

CHAPTER 414

FAMILY SELF-SUFFICIENCY

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414.025 Legislative intent.--

(1) It is the intent of the Legislature that families in this state be strong and economically self-sufficient so as to require minimal involvement by an efficient government.

(2) This chapter does not entitle any individual or family to assistance under Title IV-A of the Social Security Act, as amended.

History.--s. 3, ch. 96-175; s. 35, ch. 2000-165.

414.0252 Definitions.--As used in ss. 414.025-414.55, the term:

(1) "Alternative payee" means an individual who receives temporary assistance payments on behalf of a minor.

(2) "Applicant" means an individual who applies to participate in the temporary family assistance program and submits a signed and dated application.

(3) "Department" means the Department of Children and Family Services.

(4) "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense that results in the physical injury or death of one family or household member by another.

(5) "Family" means the assistance group or the individuals whose needs, resources, and income are considered when determining eligibility for temporary assistance. The family for purposes of temporary assistance includes the minor child, custodial parent, or caretaker relative who resides in the same house or living unit. The family may also include individuals whose income and resources are considered in whole or in part in determining eligibility for temporary assistance but whose needs, due to federal or state restrictions, are not considered. These individuals include, but are not limited to, ineligible noncitizens or sanctioned individuals.

(6) "Family or household member" means spouses, former spouses, noncohabitating partners, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

(7) "Homeless" means an individual who lacks a fixed, regular, and adequate nighttime residence or an individual who has a primary nighttime residence that is:

(a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for the mentally ill;

(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(8) "Minor child" means a child under 18 years of age, or under 19 years of age if the child is a full-time student in a secondary school or at the equivalent level of career training, and does not include anyone who is married or divorced.

(9) "Participant" means an individual who has applied for or receives temporary cash assistance.

(10) "Public assistance" means benefits paid on the basis of the temporary cash assistance, food stamp, Medicaid, or optional state supplementation program.

(11) "Relative caretaker" or "caretaker relative" means an adult who has assumed the primary responsibility of caring for a child and who is related to the child by blood or marriage.

(12) "Temporary cash assistance" means cash assistance provided under the state program certified under Title IV-A of the Social Security Act, as amended.

History.--s. 4, ch. 96-175; s. 206, ch. 97-101; s. 1, ch. 97-173; s. 6, ch. 98-57; s. 2, ch. 99-241; s. 36, ch. 2000-165; s. 35, ch. 2004-357.

414.035 Authorized expenditures.--Any expenditures from the Temporary Assistance for Needy Families block grant, or from other state funds that the secretary or his or her designee determines meets the maintenance-of-effort requirement for the block grant, must be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation. Prior to any expenditure of such funds, the secretary, or his or her designee, shall certify that controls are in place to ensure such funds are expended in accordance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which such funds are appropriated to obtain the required certification prior to any expenditure of funds.

History.--s. 7, ch. 99-241; s. 4, ch. 2002-397.

414.045 Cash assistance program.--Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of Workforce Florida, Inc., or to better inform the public of program progress.

(a) *Work-eligible cases.*--Work-eligible cases shall include:

1. Families containing an adult or a teen head of household, as defined by federal law. These cases are generally subject to the work activity requirements provided in s. 445.024 and the time limitations on benefits provided in s. 414.105.

2. Families with a parent where the parent's needs have been removed from the case due to sanction or disqualification shall be considered work-eligible cases to the extent that such cases are considered in the calculation of federal participation rates or would be counted in such calculation in future months.

3. Families participating in transition assistance programs.
4. Families otherwise eligible for temporary cash assistance that receive diversion services, a severance payment, or participate in the relocation program.

(b) *Child-only cases.*--Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives where the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.
2. Families in the Relative Caregiver Program as provided in s. 39.5085.
3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual who volunteers to participate in work activity but whose ability to participate in work activities is limited shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.
4. Families where the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.
5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:
 - a. The family is determined by the department to have an income below 200 percent of the federal poverty level;
 - b. The family meets the requirements of s. 414.095(2) and (3) related to residence, citizenship, or eligible noncitizen status; and
 - c. The family provides any information that may be necessary to meet federal reporting requirements specified under Part A of Title IV of the Social Security Act.

Families described in subparagraph 1., subparagraph 2., or subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or the homes of relatives. Such assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent funds have been provided in the General Appropriations Act.

(2) Oversight by the board of directors of Workforce Florida, Inc., and the service delivery and financial planning responsibilities of the regional workforce boards shall apply to the families defined as work-eligible cases in paragraph (1)(a). The department shall be responsible for

program administration related to families in groups defined in paragraph (1)(b), and the department shall coordinate such administration with the board of directors of Workforce Florida, Inc., to the extent needed for operation of the program.

History.--s. 8, ch. 99-241; s. 37, ch. 2000-165; s. 1, ch. 2001-232.

414.065 Noncompliance with work requirements.--

(1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.--The department shall establish procedures for administering penalties for nonparticipation in work requirements and failure to comply with the alternative requirement plan. If an individual in a family receiving temporary cash assistance fails to engage in work activities required in accordance with s. 445.024, the following penalties shall apply. Prior to the imposition of a sanction, the participant shall be notified orally or in writing that the participant is subject to sanction and that action will be taken to impose the sanction unless the participant complies with the work activity requirements. The participant shall be counseled as to the consequences of noncompliance and, if appropriate, shall be referred for services that could assist the participant to fully comply with program requirements. If the participant has good cause for noncompliance or demonstrates satisfactory compliance, the sanction shall not be imposed. If the participant has subsequently obtained employment, the participant shall be counseled regarding the transitional benefits that may be available and provided information about how to access such benefits. The department shall administer sanctions related to food stamps consistent with federal regulations.

(a)1. First noncompliance: temporary cash assistance shall be terminated for the family for a minimum of 10 days or until the individual who failed to comply does so.

2. Second noncompliance: temporary cash assistance shall be terminated for the family for 1 month or until the individual who failed to comply does so, whichever is later. Upon meeting this requirement, temporary cash assistance shall be reinstated to the date of compliance or the first day of the month following the penalty period, whichever is later.

3. Third noncompliance: temporary cash assistance shall be terminated for the family for 3 months or until the individual who failed to comply does so, whichever is later. The individual shall be required to comply with the required work activity upon completion of the 3-month penalty period, before reinstatement of temporary cash assistance. Upon meeting this requirement, temporary cash assistance shall be reinstated to the date of compliance or the first day of the month following the penalty period, whichever is later.

(b) If a participant receiving temporary cash assistance who is otherwise exempted from noncompliance penalties fails to comply with the alternative requirement plan required in accordance with this section, the penalties provided in paragraph (a) shall apply.

If a participant fully complies with work activity requirements for at least 6 months, the participant shall be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.

(2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN; PROTECTIVE PAYEES.--

(a) Upon the second or third occurrence of noncompliance, temporary cash assistance and food stamps for the child or children in a family who are under age 16 may be continued. Any such payments must be made through a protective payee or, in the case of food stamps,

through an authorized representative. Under no circumstances shall temporary cash assistance or food stamps be paid to an individual who has failed to comply with program requirements.

(b) Protective payees shall be designated by the department and may include:

1. A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children.
2. A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children.
3. A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and to utilize the assistance in the best interest of the child or children.

(c) The protective payee designated by the department shall be the authorized representative for purposes of receiving food stamps on behalf of a child or children under age 16. The authorized representative must agree in writing to use the food stamps in the best interest of the child or children.

(d) If it is in the best interest of the child or children, as determined by the department, for the staff member of a private agency, a public agency, the department, or any other appropriate organization to serve as a protective payee or authorized representative, such designation may be made, except that a protective payee or authorized representative must not be any individual involved in determining eligibility for temporary cash assistance or food stamps for the family, staff handling any fiscal processes related to issuance of temporary cash assistance or food stamps, or landlords, grocers, or vendors of goods, services, or items dealing directly with the participant.

(e) The department may pay incidental expenses or travel expenses for costs directly related to performance of the duties of a protective payee as necessary to implement the provisions of this subsection.

(3) PROPORTIONAL REDUCTION OF TEMPORARY CASH ASSISTANCE RELATED TO PAY AFTER PERFORMANCE.--Notwithstanding the provisions of subsection (1), if an individual is receiving temporary cash assistance under a pay-after-performance arrangement and the individual participates, but fails to meet the full participation requirement, then the temporary cash assistance received shall be reduced and shall be proportional to the actual participation. Food stamps may be included in a pay-after-performance arrangement if permitted under federal law.

(4) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.--Unless otherwise provided, the situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(a) *Noncompliance related to child care.*--Temporary cash assistance may not be terminated for refusal to participate in work activities if the individual is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves to the regional workforce board an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 C.F.R. part 98:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or worksite.
2. Unavailability or unsuitability of informal child care by a relative or under other arrangements.
3. Unavailability of appropriate and affordable formal child care arrangements.

(b) *Noncompliance related to domestic violence.*--An individual who is determined to be unable to comply with the work requirements because such compliance would make it probable that the individual would be unable to escape domestic violence shall be exempt from work requirements. However, the individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (1). An exception granted under this paragraph does not automatically constitute an exception to the time limitations on benefits specified under s. 414.105.

(c) *Noncompliance related to treatment or remediation of past effects of domestic violence.*--An individual who is determined to be unable to comply with the work requirements under this section due to mental or physical impairment related to past incidents of domestic violence may be exempt from work requirements, except that such individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (1). The plan must include counseling or a course of treatment necessary for the individual to resume participation. The need for treatment and the expected duration of such treatment must be verified by a physician licensed under chapter 458 or chapter 459; a psychologist licensed under s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida; a therapist as defined in s. 491.003(2) or (6); or a treatment professional who is registered under s. 39.905(1)(g), is authorized to maintain confidentiality under s. 90.5036(1)(d), and has a minimum of 2 years experience at a certified domestic violence center. An exception granted under this paragraph does not automatically constitute an exception from the time limitations on benefits specified under s. 414.105.

(d) *Noncompliance related to medical incapacity.*--If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be excepted from the activity for a specific period, except that the individual shall be required to comply with the course of treatment necessary for the individual to resume participation. A participant may not be excused from work activity requirements unless the participant's medical incapacity is verified by a physician licensed under chapter 458 or chapter 459, in accordance with procedures established by rule of the department. An individual for whom there is medical verification of limitation to participate in work activities shall be assigned to work activities consistent with such limitations. Evaluation of an individual's ability to participate in work activities or development of a plan for work activity assignment may include vocational assessment or work evaluation. The department or a regional workforce board may require an individual to cooperate in medical or vocational assessment necessary to evaluate the individual's ability to participate in a work activity.

(e) *Noncompliance related to outpatient mental health or substance abuse treatment.*--If an individual cannot participate in the required hours of work activity due to a need to become or remain involved in outpatient mental health or substance abuse counseling or treatment, the individual may be exempted from the work activity for up to 5 hours per week, not to exceed

100 hours per year. An individual may not be excused from a work activity unless a mental health or substance abuse professional recognized by the department or regional workforce board certifies the treatment protocol and provides verification of attendance at the counseling or treatment sessions each week.

(f) Noncompliance due to medical incapacity by applicants for Supplemental Security Income (SSI) or Social Security Disability Income (SSDI).--An individual subject to work activity requirements may be exempted from those requirements if the individual provides information verifying that he or she has filed an application for SSI disability benefits or SSDI disability benefits and the decision is pending development and evaluation under social security disability law, rules, and regulations at the initial reconsideration, administrative law judge, or Social Security Administration Appeals Council levels.

(g) Other good cause exceptions for noncompliance.--Individuals who are temporarily unable to participate due to circumstances beyond their control may be excepted from the noncompliance penalties. The department may define by rule situations that would constitute good cause. These situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.

(5) WORK ACTIVITY REQUIREMENTS FOR NONCUSTODIAL PARENTS.--

(a) The court may order a noncustodial parent who is delinquent in support payments, pursuant to the terms of a support order, to participate in work activities under this chapter, or as provided in s. 61.14(5)(b), so that the parent may obtain employment and fulfill the obligation to provide support payments. A noncustodial parent who fails to satisfactorily engage in court-ordered work activities may be held in contempt.

(b) The court may order a noncustodial parent to participate in work activities under this chapter if the child of the noncustodial parent has been placed with a relative, in an emergency shelter, in foster care, or in other substitute care, and:

1. The case plan requires the noncustodial parent to participate in work activities; or
2. The noncustodial parent would be eligible to participate in work activities and subject to work activity requirements if the child were living with the parent.

If a noncustodial parent fails to comply with the case plan, the noncustodial parent may be removed from program participation.

History.--s. 10, ch. 96-175; s. 46, ch. 97-98; s. 6, ch. 97-173; s. 42, ch. 97-246; s. 4, ch. 98-57; s. 152, ch. 98-403; s. 51, ch. 99-5; s. 10, ch. 99-241; s. 65, ch. 2000-153; s. 38, ch. 2000-165; s. 45, ch. 2001-158; s. 6, ch. 2003-127; s. 36, ch. 2005-39.

414.0655 Medical incapacity due to substance abuse or mental health impairment.--

(1) Notwithstanding the provisions of s. 414.065 to the contrary, any participant who requires out-of-home residential treatment for alcoholism, drug addiction, alcohol abuse, or a mental health disorder, as certified by a physician licensed under chapter 458 or chapter 459, shall be exempted from work activities while participating in treatment. The participant shall be required to comply with the course of treatment necessary for the individual to resume work activity participation. The treatment agency shall be required to notify the department with an initial estimate of when the participant will have completed the course of treatment and be ready to resume full participation in the WAGES program. If the treatment will take longer than

60 days, the treatment agency shall provide to the department the conditions justifying extended treatment, and the department and the treatment agency shall negotiate a continued stay in treatment not to exceed an additional 90 days.

(2) Notwithstanding any provision of s. 414.095(2)(a)4. or 5. to the contrary, a participant who is absent from the home due to out-of-home residential treatment for not more than 150 days shall continue to be a member of the assistance group whether or not the child or children for whom the participant is the parent or caretaker relative are living in the residential treatment center.

History.--s. 11, ch. 99-241.

414.075 Resource eligibility standards.--For purposes of program simplification and effective program management, certain resource definitions, as outlined in the food stamp regulations at 7 C.F.R. s. 273.8, shall be applied to the WAGES Program as determined by the department to be consistent with federal law regarding temporary cash assistance and Medicaid for needy families, except that:

(1) The maximum allowable resources, including liquid and nonliquid resources, of all members of the family may not exceed \$2,000.

(2) In determining the resources of a family, the following shall be excluded:

(a) Licensed vehicles needed for individuals subject to the work participation requirement, not to exceed a combined value of \$8,500, and needed for training, employment, or education purposes. For any family without an individual subject to the work participation requirement, one vehicle valued at not more than \$8,500 shall be excluded. Any vehicle that is necessary to transport a physically disabled family member shall be excluded. A vehicle shall be considered necessary for the transportation of a physically disabled family member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle and makes it possible to transport the disabled person.

(b) Funds paid to a homeless shelter which are being held for the family to enable the family to pay deposits or other costs associated with moving to a new shelter arrangement.

(3) A vacation home that annually produces income consistent with its fair market value, and that is excluded as a resource in determining eligibility for food stamps under federal regulations, may not be excluded as a resource in determining a family's eligibility for temporary cash assistance.

(4) An individual and the assistance group in which the individual is a current member will be ineligible for a period of 2 years from the original date of a transfer of an asset made for the purpose of qualifying for or maintaining eligibility for temporary cash assistance.

History.--s. 11, ch. 96-175; s. 7, ch. 97-173.

414.085 Income eligibility standards.--

(1) For purposes of program simplification and effective program management, certain income definitions, as outlined in the food stamp regulations at 7 C.F.R. s. 273.9, shall be applied to the temporary cash assistance program as determined by the department to be consistent with federal law regarding temporary cash assistance and Medicaid for needy families, except as to the following:

(a) Participation in the temporary cash assistance program shall be limited to those families whose gross family income is equal to or less than 185 percent of the federal poverty level established in s. 673(2) of the Community Services Block Grant Act, 42 U.S.C. s. 9901(2).

(b) Income security payments, including payments funded under part B of Title IV of the Social Security Act, as amended; supplemental security income under Title XVI of the Social Security Act, as amended; or other income security payments as defined by federal law shall be excluded as income unless required to be included by federal law.

(c) The first \$50 of child support paid to a custodial parent receiving temporary cash assistance may not be disregarded in calculating the amount of temporary cash assistance for the family, unless such exclusion is required by federal law.

(d) An incentive payment to a participant authorized by a regional workforce board shall not be considered income.

(2) The department may adopt rules governing the administration of this section and may establish requirements for income inclusions, income exclusions, income deductions, budgeting criteria, money management by participants, criteria for eligibility verification, processing timeframes, and other eligibility criteria necessary for the department to administer this section.

History.--s. 12, ch. 96-175; s. 8, ch. 97-173; s. 12, ch. 99-241; s. 39, ch. 2000-165; s. 3, ch. 2000-300.

414.095 Determining eligibility for temporary cash assistance.--

(1) **ELIGIBILITY.**--An applicant must meet eligibility requirements of this section before receiving services or temporary cash assistance under this chapter, except that an applicant shall be required to register for work and engage in work activities in accordance with s. 445.024, as designated by the regional workforce board, and may receive support services or child care assistance in conjunction with such requirement. The department shall make a determination of eligibility based on the criteria listed in this chapter. The department shall monitor continued eligibility for temporary cash assistance through periodic reviews consistent with the food stamp eligibility process. Benefits shall not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135. To be eligible under this section, an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in this chapter, the state opts out of the provision of Pub. L. No. 104-193, s. 115, that eliminates eligibility for temporary cash assistance and food stamps for any individual convicted of a controlled substance felony.

(2) ADDITIONAL ELIGIBILITY REQUIREMENTS.--

(a) To be eligible for services or temporary cash assistance and Medicaid:

1. An applicant must be a United States citizen, or a qualified noncitizen, as defined in this section.

2. An applicant must be a legal resident of the state.

3. Each member of a family must provide to the department the member's social security number or shall provide proof of application for a social security number. An individual who fails to provide a social security number, or proof of application for a social security number, is not eligible to participate in the program.

4. A minor child must reside with a custodial parent or parents, with a relative caretaker who is within the specified degree of blood relationship as defined by 45 C.F.R. part 233, or, if the minor is a teen parent with a child, in a setting approved by the department as provided in subsection (14).

5. Each family must have a minor child and meet the income and resource requirements of the program. All minor children who live in the family, as well as the parents of the minor children, shall be included in the eligibility determination unless specifically excluded.

(b) The following members of a family are eligible to participate in the program if all eligibility requirements are met:

1. A minor child who resides with a custodial parent or other adult caretaker relative.
2. The parent of a minor child with whom the child resides.
3. The caretaker relative with whom the minor child resides who chooses to have her or his needs and income included in the family.
4. Unwed minor children and their children if the unwed minor child lives at home or in an adult-supervised setting and if temporary cash assistance is paid to an alternative payee.
5. A pregnant woman.

(3) ELIGIBILITY FOR NONCITIZENS.--A "qualified noncitizen" is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld under s. 243(h) or s. 241(b)(3) of the Immigration and Nationality Act; a noncitizen who is paroled into the United States under s. 212(d)(5) of the Immigration and Nationality Act, for at least 1 year; a noncitizen who is granted conditional entry pursuant to s. 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; a Cuban or Haitian entrant; or a noncitizen who has been admitted as a permanent resident. In addition, a "qualified noncitizen" includes an individual who, or an individual whose child or parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member under certain circumstances, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse and the batterer no longer lives in the household. A "nonqualified noncitizen" is a nonimmigrant noncitizen, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a "nonqualified noncitizen" includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor's spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

(a) A child who is a qualified noncitizen or who was born in the United States to an illegal or ineligible noncitizen is eligible for temporary cash assistance under this chapter if the family meets all eligibility requirements.

(b) If the parent may legally work in this country, the parent must participate in the work activity requirements provided in s. 445.024, to the extent permitted under federal law.

(c) The department shall participate in the Systematic Alien Verification for Entitlements Program (SAVE) established by the United States Bureau of Citizenship and Immigration Services in order to verify the validity of documents provided by noncitizens and to verify a noncitizen's eligibility.

(d) The income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family, less a pro rata share for the illegal noncitizen or ineligible noncitizen, counts in determining a family's eligibility to participate in the program.

(e) The entire assets of an ineligible noncitizen or a disqualified individual who is a mandatory member of a family shall be included in determining the family's eligibility.

(4) CARETAKER RELATIVES.--A family that contains a caretaker relative of a minor child has the option to include or exclude the caretaker relative in determining eligibility. If the caretaker relative chooses to be included in the family, the caretaker relative must meet all eligibility requirements, including resource and income requirements, and must comply with work activity requirements as provided in s. 445.024. If the caretaker relative chooses to be excluded from the family, eligibility shall be determined for the minor child based on the child's income and resources. The level of temporary cash assistance for the minor child shall be based on the shelter obligation paid to the caretaker relative.

(5) PREGNANT WOMAN WITH NO OTHER CHILD.--Temporary cash assistance for a pregnant woman is not available until the last month of pregnancy. However, if the department determines that a woman is restricted from work activities by orders of a physician, temporary cash assistance shall be available during the last trimester of pregnancy and the woman may be required to attend parenting classes or other activities to better prepare for the responsibilities of raising a child.

(6) CHILD SUPPORT ENFORCEMENT.--As a condition of eligibility for public assistance, the family must cooperate with the state agency responsible for administering the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. Cooperation is defined as:

(a) Assisting in identifying and locating a noncustodial parent and providing complete and accurate information on that parent;

(b) Assisting in establishing paternity; and

(c) Assisting in establishing, modifying, or enforcing a support order with respect to a child of a family member.

This subsection does not apply if the state agency that administers the child support enforcement program determines that the parent or caretaker relative has good cause for failing to cooperate.

(7) ASSIGNMENT OF RIGHTS TO SUPPORT.--As a condition of receiving temporary cash assistance, the family must assign to the department any rights a member of a family may have to support from any other person. This applies to any family member; however, the assigned

amounts must not exceed the total amount of temporary cash assistance provided to the family. The assignment of support does not apply if the family leaves the program.

(8) APPLICATIONS.--The date of application is the date the department or authorized entity receives a signed and dated request to participate in the temporary cash assistance program. The request shall be denied 30 days after the initial application if the applicant fails to respond to scheduled appointments, including appointments with the state agency responsible for administering the child support enforcement program, and does not contact the department or authorized entity regarding the application.

(a) The beginning date of eligibility for temporary cash assistance is the date on which the application is approved or 30 days after the date of application, whichever is earlier.

(b) The add date for a newborn child is the date of the child's birth.

(c) The add date for all other individuals is the date on which the client contacts the department to request that the individual be included in the grant for temporary cash assistance.

(d) Medicaid coverage for a recipient of temporary cash assistance begins on the first day of the first month of eligibility for temporary cash assistance, and such coverage shall include any eligibility required by federal law which is prior to the month of application.

(9) OPPORTUNITIES AND OBLIGATIONS.--An applicant for temporary cash assistance has the following opportunities and obligations:

(a) To participate in establishing eligibility by providing facts with respect to circumstances that affect eligibility and by obtaining, or authorizing the department to obtain, documents or information from others in order to establish eligibility.

(b) To have eligibility determined without discrimination based on race, color, sex, age, marital status, handicap, religion, national origin, or political beliefs.

(c) To be advised of any reduction or termination of temporary cash assistance or food stamps.

(d) To provide correct and complete information about the family's circumstances that relate to eligibility, at the time of application and at subsequent intervals.

(e) To keep the department informed of any changes that could affect eligibility.

(f) To use temporary cash assistance and food stamps for the purpose for which the assistance is intended.

(g) To receive information regarding services available from certified domestic violence centers or organizations that provide counseling and supportive services to individuals who are past or present victims of domestic violence or who are at risk of domestic violence and, upon request, to be referred to such organizations in a manner which protects the individual's confidentiality.

(10) DETERMINATION OF LEVEL OF TEMPORARY CASH ASSISTANCE.--Temporary cash assistance shall be based on a standard determined by the Legislature, subject to availability of funds.

There shall be three assistance levels for a family that contains a specified number of eligible members, based on the following criteria:

- (a) A family that does not have a shelter obligation.
- (b) A family that has a shelter obligation greater than zero but less than or equal to \$50.
- (c) A family that has a shelter obligation greater than \$50 or that is homeless.

The following chart depicts the levels of temporary cash assistance for implementation purposes:

THREE-TIER SHELTER PAYMENT STANDARD

Family Size	Zero Shelter Obligation	Greater than Zero Less than or Equal to \$50	Greater than \$50 Shelter Obligation
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426
6	\$346	\$414	\$487
7	\$392	\$467	\$549
8	\$438	\$519	\$610
9	\$485	\$570	\$671
10	\$534	\$623	\$733
11	\$582	\$676	\$795
12	\$630	\$728	\$857
13	\$678	\$781	\$919

(11) DISREGARDS.--

(a) As an incentive to employment, the first \$200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

- 1. A current participant in the program; or
- 2. Eligible for participation in the program without the earnings disregard.

(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is 19 years of age or younger.

(12) CALCULATION OF LEVELS OF TEMPORARY CASH ASSISTANCE.--

(a) Temporary cash assistance shall be calculated based on average monthly gross family income, earned and unearned, less any applicable disregards. The resulting monthly net

income amount shall be subtracted from the applicable payment standard to determine the monthly amount of temporary cash assistance.

(b) A deduction may not be allowed for child care payments.

(c) The department may adopt rules governing the administration of this subsection and may establish criteria pertaining to types of budgeting, conversion factors, verification of income, treatment of self-employment income, treatment of child-support income, and treatment of other sources of income.

(13) METHODS OF PAYMENT OF TEMPORARY CASH ASSISTANCE.--Temporary cash assistance may be paid as follows:

(a) Direct payment through state warrant, electronic transfer of temporary cash assistance, or voucher.

(b) Payment to an alternative payee.

(c) Payment for subsidized employment.

(d) Pay-after-performance arrangements with public or private not-for-profit agencies.

(14) PROHIBITIONS AND RESTRICTIONS.--

(a) A family without a minor child living in the home is not eligible to receive temporary cash assistance or services under this chapter. However, a pregnant woman is eligible for temporary cash assistance in the ninth month of pregnancy if all eligibility requirements are otherwise satisfied.

(b) Temporary cash assistance, without shelter expense, may be available for a teen parent who is a minor child and for the child. Temporary cash assistance may not be paid directly to the teen parent but must be paid, on behalf of the teen parent and child, to an alternative payee who is designated by the department. The alternative payee may not use the temporary cash assistance for any purpose other than paying for food, clothing, shelter, and medical care for the teen parent and child and for other necessities required to enable the teen parent to attend school or a training program. In order for the child of the teen parent and the teen parent to be eligible for temporary cash assistance, the teen parent must:

1. Attend school or an approved alternative training program, unless the child is less than 12 weeks of age or the teen parent has completed high school; and
2. Reside with a parent, legal guardian, or other adult caretaker relative. The income and resources of the parent shall be included in calculating the temporary cash assistance available to the teen parent since the parent is responsible for providing support and care for the child living in the home.
3. Attend parenting and family classes that provide a curriculum specified by the department or the Department of Health, as available.

(c) The teen parent is not required to live with a parent, legal guardian, or other adult caretaker relative if the department determines that:

1. The teen parent has suffered or might suffer harm in the home of the parent, legal guardian, or adult caretaker relative.
2. The requirement is not in the best interest of the teen parent or the child. If the department determines that it is not in the best interest of the teen parent or child to reside with a parent, legal guardian, or other adult caretaker relative, the department shall provide or assist the teen parent in finding a suitable home, a second-chance home, a maternity home, or other appropriate adult-supervised supportive living arrangement. Such living arrangement may include a shelter obligation in accordance with subsection (10).

The department may not delay providing temporary cash assistance to the teen parent through the alternative payee designated by the department pending a determination as to where the teen parent should live and sufficient time for the move itself. A teen parent determined to need placement that is unavailable shall continue to be eligible for temporary cash assistance so long as the teen parent cooperates with the department and the Department of Health. The teen parent shall be provided with counseling to make the transition from independence to supervised living and with a choice of living arrangements.

(d) Notwithstanding any law to the contrary, if a parent or caretaker relative without good cause does not cooperate with the state agency responsible for administering the child support enforcement program in establishing, modifying, or enforcing a support order with respect to a child of a teen parent or other family member, or a child of a family member who is in the care of an adult relative, temporary cash assistance to the entire family shall be denied until the state agency indicates that cooperation by the parent or caretaker relative has been satisfactory. To the extent permissible under federal law, a parent or caretaker relative shall not be penalized for failure to cooperate with paternity establishment or with the establishment, modification, or enforcement of a support order when such cooperation could subject an individual to a risk of domestic violence. Such risk shall constitute good cause to the extent permitted by Title IV-D of the Social Security Act, as amended, or other federal law.

(e) If a parent or caretaker relative does not assign any rights a family member may have to support from any other person as required by subsection (7), temporary cash assistance to the entire family shall be denied until the parent or caretaker relative assigns the rights to the department.

(f) An individual who is convicted in federal or state court of receiving benefits under this chapter, Title XIX, the Food Stamp Act of 1977, or Title XVI (Supplemental Security Income), in two or more states simultaneously may not receive temporary cash assistance or services under this chapter for 10 years following the date of conviction.

(g) An individual is ineligible to receive temporary cash assistance or services under this chapter during any period when the individual is fleeing to avoid prosecution, custody, or confinement after committing a crime, attempting to commit a crime that is a felony under the laws of the place from which the individual flees or a high misdemeanor in the State of New Jersey, or violating a condition of probation or parole imposed under federal or state law.

(h) The parent or other caretaker relative must report to the department by the end of the 5-day period that begins on the date it becomes clear to the parent or caretaker relative that a minor child will be absent from the home for 30 or more consecutive days. A parent or caretaker relative who fails to report this information to the department shall be disqualified from receiving temporary cash assistance for 30 days for the first occurrence, 60 days for the second occurrence, and 90 days for the third or subsequent occurrence.

(i) If the parents of a minor child live apart and equally share custody and control of the child, a parent is ineligible for temporary cash assistance unless the parent clearly demonstrates to the department that the parent provides primary day-to-day custody.

(j) The payee of the temporary cash assistance payment is the caretaker relative with whom a minor child resides and who assumes primary responsibility for the child's daily supervision, care, and control, except in cases where a protective payee is established.

(15) PREELIGIBILITY FRAUD SCREENING.--An applicant who meets an error-prone profile, as determined by the department, is subject to preeligibility fraud screening as a means of reducing misspent funds and preventing fraud. The department shall create an error-prone or fraud-prone case profile within its public assistance information system and shall screen each application for temporary cash assistance against the profile to identify cases that have a potential for error or fraud. Each case so identified shall be subjected to preeligibility fraud screening.

(16) PROPORTIONAL REDUCTION.--If the Social Services Estimating Conference forecasts an increase in the temporary cash assistance caseload and there is insufficient funding, a proportional reduction as determined by the department shall be applied to the levels of temporary cash assistance in subsection (10).

(17) ADDITIONAL FUNDING.--When warranted by economic circumstances, the department, in consultation with the Social Services Estimating Conference, shall apply for additional federal funding available from the Contingency Fund for State Welfare Programs.

(18) RULES.--The department may adopt rules governing the administration of this section and may establish criteria regarding verification requirements and limitations on eligibility.

History.--s. 13, ch. 96-175; s. 209, ch. 97-101; s. 1031, ch. 97-103; s. 9, ch. 97-173; s. 7, ch. 98-57; s. 1, ch. 98-157; s. 33, ch. 98-397; s. 13, ch. 99-241; s. 40, ch. 2000-165; s. 4, ch. 2000-300; s. 13, ch. 2000-320; s. 46, ch. 2001-158; s. 57, ch. 2004-5; s. 2, ch. 2005-61; s. 8, ch. 2005-128.

414.105 Time limitations of temporary cash assistance.--Except as otherwise provided in this section, an applicant or current participant shall receive temporary cash assistance for no more than a lifetime cumulative total of 48 months, unless otherwise provided by law.

(1) Hardship exemptions to the time limitations provided in this section shall be limited to 20 percent of the average monthly caseload, as determined by the department in cooperation with Workforce Florida, Inc. Criteria for hardship exemptions include:

(a) Diligent participation in activities, combined with inability to obtain employment.

(b) Diligent participation in activities, combined with extraordinary barriers to employment, including the conditions which may result in an exemption to work requirements.

(c) Significant barriers to employment, combined with a need for additional time.

(d) Diligent participation in activities and a need by teen parents for an exemption in order to have 24 months of eligibility beyond receipt of the high school diploma or equivalent.

(e) A recommendation of extension for a minor child of a participating family that has reached the end of the eligibility period for temporary cash assistance. The recommendation must be

the result of a review which determines that the termination of the child's temporary cash assistance would be likely to result in the child being placed into emergency shelter or foster care.

(2) A victim of domestic violence may be granted a hardship exemption if the effects of such domestic violence delay or otherwise interrupt or adversely affect the individual's participation in the program.

(3) The department, in cooperation with Workforce Florida, Inc., shall establish a procedure for approving hardship exemptions and for reviewing hardship cases at least once every 2 years. Regional workforce boards may assist in making these determinations.

(4) For individuals who have moved from another state, the months in which temporary cash assistance was received under a block grant program that provided temporary assistance for needy families in any state shall count towards the cumulative 48-month benefit limit for temporary cash assistance.

(5) For individuals subject to a time limitation under the Family Transition Act of 1993, that time limitation shall continue to apply. Months in which temporary cash assistance was received through the family transition program shall count towards the time limitations under this section.

(6) Except when temporary cash assistance was received through the family transition program, the calculation of the time limitation for temporary cash assistance shall begin with the first month of receipt of temporary cash assistance after the effective date of this act.

(7) Child-only cases are not subject to time limitations, and temporary cash assistance received while an individual is a minor child shall not count towards time limitations.

(8) An individual who receives benefits under the Supplemental Security Income (SSI) program or the Social Security Disability Insurance (SSDI) program is not subject to time limitations. An individual who has applied for supplemental security income (SSI) or supplemental security disability income (SSDI) but has not yet received a determination must be granted an extension of time limits until the individual receives a final determination on the SSI or SSDI application. Determination shall be considered final once all appeals have been exhausted, benefits have been received, or denial has been accepted without any appeal. While awaiting a final determination, the individual must continue to meet all program requirements assigned to the participant based on medical ability to comply. If a final determination results in the denial of benefits for supplemental security income (SSI) or supplemental security disability income (SSDI), any period during which the recipient received assistance under this section shall be counted in the recipient's 48-month lifetime limit.

(9) A person who is totally responsible for the personal care of a disabled family member is not subject to time limitations if the need for the care is verified and alternative care is not available for the family member. The department shall annually evaluate an individual's qualifications for this exemption.

(10) A member of the staff of the regional workforce board shall interview and assess the employment prospects and barriers of each participant who is within 6 months of reaching the 48-month time limit. The staff member shall assist the participant in identifying actions necessary to become employed prior to reaching the benefit time limit for temporary cash assistance and, if appropriate, shall refer the participant for services that could facilitate employment.

History.--s. 14, ch. 96-175; s. 47, ch. 97-98; s. 10, ch. 97-173; s. 5, ch. 98-57; s. 14, ch. 99-241; s. 69, ch. 2000-139; s. 41, ch. 2000-165; s. 56, ch. 2001-62; s. 3, ch. 2005-61.

414.106 Exemption from public meetings law.--That portion of a meeting held by the department, Workforce Florida, Inc., or a regional workforce board or local committee created pursuant to s. 445.007 at which personal identifying information contained in records relating to temporary cash assistance is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the information identifies a participant, a participant's family, or a participant's family or household member.

History.--s. 1, ch. 2001-160; s. 1, ch. 2006-287.

414.115 Limited temporary cash assistance for children born to families receiving temporary cash assistance.--

(1) The department shall provide limited additional temporary cash assistance to:

(a) An existing temporary-cash-assistance case due to the birth of a child when the birth occurs more than 10 months after August 1, 1996; or

(b) A new temporary-cash-assistance case when the birth occurs more than 10 months after August 1, 1996, and the application or reapplication for temporary cash assistance.

For purposes of this subsection, "an existing temporary-cash-assistance case" means a case that is receiving temporary assistance on August 1, 1996, and, if it closes any time after August 1, 1996, is closed for less than 6 continuous months; "a new temporary-cash-assistance case" means a case that was not receiving benefits on August 1, 1996; "reapplication" means a new application by a parent or other caretaker relative who has previously received temporary cash assistance in a case that has been closed for 6 continuous months or more prior to the new application.

(2) Subsection (1) does not apply:

(a) To a program participant who is a victim of rape or incest if the victim files a police report on the rape or incest within 30 days after the incident;

(b) To a program participant who is confirmed by the Title IV-D child support agency as having been granted an exemption from participating in requirements for the enforcement of child support due to circumstances consistent with the conception of the child as a result of rape, incest, or sexual exploitation. A child for whom an exemption is claimed under this paragraph and for whom an application has been made for a good-cause exemption from the requirements of s. 414.095 shall receive temporary benefits until a determination is made on the application for a good-cause exemption from the requirements of s. 414.095;

(c) To children who are the firstborn, including all children in the case of multiple birth, of minors included in a temporary cash assistance group who as minors become first-time parents;

(d) To a child when parental custody has been legally transferred; or

(e) To a child who is no longer able to live with his or her parents as a result of:

1. The death of the child's parent or parents;

2. The incapacity of the child's parent or parents as documented by a physician, such that the parent or parents are unable to care for the child;
3. Legal transfer of the custody of the child to another individual;
4. Incarceration of the child's parent or parents, except that the child shall not receive temporary cash assistance if a parent is subsequently released and reunited with the child; or
5. A situation in which the child's parent's or parents' institutionalization is expected to be for an extended period, as defined by the department.

(3) A child born subject to this section shall be considered a recipient of temporary cash assistance for all purposes, including Medicaid eligibility.

(4) For the first child born to a recipient under subsection (1), the department shall provide temporary cash assistance equal to 50 percent of the maximum allowable amount for an individual. This provision does not apply to a child who is born into a family that does not include other children.

(5) For a second or subsequent child born to a recipient under subsection (1), the department shall provide no additional temporary cash assistance.

History.--s. 15, ch. 96-175; s. 1032, ch. 97-103; s. 11, ch. 97-173; s. 8, ch. 98-57.

414.122 Withholding of payments based on evidence of fraud.--The department shall withhold payment from a recipient of temporary cash assistance when, after redetermination of eligibility or at any other time, the department obtains evidence that may indicate fraud on the part of the recipient. When evidence of such fraud is obtained, the recipient shall be notified that because of such evidence of fraud the following payment will be withheld unless the recipient meets with a representative of the department by a specified date, which must be within 10 days after the date of the notice, to discuss and resolve the matter. The department shall make every effort to resolve the matter within a timeframe that will not cause payment to be withheld from an eligible recipient of temporary cash assistance.

History.--s. 87, ch. 96-175; s. 12, ch. 97-173.

414.1251 Learnfare program.--

(1) The department shall reduce the temporary cash assistance for a participant's eligible dependent child or for an eligible teenage participant who has not been exempted from education participation requirements, if the eligible dependent child or eligible teenage participant has been identified either as a habitual truant, pursuant to s. 1003.01(8), or as a dropout, pursuant to s. 1003.01(9). For a student who has been identified as a habitual truant, the temporary cash assistance must be reinstated after a subsequent grading period in which the child's attendance has substantially improved. For a student who has been identified as a dropout, the temporary cash assistance must be reinstated after the student enrolls in a public school, receives a high school diploma or its equivalency, enrolls in preparation for the General Educational Development Tests, or enrolls in other educational activities approved by the district school board. Good cause exemptions from the rule of unexcused absences include the following:

(a) The student is expelled from school and alternative schooling is not available.

(b) No licensed day care is available for a child of teen parents subject to Learnfare.

(c) Prohibitive transportation problems exist (e.g., to and from day care).

Within 10 days after sanction notification, the participant parent of a dependent child or the teenage participant may file an internal fair hearings process review procedure appeal, and no sanction shall be imposed until the appeal is resolved.

(2) Each participant with a school-age child is required to have a conference with an appropriate school official of the child's school during each semester to assure that the participant is involved in the child's educational progress and is aware of any existing attendance or academic problems. The conference must address acceptable student attendance, grades, and behavior and must be documented by the school and reported to the department. The department shall notify a school of any student in attendance at that school who is a participant in the Learnfare program in order that the required conferences are held. A participant who without good cause fails to attend a conference with a school official is subject to the sanction provided in subsection (1). The temporary cash assistance shall be reinstated after the participant attends the conference with the appropriate school official and that conference is documented by the school and reported to the department.

(3) The department shall develop an electronic data transfer system to enable the department to collect, report, and share data accurately and efficiently. In order to ensure accountability and assess the effectiveness of the Learnfare program, the department shall compile information including, but not limited to, the number of students and families reported by school districts as out of compliance, the number of students and families sanctioned as a result, and the number of students and families reinstated after becoming compliant. The information compiled shall be submitted in the form of an annual report to the presiding officers of the Legislature by March 1.

History.--s. 1, ch. 2001-149; s. 1001, ch. 2002-387.

414.13 Immunizations.--Each applicant who has a preschool child must begin and complete appropriate childhood immunizations for the child as a condition of eligibility. At the time of application and redetermination of eligibility, the department shall advise applicants and participants of the availability of childhood immunizations through the county health department. Each participant who has a preschool child must verify compliance with the section. If a participant fails to provide such verification, the child for whom such verification is not provided shall be removed from consideration for purposes of calculating the assistance available to the family. If the child subject to this requirement is the only child in the family, participation in the program shall be terminated until verification of compliance is provided. The department shall waive this requirement if the failure to immunize the child is because of religious reasons or other good cause, as defined in rules adopted by the department.

History.--s. 18, ch. 93-136; s. 17, ch. 96-175; s. 210, ch. 97-101; s. 5, ch. 2000-300.

Note.--Former s. 409.938.

414.14 Public assistance policy simplification.--To the extent possible, the department shall align the requirements for eligibility under this chapter with the food stamp program and medical assistance eligibility policies and procedures to simplify the budgeting process and reduce errors. If the department determines that s. 414.075, relating to resources, or s. 414.085, relating to income, is inconsistent with related provisions of federal law which govern the food stamp program or medical assistance, and that conformance to federal law would simplify administration of the WAGES Program or reduce errors without materially increasing

the cost of the program to the state, the secretary of the department may propose a change in the resource or income requirements of the program by rule. The secretary shall provide written notice to the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the relevant committees of both houses of the Legislature summarizing the proposed modifications to be made by rule and changes necessary to conform state law to federal law. The proposed rule shall take effect 14 days after written notice is given unless the President of the Senate or the Speaker of the House of Representatives advises the secretary that the proposed rule exceeds the delegated authority of the Legislature.

History.--s. 6, ch. 89-334; s. 18, ch. 96-175.

Note.--Former s. 409.186.

414.157 Diversion program for victims of domestic violence.--

(1) The diversion program for victims of domestic violence is intended to provide services and one-time payments to assist victims of domestic violence and their children in making the transition to independence.

(2) Before finding an applicant family eligible for the diversion program created under this section, a determination must be made that:

(a) The applicant family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.

(b) The services or one-time payment provided are not considered assistance under federal law or guidelines.

(3) Notwithstanding any provision to the contrary in ss. 414.075, 414.085, and 414.095, a family meeting the criteria of subsection (2) who is determined by the domestic violence program to be in need of services or one-time payment due to domestic violence shall be considered a needy family and is eligible under this section for services through a certified domestic violence shelter.

(4) One-time payments provided under this section shall not exceed \$1,000.

(5) Receipt of services or a one-time payment under this section does not preclude eligibility for, or receipt of, other assistance or services under this chapter.

History.--s. 17, ch. 99-241; s. 42, ch. 2000-165.

414.158 Diversion program to prevent or reduce child abuse and neglect.--

(1) The diversion program to prevent or reduce child abuse and neglect is intended to provide services and one-time payments to assist families in avoiding welfare dependency and to strengthen families so that children can be cared for in their own homes or in the homes of relatives and so that families can be self-sufficient.

(2) Before finding a family eligible for the diversion program created under this section, a determination must be made that:

- (a) The family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.
- (b) The family meets the criteria of a voluntary assessment performed by Healthy Families Florida; the family meets the criteria established by the department for determining that one or more children in the family are at risk of abuse, neglect, or threatened harm; or the family is homeless or living in a facility that provides shelter to homeless families.
- (c) The services or one-time payment provided are not considered assistance under federal law or guidelines.
- (3) Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family meeting the requirements of subsection (2) shall be considered a needy family and shall be deemed eligible under this section.
- (4) The department, in consultation with Healthy Families Florida, may establish additional requirements related to services or one-time payments, and the department is authorized to adopt rules relating to maximum amounts of such one-time payments.
- (5) Receipt of services or a one-time payment under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

History.--s. 18, ch. 99-241; s. 43, ch. 2000-165.

414.1585 Diversion program for families at risk of welfare dependency due to substance abuse or mental illness.--

- (1) The diversion program for families at risk of welfare dependency due to substance abuse or mental illness is intended to provide services and one-time payments to assist families in avoiding welfare dependency and to stabilize families, so that children can be cared for in their own homes or in the homes of relatives and so that families can be self-sufficient.
- (2) Before finding a family eligible for the diversion program created under this section, a determination must be made that:
 - (a) The family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.
 - (b) The family meets criteria established by the department that one or more individuals in the family are at risk of or are impaired due to substance abuse or mental illness.
 - (c) The services or one-time payment provided are not considered assistance under federal law or guidelines.
- (3) Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family meeting the criteria of subsection (2) shall be considered a needy family and shall be deemed eligible under this section.
- (4) The department is authorized to adopt rules governing the administration of this section and may establish additional criteria related to services, client need, or one-time payments. The department may establish maximum amounts of one-time payments in rule.

(5) Receipt of services or a one-time payment under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

History.--s. 19, ch. 99-241.

414.1599 Diversion programs; determination of need.--If federal regulations require a determination of needy families or needy parents to be based on financial criteria, such as income or resources, for individuals or families who are receiving services, one-time payments, or nonrecurring short-term benefits, the department shall adopt rules to define such criteria. In such rules, the department shall use the income level established for Temporary Assistance for Needy Families funds which are transferred for use under Title XX of the Social Security Act. If federal regulations do not require a financial determination for receipt of such benefits, payments, or services, the criteria otherwise established in this chapter shall be used.

History.--s. 21, ch. 99-241.

414.16 Emergency assistance program.--

(1) DEFINITION.--For purposes of this section, the term "family in an emergency situation" means a family that is totally without shelter or that faces the loss of shelter due to any of the following:

(a) Nonpayment of rent or mortgage which resulted in eviction or legal notice of impending eviction, if such nonpayment is not the result of willful negligence;

(b) Household disaster, such as fire, flood, earthquake, or other accident, which renders the home uninhabitable; or

(c) Such other emergency situations as defined by rule of the department, subject to federal guidelines.

(2) ESTABLISHMENT OF PROGRAM.--The department may establish an emergency assistance program for families.

(3) CRITERIA.--The department shall develop criteria for implementation of the program in accordance with the following guidelines:

(a) Assistance under this program is limited to families with at least one minor child who lives with a parent or caretaker relative.

(b) The family may not have liquid assets that could be made available to meet the emergency.

(c) Assistance under this program is limited to no more than one payment in any 12-month period for the same family. This payment may be made separately or in conjunction with diversion assistance. A family may not receive assistance under this section for longer than 3 consecutive years.

(d) Assistance shall be in the form of a one-party check, made payable to the landlord, mortgageholder, or vendor, and is limited to the amount of 1 month's rent, mortgage payment, or cost for emergency housing, and related expenses as defined by rule of the department. The

amount of such payment must be based upon demonstrated need, but may not exceed a maximum established by the Legislature.

(e) The family's adjusted gross income may not exceed the prevailing standard for participation in the WAGES Program for the family's size.

(f) Loss of income may not be the result of a strike or the result of voluntary termination of employment, unless good cause can be shown for such voluntary termination.

(g) The department shall deny eligibility if the applicant fails to demonstrate, pursuant to the rules adopted by the department, that income and resources limited the applicant's ability to avoid the emergency.

(h) The department may deny eligibility if it determines that the applicant who is eligible with respect to income and resources has otherwise abused the program.

(4) RENTAL SECURITY DEPOSIT ASSISTANCE.--

(a) The department shall develop criteria necessary to implement a recoupment program related to security deposit assistance provided under paragraph (3)(d). Assistance shall be in the form of direct payment of security deposits to landlords of families eligible for emergency assistance. When the family vacates the rental unit, the landlord shall refund to the department the amount of the deposit remaining after subtracting any amount retained for damages pursuant to the lease. The family shall repay to the department the cost of any damages assessed which exceed normal wear and tear. The total amount owed to the department shall be prorated and subtracted from any temporary cash assistance for which the family may be eligible.

(b) This program shall be funded from the appropriation for the emergency assistance program unless this procedure conflicts with federal requirements or the cost of recapturing rental deposits exceeds the amount recaptured.

(c) There is created an Emergency Housing Trust Fund in the State Treasury to be used by the department for the purpose of making grants to eligible persons pursuant to this section. Repayments of funds disbursed under the emergency assistance program shall be deposited in this trust fund to the extent allowed by federal and state regulations and may not revert to the General Revenue Fund.

History.--s. 11, ch. 87-106; s. 16, ch. 90-275; s. 51, ch. 92-58; s. 20, ch. 96-175; s. 15, ch. 97-173.

Note.--Former s. 420.627.

414.17 Audits.--The WAGES Program is subject to the audit requirements of 31 U.S.C. ss. 5701 et seq.

History.--s. 21, ch. 96-175.

414.175 Review of existing waivers.--

(1) The Department of Children and Family Services shall review existing waivers granted to the department by the Federal Government and determine if such waivers continue to be necessary based on the flexibility granted to states by federal law. If it is determined that termination of the waivers would reduce or eliminate potential federal cost neutrality liability, the department may take action in accordance with federal requirements. In taking such action, the department may continue research initiated in conjunction with such waivers if the department determines that continuation will provide program findings that will be useful in assessing future welfare reform alternatives.

(2) The department shall review federal law, including revisions to federal food stamp requirements. If the department determines that federal food stamp waivers will further the goals of this chapter, including simplification of program policies or program administration, the department may obtain waivers if this can be accomplished within available resources.

History.--s. 22, ch. 96-175; s. 211, ch. 97-101; s. 16, ch. 97-173.

414.24 Integrated welfare reform and child welfare services.--The department shall develop integrated service delivery strategies to better meet the needs of families subject to work activity requirements who are involved in the child welfare system or are at high risk of involvement in the child welfare system. To the extent that resources are available, the department and the ¹Department of Labor and Employment Security shall provide funds to one or more service districts to promote development of integrated, nonduplicative case management within the department, the ¹Department of Labor and Employment Security, other participating government agencies, and community partners. Alternative delivery systems shall be encouraged which include well-defined, pertinent outcome measures. Other factors to be considered shall include innovation regarding training, enhancement of existing resources, and increased private sector and business sector participation.

History.--s. 27, ch. 96-175; s. 21, ch. 97-173.

¹**Note.--**Section 69, ch. 2002-194, repealed s. 20.171, which created the Department of Labor and Employment Security.

414.26 Court-appointed guardian unnecessary.--It is unnecessary for any incompetent person entitled to public assistance payments, as provided by this chapter, to have a court-appointed guardian in order to receive such payments if said incompetent person is living in the household with an adult family member or there is a responsible person who will act in his or her behalf.

History.--s. 1, ch. 69-268; s. 1, ch. 70-255; s. 29, ch. 96-175; s. 1033, ch. 97-103.

Note.--Former s. 409.295.

414.27 Temporary cash assistance; payment on death.--

(1) Upon the death of any person receiving temporary cash assistance through the Department of Children and Family Services, all temporary cash accrued to such person from the date of last payment to the date of death shall be paid to the person who shall have been designated by her or him on a form prescribed by the department and filed with the department during the lifetime of the person making such designation. If no designation is made, or the person so designated is no longer living or cannot be found, then payment shall be made to such person

as may be designated by the circuit judge of the county where the recipient of temporary cash assistance resided. Designation by the circuit judge may be made on a form provided by the department or by letter or memorandum to the Chief Financial Officer. No filing or recording of the designation shall be required, and the circuit judge shall receive no compensation for such service. If a warrant has not been issued and forwarded prior to notice by the department of the recipient's death, upon notice thereof, the department shall promptly requisition the Chief Financial Officer to issue a warrant in the amount of the accrued temporary cash assistance payable to the person designated to receive it and shall attach to the requisition the original designation of the deceased recipient, or if none, the designation made by the circuit judge, as well as a notice of death. The Chief Financial Officer shall issue a warrant in the amount payable.

(2) If a warrant has been issued and not cashed by the recipient payee prior to her or his death, such warrant shall be promptly returned to the department, together with notice of the death of the recipient. The original warrant shall be endorsed on the back by an authorized employee of the department. The endorsement must be on a form prescribed by the department and approved by the Chief Financial Officer which must contain the name of the deceased recipient, a statement of the recipient's death, and the date thereof and state that it is payable to the order of the designated beneficiary, without recourse. The form shall be signed by the authorized employee or employees of the department, and thereupon such warrant shall be payable to the designated beneficiary as fully and completely as if made payable to her or him when issued. The department shall furnish to the Chief Financial Officer each month a list of such deceased recipients, the designated beneficiaries or persons to whom such warrants are endorsed, and a description of such warrants as herein provided. The department shall cause all persons receiving temporary cash assistance to make the designations as soon as conveniently may be, and shall preserve such designations in a safe place for use.

History.--s. 1, ch. 69-268; ss. 12, 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 26, ch. 73-334; s. 284, ch. 77-147; s. 30, ch. 96-175; s. 213, ch. 97-101; s. 1034, ch. 97-103; s. 23, ch. 97-173; s. 455, ch. 2003-261.

Note.--Former s. 409.315.

414.28 Public assistance payments to constitute debt of recipient.--

(1) **CLAIMS.**--The acceptance of public assistance creates a debt of the person accepting assistance, which debt is enforceable only after the death of the recipient. The debt thereby created is enforceable only by claim filed against the estate of the recipient after his or her death or by suit to set aside a fraudulent conveyance, as defined in subsection (3). After the death of the recipient and within the time prescribed by law, the department may file a claim against the estate of the recipient for the total amount of public assistance paid to or for the benefit of such recipient, reimbursement for which has not been made. Claims so filed shall take priority as class 3 claims as provided by s. 733.707(1)(c).

(2) **DISCHARGE OF DEBT.**--The debt created by this section shall be discharged pursuant to s. 733.710 unless the department institutes probate proceedings as a creditor, files a timely claim against the estate of the debtor, or institutes a suit to set aside a fraudulent conveyance as defined in subsection (3).

(3) **FRAUDULENT CONVEYANCE.**--Any person who transfers or encumbers his or her property for an inadequate consideration with the intent of defeating or hindering the claim of the department for reimbursement shall have made a fraudulent conveyance, and such transfer or encumbrance is void and of no effect as against the claim of the department if the department

institutes a suit to set aside the conveyance within 1 year after the death of the debtor. A transfer or encumbrance for an inadequate consideration made within 6 months immediately preceding the death of the transferor is presumed to have been made with the intent of defeating or hindering the claim of the department. This section does not void any conveyance or encumbrance that is made upon and for good consideration and bona fide, as to any person or persons or bodies, politic or corporate.

(4) ENFORCEMENT AGAINST HOMESTEAD PROHIBITED.--The claim created in this section is not enforceable against a homestead of realty or personalty as defined and provided for in s. 4, Art. X of the State Constitution or against household furnishings and furniture.

(5) AUTHORITY TO COMPROMISE AND SETTLE.--The department may:

(a) Enter the appearance of the state in any proceeding affecting the property on which the state has a claim;

(b) Institute probate proceedings as a creditor of deceased persons and, either in the course of or in the absence of and apart from any action or proceeding, enter into any stipulation, compromise, settlement, or other agreement in respect to such claim affecting such property as may seem wise;

(c) Execute and deliver any such stipulation, modification, quitclaim, release, partial release, discharge, extension, agreement, satisfaction, partial satisfaction, or subordination, or other contract, stipulation, or agreement that the interest of the parties or the circumstances of the case may make advisable; and

(d) Discharge the differences between the claim and any compromise settlement.

(6) NOTICE.--The department shall notify all persons receiving or applying for public assistance that all public assistance grants paid constitute a claim against the estate of each recipient. The notice may be given by letter mailed to the last known address of each recipient, but the failure to give such notice does not affect the validity of the claim.

(7) ACCEPTANCE OF OFFERS TO REPAY.--Any person who desires to repay all or part of the amount paid under any public assistance program may do so in accordance with a procedure to be adopted by the department. Such rules shall provide for the immediate sale of any real property or the state's equity in any real property so acquired in the manner that is most expedient and advantageous to the state.

(8) DISPOSITION OF FUNDS RECOVERED.--All funds collected under this section shall be deposited with the Department of Financial Services and a report of such deposit made to the department. After payment of costs the sums so collected shall be credited to the department and used by it.

(9) RULES.--The department may adopt rules to administer this section.

(10) PUBLIC ASSISTANCE.--For the purposes of this section, the term "public assistance" includes all money payments made to or on behalf of a recipient, including, but not limited to, temporary cash assistance received under this chapter, the Medicaid program, and mandatory and optional supplement payments under the Social Security Act.

History.--s. 1, ch. 69-268; ss. 12, 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 1, ch. 70-439; s. 145, ch. 77-104; s. 16, ch. 78-433; s. 103, ch. 79-164; s. 2, ch. 79-382; s. 62, ch. 91-282; s. 31, ch.

96-175; s. 1, ch. 96-218; s. 214, ch. 97-101; s. 1035, ch. 97-103; s. 24, ch. 97-173; s. 33, ch. 98-191; s. 66, ch. 2000-153; s. 456, ch. 2003-261.

Note.--Former s. 409.345.

414.295 Temporary cash assistance programs; public records exemption.--

(1) Personal identifying information of a temporary cash assistance program participant, a participant's family, or a participant's family or household member, except for information identifying a noncustodial parent, held by the department, the Agency for Workforce Innovation, Workforce Florida, Inc., the Department of Health, the Department of Revenue, the Department of Education, or a regional workforce board or local committee created pursuant to s. 445.007 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such confidential and exempt information may be released for purposes directly connected with:

(a) The administration of the temporary assistance for needy families plan under Title IV-A of the Social Security Act, as amended, by the department, the Agency for Workforce Innovation, Workforce Florida, Inc., the Department of Military Affairs, the Department of Health, the Department of Revenue, the Department of Education, a regional workforce board or local committee created pursuant to s. 445.007, or a school district.

(b) The administration of the state's plan or program approved under Title IV-B, Title IV-D, or Title IV-E of the Social Security Act, as amended, or under Title I, Title X, Title XIV, Title XVI, Title XIX, Title XX, or Title XXI of the Social Security Act, as amended.

(c) Any investigation, prosecution, or any criminal, civil, or administrative proceeding conducted in connection with the administration of any of the plans or programs specified in paragraph (a) or paragraph (b) by a federal, state, or local governmental entity, upon request by that entity, when such request is made pursuant to the proper exercise of that entity's duties and responsibilities.

(d) The administration of any other state, federal, or federally assisted program that provides assistance or services on the basis of need, in cash or in kind, directly to a participant.

(e) Any audit or similar activity, such as a review of expenditure reports or financial review, conducted in connection with the administration of any of the plans or programs specified in paragraph (a) or paragraph (b) by a governmental entity authorized by law to conduct such audit or activity.

(f) The administration of the unemployment compensation program.

(g) The reporting to the appropriate agency or official of information about known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child or elderly person receiving assistance, if circumstances indicate that the health or welfare of the child or elderly person is threatened.

(h) The administration of services to elderly persons under ss. 430.601-430.606.

(2) If information is obtained from a participant through an integrated eligibility process so that the requirements of more than one state or federal program apply to the information, the requirements of the program that is the provider of the information shall prevail. If the

department cannot determine which program is the provider of the information, the requirements of each applicable state or federal program shall be met.

History.--s. 2, ch. 2001-160; s. 2, ch. 2006-287.

414.31 State agency for administering federal food stamp program.--

(1) The department shall place into operation in each of the several counties of the state a food stamp program as authorized by the Congress of the United States. The department is designated as the state agency responsible for the administration and operation of such programs.

(2) The department shall provide for such instruction and counseling as will best assure that the recipients are able to provide a nutritionally adequate diet through the increased purchasing power received. This program shall be administered and operated in such a way that the distribution of food stamps shall be in locations reasonably accessible to those areas in which persons eligible for the benefit of this program are likely to be concentrated.

History.--s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-201; s. 1, ch. 70-255; ss. 1, 2, ch. 72-298; s. 33, ch. 96-175.

Note.--Former s. 409.275.

414.32 Prohibitions and restrictions with respect to food stamps.--

(1) COOPERATION WITH CHILD SUPPORT ENFORCEMENT AGENCY.--

(a) A parent or caretaker relative who receives temporary cash assistance or food stamps on behalf of a child under 18 years of age who has an absent parent is ineligible for food stamps unless the parent or caretaker relative cooperates with the state agency that administers the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. This paragraph does not apply if the state agency that administers the food stamp program determines that the parent or caretaker relative has good cause for failing to cooperate. The Department of Revenue shall determine good cause for failure to cooperate if the Department of Children and Family Services obtains written authorization from the United States Department of Agriculture approving such arrangements.

(b) A putative or identified noncustodial parent of a child under 18 years of age is ineligible for food stamps if the parent fails to cooperate with the state agency that administers the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, or fails to provide support for the child. This paragraph does not apply if the state agency that administers the child support enforcement program determines that the noncustodial parent has good cause for refusing to cooperate in establishing the paternity of the child.

(2) **REDUCTION OR DENIAL OF TEMPORARY CASH ASSISTANCE.**--The food stamp allotment shall be reduced or terminated as otherwise provided in this chapter if temporary cash assistance under the WAGES Program is reduced or denied because an individual in the family fails to perform an action required under the program.

(3) **DENIAL OF FOOD STAMP BENEFITS FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.**--An individual is ineligible to participate in the food stamp program individually, or as a member of

any assistance group, for 10 years following a conviction in federal or state court of having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.

(4) DENIAL OF FOOD STAMP BENEFITS TO FLEEING FELONS.--An individual is ineligible to participate in the food stamp program during any period when the individual is fleeing to avoid prosecution, custody, or confinement after committing a crime, attempting to commit a crime that is a felony under the laws of the place from which the individual flees or a high misdemeanor in the State of New Jersey, or violating a condition of probation or parole imposed under federal or state law.

History.--s. 34, ch. 96-175; s. 26, ch. 97-173; s. 34, ch. 98-397; s. 47, ch. 2001-158; s. 4, ch. 2005-61.

414.33 Violations of food stamp program.--

(1) In accordance with federal law and regulations, the department shall establish procedures for notifying the appropriate federal and state agencies of any violation of federal or state laws or rules governing the food stamp program.

(2) In addition, the department shall establish procedures for referring to the Department of Law Enforcement any case that involves a suspected violation of federal or state law or rules governing the administration of the food stamp program.

History.--s. 35, ch. 96-175; s. 7, ch. 99-333.

414.34 Annual report concerning administrative complaints and disciplinary actions involving food stamp program violations.--The department shall prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the chairs of the appropriate legislative committees, and the Department of Law Enforcement by January 1 of each year. In addition to any other information the Legislature may require, the report must include statistics and relevant information detailing:

(1) The number of complaints received and investigated.

(2) The number of findings of probable cause made.

(3) The number of findings of no probable cause made.

(4) The number of administrative complaints filed.

(5) The disposition of all administrative complaints.

(6) The number of criminal complaints brought under s. 414.39, and their disposition.

(7) The status of the development and implementation of rules governing the electronic benefits transfer program, including any recommendations for statutory changes.

History.--s. 7, ch. 92-125; ss. 36, 96, ch. 96-175; s. 8, ch. 99-333.

Note.--Former s. 409.328.

414.35 Emergency relief.--

(1) The department shall adopt rules for the administration of emergency assistance programs delegated to the department either by executive order in accordance with the Disaster Relief Act of 1974 or pursuant to the Food Stamp Act of 1977.

(2) In promulgating the rules required in this section, the department shall give particular consideration to the prevention of fraud in emergency assistance programs. Such rules shall, at a minimum, provide for:

(a) Verification of an applicant's identity and address.

(b) Determination of an applicant's need for assistance and verification of an applicant's need in accordance with appropriate federal law and regulations.

(c) The timely and adequate dissemination of accurate certification information to local emergency management agencies.

(3) In administering emergency food stamp and other emergency assistance programs, the department shall cooperate fully with the United States Government and with other departments, instrumentalities, and agencies of this state.

History.--s. 12, ch. 78-433; s. 43, ch. 83-334; s. 37, ch. 96-175; s. 27, ch. 97-173; s. 44, ch. 2000-165.

Note.--Former s. 409.60.

414.36 Public assistance overpayment recovery program; contracts.--

(1) The department shall develop and implement a plan for the statewide privatization of activities relating to the recovery of public assistance overpayment claims. These activities shall include, at a minimum, voluntary cash collections functions for recovery of fraudulent and nonfraudulent benefits paid to recipients of temporary cash assistance, food stamps, and aid to families with dependent children.

(2) For purposes of privatization of public assistance overpayment recovery, the department shall enter into contracts consistent with federal law with for-profit corporations, not-for-profit corporations, or other entities capable of providing the services for recovering public assistance required under this section. The department shall issue requests for proposals, enter into a competitive bidding process, and negotiate contracts for such services. Contracts for such services may be funded on a contingency fee basis, per fiscal year, based on a percentage of the state-retained share of collections, for claims for food stamps, aid to families with dependent children, and temporary cash assistance. This section does not prohibit districts from entering into contracts to carry out the provisions of this section, if that is a cost-effective use of resources.

(3) The Economic Self-sufficiency Services Program Office of the department shall have responsibility for contract management and for monitoring and policy development functions relating to privatization of the public assistance overpayment recovery program.

History.--s. 1, ch. 95-305; s. 38, ch. 96-175; s. 3, ch. 96-235; s. 48, ch. 97-98; s. 215, ch. 97-101; s. 28, ch. 97-173; s. 70, ch. 2000-139; s. 45, ch. 2000-165.

Note.--Former s. 409.2562.

414.37 Public assistance overpayment recovery privatization; reemployment of laid-off career service employees.--Should career service employees of the Department of Children and Family Services be subject to layoff after July 1, 1995, due to the privatization of public assistance overpayment recovery functions, the privatization contract shall require the contracting firm to give priority consideration to employment of such employees. In addition, a task force composed of representatives from the Department of Children and Family Services and the Department of Management Services shall be established to provide reemployment assistance to such employees.

History.--s. 2, ch. 95-305; s. 39, ch. 96-175; s. 49, ch. 97-98; s. 216, ch. 97-101; s. 28, ch. 99-241.

Note.--Former s. 409.25625.

414.39 Fraud.--

(1) Any person who knowingly:

(a) Fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to such person's qualification to receive public assistance under any state or federally funded assistance program;

(b) Fails to disclose a change in circumstances in order to obtain or continue to receive any such public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or

(c) Aids and abets another person in the commission of any such act,

is guilty of a crime and shall be punished as provided in subsection (5).

(2) Any person who knowingly:

(a) Uses, transfers, acquires, traffics, alters, forges, or possesses, or

(b) Attempts to use, transfer, acquire, traffic, alter, forge, or possess, or

(c) Aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of,

a food stamp, a food stamp identification card, an authorization, including, but not limited to, an electronic authorization, for the purchase of food stamps, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law is guilty of a crime and shall be punished as provided in subsection (5). For the purposes of this section, the value of an authorization to purchase food stamps shall be the difference between the coupon allotment and the amount paid by the recipient for that allotment.

(3) Any person having duties in the administration of a state or federally funded public assistance program or in the distribution of public assistance, or authorizations or identifications to obtain public assistance, under a state or federally funded public assistance program and who:

(a) Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of, a food stamp, an authorization for food stamps, a food stamp identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or public assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or who knowingly fails to disclose any such fraudulent activity; or

(b) Knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of, funds given in exchange for food stamps or for any form of food stamp benefits authorization,

is guilty of a crime and shall be punished as provided in subsection (5).

(4) Any person who:

(a) Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of public assistance under any state or federally funded public assistance program for services that were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or knowingly bills the recipient of public assistance under such a program, or his or her family, for an amount in excess of that provided for by law or regulation;

(b) Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or

(c) In any way knowingly receives, attempts to receive, or aids and abets in the receipt of, unauthorized payment or other unauthorized public assistance or authorization or identification to obtain public assistance as provided herein,

is guilty of a crime and shall be punished as provided in subsection (5).

(5)(a) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more in any 12 consecutive months, such person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) As used in this subsection, the value of a food stamp authorization benefit is the cash or exchange value unlawfully obtained by the fraudulent act committed in violation of this section.

(d) As used in this section, "fraud" includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets.

(6) Any person providing service for which compensation is paid under any state or federally funded public assistance program who solicits, requests, or receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise,

bequest or other means, whether directly or indirectly, from a recipient of public assistance from such public assistance program, or from the family of such a recipient, shall notify the Department of Children and Family Services, on a form provided by the department, of the amount of such payment or contribution and of such other information as specified by the department, within 10 days after the receipt of such payment or contribution or, if said payment or contribution is to become effective at some time in the future, within 10 days of the consummation of the agreement to make such payment or contribution. Failure to notify the department within the time prescribed is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this section.

(8)(a) The introduction into evidence of a paid state warrant made to the order of the defendant is prima facie evidence that the defendant did receive public assistance from the state.

(b) The introduction into evidence of a transaction history generated by a Personal Identification Number (PIN) establishing a purchase or withdrawal by electronic benefit transfer is prima facie evidence that the identified recipient received public assistance from the state.

(9) All records relating to investigations of public assistance fraud in the custody of the department and the Agency for Health Care Administration are available for examination by the Department of Law Enforcement pursuant to s. 943.401 and are admissible into evidence in proceedings brought under this section as business records within the meaning of s. 90.803(6).

(10) The department shall create an error-prone or fraud-prone case profile within its public assistance information system and shall screen each application for public assistance, including food stamps, Medicaid, and temporary cash assistance, against the profile to identify cases that have a potential for error or fraud. Each case so identified shall be subjected to preeligibility fraud screening.

History.--s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 354, ch. 71-136; s. 1, ch. 76-20; s. 2, ch. 92-125; s. 42, ch. 96-175; s. 218, ch. 97-101; s. 1037, ch. 97-103; s. 30, ch. 97-173; s. 9, ch. 99-333; s. 67, ch. 2000-153; s. 46, ch. 2000-165.

Note.--Former s. 409.325.

414.391 Automated fingerprint imaging.--

(1) The Department of Children and Family Services shall develop and implement, as part of the electronic benefits transfer program, a statewide program to prevent public assistance fraud by using a type of automated fingerprint imaging of adult and teen parent applicants for, and adult and teen parent recipients of, public assistance under this chapter.

(2) In adopting rules under this section, the department shall ensure that any automated fingerprint imaging performed by the department is used only to prevent fraud by adult and teen parent recipients of public assistance and is in compliance with state and federal disclosure requirements.

(3) The department shall prepare, by April 1998, a plan for implementation of this program. Implementation shall begin with a pilot of the program in one or more areas of the state by November 1, 1998. Pilot evaluation results shall be used to determine the method of statewide expansion. The priority for use of the savings derived from reducing fraud through this program shall be to expand the program to other areas of the state.

(4) The department shall request any waivers of federal regulations necessary to implement the program within the limits described in this section.

History.--s. 70, ch. 97-237.

414.392 Applicant screening.--At the time of application or reapplication, each adult or teen parent applying for public assistance benefits under this chapter must provide the state with an automated fingerprint image performed by the state, before receiving any benefits.

History.--s. 71, ch. 97-237.

414.40 Stop Inmate Fraud Program established; guidelines.--

(1) There is created within the Department of Law Enforcement a Stop Inmate Fraud Program.

(2) The Department of Law Enforcement is directed to implement the Stop Inmate Fraud Program in accordance with the following guidelines:

(a) The program shall establish procedures for sharing public records not exempt from the public records law among social services agencies regarding the identities of persons incarcerated in state correctional institutions, as defined in s. 944.02, or in county, municipal, or regional jails or other detention facilities of local governments under chapter 950 or chapter 951 who are wrongfully receiving public assistance benefits or entitlement benefits.

(b) Pursuant to these procedures, the program shall have access to records containing correctional information not exempt from the public records law on incarcerated persons which have been generated as criminal justice information. As used in this paragraph, the term "record" is defined as provided in s. 943.045(7), and the term "criminal justice information" is defined as provided in s. 943.045(3).

(c) Database searches shall be conducted of the inmate population at each correctional institution or other detention facility. A correctional institution or a detention facility shall provide the Stop Inmate Fraud Program with the information necessary to identify persons wrongfully receiving benefits in the medium requested by the Stop Inmate Fraud Program if the correctional institution or detention facility maintains the information in that medium.

(d) Data obtained from correctional institutions or other detention facilities shall be compared with the client files of the Department of Children and Family Services, the ¹Department of Labor and Employment Security, and other state or local agencies as needed to identify persons wrongfully obtaining benefits. Data comparisons shall be accomplished during periods of low information demand by agency personnel to minimize inconvenience to the agency.

(e) Results of data comparisons shall be furnished to the appropriate office for use in the county in which the data originated. The program may provide reports of the data it obtains to appropriate state, federal, and local government agencies or governmental entities, including, but not limited to:

1. The Child Support Enforcement Program of the Department of Revenue, so that the data may be used as locator information on persons being sought for purposes of child support.

2. The Social Security Administration, so that the data may be used to reduce federal entitlement fraud within the state.

(f) Reports by the program to another agency or entity shall be generated bimonthly, or as otherwise directed, and shall be designed to accommodate that agency's or entity's particular needs for data.

(g) Only those persons with active cases, or with cases that were active during the incarceration period, shall be reported, in order that the funding agency or entity, upon verification of the data, may take whatever action is deemed appropriate.

(h) For purposes of program review and analysis, each agency or entity receiving data from the program shall submit reports to the program which indicate the results of how the data was used.

History.--s. 10, ch. 95-431; s. 43, ch. 96-175; s. 219, ch. 97-101; s. 31, ch. 97-173; s. 10, ch. 99-333; s. 6, ch. 2000-214.

¹**Note.**--Section 69, ch. 2002-194, repealed s. 20.171, which created the Department of Labor and Employment Security.

Note.--Former s. 409.3251.

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

(1) Whenever it becomes apparent that any person or provider has received any public assistance under this chapter to which she or he is not entitled, through either simple mistake or fraud on the part of the department or on the part of the recipient or participant, the department shall take all necessary steps to recover the overpayment. Recovery may include Federal Income Tax Refund Offset Program collections activities in conjunction with Food and Consumer Service and the Internal Revenue Service to intercept income tax refunds due to clients who owe food stamp or WAGES debt to the state. The department will follow the guidelines in accordance with federal rules and regulations and consistent with the Food Stamp Program. The department may make appropriate settlements and shall establish a policy and cost-effective rules to be used in the computation and recovery of such overpayments.

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

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

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

(2) The department shall determine if recovery of an overpayment as a result of department error regarding temporary cash assistance provided under the WAGES Program or benefits provided to a recipient of aid to families with dependent children would create extreme hardship. The department shall provide by rule the circumstances that constitute an extreme hardship. The department may reduce the amount of repayment if a recipient or participant demonstrates to the satisfaction of the department that repayment of the entire overpayment would result in extreme hardship, but the department may not excuse repayment. A determination of extreme hardship is not grounds for a waiver of repayment in whole or in part.

(3) The department, or its designee, shall enforce an order of income deduction by the court against the liable adult recipient or participant, including the head of a family, for overpayment received as an adult under the temporary cash assistance program, the AFDC program, the food stamp program, or the Medicaid program.

History.--s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 285, ch. 77-147; s. 15, ch. 78-433; s. 2, ch. 80-408; s. 4, ch. 87-377; s. 44, ch. 96-175; s. 194, ch. 96-410; s. 1038, ch. 97-103; s. 32, ch. 97-173; s. 47, ch. 2000-165; s. 13, ch. 2001-377; s. 47, ch. 2002-400.

Note.--Former s. 409.335.

414.42 Cause for employee dismissal.--It is cause for dismissal of an employee of the Department of Children and Family Services if the employee knowingly and willfully allows an ineligible person to obtain public assistance.

History.--s. 9, ch. 92-125; s. 45, ch. 96-175; s. 220, ch. 97-101; s. 33, ch. 97-173.

Note.--Former s. 409.3282.

414.45 Rulemaking.--The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter. The rules must provide protection against discrimination and the opportunity for a participant to request a review by a supervisor or administrator of any decision made by a panel or board of the department or the WAGES Program.

History.--s. 48, ch. 96-175; s. 36, ch. 97-173; s. 112, ch. 98-200; s. 30, ch. 99-241.

414.55 Implementation of community work program.--The Governor shall minimize the liability of the state by opting out of the special provision related to community work, as described in s. 402(a)(1)(B)(iv) of the Social Security Act, as amended by Pub. L. No. 104-193. The department and Workforce Florida, Inc., shall implement the community work program in accordance with s. 445.024.

History.--s. 115, ch. 96-175; s. 1039, ch. 97-103; s. 37, ch. 97-173; s. 48, ch. 2000-165.