revenue allocates a withheld amount among cases when a

parent who owes support has more than one case with a support obligation.

The purpose of proposed Rule 12E-1.039, F.A.C. (Request for Services), is to establish standards for applications and public assistance referrals for Title IV-D services.

The effect of the proposed rule is to define who is eligible to receive services, how to apply for services and the information that must be provided. The proposed rule also addresses how applications and public assistance referrals for child support services are reviewed and processed by the Child Support Program.

The purpose of creating proposed Rule 12E-1.040, F.A.C. (Intergovernmental Forms), is to incorporate by reference federally approved forms General Testimony (CS-IS21) and the Affidavit in Support of Establishing Paternity (CS-IS26) used in intergovernmental cases.

The effect of creating proposed Rule 12E-1.040, F.A.C., is to provide the forms the department will use to in intergovernmental cases. The General Testimony (CS-IS21) form will be used to obtain a sworn statement about the information and facts of the case from a person seeking establishment of paternity, support, or paternity and support. The Affidavit in Support of Establishing Paternity (CS-IS26) form will be used to obtain a paternity affidavit from a person seeking establishment of paternity or paternity and support.

SUMMARY: The proposed amendment to Rule 12E-1.012, F.A.C. (Consumer Reporting Agencies), substantially rewords the rule which establishes how the Department initiates an action to report a parent's past-due support to consumer reporting agencies.

The proposed amendment to Rule 12E-1.023, F.A.C. (Suspension of Driver License; Suspension of Motor Vehicle Registration), substantially rewords the rule which establishes how the Department initiates suspension and reinstatement of driver's licenses and vehicle registrations related to nonpayment of child support, and failure to comply with a subpoena or order in a paternity or support proceeding.

The proposed creation of Rule 12E-1.030, F.A.C. (Administrative Establishment of Child Support Obligations), establishes how the Department administratively establishes child support obligations when it is providing services under Title IV-D of the Social Security Act.

The proposed amendment to Rule 12E-1.036, F.A.C. (Administrative Establishment of Paternity and Support Obligations), is to align the rule with Rule 12E-1.030 (Administrative Establishment of Child Support Obligations).

The purpose of creating proposed Rule 12E-1.037, F.A.C. (Notification to Withhold Support from Reemployment Assistance), is to describe the process used to implement the requirement in section 443.051, Florida Statutes, to notify the Department of Economic Opportunity to withhold support payments from the reemployment assistance (formerly known as unemployment compensation) of parents who owe support obligations.

The purpose of creating proposed Rule 12E-1.039, F.A.C. (Request for Services), is to establish standards for applications and public assistance referrals for Title IV-D services.

The purpose of creating proposed Rule 12E-1.040, F.A.C. (Intergovernmental Forms), is to incorporate by reference federally approved forms General Testimony (CS-IS21) and the Affidavit in Support of Establishing Paternity (CS-IS26) used in intergovernmental cases.

The proposed rules and amendments adopt, by reference, technical and administrative changes to forms currently used to administer child support services, as well as promulgate several forms for the first time.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that these rules will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rules are not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person wishing to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: ss. 61.13(1)(b)6., 61.1354(5), 61.14(1)(c), 120.54(6), 409.2557, 409.2557(3)(h), 409.2557(3)(i) 409.2557(3)(p), 409.256(17), 409.2563(7)(e), 409.2563(16) FS.

LAWS IMPLEMENTED: ss. 61.13016, 61.1354, 322.058, 409.256, 409.2563, 409.2567, 443.051 FS., 45 CFR 303.7(a)(4)

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE

HELD):

DATE AND TIME: JUNE 22, 2017, 9:00am

PLACE: 2450 SHUMARD OAK BLVD, BUILDING 2, ROOM 3503

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Child Support Program is asked to advise the Department at least 48 hours before such proceeding by contacting Bobby York at (850) 617-8037. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE: Bobby York, Government Analyst II, Child Support Enforcement Program, Department of Revenue, P.O. Box 8030, Mail Stop 2-4464, Tallahassee, Florida 32314-8030, Telephone: (850) 617-8037

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE  
CHILD SUPPORT ENFORCEMENT PROGRAM  
AMENDING RULES 12E-1.012, 12E-1.023, AND 12E-1.036  
CREATING RULES 12E-1.030, 12E-1.037, 12E-1.039 AND 12E-1.040

Substantial rewording of Rule 12E-1.012 follows. See Florida Administrative Code for present text.

12E-1.012 Consumer Reporting Agencies.

(1) Definitions. As used in this rule:

(a) “Consumer Reporting Agency,” also referred to as a “credit bureau” or a “credit reporting agency,” means a person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(b) “Delinquency” means the total amount of support that has come due and is unpaid pursuant to the payment schedule set forth in the support order as that term is defined by s. 61.046(21), F. S.

(c) “Overdue Support” means the amount of a delinquency, arrearage, or both, that is owed under a support order as that term is defined by s. 61.046(21), F. S.

(2) Reporting Overdue Support upon a Request from a Consumer Reporting Agency.

(a) If a consumer reporting agency requests information from the Department pursuant to section 61.1354(1), F.S., concerning an obligor who has not been reported by the Department pursuant to subsection (3) of this rule, the Department shall, after complying with subsection (4) of this rule, provide the consumer reporting agency with the obligor’s name, social security number, and the amount of overdue support he or she owes, if any.

(b) If a consumer reporting agency or lending institution requests the Department to verify the amount of overdue support owed by an obligor who has been reported by the Department pursuant to subsection (3) of this rule, the Department shall provide the information to the consumer reporting agency or lending institution. A request from a lending institution must be accompanied by a written authorization signed by the obligor authorizing the Department to disclose the information.

(3) Periodic Reporting to Consumer Reporting Agencies.

(a) The initial report concerning an obligor may not be released until the Department has complied with the notice and hearing requirements in subsection (4) of this rule. Subsequent reports providing updated amounts owed by an obligor are released by the Department without further notice to the obligor.

(b) The Department initiates reporting to consumer reporting agencies if the case meets all the following criteria, unless any of the factors listed in paragraph (3)(c) are present:

1. The Department has a valid mailing or residential address for the obligor;

2. The delinquency in the case is:

a. Equal to or greater than \$400, or

b. Greater than \$100 and less than \$400 and:

i. For a weekly support obligation, the Department has not received and posted a payment in the past 10 days or longer;

ii. For a bi-weekly support obligation, the Department has not received and posted a payment in the past 17 days or longer;

iii. For a semi-monthly support obligation, the Department has not received and posted a payment in the past 18 days or longer;

iv. For a monthly support obligation, the Department has not received and posted a payment in the past 34 days or longer;

v. For a quarterly support obligation, the Department has not received and posted a payment in the past 95 days or longer;

vi. For a semi-annual support obligation, the Department has not received and posted a payment in the past 186 days or longer;

vii. For an annual support obligation, the Department has not received and posted a payment in the past 368 days or longer;

viii. For a one-time support obligation, the Department has not received and posted a payment in the past 34 days or longer.

3. The Department has a valid social security number for the obligor;

4. Overdue support in the case equals or exceeds two times the monthly support obligation, if any.

(c) The Department may not initiate reporting to consumer reporting agencies in a case if any of the following factors are present:

1. The obligor receives temporary cash assistance;

2. The obligor receives Supplemental Security Income benefits;

3. The obligor is complying with a written agreement he or she entered with the Department;

4. The obligor receives reemployment assistance (formerly known as unemployment compensation);

5. The Department has initiated an income deduction notice to the current employer or other income provider during the employer's or income provider's most recent pay frequency (e.g., weekly, monthly), if known, or during the support order obligation frequency (e.g., weekly, monthly);

6. The Department has placed an override on reporting overdue support to consumer reporting agencies (for example, when a court has prohibited using the action on a specific case);

7. The Department has any of the following compliance actions pending in the case:

a. A past-due notice sent to the obligor;

b. An appointment letter sent to the obligor;

c. An action to suspend the obligor's driver license and motor vehicle registration(s);

d. An action to suspend the obligor's business, professional, occupational, or recreational license or certification;

e. A legal action against the obligor for contempt of court or to establish a repayment on past-due support;

f. An action to place a lien on the obligor's motor vehicle(s) or vessel(s);

g. A referral of the obligor's case to another state's Title IV-D agency to take compliance action against the obligor;

8. The obligor is paying support pursuant to an income deduction notice; or

9. The obligor is incarcerated.

(d)1. The Department may not release the initial report concerning an obligor's overdue support if, after the obligor receives notice pursuant to subsection (4), the Department and the obligor enter into a written agreement establishing a payment plan in accordance with Rule 12E-1.027, F.A.C.

2. If the obligor does not comply with the written agreement, the Department shall release the initial report and subsequent periodic reports without further notice to the obligor, which must be stated in the written agreement.

3. The Department may not release the initial report for as long as the obligor complies with the written agreement.

(4) Notice and Right to Hearing.

(a) Before releasing a report or providing information concerning an obligor under this section the Department shall send the obligor by regular mail to his or her last known address a Notice of Intent to Report to Consumer Reporting Agencies, Form CS-EF32, incorporated herein by reference, effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). The notice must inform the obligor that:

1. The Department will report the amount of overdue support to the consumer reporting agencies;

2. The Department will report an update of the overdue support amount each month;

3. Reporting overdue support to consumer reporting agencies may affect the obligor's ability to obtain credit;

4. The obligor may avoid the initial report by paying the full amount of the overdue support within 20 days after the date the notice is mailed;

5. The obligor may request the Department to enter into a written agreement that establishes a payment plan to avoid reporting the overdue support; and

6. By requesting an informal review, the obligor may contest the information proposed to be released if the

overdue support amount is incorrect or the obligor is not the individual obligated to pay support.

(b) An obligor may contest the Department's reporting of overdue support to consumer reporting agencies. To contest:

1. The obligor must submit a written request for informal review to the Department at the address specified in the Notice of Intent to Report to Consumer Reporting Agencies (CS-EF32) within 20 calendar days after the mailing date of the notice.

2. If a written request for informal review is received timely, the Department shall conduct the informal review to determine whether reporting to consumer reporting agencies is appropriate. The Department shall conclude its review within 20 days after receiving the request.

3. When the review is concluded, the Department shall hand-deliver or send the obligor by regular mail a Notice of Decision Concerning Report to Consumer Reporting Agencies, Form CS-EF62, incorporated herein by reference, effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->). The notice must inform the obligor whether the Department intends to report the obligor's overdue support amount to the consumer reporting agencies. The notice must inform the obligor of the right under Chapter 120, F.S., to file a petition for administrative hearing to contest the accuracy of the information to be reported.

4. The obligor may contest the notice of decision by filing a petition for administrative hearing with the Department at the address provided in the notice within 15 days after receipt of the notice of decision. A petition is filed when it is received by the Department, not when it is mailed. If the obligor contests the notice of decision by filing a timely petition, the Department may not report information to consumer reporting agencies until the obligor withdraws the petition, the obligor consents, or a final order is entered that authorizes the release of the information.

(5) Modifying Previous Reports to Consumer Reporting Agencies. The Department shall notify consumer reporting agencies to remove or modify the amount of overdue support from the obligor's consumer report if the Department determines the amount reported by the Department is incorrect or has been paid in full.

(6) Department Requests for Consumer Reports. The Department is authorized to request consumer reports from consumer reporting agencies pursuant to sections 61.1354(3) and (4), F.S. Before the Department submits a request for a consumer report to a consumer reporting agency, the Department shall certify one-time to the consumer reporting agency that every subsequent request for a consumer report from that agency will meet the requirements set forth in section 61.1354(3), F.S. When the Department requests a consumer report, the Department shall provide the Notice of Intent to Request Credit Report, Form CS-EF15, incorporated herein by reference, effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->), by certified mail to the individual's last known address at least 15 days prior to transmitting the request to the consumer reporting agency.

*Rulemaking Specific Authority 61.1354(5), 409.2557 FS. Law Implemented 61.1354 FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.009, Amended 10-22-00, 10-30-06,\_\_\_\_\_.*

Substantial rewording of Rule 12E-1.023 follows. See Florida Administrative Code for present text.

12E-1.023 Suspension of Driver License; Suspension of Motor Vehicle Registration.

(1) Definition. For purposes of this rule "delinquency" means the total amount of support that has come due and is unpaid pursuant to the payment schedule set forth in the support order.

(2) Suspension Criteria.

(a) The Department is authorized pursuant to section 61.13016, F.S., to initiate a proceeding for the suspension of an obligor's driver license and the registration of all motor vehicles solely owned by the obligor when:

1. The obligor is 15 days delinquent in making a support payment; or

2. The obligor fails to comply with a subpoena, order to appear, order to show cause, or similar order relating to paternity or support proceedings.

(b) The Department shall initiate a proceeding to suspend the driver license and the registration of all motor vehicles solely owned by the obligor for non-payment of support in an obligor's case if the criteria in (2)(a)1. and the following criteria are met, unless any of the factors listed in paragraph (2)(c) are present:

1. The Department has a valid mailing or residential address for the obligor;

2. The delinquency in the case is:

a. Equal to or greater than \$400, or

b. Greater than \$100 and less than \$400 and:

i. For a weekly support obligation, the Department has not received and posted a payment in the past 10 days or longer;

ii. For a bi-weekly support obligation, the Department has not received and posted a payment in the past 17 days or longer;

iii. For a semi-monthly support obligation, the Department has not received and posted a payment in the past 18 days or longer;

iv. For a monthly support obligation, the Department has not received and posted a payment in the past 34 days or longer;

v. For a quarterly support obligation, the Department has not received and posted a payment in the past 95 days or longer;

vi. For a semi-annual support obligation, the Department has not received and posted a payment in the past 186 days or longer;

vii. For an annual support obligation, the Department has not received and posted a payment in the past 368 days or longer;

viii. For a one-time support obligation, the Department has not received and posted a payment in the past 34 days or longer;

(c) The Department may not initiate a proceeding to suspend an obligor's driver license or motor vehicle registration for non-payment of support if any of the following factors are present:

1. The obligor receives temporary cash assistance;

2. The obligor receives Supplemental Security Income benefits;

3. The obligor is complying with a written agreement the obligor entered with the Department;

4. The obligor receives reemployment assistance (formerly known as unemployment compensation);

5. The Department has initiated an income deduction notice to an employer or other payor of income during the employer's or payor's most recent pay frequency (e.g., weekly, monthly), if known, or during the support order obligation frequency (e.g., weekly, monthly);

6. The obligor is paying support pursuant to an income deduction notice;

7. The Department has placed an override on driver license suspension actions in the case, for example, when a court has prohibited driver license suspension in the case;

8. The Department has any of the following compliance actions pending in the case:

a. A past-due notice sent to the obligor;

b. An appointment letter sent to the obligor;

c. An action to report the obligor's overdue support balance to consumer reporting agencies;

d. An action to suspend the obligor's business, professional, occupational, or recreational license or certification;

e. A legal action against the obligor for contempt of court or to establish a repayment on past-due support;

f. An action to place a lien on the obligor's motor vehicle(s) or vessel(s);

g. A referral of the obligor's case to another state's Title IV-D agency to take compliance actions against the obligor;

9. The obligor is disabled and incapable of self-support;

10. The obligor receives benefits under the federal Social Security Disability Insurance program; or

11. The obligor is making payments in accordance with a confirmed bankruptcy plan under Chapter 11, 12, or 13 of the U.S. Bankruptcy Code;

(3) Notice to Obligor of Intent to Suspend Driver License; Notice to Suspend Motor Vehicle Registration.

(a) In accordance with section 61.13016(1), F.S., the Department shall send to the obligor by regular mail a Notice of Intent to Suspend Driver License and Motor Vehicle Registration(s), Form CS-EF55, incorporated herein by reference, effective xx/xx <http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), Notice shall be mailed to the obligor's address of record with the Department of Highway Safety and Motor Vehicles.

(b) In addition to the notice required by (3)(a), if the Department has information that using another address is more likely to result in actual notice to the obligor, the Department shall mail the notice to the obligor at that address.

(c) Service of the notice is complete upon mailing.

(4) Termination of Driver License Suspension Process; Termination of Motor Vehicle Registration Suspension Process. After the Department has provided notice to the obligor of its intent to suspend the obligor's driver license and motor vehicle registration(s), but before the Department has notified the Department of Highway Safety and Motor Vehicles to suspend, the Department shall terminate a pending suspension action if the obligor satisfies any of the conditions in subsection 61.13016(3), Florida Statutes. The Department shall also terminate a pending suspension action as follows:

(a) If the suspension action in a case was initiated due to non-payment of support, the Department will terminate the action when:

1. The Department closes the case;

2. An income deduction payment is received;

- a. During the past seven days for a weekly obligation;
- b. During the past 14 days for a bi-weekly obligation;
- c. During the past 15 days for a semi-monthly obligation;
- d. During the past 31 days for a monthly obligation;
- e. During the past 92 days for a quarterly obligation;
- f. During the past 183 days for a semi-annual obligation;
- g. During the past 365 days for an annual obligation;

(b) If the suspension action in a case was initiated due to a failure to comply with a subpoena, order to appear, order to show cause, order to appear for genetic testing, or similar order, the Department shall terminate the action when:

- 1. The Department closes the case; or
  - 2. A court orders the Department to terminate the action.
- (5) Written Agreements for Payment of Past-Due Support.

(a) Rule 12E-1.027, F.A.C., governs the requirements and procedures for entering into a written agreement with the obligor for payment of past-due support.

(b) If the obligor defaults on a payment required by the written agreement, the Department shall, without further notice to the obligor, notify the Department of Highway Safety and Motor Vehicles to suspend the obligor's license and registration(s), as provided by the terms of the written agreement, unless one of the circumstances listed in subsection (4)(a) exists.

(6) The Department shall notify the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license and motor vehicle registration(s) by electronic interface, fax or other means such as hand-delivery or U.S. mail.

(7) Reinstatement of the Driver License; Reinstatement of Motor Vehicle Registration. The Department shall notify the Department of Highway Safety and Motor Vehicles to reinstate an obligor's driver license and motor vehicle registration(s) in a case as follows:

(a) If the suspension action in a case is initiated due to non-payment of support, the Department shall notify the Department of Highway Safety and Motor Vehicles to reinstate the obligor's driver license and motor vehicle registration(s) when:

- 1. The Department closes the case;
- 2. An income deduction payment is received;
- 3. The obligor pays the delinquency in full;
- 4. The obligor enters into a written agreement with the Department;
- 5. The obligor demonstrates that he or she receives reemployment assistance;
- 6. The obligor demonstrates that he or she is disabled and incapable of self-support;
- 7. The obligor receives Supplemental Security Income benefits;
- 8. The obligor receives benefits under the federal Social Security Disability Insurance program;
- 9. The obligor receives temporary cash assistance;
- 10. The obligor is making payments in accordance with a confirmed bankruptcy plan under Chapter 11, 12, or 13 of the U.S. Bankruptcy Code;
- 11. A court orders the reinstatement of the license and motor vehicle registration; or
- 12. The Department requests the suspension in error.

(b) If the suspension action in a case was initiated due to a failure to comply with a subpoena, order to appear, order to show cause, order to appear for genetic testing, or similar order, the Department shall notify the Department of Highway Safety and Motor Vehicles to reinstate the obligor's driver license and motor vehicle registration(s) when:

- 1. The obligor complies with the subpoena or order;
- 2. A court orders the reinstatement of the license and motor vehicle registration;
- 3. The Department requests the suspension in error; or
- 4. The Department closes the case.

(8) Procedure for Reinstatement. When the Department notifies the Department of Highway Safety and Motor Vehicles to reinstate the driver license and motor vehicle registration, the Department shall also notify the obligor that the Department is no longer pursuing suspension action, and the obligor's driver license and motor vehicle registration(s) is eligible for reinstatement upon the obligor paying applicable fees owed to the Department of Highway Safety and Motor Vehicles. The Department uses Form CS-EF57, Driver License/Vehicle Registration Reinstatement Notice, to notify obligors their driver license and motor vehicle registration are eligible for reinstatement. Form CS-EF57, Driver License/Vehicle Registration Reinstatement Notice, (Effective XX/XX)

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), is hereby incorporated by reference in this rule.

Rulemaking Specific Authority 409.2557(3)(i) FS. Law Implemented 61.13016, 322.058 FS History—New 7-20-94, Formerly 10C-25.020, Amended 3-6-02,\_\_\_\_\_.

12E-1.030 - Administrative Establishment of Child Support Obligations.

(1) Introduction. Section 409.2563, F.S., authorizes the Department to administratively establish child support obligations when it is providing services under Title IV-D of the Social Security Act.

(2) Definitions. For purposes of this rule:

(a) “Address of record” means the address to which all administrative proposed orders, final orders, and other notices are mailed. The address of record is established as the active mailing or residential address maintained for the party by the Department that is listed on the initial notice that is served on the respondent. If the party provides a new address in writing after service of the initial notice, the new address is designated the address of record and all subsequent documents associated with the administrative proceeding action will be mailed to that address.

(b) “Administrative Support Order”, as defined by section 409.2563(1)(a) F.S., is also referred to as “Final Administrative Support Order”, or “Final Order” and may include payment of noncovered medical expenses.

(c) “Amended Proposed Administrative Support Order” or “Amended Proposed Order” is a modified Proposed Order issued by the Department to correct an error or reflect new information that changes the terms of the original or subsequent Proposed Order.

(d) “Emancipated” means the status of a minor child who has become an adult on reaching 18 years of age, by order of the court, by marriage, or by other means provided by law.

(e) “Income deduction order” means an administrative final order rendered by the Department directing an employer or other payor of income to deduct support payments from the income of a parent who is ordered to pay support.

(f) “Legal services provider” means a program attorney as defined in section 409.2554(9), F.S.

(g) “Long-arm jurisdiction” refers to the conditions listed in sections 48.193(1)(a) and 88.2011, Florida Statutes, that allow the Department to assert personal jurisdiction over a respondent who does not reside in Florida.

(h) “Notice of Proceeding to Establish an Administrative Support Order” or “Initial Notice” means the notice served on the respondent that states the Department has started a proceeding to establish an administrative support order.

(i) “Petitioner” or “petitioning parent” means the parent or caregiver with whom the child resides.

(j) “Public assistance” means temporary cash assistance, food assistance, Medicaid, or any combination thereof.

(k) “Respondent” means the parent from whom the Department is seeking support.

(3) Case Selection Criteria.

(a) As allowed by section 409.2563 (2)(c), F.S., the Department is authorized to establish a support obligation administratively.

(b) The Department does not establish an administrative support obligation when:

1. The child is in foster care;

2. There is a court order of support for a payee with whom the child no longer resides;

3. The Department does not have an active residential or mailing address for the respondent;

4. There is a court order that only addresses health care insurance or noncovered medical expenses;

5. There is a court order that establishes an ongoing support obligation, a retroactive support amount, or reserves jurisdiction to establish a support obligation;

6. In accordance with section 409.2579(4) F.S., the Department has reason to believe that the disclosure of information on the whereabouts of one party or the child to another person may result in physical or emotional harm to the party or the child.

7. Either parent is a minor; or

8. The respondent does not reside in Florida and long-arm jurisdiction is not applicable.

(4) Obtaining Cooperation from the Petitioner.

(a) If a case is eligible for establishment of an administrative support order the Department must obtain cooperation from the petitioner before serving notice on the respondent. To obtain cooperation, the Department mails the petitioner Form CS-ES96, Request for Information, incorporated herein by reference, effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->); the Financial Affidavit Administrative Proceeding (CS-OA11); and the Parent Information Form (CS-OA12). Forms CS-OA11 and CS-OA12 are incorporated by reference in Rule 12E-1.036, F.A.C. The petitioner has 20 days after the mailing date of the forms to complete and



return them.

(b) If the petitioner returns the forms timely, the Department shall proceed to serve the respondent with an Initial Notice as described in subsection (5) below.

(c) If the forms are not returned timely, the Department shall initiate case closure for petitioners not receiving public assistance. For petitioners receiving Medicaid or food assistance, the Department shall report noncooperation to the Department of Children and Families as required by section 409.2572 F.S. and initiate case closure. If the petitioner is receiving temporary cash assistance for the child, the Department shall prepare a financial affidavit for the petitioner as authorized by section 61.30(15) F.S.

(5) Initial Notice.

(a) The Department uses Form CS-OA01, Notice of Proceeding to Establish Administrative Support Order (incorporated by reference in Rule 12E-1.036, F.A.C.), to inform the respondent that the Department has initiated an administrative proceeding to establish a support obligation. This notice is referred to as the "Initial Notice".

1. Along with the Initial Notice, the Department shall provide the respondent with the following documents:

a. Financial Affidavit Administrative Support Proceeding (CS-OA11); and

b. Parent Information Form Administrative Support Proceeding (CS-OA12).

2. The Department shall mail the petitioner a copy of the Initial Notice provided to the respondent, along with Form CS-OA06, Notice to Parent or Caregiver of Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.).

(b) The Department is authorized to serve the Initial Notice as provided by section 409.2563(4), F.S. The Department considers the Initial Notice to be properly served if:

1. Someone other than the respondent signs the certified mail receipt and the Department confirms with the respondent by telephone or in-person that the respondent received the Initial Notice;

2. The signature on the certified mail receipt is illegible, but the Department confirms it is the respondent's by comparing it to another source such as Department of Highway Safety and Motor Vehicles DAVID database, or the Department confirms with the respondent by telephone or in-person that the respondent received the Initial Notice;  
or

3. The Department does not receive confirmation of receipt, but the respondent returns the financial affidavit or other information in response to the Initial Notice. Service is complete if the respondent submits anything in writing that shows the respondent received the Initial Notice.

(6) Proceeding in Circuit Court as an Alternative to the Administrative Process.

(a) As allowed by section 409.2563(4)(l) and (m), F.S., the respondent may file a support action in circuit court and serve the Department with a copy of the petition. The respondent must have the petition served on the Deputy Agency Clerk as specified by the Initial Notice, within 20 days after the date the respondent is served the Initial Notice. If the Department is served timely, the administrative proceeding ends and the case proceeds in circuit court. If the respondent files a petition in circuit court, but does not serve the Department in the 20-day time frame, the Department will continue with the administrative establishment proceeding. If the petition is served on the Department timely, the Department will mail the petitioning parent or caregiver Form CS-OA88, Dismissal of Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.).

(b) Respondent Asks the Department to Proceed in Circuit Court. The respondent may ask the Department to stop the administrative proceeding and proceed in circuit court. The respondent must make this request in writing and the request must be received by the Department within 20 days after being served the Initial Notice. The request from the respondent must state the respondent requests the Department proceed with the determination of the support obligation in circuit court or that the respondent states his or her intentions to address custody matters or parental rights issues in circuit court. Oral requests are not accepted. If the respondent files a timely request for the Department to file an action in circuit court, the Department will send the respondent Form CS-OA247, Request for Court Action Status Update (incorporated by reference in Rule 12E-1.036, F.A.C.). The Department sends the petitioning parent Form CS-OA248, Notice of Court Action Financial Affidavit Needed for Court (incorporated by reference in Rule 12E-1.036, F.A.C.). The Department then sends the petitioning parent Form CS-PO31, Family Law Financial Affidavit (incorporated by reference, in Rule 12E-1.036, F.A.C.). When the petitioning parent returns the CS-PO31, the Department will file a petition with the clerk of court to determine the support obligation and obtain a civil case number. If the petitioning parent does not return the CS-PO31, the Department shall initiate case closure if the petitioning parent is not receiving public assistance. If the petitioning parent is receiving Medicaid or food assistance, the Department shall report noncooperation to the Department of Children and Families as required by section 409.2572, F.S., and initiate case closure. If the petitioning parent is receiving temporary cash assistance for the child, the Department shall prepare a financial affidavit for the other parent as authorized by section 61.30(15), F.S.

(c) When the Department receives a stamped copy of the petition back from the clerk, it sends a copy of the petition to the respondent by certified mail, return receipt requested. Along with the copy of the petition, the Department sends Form CS-OA18, Notice of Commencement of Action and Request for Waiver of Service of Process Administrative Paternity Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.). The Department also sends two copies of Form CS-OA19, Waiver of Service of Process (incorporated by reference in Rule 12E-1.036, F.A.C.). If the respondent is represented by an attorney, the Department sends the packet of forms and petition to the respondent's attorney. The respondent has 10 days from the receipt of these forms to sign and complete one copy of the CS-OA19 and return it to the Department. If the Department does not receive the signed completed CS-OA19 within 10 days, it proceeds with the establishment of the support obligation administratively. The Department will also file a voluntary dismissal of the civil case with the clerk of court and mail a copy of the voluntary dismissal to the respondent. If the respondent completes and returns the CS-OA19 within 10 days, the Department sends the petitioner the Dismissal of Administrative Proceeding CS-OA88 form. The Department will then end the administrative proceeding and proceed in circuit court.

(7) Proposed Administrative Support Order.

(a) After the Department serves the respondent with the Initial Notice in accordance with paragraph (4)(b), not no sooner than 20 days after service, the Department shall calculate the respondent's support obligation using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided by section 61.30(2)(b), F.S. or section 409.2563(5), as applicable.

(b) Calculation of the respondent's retroactive support obligation shall be in accordance with section 61.30(17), F.S. Retroactive support shall be addressed in an initial determination of child support.

(c) The Department shall prepare Form CS-OA20, Proposed Administrative Paternity and Support Order (incorporated by reference in Rule 12E-1.036, F.A.C.), which for purposes of this rule is entitled Proposed Administrative Support Order, that establishes the terms of the support obligation and includes, at a minimum, all elements contained in section 409.2563(7)(e), F.S. The Department shall mail the Proposed Order to the respondent by regular mail to the respondent's address of record. The Proposed Order shall include a notice of rights that informs the respondent of the right to an informal discussion with the Department, the right to a formal administrative hearing, and the right to consent to the entry of an Administrative Support Order. Copies of the child support guidelines worksheet prepared by the Department and the financial affidavit submitted by the other parent are mailed with the Proposed Order. The Department shall provide a copy of the Proposed Order and its attachments to the petitioner at the petitioner's address of record.

(d) The Proposed Order must include an explanation of any deviations from the guidelines the Department considered when calculating the support obligation and any retroactive support owed.

(e) If additional facts or information become available to the Department that materially changes the Proposed Order, the Department shall prepare an amended Proposed Administrative Paternity and Support Order, using Form CS-OA20 (from now on referred to as the Amended Proposed Order). An Amended Proposed Order shall include guideline worksheets to explain the changes and the requirements established in section 409.2563(5)(a), F.S. The Department does not amend the Proposed Order if the additional facts or information become available after the respondent has requested an administrative hearing. Any additional facts or information are addressed at the hearing.

(8) Informal Discussions.

(a) The respondent may ask the Department to informally discuss the proposed order as authorized by section 409.2563(5)(c)5., F.S.

(b) If the respondent asks for an informal discussion within 10 days of the date the Department mailed the Proposed Order, the Department shall extend the time limit for the respondent to request a hearing. The Department shall extend the time limit to 10 days from the date the Department notifies the respondent the informal discussions have ended. The Department will use Form CS-OA32, Notice of Conclusion of Informal Discussion Administrative Paternity Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.), to inform the respondent the informal discussions have ended. The deadline for asking for an administrative hearing will not occur before 20 days from the date the Department mailed the Proposed Order to the respondent regardless of when the informal discussions have ended.

(c) The respondent may contact the Department to discuss the case at any time, however, contact outside the time frame referenced in paragraph (8)(b) does not extend the time to request a hearing. If the respondent asks the Department for an informal discussion outside of the time frame referenced above, the Department shall send the respondent Form CS-OA35, Notice of Late Request for Informal Discussion Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.), and inform the respondent that the Department will discuss the Proposed Order with the respondent, but will not extend the time to request an administrative hearing.

(d) The following types of contact do not constitute a request for informal discussion:

1. The respondent has general questions about the Department's Child Support Program or the respondent's case;
2. The respondent's questions do not affect the terms of the Proposed Order;
3. The respondent's questions are answered during a customer contact; or
4. The respondent provides new information but does not include a request for informal discussion.

(e) If the respondent does not appear for an appointment or reschedule a missed appointment to discuss the Proposed Order, the time to request an administrative hearing is not extended.

(f) At the end of the informal discussion, the Department shall mail the respondent Form CS-OA32, Notice of Conclusion of Informal Discussion Administrative Paternity Proceeding.

(9) Request for Administrative Hearing.

(a) To request an administrative hearing, the respondent must submit a written request to the Department's Deputy Agency Clerk at the address provided in the Proposed Order.

(b) The Department must receive the request for an administrative hearing no later than 20 days after the mailing date of the Proposed Order. If the respondent requests and is granted an informal discussion, the deadline for seeking an administrative hearing is 10 days from the date the Department informs the respondent the informal discussion ended using the Notice of Conclusion of Informal Discussion Administrative Paternity Proceeding (Form CS-OA32).

(c) The Department acknowledges all timely hearing requests received by the Deputy Agency Clerk using Form CS-OA55, Acknowledgment of Hearing Request Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.).

(d) If the request is received timely, the Department sends the request to the Florida Division of Administrative Hearings. The Division of Administrative Hearings notifies the Department, respondent, and petitioner in writing of the date, time, and place of the hearing.

(e) If the Department receives an untimely request for an administrative hearing, the Department denies the request and sends the respondent the Acknowledgment of Hearing Request Administrative Proceeding (Form CS-OA55). This form notifies the respondent that the request was not timely and the Department will proceed without a hearing.

(f) The respondent may withdraw the request for an administrative hearing up to five days before the scheduled date, or at the administrative law judge's discretion. The respondent may withdraw the request by providing a written request directly to the Division of Administrative Hearings.

(g) To reschedule a hearing, the party requesting to reschedule shall file a motion for continuance with the Division of Administrative Hearings in accordance with Rules 28-106.204 and 28-106.210, F.A.C.

(h) If the Department determines that an administrative hearing is appropriate, it may refer the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Support Order. The Department may ask for an administrative hearing and the Division of Administrative Hearings shall conduct an administrative hearing to determine the support obligation when:

1. The Department is not able to determine the income of the respondent; or
2. The amount of income claimed by one party is disputed by the other party.

(10) Final Administrative Support Orders. The Department uses Form CS-OA40, Final Administrative Paternity and Support Order (incorporated by reference in Rule 12E-1.036, F.A.C.) to establish the support obligation. Section 409.2563(7)(e), F.S., sets the requirement for the Final Administrative Support Order and the minimum requirements for the content of the order. In addition to the Final Administrative Support Order, the Department enters an Income Deduction Order as part of the Final Administrative Support Order. The respondent is responsible for making the ordered payments to the State Disbursement Unit until the income deduction begins. Once rendered, a Final Administrative Support Order has the same force and effect as a court order and it remains in effect until the Department modifies it, or it is vacated as described in subsection (15), or it is superseded by a court order. If an administrative hearing is held, the administrative law judge shall issue an administrative support order, or a final order denying an administrative support order.

(11) A respondent may consent to the entry of a final order any time after the receipt of the Initial Notice. To do this, the respondent must complete and return Form CS-PO384, Waiver of Opt-Out Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.), after the respondent receives the Initial Notice Packet. If the respondent returns the Waiver of Opt-Out Administrative Proceeding, Financial Affidavit, and Parent Information Form, the Department sends the respondent Form CS-ES97, Waiver of Administrative Hearing (incorporated by reference in Rule 12E-1.036, F.A.C.). The Department also sends a copy of the Proposed Administrative Support Order discussed in subsection (6) of this rule. If the respondent completes and returns the CS-ES97, the Department

need not wait 27 days from sending the Proposed Order to complete and render a Final Administrative Paternity and Support Order, CS-OA40. If the respondent does not return the CS-ES97, the Department waits at least 27 days after sending the Proposed Order before completing a Final Administrative Paternity and Support Order.

(12) Judicial Enforcement of Administrative Support Order. The Department may initiate judicial enforcement of an administrative support order by filing a petition for enforcement of administrative support order in circuit court. To do this, the Department must serve the respondent with a summons and a copy of the petition. If the circuit court issues an order enforcing the administrative support order, and the respondent does not comply, the Department may initiate contempt proceedings for violation of the court order.

(13) Modifying an Administrative Support Order.

(a) The Department shall file a petition in circuit court for a superseding order when support for an additional child of the same parents needs to be established or a child needs to be removed from the order.

(b) A parent or caregiver may request in writing that the Department modify an administrative support order by completing Form CS-PO200, Request for Support Order Review, hereby incorporated by reference, effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ).

(c) Criteria for modification. The Department shall begin a proceeding to modify an administrative support order if it has been three years or more since the last review under section 409.2564(11), F.S., when guidelines calculations show an increase or decrease in the support amount of at least 10%, or a minimum of \$25.00 a month and there is a permanent, involuntary change in circumstances. If it has been less than three years since the order was modified or reviewed, the order is eligible for modification if guidelines calculations show an increase or decrease in the support amount of at least 15% or \$50.00 per month and there is a permanent, involuntary change in circumstances. The requesting party must provide documentation showing a permanent, involuntary change of circumstance, which may include:

1. A parent or child is permanently disabled;
2. A parent or child develops a medical condition resulting in a decrease in a parent's ability to pay support or increased need of the child for support;
3. The financial needs of the child have increased resulting in the need for additional support;
4. One of the parents receive Social Security Disability Income; or
5. Changes in either parent's income. If the income of the parent who owes support increases, the Department need not prove that the change in income was involuntary to order a prospective increase in the child support amount.

(d) The Department shall notify the parents or caregiver when it begins a proceeding to modify the support obligation of an Administrative Support Order.

1. The Department uses Form CS-OA120R, Proposed Order to Modify Administrative Support Order, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), to modify the support obligation amount when a review indicates a modification is appropriate. If the party that did not request the review responds during the support order review, the Department sends the proposed order by regular mail to both parties to their addresses of record. If the non-requesting party does not participate in the support order review, the Department shall attempt to serve the proposed order on the non-requesting party by certified mail or personal service. If service is not accomplished by certified mail or personal service, the Department shall send the non-requesting party the proposed order by regular mail to the non-requesting party's address of record. If the proposed order is not contested by either party within 30 days of service by certified mail or personal service, or 35 days after the Notice is sent by regular mail, the Department prepares and renders Form CS-OA140R, Final Modified Administrative Support Order, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). Under section 409.2563(13)(c), F.S., a party to an administrative proceeding has a continuing duty to provide the Department with a current mailing address after being served with an initial notice under (5)(b) of this rule and the party is presumed to receive a subsequent notice, proposed order or other document mailed to the party's address of record including a proposed order to modify support.

2. The Proposed Order to Modify Administrative Support Order shall include the same notices as specified in subsection (7) of this rule.

(14) Termination of an Administrative Support Order

(a) A parent or caregiver may request in writing that the Department terminate an Administrative Support Order for the reasons listed in paragraph (b). A written request must include the following information:

1. Names and addresses of the respondent and petitioner;
2. Child support case number, administrative support order number, or depository number;
3. Names of child or children;

4. Specific reasons for the request to terminate; and

5. Any documentation that supports the request to terminate.

(b) The Department initiates action to terminate an administrative support order when:

1. A parent due support or caregiver who does not receive cash assistance requests termination of an Administrative Support Order.

2. The parent who owes support is permanently disabled, and is not receiving earned income. The person claiming permanent disability must provide a doctor's certificate stating the parent is permanently disabled and unable to return to work.

3. There has been a permanent change of physical custody of all the children on the order to the parent who owes support, or

4. The court terminates the parental rights of the parent who owes support.

(c) Arrears owed at the time the support is terminated will be established by the Department along with a repayment amount. The parent due support may waive arrears owed to them.

(d) The Department shall send a notice of intent to terminate the Administrative Support Order, to the non-requesting party, or any legal counsel or qualified representative representing the non-requesting party, and the requesting party. The notice of intent informs each parent:

1. The effective date of terminating the support order;

2. How to ask for an informal discussion;

3. How to ask for an administrative hearing; and

4. That he or she has the right to file a civil action in circuit court to determine child support issues.

(e) When the Department begins a proceeding to terminate an Administrative Support Order, the Department shall notify the parents or caregiver by regular mail at the address of record for each party using Form CS-OA 160, Notice of Intent to Terminate Final Administrative Support Order, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->). If the notice is not contested 35 days after the notice is sent by regular mail, the Department shall render Form CS-OA178, Final Administrative Order Terminating Support Order, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->).

(15) Dismissing the Administrative Support Proceeding. At any time before the entry of a Final Administrative Support Order, the Department may end the administrative proceeding and either close the case or proceed judicially. Instances when the Department will not proceed administratively include: a previous judicial support order for the children is provided by a party; the parties currently reside together as an intact family; or all the children reside with the alleged father. When the Department decides to end the administrative proceeding, it will send the Dismissal of Administrative Proceeding form, CS-OA88, to the parties.

(16) Vacating Administrative Support Orders.

(a) The Department vacates an administrative support order when the order is rendered in error resulting in a fundamental defect, such as a lack of jurisdiction and other reasons listed in sub-paragraphs 1 through 3. Case situations that require vacating the administrative support order include:

1. The Department becomes aware of a support order that predates the administrative support order.

2. Information provided to the Department by another state was in error causing Florida to render an order when it did not have the authority.

3. The case did not meet the criteria listed in sub-section (3).

(17) Forms. Members of the public may obtain copies of the forms used in this rule chapter incorporated by reference, without cost, by writing to the Florida Department of Revenue, Mail Stop 2-4814, 5050 West Tennessee Street, Tallahassee, Florida, 32399.

*Rulemaking Authority 61.13(1)(b)6., 61.14(1)(c), 409.2557(3)(p), 409.2563(7)(e), 409.2563(16) F.S. Law Implemented 409.2563, History – New*

12E-1.036 Administrative Establishment of Paternity and Support Obligations.

(1) Introduction. Section 409.256, F.S., ~~authorizes~~ allows the Department to administratively establish the paternity of a child. The law also ~~authorizes~~ allows the Department to administratively establish a paternity and support obligations when it is providing services under Title IV-D of the Social Security Act.

(2) Definitions. For purposes of this rule:

(a) "Address of record" means the address to which all administrative proposed orders, final orders, and other notices are mailed. The address of record is established as the active mailing or residential address maintained for the party by the Department that is listed on the initial notice that is served on the respondent. If the party provides a

new address in writing after service of the initial notice, the new address is designated the address of record and all subsequent documents associated with the administrative action will be mailed to that address.

~~(b)(a)~~ “Administrative Support Order” or “Final Order” means a final order rendered by the Department as allowed by Section 409.256, F.S. The Final Order establishes paternity or paternity and a support obligation for the child or children. The administrative support order may also include terms for monetary support, retroactive support, health insurance, and non-covered medical expenses if appropriate.

~~(c)(b)~~ “Alleged Father” means “Putative Father” as defined by Section 409.256(1)(g) F.S., which is an individual who is or may be the biological father of a child whose paternity has not been established and whose mother was unmarried when the child was conceived and born.

~~(d)(e)~~ “Amended Proposed Administrative Support Order” or “Amended Proposed Order” is a modified Proposed Order issued by the Department to correct an error or reflect new information that changes the terms of the original or subsequent Proposed Order.

~~(e)(d)~~ “Caregiver” means a person other than the mother, father, or alleged father, who has physical custody of a child or with whom the child primarily resides.

~~(f)~~ “Emancipated” means the status of a minor child who has become an adult on reaching 18 years of age, by order of the court, by marriage, or by other means provided by law.

~~(g)(e)~~ “Good cause” means the person scheduled for genetic testing missed the appointment for reasons beyond their control.

~~(h)~~ “Income Deduction Order” means an administrative final order rendered by the Department directing an employer or other payor of income to deduct support payments from the income of a parent who is ordered to pay support.

~~(i)(f)~~ “Legal service provider” means a program attorney as defined by Section 409.2554(9), F.S.

~~(j)(g)~~ “Long-arm jurisdiction” refers to the conditions listed in Sections 48.193(1)(a) and 88.2011, F.S., that allow the Department to assert personal jurisdiction over a respondent who does not reside in Florida.

~~(k)(h)~~ “Paternity and Administrative Support Proceeding” means an administrative action taken by the Department to order genetic testing, establish paternity, and establish a support obligation.

~~(l)~~ “Petitioner” or “petitioning parent” means the parent or caregiver with whom the child resides.

~~(i)~~ “Proposed Administrative Support Order” or “Proposed Order” means the intended administrative order produced by the Department after having considered genetic testing results, income, and other information about the parents and child or children.

~~(m)(j)~~ “Public Assistance” means temporary cash assistance, food assistance, Medicaid, or any combination thereof.

~~(n)~~ “Respondent” means the parent from whom the Department is seeking support.

(3) Case Selection Criteria.

~~(a) The Department uses administrative proceedings, judicial proceedings, and voluntary acknowledgment to establish paternity. Except as provided in paragraph (3)(b), as allowed by Section 409.256(2)(a), F.S., the Department is authorized to start an administrative proceeding to establish paternity or paternity and support if: the criteria in the statute are met.~~

~~1. Paternity has not been established for the child;~~

~~2. No father’s name appears on the child’s birth certificate or the person named on a birth certificate prior to July 1, 1997, is the alleged father named in the paternity declaration or affidavit;~~

~~3. The mother was not married when the child was conceived and born;~~

~~4. The mother or alleged father states in an affidavit or written declaration that the alleged father is or may be the child’s biological father; and,~~

~~5. The Department is providing services under Title IV-D of the Social Security Act.~~

~~(b) In addition to the criteria in paragraph (a), the Department will does not start an administrative paternity or paternity and support proceeding if any of the following conditions exist: when:~~

~~1. The child’s birth certificate lists the mother as married.~~

~~1.2. The Department has filed a paternity action in circuit court to determine the paternity of the child and the action is pending, referred the case to a legal service provider for judicial action.~~

~~3. The Department has received genetic test results that were obtained outside of the administrative establishment proceeding.~~

~~2. 4. The alleged father or mother is a minor.~~

~~3. 5. The alleged father does not live in Florida and long-arm jurisdiction is not applicable.~~

~~4. 6. The child is in foster care.~~

5. 7. In accordance with section 409.2579(4) F.S., the Department has reason to believe that the disclosure of information on the whereabouts of one party or the child to another person may result in physical or emotional harm to the party or the child. There is a family violence indicator on the case.

6. The Department does not have an active residential or mailing address for the petitioner or respondent.

(4) Statement of Mother Naming an Alleged Father or Fathers. For cases meeting the criteria in subsection (3), the Department requires the mother to name an alleged father or fathers. The Department uses Form CS-PO34, the Paternity Declaration form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06599>), ~~CS-PO34 effective 4/5/16 and~~ (incorporated by reference in Rule 12E-1.039, F.A.C.), to record the name of the alleged father or fathers.

(5) Obtaining Cooperation from the Mother or Caregiver.

(a) If a case is eligible for establishment of an administrative paternity order, the Department must obtain cooperation from the mother or caregiver before serving notice on the respondent. To obtain cooperation, the Department mails Form CS-OP05, Notice of Genetic Testing Appointment, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), by regular mail to the mother or caregiver. The CS-OP05 informs the mother or caregiver where and when to appear to provide a sample for genetic testing, and it also informs the mother or caregiver to bring the child(ren) named on the form to be tested.

(b) If the mother or caregiver and the child(ren) appear for the genetic test and provide a sample timely, the Department shall proceed to serve the respondent with an initial notice as described in subsection (5) below.

(c) If the mother or caregiver and child(ren) do not provide a sample and a sample is not available to the Department from a previous genetic test, the Department shall initiate case closure for a petitioner who does not receive public assistance. For petitioners receiving public assistance, the Department shall report noncooperation to the Department of Children and Families and initiate case closure.

~~(6)(5)~~ Notice of Proceeding to Establish Paternity and Order to Appear for Genetic Testing.

(a) Notice of Proceeding to Establish Paternity or Paternity and Administrative Support Requirements. The Department will serve the alleged father with ~~a~~Form CS-OP01, Notice of Administrative Proceeding to Establish Paternity, ~~form~~ hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06600>), CS-OP01 effective 4/5/16 and incorporated by reference, hereafter referred to as the Notice of Proceeding. The Department will send the alleged father ~~an~~Form CS-OP02, Order to Appear for Genetic Testing, ~~form~~ incorporated by reference effective 04/16 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06601>), CS-OP02 effective 4/5/16 and incorporated by reference, with the Notice of Proceeding and a copy of the Paternity Declaration, CS-PO34, or an affidavit that names the alleged father. The Notice of Proceeding will be served on the respondent by certified mail, restricted delivery, return receipt requested, or by any other means of service that meet the requirements for service

of process in a civil action. Once served, the alleged father must notify the Department in writing of any change of address. If the alleged father does not update the Department, the Department

will serve by regular mail any other document or resulting order to the address of record ~~where the Notice of Proceeding was served~~ and the alleged father is deemed to have received them.

~~(b) The Department sends a Notice of Genetic Testing Appointment form~~ (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06602>), CS-OP05 effective 4/5/16 and incorporated by reference, by regular mail to the mother or caregiver. The CS-OP05 informs the mother or caregiver where and when to appear to provide a sample for genetic testing, and it also informs the mother or caregiver to bring the children named on the form to be tested.

~~(b) (c)~~ Alleged Father Wishes to Proceeding in Circuit Court.

1. As allowed by Sections 409.256(4)(a)11. and 12., F.S., the alleged father may file a paternity action in circuit court and serve the Department with a copy of the petition. ~~The petition must be served personally by a deputy sheriff or private process server. Service by mail only will not end this proceeding.~~ The person ordered to appear must have the petition served on the Deputy Agency Clerk within 20 days after the date he is served the Notice of Proceeding. If the Department is served timely, the administrative proceeding ends and the case proceeds in circuit court. If the alleged father files a petition in circuit court, but does not serve the Department in the 20-day time frame, the Department will continue with the administrative establishment proceeding. If the petition is served on the Department timely, the Department will mail the child's mother or caregiver ~~the~~Form CS-OA88 Dismissal of Administrative Proceeding form, hereby incorporated by reference effective xx/xx

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), CS-OA88 effective ~~XX/XX/XX~~ 4/5/16 and incorporated by reference.

2. Alleged Father Asks the Department to Proceed in Circuit Court. The alleged father may ask the Department to stop the administrative proceeding and proceed in circuit court. The alleged father must make this



request in writing within 20 days after being served the Notice of Proceeding. The request from the alleged father must state that he requests the Department proceed with the determination of paternity in circuit court or that he has custody matters or parental rights issues which need to be addressed by the court. ~~The Department will not accept oral requests to proceed in circuit court.~~ Oral requests are not accepted. If the respondent makes a timely request for the Department to file an action in circuit court, the Department will send the respondent Form CS-OA247, Request for Court Action Status Update, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). The Department sends the petitioning parent Form CS-OA248, Notice of Court Action Financial Affidavit Needed for Court, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). If the petitioning parent does not return the CS-OA248, the Department shall initiate case closure unless the petitioning parent receives Medicaid or food assistance. The Department shall report noncooperation as authorized by section 409.2572, F.S., to the Department of Children and Families, initiate case closure and send the petitioning parent Form CS-PO31, Family Law Financial Affidavit, hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). When the other parent returns the CS-PO31, the Department shall file a petition in circuit court to determine the support obligation. After filing the petition in circuit court, the Department ~~When the Department receives a timely written request to proceed in circuit court, it will file a petition with the clerk of the circuit court and obtain a civil case number. When the Department receives a stamped copy of the petition back from the clerk, it will~~ sends a copy of the petition to the alleged father by certified mail, return receipt requested. Along with the copy of the petition, the Department ~~will~~ sends the Notice of Commencement of Action and Request for Waiver of Service of Process Administrative Paternity Proceeding form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06604>), CS-OA18 effective 4/5/16 and incorporated by reference. The Department ~~will~~ also sends two copies of the Waiver of Service of Process form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06605>), CS-OA19 effective 4/5/16 and incorporated by reference. If the alleged father is represented by an attorney, the Department ~~sends will send the~~ this packet of forms and petition to the alleged father's attorney. The alleged father has 10 days from the receipt of these forms to sign and complete one copy of the CS-OA19 and return it to the Department. If the Department does not receive the signed completed CS-OA19 within 10 days, it ~~will~~ proceeds with the establishment of paternity

administratively. The Department ~~will~~ also files a voluntary dismissal of the civil case with the clerk of court and mail a copy of the voluntary dismissal to the alleged father. If the alleged father completes and returns the CS-OA19 within 10 days, the Department ~~will~~ sends the ~~child's mother~~ petitioner or caregiver the Dismissal of Administrative Proceeding CS-OA88 form. The Department will then end the administrative proceeding and proceed in circuit court.

~~(7)(6)~~ Right to Contest the Order to Appear for Genetic Testing.

(a) Alleged Father Requests Informal Review.

1. Section 409.256(5), F.S., allows the person ordered to appear to contest the Order to Appear for Genetic Testing by asking the Department, in writing, for an informal review within 15 days after the date the Notice of Proceeding is served. When the Department receives the request for an informal review, it will contact the alleged father and, if possible, conduct the review by telephone. If the alleged father asks to appear in person, the Department will schedule an appointment. If the alleged father is incarcerated, he may present any concerns to the Department in writing or arrange with confinement officials to receive a phone call from the Department. At the end of the informal review, the Department will inform the alleged father whether it will continue with the administrative establishment of paternity. If the Department decides not to continue, it will end the administrative proceeding and will send the Dismissal of Administrative Proceeding form, CS-OA88, to the parties notifying them about the dismissal. If the Department intends to continue, it will inform the alleged father of its decision using the Notice of Conclusion of Informal Discussion Administrative Paternity Proceeding form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06606>), CS-OA32 effective 4/5/16 and incorporated by reference. The CS-OA32 informs the alleged father of the Department's decision to continue and why. It also informs him of the right to contest the Order to Appear for Genetic Testing at an administrative hearing.

2. If the alleged father does not ask for an informal review within 15 days after the date of service of the Notice of Proceeding, the Department will inform him the request is outside the required time to ask for an informal review. The Department will do this using the Notice of Late Request for Informal Discussion Administrative Proceeding form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06607>), CS-OA35 effective 4/5/16 and incorporated by reference, and will continue with the administrative establishment proceeding.



(b) Alleged Father Asks for an Administrative Hearing.

1. In accordance with Section 409.256(5)(b), F.S., the person ordered to appear has 15 calendar days after ~~from~~ the mailing date of the Notice of Conclusion of Informal Review to ask the Department for an administrative hearing. If the Department receives the request within the 15-day period, the Department will refer the request to the Division of Administrative Hearings. The Department will inform the requestor it sent the request to the Division of Administrative Hearings using the Acknowledgment of Hearing Request Administrative Proceeding form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06608>), CS-OA55 effective 4/5/16 and incorporated by reference. If the Department receives a timely hearing request, it will not continue the proceeding until the Division of Administrative Hearings issues an order, or the alleged father withdraws his request for a hearing. The Department will mail the Notice of Proceeding, Order to Appear for Genetic Testing, Paternity Declaration, and the alleged father's request for hearing to the Division of Administrative Hearings within 15 calendar days after the receipt of the request for hearing.

2. If the alleged father does not ask for an administrative hearing within the 15-day time frame, the Department will proceed with the administrative proceeding. The alleged father may not ask for an administrative hearing without first requesting an informal review.

~~(8)(7)~~ Scheduling and Rescheduling of Genetic Testing Sample Collections.

(a) Scheduling of Genetic Testing Sample Collections. The Department will schedule the initial genetic testing sample collection before sending the alleged father the Order to Appear for Genetic Testing, CS-OP02 and the mother or caregiver the Notice of Genetic Testing Appointment, CS-OP05. The CS-OP02 and CS-OP05 informs the parties when and where to appear for the genetic testing sample collection. The CS-OP05 will also direct the child's mother or caregiver to bring the child to the genetic test sample collection.

(b) Rescheduling of Genetic Testing. The Department will reschedule the appointment for a genetic testing sample collection:

1. When a person scheduled for the genetic testing sample collection asks the Department to reschedule the genetic testing sample collection before the ordered test date. The person does not have to provide the Department a reason for rescheduling the initial genetic testing sample collection. The Department will inform the person of the new date using Department form Notice of Genetic Testing, Appointment, CS-OP05.

2. One time if the person ordered to test shows good cause for not appearing at the scheduled genetic testing sample collection. The person claiming good cause must provide the Department with the facts that supports his or her claim for missing the scheduled genetic testing sample collection in writing no later than 10 days after the scheduled sample collection.

3. One time when a person sanctioned as described by subsection (9) ~~(8)~~ of this rule asks for a genetic testing sample collection.

(c) The Department will require and schedule a second genetic testing sample collection if it has reason to believe that the result of the previous test may be unreliable.

(d) Per Section 409.256(6)(c), F.S., a person previously tested may ask for a second genetic testing sample collection by filing a written request with the Department. The person asking for the second genetic testing sample collection must pay for the test before the Department schedules the test unless that person is receiving public assistance. To get a second genetic testing sample collection, the person must ask for the sample collection no later than 15 days after the Department mailed the initial test results.

~~(9)(8)~~ Refusal to Submit to Genetic Testing Sample Collection or Failure to Appear for Genetic Testing Sample Collection. Section 409.256(7), F.S., allows the Department to take one or more of the following actions if a person refuses to submit to the genetic testing sample collection or fails to appear on the ordered date, does not use the one-time opportunity to reschedule, or does not show good cause for missing the sample collection within 10 days after the scheduled sample collection.

~~(a) If the mother or caregiver does not appear, the Department will verify the reason and schedule a second genetic testing sample collection if the mother or caregiver agrees to submit to genetic testing. The Department will tell the mother or caregiver of the new sample collection date using the Notice of Genetic Testing Appointment form, CS-OP05. If the mother or caregiver does not appear at the second test or refuses to submit, and the mother or caregiver is not on public assistance, the Department will begin action to close the case. If the mother or caregiver receives public assistance, the Department will report him or her to the Department of Children and Families for possible sanctions of benefits.~~

~~(a)(b)~~ If the alleged father does not appear without requesting rescheduling or providing good cause, the Department will schedule a second genetic sample collection and send the alleged father the Notice of Genetic Testing Appointment, CS-OP05, which will list the new date, time, and location of the genetic testing sample

collection. If the alleged father does not appear to the second sample collection, the Department is authorized to start a proceeding to suspend the alleged father's driver license and motor vehicle registration as allowed by Section 61.13016, F.S. The Department will tell the alleged father of the intent to suspend his driver license and vehicle registration by sending the Notice of Intent to Suspend Driver's License and Vehicle Registration(s) form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06609>), CS-EF55 effective 4/5/16 and incorporated by reference in Rule 12E-1.023. The Department sends this form by regular mail and it also informs the alleged father of his right to contest the action in circuit court. If the alleged father does not request a new genetic testing sample collection or contest the driver license suspension within 20 days after the mailing date of the CS-OP05EF55, the Department will send an electronic request to the Department of Highway Safety and Motor Vehicles to suspend the driver license and vehicle registration of the alleged father. If the alleged father later complies with the Department and requests another test, and appears at the rescheduled genetic testing appointment, the Department will electronically request reinstatement of the driver license/vehicle registration from the Department of Highway Safety and Motor Vehicles. The Department will provide the alleged father the Driver License/Vehicle Registration Reinstatement Notice (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06610>), CS-EF57 effective 4/5/16 and incorporated by reference in Rule 12E-1.023, which informs the alleged father to go to a local Driver License Examining Office to get the license reinstated. If the alleged father does not contest the suspension of the driver license/vehicle registration or request a new appointment, the Department will end the administrative proceeding and proceed in circuit court. The Department will not authorize reinstatement of the license until the alleged father submits to genetic testing.

~~(b)(c)~~ Prior Test Results. If an alleged father refuses to comply with the Order to Appear for Genetic Testing, but previously provided a sample for another case, the Department is authorized to use the previous sample taken from the alleged father. The alleged father is informed that the Department is authorized to do this in the Order to Appear for Genetic Testing, CS-OP02.

~~(c)(d)~~ File a Petition in Circuit Court. If the alleged father refuses to comply with the Order to Appear, and a previous sample is not available, the Department will file a petition in circuit court to establish paternity, obtain a support order, and seek repayment from the alleged father for costs incurred by the Department. If the Department files a petition in circuit court, it will notify the mother or caregiver using the Dismissal of Administrative Proceeding, CS-OA88 form.

~~(10)(9)~~ Genetic Testing Results.

(a) A laboratory under contract with the Department performs genetic testing of the samples and notifies the Department of the results. If the genetic testing results show a statistical probability of 99% or greater that the alleged father is the biological father the Department will issue a Proposed Order of Paternity, issue a Proposed Administrative Paternity and Support Order, or refer the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income.

(b) The Department will close the alleged father's case if the genetic test shows a statistical probability of less than 99% that the alleged father is the biological father. In this circumstance the Department will:

1. Send the alleged father a copy of the Results of Genetic Testing form

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-06611>), CS-PO07a effective 4/5/16 and incorporated by reference, by regular mail. The CS-PO07a is sent to the alleged father to inform him of the results of the genetic test. If genetic testing results indicate less than a 99% probability that the alleged father is the biological father, the form states that he is not the biological father of the child listed on the notice and the Department will take no further action, unless a second test is required.

2. The Department will close the alleged father's case unless a second test is requested within 15 days after the mailing date of the genetic testing results or a second test is required by the Department.

3. Send the mother, caregiver, or other state a copy of the Results of Genetic Testing form (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06612>), CS-PO07b effective 4/5/16 and incorporated by reference, by regular mail. The CS-PO07b informs the addressee the results of the genetic test. If genetic testing results indicate less than a 99% probability that the alleged father is the biological father, it states that alleged father is not the biological father of the child named in the notice.

4. ~~Contact the mother or caregiver if he or she is on public assistance to find out if there is another possible father. If the mother or caregiver claims there is another possible father or fathers, the Department will have the mother or caregiver complete a Paternity Declaration, CS-PO34. If he or she does not cooperate and receives public assistance, the Department will report the person to the Department of Children and Families for sanctions. If the mother or caregiver does not receive public assistance and does not provide the name of an alleged father, the~~

~~Department will dismiss the administrative proceeding and close the case.~~

~~(11)(10)~~ Proposed Order of Paternity. The Proposed Order of Paternity

([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06613](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06613)), CS-OP30 effective XX/XX 4/5/16 and incorporated by reference, is sent to the alleged father by regular mail to the address of record. The Proposed Order of Paternity informs him that the Department intends to issue a final order establishing him as the legal father of the child or children named in the Proposed Order of Paternity. The Proposed Order of Paternity informs the alleged father of his right to an informal review and to an administrative hearing. The time frames, forms, and procedures for the informal review and administrative hearing are the same as described in paragraphs ~~(13)(11)~~(a) and (b). The Department will:

~~(a)1.~~ Serve the Proposed Order of Paternity, CS-OP30, on the alleged father by regular mail at the address of record. A copy of the genetic test results from the laboratory must accompany the proposed order when the Department mails the Proposed Order of Paternity.

~~(b)2.~~ Send the alleged father the ~~Results of the Genetic Testing form, CS-PO07a.~~ The CS-PO07a informs the alleged father that genetic testing has shown showing that he is the biological father of the child.

~~(c)3.~~ Mail a copy of the Proposed Order of Paternity, CS-OP30, to the mother, caregiver, or other state. The genetic test results ~~Results of Genetic Testing form, CS-PO07b,~~ will be included in the packet ~~indicating genetic testing has shown showing~~ the alleged father is the biological father of the child or children.

~~(12)(11)~~ Proceeding to Establish an Administrative Paternity and Support Order.

(a) After paternity has been determined, the Department may serve the alleged father by regular mail at the address of record with the Notice of Proceeding to Establish Administrative Support Order form ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06614](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06614)), CS-OA01 effective XX/XX 4/5/16 and incorporated by reference. The CS-OA01 informs the alleged father the Department intends to establish a paternity and a support obligation for the child named in the Notice and explains the steps the Department will take. The CS-OA01 also informs the alleged father of his right to file an action in circuit court or request the Department to proceed in circuit court instead of administratively. The Department will:

1. Send the alleged father the Notice of Proceeding to Establish Administrative Support Order form, CS-OA01, by regular mail informing him of the Department's intent to establish an order for paternity and support. The Department uses the Notice of Proceeding to Establish Paternity and Administrative Support Order form ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06615](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06615)), CS-OX01 effective XX/XX 4/5/16 and incorporated by reference, when there is more than one child on the case and paternity has already been established for one or more children.

~~2. Send the alleged father, by regular mail, the Results of Genetic Testing form, CS-PO07a, which states the results of the genetic test.~~

~~2.3.~~ Send the alleged father the Financial Affidavit Administrative Support Proceeding form ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06616](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06616)), CS-OA11 effective XX/XX 4/5/16 and incorporated by reference. The CS-OA11 requests information to determine an individual's income for the purpose of calculating the child support guideline amount. Also included in the packet is the Parent Information Form Administrative Support Proceeding ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06617](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06617)), CS-OA12 effective XX/XX 4/5/16 and incorporated by reference, which asks each party for case specific information regarding employment, residence, and children.

~~3.4.~~ Send the mother, caregiver, or other state a copy of the Notice of Proceeding to Establish Administrative Support Order, CS-OA01, by regular mail. The Department will also include the ~~genetic test results~~Results of Genetic Testing, CS-PO07b, and a blank Financial Affidavit Administrative Support Proceeding, CS-OA11, in the packet. The Financial Affidavit is not sent to caregivers. The Department also sends the Notice to Parent or Caregiver of Administrative Proceeding form ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_06618](http://www.flrules.org/Gateway/reference.asp?No=Ref-___06618)), CS-OA06 effective XX/XX 4/5/16 and incorporated by reference. The Notice to Parent or Caregiver of Administrative Proceeding informs the mother or caregiver of the proceeding to establish support and directs the mother to complete the enclosed forms. Included in the packet is the Parent Information Form Administrative Support Proceeding, CS-OA12.

(b) Alleged Father's Rights; Notice of Proceeding in Circuit Court as an alternative to the Administrative Process:

1. The alleged father may file a paternity action in circuit court and serve the Department with a copy of the petition. ~~The petition must be served personally by a Deputy Sheriff or private process server. Service by mail only will not end this proceeding.~~ The alleged father must have the petition served on the Deputy Agency Clerk at the address specified in the notice within 20 days after the date the Notice of Proceeding to Establish

Administrative Support Order was mailed. If the Department is served timely, it will end the administrative establishment process and proceed in circuit court. If the alleged father files a petition in circuit court, but does not serve the Department in the 20-day time frame, the Department will continue with the administrative establishment proceeding by either issuing a Proposed Administrative Paternity and Support Order ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_06619](http://www.flrules.org/Gateway/reference.asp?No=Ref-____06619)), CS-OA20 effective xx/xx4/5/16 and incorporated by reference, or referring the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income. If the petition is served on the Department timely, the Department will mail the petitioning parent or caregiver the Dismissal of Administrative Proceeding form, CS-OA88.

2. The alleged father may ask the Department to stop the administrative proceeding and proceed in circuit court. The alleged father must make this request in writing and the request must be received by the Department within 20 days after the date the Notice of Proceeding to Establish Administrative Support Order was mailed. The request from the alleged father must state ~~that he~~ the alleged father requests the Department to proceed with the establishment of paternity and a support obligation in circuit court, or that ~~he has~~ the alleged father has custody matters or parental rights issues which need to be addressed by the court. ~~The Department will not accept oral requests are not accepted to proceed in circuit court.~~ If the respondent files a timely request for the Department to file an action in circuit court, the Department sends the respondent a Request for Court Action Status Update (CS-OA247). The Department sends the other parent a Notice of Court Action Financial Affidavit Needed for Court (CS-OA248). The Department then sends the other parent the Family Law Financial Affidavit (CS-PO31). When the petitioning parent returns the CS-PO31, the Department ~~When the Department receives a timely request to proceed in circuit court, it will file a petition with the clerk of court to determine paternity and support obligation and to obtain a civil case number. If the other parent does not return the CS-PO31, the Department shall initiate case closure if the petitioning parent is not receiving public assistance. If the petitioning parent is receiving Medicaid or food assistance, the Department shall report noncooperation to the Department of Children and Families as required by section 409.2572, F.S., and initiate case closure. If the petitioning parent is receiving temporary cash assistance for the child, the Department shall prepare a financial affidavit for the other parent as authorized by section 61.30(15) F.S. When the Department receives a stamped copy of the petition from the clerk, it will send one copy of the petition to the alleged father by certified mail, return receipt requested. Along with the copy of the petition, the Department will send a Notice of Commencement of Action and Request for Waiver of Service of Process Administrative Paternity and Support Proceeding, CS-OA18 form. The Department will also send two copies of the Waiver of Service of Process, CS-OA19 form. If the respondent is represented by an attorney, the Department sends the packet of forms and petition to the respondent's attorney. The alleged father has 10 days after the receipt of these forms to complete one copy of the CS-OA19 and return it to the Department. If the Department does not receive the signed completed CS-OA19 within 10 days or if the alleged father does not respond to the Notice of Proceeding, the Department will proceed~~ proceeds with the administrative establishment of paternity and support by issuing a Proposed Administrative Paternity and Support Order, CS-OA20, or referring the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income. The Department will also file a voluntary dismissal of the civil case with the clerk of court and mail a copy of the voluntary dismissal to the respondent.

~~a. b.~~ If the alleged father completes and returns the CS-OA19 within 10 days, the Department will send the child's custodian or caregiver ~~petitioner~~ the Dismissal of Administrative Proceeding, CS-OA88 form. The Department will end the administrative proceeding and proceed in circuit court.

~~(13)(12)~~ Proposed Administrative Paternity and Support Order. Not sooner than 20 days after notice is served serving the Notice of Proceeding to Establish Administrative Support Order form, CS-OA01 under subsection (11)(10), the Department shall calculate the respondent's support obligation using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided section 61.30(2)(b), F.S. or section 409.2563(5), as applicable.

(a) Calculation of the respondent's retroactive support obligation shall be in accordance with section 61.30(17), F.S. Retroactive support shall be addressed in an initial determination of child support.

(b) The Department shall prepare a Proposed Administrative Paternity and Support Order (CS-OA20), incorporated by reference, which for purposes of the rule is entitled Proposed Administrative Support order, that establishes the terms of the support obligation and includes, at a minimum, all elements contained in section

409.2563(7)(e), F.S. The Department shall mail the Proposed Order to the respondent by regular mail to the respondent's address of record. The Proposed Order shall include a notice of rights that informs the respondent of the right to an informal discussion with the Department, the right to a formal administrative hearing, and the right to consent to the entry of an Administrative Paternity and Support Order. Copies of the child support guidelines worksheet prepared by the Department and the financial affidavit submitted by the other parent are mailed with the Proposed Order. The Department shall provide a copy of the Proposed Order and its attachments to the petitioner at the petitioner's address of record.

(c) The Department may proceed with the administrative establishment of paternity and support by either sending the alleged father a Proposed Administrative Paternity and Support Order, CS-OA20, or referring the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income. The Department shall calculate the respondent's support obligation using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided by section 61.30(2)(b), or impute income at fulltime minimum wage as provided by section 409.2563(5)(a), F.S. Calculation of the respondent's retroactive support obligation shall be in accordance with section 61.30(17), F.S. Retroactive support shall be addressed in an initial determination of child support. The Department uses a Proposed Administrative Paternity and Support Order (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06620>), CS-OX20 effective xx/xx/4/5/16 and incorporated by reference, when a proceeding involves more than one child and paternity has already been established for one or more of the children. ~~The Administrative Proposed and Final Orders Options List (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06621>), CS-OP100 effective 4/5/16 and incorporated by reference, contains optional text for the proposed orders issued under this subsection.~~ The Proposed Administrative Paternity and Support Order may include terms for monetary support, retroactive support, health insurance, and non-covered medical expenses as appropriate. The Proposed Administrative Paternity and Support Order tells the alleged father that the Department intends to issue an administrative order establishing paternity and a support obligation for the child or children listed in the Proposed Administrative Paternity and Support Order.

(d) The Proposed Order must include an explanation of any deviations from the guidelines the Department considered when calculating the support obligation and any retroactive support owed.

(e) If additional facts or information become available to the Department that materially changes the Proposed Order, the Department shall prepare an Amended Proposed Administrative Paternity and Support Order form, CS-OA20 (from now on referred to as the Amended Proposed Order). An Amended Proposed Order shall include guideline worksheets to explain the changes and the requirements established in section 409.2563(5)(a), F.S. The Department does not amend the Proposed Order if the additional facts or information become available after the respondent has requested an administrative hearing. Any additional facts or information are addressed at the hearing.

(f) The Proposed Order also informs the alleged father of his rights to contest the Proposed Administrative Paternity and Support Order. The alleged father's rights to contest the Proposed Administrative Paternity and Support Order, CS-OA20, CS-OX20, or the Proposed Order for Paternity, CS-OP30, discussed in paragraph (11) (10), are:

1. ~~(a)~~ Informal Review. The alleged father has the right to an informal review, and may contact the Department within 10 days after the mailing date of the proposed order to ask for an informal review. The alleged father may ask for an informal review either orally or in writing. If the informal review results in a change to the proposed order or if an error is detected, the Department will issue either an Amended Proposed Order of Paternity, CS-OP30, or an Amended Proposed Administrative Paternity and Support Order, CS-OA20. The Department may discontinue the support proceeding if the alleged father provides proof that an obligation should not be established. Types of circumstances where the Department would not proceed to render a support obligation includes: all children reside with the alleged father, or the alleged father, mother, and children reside together. If at the conclusion of the informal review the Department intends to render a final order, it will tell the alleged father using the Notice of Conclusion of Informal Discussion Administrative Paternity and Support Proceeding form, CS- OA32.

2. ~~(b)~~ Administrative Hearing. The alleged father or the Department has the right to an administrative hearing. To request an administrative hearing, the respondent must submit a written request to the Department's Deputy Agency Clerk at the address provided in the Proposed Order. If the alleged father wishes to ask for an administrative hearing, he has 20 days after the mailing date of the Proposed Administrative Paternity and Support Order or the Proposed Order for Paternity or, if the Department receives an informal review request timely, 10 days from the mailing date of the CS-OA32, whichever is later. If the Department receives the request for administrative hearing timely, it will refer the request to the Division of Administrative Hearings. ~~The Department will inform the requestor~~

that the Department sent the request to the Division of Administrative Hearings using the Acknowledgment of Hearing Request Administrative Proceeding form, CS-OA55. If the request is received timely, the Department sends the respondent the Acknowledgment of Hearing Request Administrative Proceeding, form CS-OA55, notifying the respondent that the request that the Department will proceed with a hearing. The Department also sends the request to the Florida Division of Administrative Hearings. The Division of Administrative Hearings notifies the Department, respondent, and petitioner in writing of the date, time, and place of the hearing. If the Department receives an untimely request for an administrative hearing, the Department denies the request and sends the respondent the Acknowledgment of Hearing Request Administrative Proceeding, form CS-OA55. This form notifies the respondent that the request was not timely and the Department will proceed without a hearing.

(g) The genetic test results will be admitted as evidence and made part of the hearing record. If the statistical probability equals or exceeds a 99% probability that the alleged father is the biological father, there is a presumption of paternity. The presumption can be rebutted only by clear and convincing evidence to the contrary.

(h) The respondent may withdraw the request for an administrative hearing up to five days before the scheduled date, or at the administrative law judge's discretion. The respondent may withdraw the request by providing a written request directly to the Division of Administrative Hearings. To reschedule a hearing, the party requesting to reschedule shall file a motion for continuance with the Division of Administrative Hearings in accordance with rules 28-106.204 and 28-106.210, F.A.C.

(i) If the Department determines that an administrative hearing is appropriate, it may refer the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order. At the hearing, the administrative law judge may issue a final order that addresses paternity, or paternity and support. The administrative law judge will also determine any applicable retroactive support and include it as a sum certain in the final order. The retroactive support will be calculated for the 24 months prior to the date of the service of process for the Notice of Proceeding to Establish Paternity. If the administrative law judge issues an order, the Department will render it.

**(14) ~~(13)~~ Final Order Establishing Paternity or Paternity and Child Support.**

(a) The Department will render a Final Order of Paternity

([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_06622](http://www.flrules.org/Gateway/reference.asp?No=Ref-____06622)), CS-OP50 effective xx/xx4/5/16, or a Final Administrative Paternity and Support Order ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_06623](http://www.flrules.org/Gateway/reference.asp?No=Ref-____06623)), CS-OA40 effective xx/xx04/05/16, both forms incorporated by reference, if the alleged father does not ask for a hearing timely. The Department may use a Final Administrative Paternity and Support Order ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_06624](http://www.flrules.org/Gateway/reference.asp?No=Ref-____06624)), CS-OX40 effective xx/xx4/5/16 and incorporated by reference, in cases where there is more than one child on the order and paternity does not need to be established for all of the children. ~~The Administrative Proposed and Final Orders Options List, CS-OP100 contains optional text for the final orders issued under this subsection.~~ In addition to the Final Administrative Paternity and Support Order, the Department enters an Income Deduction Order as part of the Final Administrative Paternity and Support Order. The respondent is responsible for making the ordered payments to the State Disbursement Unit until the income deduction begins.

(b) A respondent may consent to the entry of a final order any time after the receipt of the Initial Notice. To do this, the respondent must complete and return the Waiver of Opt-Out Administrative Proceeding (CS-PO384), ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_](http://www.flrules.org/Gateway/reference.asp?No=Ref-____)), incorporated by reference, effective XX/XX, after the respondent receives the Initial Notice Packet. If the respondent returns the Waiver of Opt-Out Administrative Proceeding, Financial Affidavit, and Parent Information Form, the Department sends the respondent the Waiver of Administrative Hearing (CS-ES97), ([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_](http://www.flrules.org/Gateway/reference.asp?No=Ref-____)), incorporated herein by reference, effective XX/XX. The Department also sends a copy of the Proposed Administrative Support Order discussed in subsection (6) of this rule. If the respondent completes and returns the CS-ES97, the Department need not wait 27 days from sending the Proposed Order to complete and render a Final Administrative Paternity and Support Order, CS- OX40. If the respondent does not return the CS-ES97, the Department waits at least 27 days after sending the Proposed Order before completing a Final Administrative Paternity and Support Order.

(c)~~(b)~~ Any Final Order of Paternity or Final Administrative Paternity and Support Order rendered as allowed by this rule has the same effect as a judgment entered by the circuit court pursuant to Chapter 742, F.S.

(d)~~(c)~~ The Department will notify the Department of Health's Bureau of Vital Statistics when paternity is established for a child under this rule. The Department will ask the Bureau of Vital Statistics to amend the child's birth certificate to include the name of the legal father. In cases where the child was born in a state or U.S. Territory other than Florida, the Department will send a copy of the Final Order of Paternity or Final Administrative Paternity and Support Order to the birth registrar where the child was born.

(15) Judicial Enforcement of Administrative Support Order. The Department may initiate judicial enforcement of an administrative support order by filing a petition for enforcement of administrative paternity and support order in circuit court. To do this, the Department must serve the respondent with a summons and a copy of the petition. If the circuit court issues an order enforcing the administrative paternity and support order, and the respondent does not comply, the Department may initiate contempt proceedings for violation of the court order.

(16) ~~(14)~~ Right to Judicial Review.

(a) Each Final Order of Paternity or Final Administrative Paternity and Support Order rendered by the Department shall inform the adversely affected party of his or her right to judicial review. The adversely affected party must file a Notice of Appeal within 30 days after the date of rendition of the final order.

(b) The Department has 30 days to ask for judicial review of any Final Order of Paternity or Final Administrative Paternity and Support Order issued by an administrative law judge.

(17) ~~(15)~~ Modification, Termination, or Suspension of a Final Administrative Paternity and Support Order. The Department shall follow the procedures in Section 409.2563, F.S., to modify, or terminate, or suspend the support obligation of a Final Administrative Paternity and Support Order.

(18) ~~(16)~~ Dismissing the Administrative Paternity Proceeding. At any time before the entry of a Final Order of Paternity or a Final Administrative Paternity and Support Order, the Department may end the administrative proceeding and either close the case or proceed judicially. Instances when the Department will not proceed administratively include: a previous judicial support order for the children is provided by a party, the parties currently reside together as an intact family, or all the children reside with the alleged father. When the Department decides to end the administrative proceeding it will send the Dismissal of Administrative Proceeding form, CS-OA88, to the parties.

(19) Vacating Administrative Support Orders.

(a) The Department vacates an administrative support order when the order is rendered in error resulting in a fundamental defect, such as a lack of jurisdiction and other reasons listed in sub-paragraphs 1 through 3. Case situations that require vacating the administrative support order include:

1. The Department becomes aware of a support order that predates the administrative support order.

2. Information provided to the Department by another state was in error causing Florida to render an order when it did not have the authority.

3. The case did not meet the criteria listed in sub-section (3).

(20) ~~(17)~~ Forms. Members of the public may get copies of the forms used in this rule chapter, incorporated by reference, without cost, by writing to the Department of Revenue, Child Support Program, Attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, Florida, 32314-8030.

*Rulemaking Authority 409.2557(3)(p), 409.256(17) FS. Law Implemented 409.256, 409.2563 FS. History—New 4-5-16, Amended \_\_\_\_\_.*

12E-1.037 Notification to Withhold Support from Reemployment Assistance.

(1) Definition. As used in this rule, the term “support obligations,” which is defined by section 443.051(1)(b), F.S., means legally ordered payments or amounts due under a court order, administrative order, or judgment being enforced by the Department and that is issued by this state, another state, or a foreign country.

(2) Data exchange with the Department of Economic Opportunity.

(a) The Department receives data files periodically from the Department of Economic Opportunity and compares the reemployment assistance (formerly known as unemployment compensation) applicant information on the files to its own records of parents who owe support obligations and parents against whom the Department is seeking to establish a support obligation.

(b) If a name and social security number on a data file matches with a parent in the Department’s records the Department adds the reemployment assistance information from the file to the parent’s child support case record.

(c) When a data file includes reemployment assistance applicants who do not match with a parent in the Department’s records the Department retains the nonmatching data for two years. The Department uses the data to perform data matching against parents with new cases opened by the Department during the two-year retention period.

(3) Notifying the Department of Economic Opportunity of the withholding percentage. (a) When the Department reports the names of reemployment assistance applicants owing support obligations as required by section 443.051, F. S., the Department reports the withholding amount as a percentage of the reemployment

assistance benefit amount.

(b) If a court enters a support order on or after July 1, 2006, that requires a reemployment assistance withholding percentage that is different than the 40 percent prescribed in section 443.051(3)(b), F. S., the Department reports the court-ordered reemployment assistance withholding percentage.

(4) Maximum withholding percentage.

(a) The Department limits the reemployment assistance withholding percentage it reports to the Department of Economic Opportunity to no more than 50 percent of a parent's reemployment assistance.

(b)1. When a parent has more than one support order requiring withholding from reemployment assistance, the Department adds the withholding percentages from each of the orders and reports the combined withholding percentage to the Department of Economic Opportunity. For example, if a parent has two orders that each require withholding 20 percent from reemployment assistance, the total combined withholding percentage the Department reports for the parent is 40 percent.

2. When a parent has more than one support order requiring withholding from reemployment assistance and the combined withholding percentage exceeds 50 percent, the Department reports 50 percent as the withholding percentage. For example, if the parent has two support orders that each require withholding from reemployment assistance at a rate of 40 percent (totaling 80 percent), the Department reports 50 percent to the Department of Economic Opportunity as the parent's withholding percentage.

(5) Refunding collections that exceed the support obligation.

(a) If the withholding exceeds the parent's total support obligation, including any delinquencies, arrearages, and retroactive support, the Department shall refund the amount of the excess withholding to the parent.

(b) In addition to refunding excess withholding amounts, the Department shall calculate an adjusted withholding percentage that does not exceed the parent's support obligation and notify the Department of Economic Opportunity of the adjusted withholding percentage.

(c) If a subsequent reemployment assistance collection is withheld that exceeds the total support obligation as described in paragraph (5)(a) before the Department of Economic Opportunity implements the adjusted withholding percentage, the Department shall promptly refund the excess amount to the parent.

(6) To avoid withholding from reemployment assistance that exceeds the support obligation, the Department adjusts the withholding percentage when a parent who owes a support obligation contacts the Department if:

(a) The amount withheld exceeds the parent's support obligations, in which case the Department reduces the reemployment assistance withholding percentage to the highest percentage that does not exceed the support obligations;

(b) The parent is paying the entire amount of the support obligation by income deduction from an income source other than reemployment assistance, in which case the Department adjusts the reemployment assistance withholding percentage to zero; or

(c) The deductions from an income source other than reemployment assistance satisfy only part of the support obligation, in which case the Department adjusts the reemployment assistance withholding percentage to the highest percentage that does not exceed the support obligation taking into account the deductions from the other income source.

(7) Support obligations for more than one case. When a parent owes support obligations for more than one child support case, the Department allocates each reemployment assistance withholding collection among the parent's cases in the same proportion as the reemployment assistance withholding percentage for each of the parent's support obligations. The following examples illustrate the allocation method.

(a) Example 1. If a parent has support obligations in two cases that have the same reemployment assistance withholding percentage, the Department splits the collection evenly and allocates the same amount to each case.

(b) Example 2. If a parent has support obligations in three cases that all have the same withholding percentage, the Department splits the collection evenly and allocates the same amount to each case.

(c) Example 3. If a parent has support obligations in two cases, and the withholding percentage is 20 percent in the first case and 40 percent in the second case, the Department allocates one-third of the collection to the first case and two-thirds of the collection to the second case.

(8) Payment receipts. The Department shall provide either parent with a record of reemployment assistance withholding collections upon request.

(9) Bankruptcy. When a Chapter 11, 12, or 13 bankruptcy case is filed for a parent who owes a support obligation and the Department receives the first reemployment assistance withholding collection before a bankruptcy plan is confirmed, withholding support from the parent's reemployment assistance continues until the bankruptcy plan is confirmed.



12E-1.039 – Request for Services

(1) Definitions. For purposes of this rule:

(a) “Public assistance recipient” means a person receiving temporary cash assistance under section 414.095 F.S., Medicaid under section 409.963 F.S., or food assistance under section 414.31 F.S.

(b) “Alleged father” means “putative father” as defined by section 409.256(1)(g) F.S., which is an individual who is or may be the biological father of a child whose paternity has not been established and whose mother was unmarried when the child was conceived and born.

(2) Services Provided. The Department establishes paternity; establishes, modifies, enforces, collects, and disburses support. The Department will initiate location activities to obtain address, asset, employment, health insurance, and personal identifying information in order to provide services.

(3) Eligibility.

(a) A parent, caregiver, or alleged father who has a need for services regarding a dependent child may apply for services.

(b) A public assistance recipient receiving temporary cash assistance or food assistance does not need to apply for services. A case is created automatically upon receipt of a referral from the Florida Department of Children and Families.

(c) A public assistance recipient receiving only Medicaid benefits must apply for services. A case is not automatically created.

(d) A former recipient of public assistance or child support services whose case has been closed and who wants the Department to resume services must complete an application.

(e) The Department provides services at the request of other states Title IV-D agencies, child support agencies from countries with which the State of Florida has a reciprocal agreement regarding child support, and to child support agencies or the equivalent in countries that have signed The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

(f) The Department does not provide services to a minor child seeking to collect support from a parent.

(g) The Department does not provide services to an adult seeking to collect support from a parent for the time during which the adult seeking to collect support was a dependent.

(4) Application.

(a) To apply for services, an individual who does not receive temporary cash assistance or food assistance must submit a signed and complete electronic or paper application. The Department will obtain information concerning parents and children including: name, address, date of birth, Social Security Number, employment, health insurance, military service, and other relevant information necessary to provide child support services.

1. An individual may submit the Online Application for Child Support Services form CS-ES51b through the Department’s Internet website at [www.floridarevenue.com](http://www.floridarevenue.com). Form CS-ES51b (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ) is incorporated herein by reference effective xx/xx. The Department will send an electronic confirmation message to the applicant once the application is processed and the case has been opened.

2. A hardcopy application may be obtained by calling 1-800-622-KIDS (5437) or contacting a child support local office. Local child support office information is provided on the Department’s Internet website [www.floridarevenue.com](http://www.floridarevenue.com).

a. Upon request, the Department will provide an individual who requests services with Forms CS-ES51 and CS-ES50. Form CS-ES51, Application for Child Support Services, is hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ). Form CS-ES50, Application Instructions, is hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ) The applicant must complete and submit the CS-ES51 form provided.

b. When an applicant requests services for more than one child, the Department will provide the applicant an Additional Child Information, Form CS-ES51ACI, for each additional child. Form CS-ES51ACI (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ) is incorporated herein by reference effective xx/xx. The applicant must complete and submit the CS-ES51ACI form(s) provided.

c. When there is more than one alleged father, the Department will provide the applicant a separate Additional Alleged Father, Form CS-ES52, for each alleged father. Form CS-ES52 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ) is incorporated herein by reference effective xx/xx. The applicant must complete and submit the CS-ES52 form(s) provided.

d. When the applicant is applying for services for more than one child with different fathers, the applicant will be

required to submit a separate application for each child and father.

(5) Supporting documents; additional requirements.

(a) The applicant and public assistance recipient must:

1. Provide the Department all information necessary to process the request for services.

2. Provide the Department copies of all supporting documents, including: Final Judgment of Dissolution of Marriage, support order, birth certificate of child(ren) not born in Florida, paternity judgment, payment record, or written agreement between the applicant or public assistance recipient and the other parent concerning paternity, support, and parenting time, and other relevant documents necessary to provide child support services.

3. Provide a paternity declaration for each child who does not have a legal father.

(i) The Department uses the Paternity Declaration, Form CS-PO34, for the mother. Form CS-PO34 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06599>) is incorporated herein by reference effective xx/xx.

(ii) The Department uses the Paternity Statement by Non-Parent, Form CS-PO102, for the non-parent caregiver. Form CS-PO102 (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is incorporated herein by reference effective xx/xx.

(iii) The Department uses the Paternity Statement by Alleged Father, Form CS-PO103 for the alleged father. Form CS-PO103 (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is incorporated herein by reference effective xx/xx.

4. Provide the Department proof of health insurance if the child(ren) is insured.

5. Inform the Department of any changes in information for himself or herself, the child(ren) or other parent(s). This includes addresses, employment, phone numbers, and where the child(ren) resides.

6. Voluntarily submit to personal jurisdiction in Florida.

7. Cooperate with the Department as required by Rule 12E-1.008, F.A.C.

(6) Application and Referral Review.

(a) The Department will review applications submitted by an individual who does not receive temporary cash assistance or food assistance to determine whether the application is complete.

1. If the applicant returns some, but not all required information, or returns incomplete or inaccurate information, the Department will send the applicant Form CS-ES54, Request for More Information, by regular mail, requesting the missing, incomplete, or corrected information. Form CS-ES54 is hereby incorporated by reference effective xx/xx (<http://www.flrules.org/Gateway/reference.asp?No=Ref->).

2. If the application is complete, the Department will send Form CS-ES55, Acknowledge Request for Services, to the applicant informing them the application was received. When additional information is required for the Department to proceed, the CS-ES55 will instruct the applicant to provide the required information within 30 days after the date of the notice. Form CS-ES55 (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is hereby incorporated by reference effective xx/xx.

3. The Department will close the request for services case if an application is not returned or completed within 65 calendar days after the Department begins the application review.

(b) The Department will review public assistance referrals received from the Florida Department of Children and Families to determine whether additional information or documents are required to provide services.

1. The Department will send the Information Needed to Provide Services, Form CS-ES56, to the public assistance recipient informing them a request to open a child support case was received and additional information is required for the Department to proceed. Form CS-ES56 (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is hereby incorporated by reference effective xx/xx.

2. The Department will provide the public assistance recipient Form CS-ES56ACI, Additional Children, if there is more than one child in the household. The public assistance recipient must complete and submit the CS-ES56ACI form(s) provided. Form CS-ES56ACI (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is hereby incorporated by reference effective xx/xx.

3. The Department will provide the public assistance recipient Form CS-ES119, Additional Alleged Fathers, if there is more than one alleged father. The public assistance recipient must complete and submit the CS-ES119 form(s) provided. Form CS-ES119 (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is hereby incorporated by reference effective xx/xx.

4. The Department will notify the Department of Children and Family Services in accordance with Section 409.2572, F.S., if the public assistance recipient fails to provide all required information.

12E-1.040 – Intergovernmental Forms.

(1) As the state's Title IV-D agency under section 409.2557(1), F.S., the Department must use federally approved forms in intergovernmental cases involving child support programs in other states, foreign countries, or tribes as required by 45 CFR 303.7(a)(4)

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), which is hereby incorporated by reference in this rule effective xx/xx. Copies of the federally approved forms used in intergovernmental cases may be obtained from the federal Office of Child Support Enforcement on its website at: [www.acf.hhs.gov](http://www.acf.hhs.gov).

(2) The Department uses the General Testimony (CS-IS21) form to obtain a sworn statement about the information and facts of the case from a person seeking establishment of paternity, support, or paternity and support in an intergovernmental case. The Department provides the CS- IS21 to the other government's child support program. Form CS-IS21 (Effective xx/xx) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), is hereby incorporated by reference in this rule.

(3) The Department uses the Affidavit in Support of Establishing Paternity (CS-IS26) form to obtain a paternity affidavit from a person seeking establishment of paternity or paternity and support in an intergovernmental case. The Department provides the CS-IS26 to the other government's child support program. Form CS-IS26 (Effective xx/xx) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-> ), is hereby incorporated by reference in this rule.

*Rulemaking Authority 120.54(6) F.S. Law Implemented 45 CFR 303.7(a)(4), History – New \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULES: Bobby York

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: Governor and  
Cabinet

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: TBD

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