

# oppaga

## Special Examination



June 2003

Report No. 03-36

## Administrative Establishment of Child Support Is Efficient for Uncontested Cases; Compliance Is Better for Orders Established Judicially

### *at a glance*

The 2001 Legislature authorized the Department of Revenue to conduct a pilot study to help determine whether incorporating an administrative method to establish child support orders would improve Florida's child support order establishment process. The Legislature expanded the project statewide in 2002.

Pilot study results show that the administrative process was more efficient for establishing uncontested child support orders. However, compliance with support orders was higher for orders established through the judicial process. A contributing factor to the lower collection rates for administrative support orders was the lack of involvement of noncustodial parents during the establishment process.

The effectiveness of the Florida's Child Support Enforcement Program can be improved by

- assigning contested cases to the judicial establishment process and
- scheduling informal discussions with the noncustodial parent and offering mediation services as part of the administrative support order establishment process.

### Scope

The 2001 Legislature authorized the Department of Revenue to conduct a pilot study in one county to help determine whether incorporating an administrative method to establish child support orders would improve Florida's child support order establishment process.<sup>1</sup> Volusia County was chosen as the pilot county for this project. The Legislature directed the department to develop performance outcomes to measure the effectiveness and cost-efficiency of the pilot program in establishing support orders as compared to the judicial process and to submit a report on the implementation of the pilot program by June 30, 2002. This bill also requires OPPAGA to complete an evaluation of the operation and impact of the administrative process in the study area by June 30, 2003.

The 2002 Legislature authorized the Department of Revenue to adopt rules for statewide implementation of administrative proceedings to establish child-support obligations.<sup>2</sup> This legislation also directed the department to submit a report on the statewide implementation of the administrative process by

<sup>1</sup> As specified in s. 409.2563(17)(a), *F.S.*

<sup>2</sup> As specified in s. 409.2563(17)(b), *F.S.*

June 30, 2004, and required OPPAGA to conduct an evaluation of the statewide implementation of the administrative process by January 31, 2005.

## Background

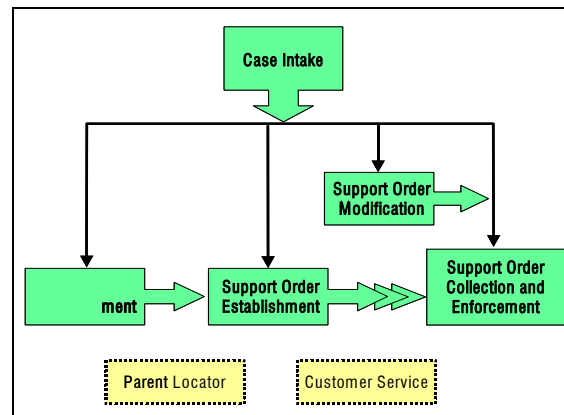
As a condition of receiving federal public assistance funds, states are required to operate child support enforcement programs that are approved by the federal Office of Child Support Enforcement within the Department of Health and Human Services. Families receiving welfare benefits are required to participate in the Child Support Enforcement Program. Families that do not receive federal public assistance may request Child Support Enforcement Program services, for which they are charged a fee of \$25 in Florida.

The Department of Revenue is responsible for administering Florida's Child Support Enforcement Program. Activities performed by the program include case intake; paternity establishment; and child support order establishment, modification, collection, and enforcement. The program also provides parent locator and customer services.

As shown in Exhibit 1, case intake is the initial activity in the child support enforcement process. Case intake includes collecting basic case data and determining which subsequent activity is needed. Case intake directs cases to the paternity establishment, support order establishment, support order modification, or support order collection and enforcement activity. After completing the initial assigned activity, the case is then transferred to the next needed activity in the child support enforcement process. For example, in the absence of an established support order, a case is transferred to the support order establishment activity when the custodial parent applies for the child support services and the identity of the noncustodial parent is known. When the child support order is established, the case is then transferred to the support order collection and enforcement activity where the program helps to ensure that payments are collected and promptly distributed.

As needed, the parent locator and customer service activities assist the child support enforcement process. For example, a custodial parent applying for child support enforcement services may not know the location of the noncustodial parent. For such cases, the parent locator activity staff is responsible for finding the address of the noncustodial parent before support order establishment actions are taken. The customer service activity receives and responds to verbal and written inquiries concerning all of the department's child support cases. In addition, this activity educates customers and affected stakeholders.

**Exhibit 1**  
**The Program Performs Several Activities**



Source: Department of Revenue and OPPAGA analysis.

**Judicial process.** Before 2001, all Florida child support orders were established and modified through the judicial system. As shown in Exhibit 2, in the judicial process Title IV-D cases requiring a support order are developed by the Department of Revenue (DOR) and then referred to a legal service provider. These legal service providers are public and private attorneys who represent the department during the judicial process. The legal service providers prepare petitions and motions, file the paperwork with the clerks of court, and represent the department during hearings.

Once a case is filed with the clerk of court, a summons is sent to a process server to attempt service on the respondent (generally the non-

custodial parent). If the summons is not served, additional summonses and service attempts may be initiated until the respondent is served. A case cannot proceed to final order until the service is completed. Once the summons is served and the respondent has had an opportunity to respond to the summons, the legal service provider then schedules a court hearing and sends a notice of hearing. Cases may be heard by judges, general masters, or hearing officers. In cases heard by general masters and hearing officers, a recommended order is prepared and signed by the general master or hearing officer and is then sent to a judge who signs the final order. If a judge presides over the hearing, a final order is issued and the judge signs the final order.

**Administrative process.** The 2001 Legislature authorized the Department of Revenue to establish child support orders administratively without judicial involvement. Administrative orders have the same authority as judicial orders but allow the Child Support Enforcement Program to issue a support order without the need for a court hearing. As shown in Exhibit 3, under this process the noncustodial parent is served by certified mail or process server when the process to establish a support order begins and is requested to provide the necessary financial information to establish the support order amount. After a specified response time, the department develops a proposed order for support, which is sent to both parents for review. During this review period, the noncustodial parent may request an informal discussion with the department or an administrative hearing with the Division of Administrative Hearings (DOAH). If no request is received during the review period, the

department renders a final administrative support order and mails copies to both parents.

**Pilot Study.** The pilot began July 1, 2001. The department identified 727 cases that met the criteria for administrative establishment of a child support order and assigned these cases to the pilot study pool. The department randomly assigned eligible cases to administrative and judicial groups. Support orders for cases assigned to the administrative group were established through the administrative process, while the existing judicial process in Volusia County was used to establish child support orders for the judicial group.<sup>3</sup>

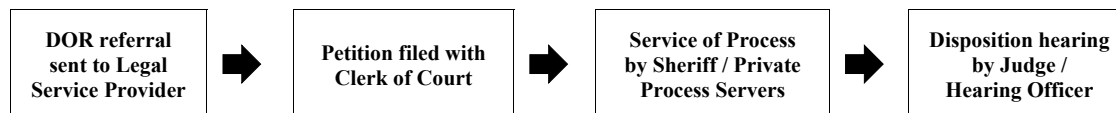
DOR submitted its required implementation report on June 30, 2002.<sup>4</sup> The department's preliminary results indicated that final support orders were established in cases handled administratively in a significantly shorter period. The department did not report conclusions regarding the costs to establish these orders, as it did not collect costs for significant activities, such as DOAH hearings, judicial hearings, and informal discussions. Additionally, the report stated that little difference existed between the payment rates of noncustodial parents with administrative or judicial orders.

<sup>3</sup> Our analysis indicated that the department's assignment of cases did not produce equivalent administrative and judicial groups. The cases assigned to the judicial group had a higher percentage of cases involving a relative as the caretaker petitioning for child support. Because these types of cases generally take longer to establish an order and have lower rates of the noncustodial parent complying with the order, we adjusted for this difference when comparing the outcomes of the administrative and judicial processes. (See Appendix A for additional details of the adjustments made to reported data).

<sup>4</sup> Florida Department of Revenue, *Administrative Establishment of Support Obligations Implementation Report, June 30, 2002*.

## Exhibit 2

### Before 2001, All Support Orders Were Established Through the Judicial Process



Source: Department of Revenue and OPPAGA analysis.

## Results of Pilot Study——

Our analysis of the cases expanded on the department's study and examined case outcomes through March 2003. We concluded that the administrative process established uncontested child support orders quicker than the judicial process—uncontested support orders in the administrative pilot were established on average 46 days faster through the administrative establishment process than via the judicial process.<sup>5</sup> However, compliance with support orders was better for those orders established through the judicial process. A contributing factor to the lower collection rates for administrative support orders was the lack of involvement of noncustodial parents during the establishment process.

### ***Administrative establishment of support orders is faster and more cost-effective for uncontested cases***

As shown in Exhibit 4, the pilot study showed that support orders for uncontested cases were established faster through the administrative process than through the judicial process. Uncontested cases that did not require an administrative hearing to establish the support order were established in an average of 49 days, which was 46 days faster than the average time to establish an order through the judicial process.<sup>6</sup> Uncontested cases were established

faster through the administrative process because they did not require a hearing. However, when a noncustodial parent requested an administrative hearing and an administrative law judge adjudicated the case, there was little difference in the time to establish the order between the administrative and judicial processes.

The use of certified mail to provide notice in lieu of personal service of process (in which a law enforcement officer or private process server physically delivers court summons to a defendant) serves to reduce the time to establish child support orders. In the administrative process, the program uses certified mail in its initial attempt to serve the noncustodial parent with a notice that the department has commenced proceedings to establish a child support order. If service of process is not successful through certified mail, personal service of process is attempted. Service of process was completed via certified mail in 70% of the cases in the administrative group of the pilot study. When service of process via certified mail was successful, typically the time to complete this activity was only 5 days, which was 17 days faster than the time required for personal service of process for the judicial group.

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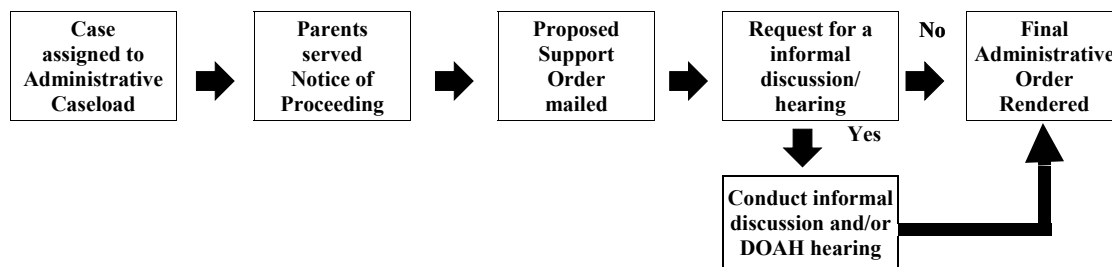
DOAH hearing, both parties have the right to use legal counsel to file pleadings and present their case to the administrative law judge. If either party is dissatisfied with the judge's decision, either may appeal the decision to a district court of appeal. *OPPAGA Special Examination: Division of Administrative Hearings Method of Assessing Fees Needs Significant Revision, Report No. 02-70*, December 2002, provides a detailed description of the DOAH hearing process.

<sup>5</sup> Based on the median time to establish a support order. See Table A-4 in the appendix for a comparison of the average and median time.

<sup>6</sup> An administrative hearing is similar to a court proceeding. In a

### **Exhibit 3**

#### **A Pilot Study of the Administrative Support Order Establishment Process Was Conducted in One County**



Source: Department of Revenue and OPPAGA analysis.

The pilot study also indicated that it was more cost-effective to establish uncontested support orders through the administrative process. As shown in Exhibit 4, the department reported that its average cost to establish a support order through the administrative process was \$45.82 for cases that did not require an administrative hearing. This was materially lower than the reported department costs of \$122.62 to establish a support order through the judicial process.<sup>7</sup> The actual difference in costs was likely substantially greater, as the department did not collect costs for administrative hearings, judicial hearings, clerk of court filing and record maintenance. For uncontested support orders, inclusion of these activity costs would serve to increase the reported overall costs for the judicial support order establishment process, while having a minimal impact on the administrative support order establishment process. We were unable to determine which child support establishment process was more cost effective when support orders were contested and required an administrative hearing. Although the pilot study did not identify a cost for these hearings, they could be substantial if the Division of Administrative Hearings (DOAH) subsequently heard the case.

#### Exhibit 4 The Administrative Support Order Establishment Process Was Faster and More Cost-Effective for Uncontested Cases

	Median Time to Order	Cost to Establish Order
Uncontested administrative orders	49 days	\$45.82
Contested administrative orders	101 days	Undetermined
Judicial orders	95 days	\$122.00

Source: Department of Revenue and OPPAGA analysis.

In addition to the actual hearing cost, a DOAH hearing requires costs associated with travel to the hearings by the administrative law judge. DOAH assesses a fee for these services that is

based on the number of hours that are scheduled for these hearings.<sup>8</sup>

#### ***Compliance was better for support orders established judicially***

As shown in Exhibit 5, results from the pilot study show that support order compliance was better with judicially established orders. We determined that 85% of the noncustodial parents with a judicially established support order had contributed to their support order obligation. Conversely, only 71% of the noncustodial parents with an administratively established support order made a partial or full payment. In addition, noncustodial parents paid 65% of their total child support obligation for judicially established support orders, compared to 54% of the total child support obligations of administratively established orders.

#### Exhibit 5 The Judicial and Administrative Support Order Establishment Processes Produce Different Outcomes

	Administrative Process	Judicial Process
Percentage of orders with a payment	71%	85%
Percentage of obligated child support collected	54%	65%

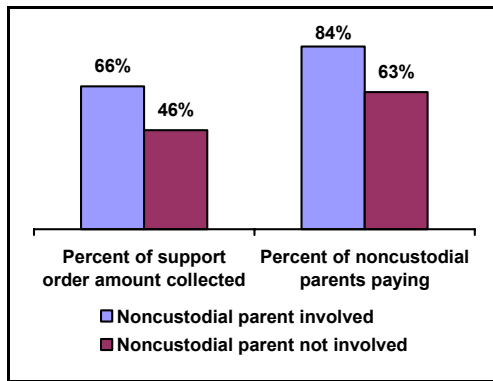
Source: Department of Revenue and OPPAGA analysis.

One factor that contributed to the lower collection rates for administrative support orders was the lack of involvement of noncustodial parents during the establishment process. Only 41% of noncustodial parents in the administrative cases provided a financial affidavit, participated in a scheduled informal discussion or an administrative hearing. In contrast, among judicial cases the noncustodial parent provided a financial affidavit or appeared in court in 94% of the cases. Regardless of the process to establish a support order, those cases with some involvement of the noncustodial parent had higher rates of compliance (see Exhibit 6).

<sup>7</sup> These average costs are as reported in the Florida Department of Revenue, *Administrative Establishment of Support Obligations Implementation Report*, June 30, 2002.

<sup>8</sup> See *OPPAGA Special Examination: Division of Administrative Hearings Method of Assessing Fees Needs Significant Revision, Report No. 02-70*, December 2002, for a detailed description of the DOAH fee assessment methodology.

**Exhibit 6**  
**Involving Noncustodial Parents in the Process**  
**Increases Compliance with the Support Order**



Source: Department of Revenue and OPPAGA analysis

***Changes in administrative process would increase collections***

We identified two changes to the child support establishment process that would help to improve the overall effectiveness of the program by increasing the amount of child support that is collected:

- assigning contested cases to the judicial establishment process; and
- scheduling informal discussions with noncustodial parents and incorporating the option to use mediation services into the administrative support order establishment processes.

Future studies will evaluate the outcomes of the administrative child support order establishment process.

**Contested cases should be assigned to the judicial process.** First, we believe that the administrative process should be limited to uncontested child support cases. Before 2001, all of Florida's child support establishment cases were handled through the judicial process, which has proven to be an effective method to adjudicate contested cases. Florida's judicial system employs hearing officers with extensive experience in adjudicating child support orders. In addition, Florida's judicial system has the

necessary resources to adjudicate all contested child support cases in a timely manner.

The use of administrative hearings in the administrative child support process serves the same purpose as court hearings in the judicial process. Statewide implementation of the administrative process to establish child support orders will likely substantially increase DOAH's overall workload and may necessitate a significant increase in its funding. Approximately 8% of the support orders in the pilot project that were processed administratively required a DOAH hearing.<sup>9</sup> If these pilot study results were realized statewide, approximately 1,600 DOAH hearings would be needed annually once the administrative support order establishment process becomes fully implemented.<sup>10</sup> Should this increase in cases occur, it would represent an increase of 30% to DOAH's annual number of hearing hours and may require increased staffing levels to manage this new caseload.<sup>11</sup>

Statewide implementation of the administrative process would also require DOAH administrative judges develop the expertise to adjudicate these cases, although this expertise already exists in the judicial system. Administrative law judges assigned to DOAH conduct administrative hearings on a wide variety of topics, such as professional licensing and disciplinary action, environmental permitting, public procurement, growth management, and certificates of need for health care facilities.<sup>12</sup> However, most of the administrative law judges currently employed by DOAH have little or no experience with child support establishment and may initially require

<sup>9</sup> Seventeen of the 221 cases in the pilot study with support orders established through the administrative process included a DOAH hearing.

<sup>10</sup> This estimate is based on the program establishing 67,000 support orders per year, with 30% of these orders established administratively and 8% of these administratively established cases requiring an administrative hearing.  $(67,000 \times 0.30 \times 0.07) = 1,608$  administrative hearings per year. This estimate does not consider the impact of the process changes made to the administrative process during the statewide implementation and assumes that the characteristics of the pilot county and results of the pilot study will be the same for Florida.

<sup>11</sup> Based on the reported number of actual hearing hours in Fiscal Year 2000-01.

<sup>12</sup> As specified in ss. 120.569 and 120.57(1), F.S.

additional preparation and hearing time to adjudicate these cases.

In addition, administrative hearings will not replace the judicial process for adjudicating contested cases. The judicial system will still be extensively involved in the child support establishment process even after the administrative process is fully implemented. Based on the results from the pilot study, we estimate that 70% of the department's child support order establishment cases will continue to be processed through the judicial process. Also, noncustodial parents have the ability to appeal decisions entered by administrative law judges and to have administratively established orders subsequently modified through the judicial process. Consequently, building a duplicate system with the Division of Administrative Hearings may not be a cost-effective use of state resources.

To improve the overall effectiveness of its child support enforcement program, we believe that all contested child support establishment cases should be adjudicated through the judicial process. To do so, the department should identify cases that are likely to become contested and assign these cases to the judicial support order establishment process. When cases assigned to the administrative process are identified as contested, the department should transfer them to the judicial process. In addition, the department should transfer cases to the judicial process when considerations identified in Florida's child support guidelines warrant a deviation from the calculated guideline amount, but agreement cannot be reached among the affected parties.<sup>13</sup>

**Promote noncustodial parent involvement in the support order establishment process.** Second, we believe that the department should promote noncustodial parental involvement in the child support establishment process. The pilot study demonstrated that support order compliance improves when noncustodial parents are involved in the support order establishment process. The department currently offers noncustodial parents the opportunity to request

an informal discussion during the administrative order establishment process. These discussions are beneficial as they provide the department with the opportunity to ensure that the noncustodial parent understands the child support order establishment process, as well as his or her rights and responsibilities relating to child support order compliance. In addition, an informal discussion with the noncustodial parent can help ensure that the financial data needed to accurately compute the child support amount is provided. Although the cost to conduct informal discussions was not included in the pilot study results, we believe that informal discussions with noncustodial parents are a cost-effective activity that will facilitate increased collections, reduced enforcement costs, and result in possible increases in federal incentive payments. These scheduled informal discussions were held in less than 4% of the administrative establishment cases.

Offering mediation services as part of the administrative process can also increase noncustodial parental involvement in the support order establishment process.<sup>14</sup> Mediation has proven to be highly successful in obtaining agreements for contested child support cases, thus eliminating the need for cases to be resolved through an administrative or judicial hearing. Research studies also have found compliance is better when mediation is successful in producing voluntary child support agreements.<sup>15</sup> *Our Justification Review of Florida's Child Support Enforcement Program* recommended that the program increase its use of mediation services in the judicial support

<sup>14</sup> Mediation involves both the custodial and the noncustodial parent and may include issues other than the proposed support order amount, such as access and visitation rights. Mediation is an informal and non-adversarial process in which a neutral third person or mediator helps disputing parties reach a mutually acceptable and voluntary agreement.

<sup>15</sup> For example, a recent Department of Health and Human Services Report, *Effectiveness of Access and Visitation Grant Program*, Report Number OEI-05-02-00300 reported that a recent study of nine community and court-based programs offering mediation to IV-D clients found that the amount of currently owed child support paid by noncustodial parents increased by 35% after participating in mediation services.

<sup>13</sup> As specified in s. 61.30(11)(a), *F.S.*

order establishment process.<sup>16</sup> We believe that the benefits of mediation services to the dependent child and program performance can also be realized through the administrative support order establishment process. Mediation services can be fully funded from the Temporary Assistance to Needy Families (TANF) Block Grants.<sup>17</sup>

To increase noncustodial parental involvement in the support order establishment process and improve compliance, the department should schedule informal discussions with noncustodial parents as part of the administrative support order establishment process. It should include a notification of the scheduled informal discussion in its mailing of the Notice of Proceeding to the noncustodial parent. Should the noncustodial parent fail to attend this scheduled informal discussion, notice of another scheduled informal discussion could be included with the Proposed Administrative Support Order.<sup>18</sup> In addition to providing a scheduled time and date, these notices should identify the purpose and objectives of the informal discussion.

The department could work with the Agency for Workforce Innovation to utilize available TANF funding and contract for mediation services with local vendors. Once these contracts are established, the role of department staff in mediation should be to inform each parent of the availability of these services. Should each affected party agree to participate in a mediation program, the department should then direct them to a contracted vendor to provide these mediation services. If the parties reach an agreement, a consent order is prepared by the mediator and submitted to the department for review and, if approved, entered as an order.

<sup>16</sup> OPPAGA Justification Review of the Florida Child Support Enforcement Program, [Report No. 00-24](#), December 2000 provides a detailed description of mediation services and our associated recommendations.

<sup>17</sup> The Personal Responsibility and Work Opportunity Reconciliation Act created the Temporary Assistance to Needy Families (TANF) Block Grant for state programs that serve needy families. States may use TANF funds to promote the formation and maintenance of two-parent families.

<sup>18</sup> Participation in an informal discussion by the noncustodial parent should not be a requirement of the order establishment process.

## Future studies will evaluate support order compliance performance outcomes

In addition to authorizing the department to implement a statewide administrative support order establishment process, the 2002 Legislature required that the process include specific procedures designed to safeguard each parent's legal rights. Also, based on the results of the pilot study, the department made changes to its support order establishment process. (Exhibit 7 provides a summary of the significant changes made to administrative support order establishment process).

### Exhibit 7

#### The Statewide Administrative Process Implemented Statutory and Policy Changes That Provide Additional Safeguards to Ensure Legal Rights Are Protected

<b>Administrative Process Case Eligibility Criteria</b>	<ul style="list-style-type: none"> <li>Department policy changed to exclude cases with 'complex' deviation/special needs/multiple families. For example this policy change will now exclude cases where a relative is the primary caretaker, the mother is the noncustodial parent (NCP) and there is more than one father involved in the case.</li> <li>Department policy changed to exclude cases where the custodial parent or noncustodial parent does not speak English or is a minor.</li> </ul>
<b>Service of Process</b>	<ul style="list-style-type: none"> <li>Statutory change requiring that the department confirm whether the notice was received if someone other than the addressee is served by certified mail and to personally serve if confirmation of receipt is not obtained.</li> <li>Department policy changed to require a confirmation of the receipt of notice when the signature is illegible and attempt personal service if confirmation is not obtained.</li> </ul>
<b>Response to Initial Notice</b>	<ul style="list-style-type: none"> <li>Statutory change requiring the department to terminate the administrative process and initiate the judicial process upon receipt of a written request by the NCP.</li> </ul>
<b>Proposed Order</b>	<ul style="list-style-type: none"> <li>Department policy changed to allow deviation from Florida's child support guidelines under the same criteria for judicial established support orders.</li> </ul>

Source: Department of Revenue.

While the changes made by the Legislature and department to the administrative process used in the pilot study helped to ensure adequate due process, these changes may also affect performance outcomes. Consequently, the results from the pilot study may not be predictive of statewide performance when the administrative support order establishment process is fully implemented. In addition, although results from the pilot study strongly indicate that there are differences in outcomes between the judicial and administrative support establishment processes, the overall effectiveness of each process could not be determined because some support order compliance outcomes were not available.

In conjunction with the statutory requirement to report on the statewide implementation of the administrative support order establishment process, the department advised that it plans to conduct an extensive statewide study. The department has agreed to work with OPPAGA to help ensure that a comprehensive statewide assessment of Florida's administrative child support establishment process is provided to the Legislature. Specifically, the department has agreed to allow OPPAGA to review the methodology used to conduct the study to include case selection, data validity, and reliability, and performance outcomes. This will help ensure the integrity and usefulness of the data provided for OPPAGA's evaluation of the statewide implementation of the administrative process due January 31, 2005. The department has also agreed to incorporate the collection of support order compliance data from pilot study cases into the statewide study.

## Conclusions and Recommendations

The administrative process appears to be a more efficient process for establishing uncontested child support orders. However, the results from the pilot study also indicate that compliance with support orders is better when orders are established through the judicial process. A contributing factor to the lower collection rates for administrative support orders was the lack of

involvement of noncustodial parents during the establishment process.

To improve the overall effectiveness of Florida's Child Support Enforcement Program we recommend the department take the actions described below.

- Reduce the number of contested administrative cases by using pilot study results to identify cases that are likely to become contested and subsequently, assign these cases to the judicial support order establishment process.
- Transfer cases from the administrative process to the judicial process when identified as contested. Specifically, cases should be transferred when a noncustodial parent requests a hearing and when considerations identified in Florida's child support guidelines warrant a deviation from the calculated guideline amount, but agreement cannot be reached among the affected parties.
- Increase noncustodial parent involvement in the child support establishment process and improve compliance by scheduling informal discussions with noncustodial parents and offering mediation services as part of the administrative support order establishment process.

## Agency Responses

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Department of Revenue and to the Office of the State Courts Administrator for each to review and respond.

The executive director of the Department of Revenue and the Office of the State Courts Administrator provided written responses to our preliminary and tentative findings and recommendations. Those responses are reprinted herein (Appendix B, pages 12 through 16). Where necessary and appropriate, OPPAGA director's comments have been inserted into the responses.

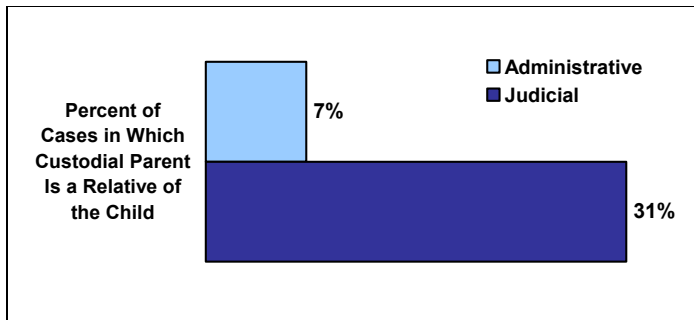
## Appendix A

# Methods Used to Adjust Performance Measures

*Random assignment of cases did not produce equivalent administrative and judicial groups.*

Table A-1 indicates that the cases assigned to the judicial process had a higher percentage of cases involving a relative as the caretaker petitioning for child support. The non-custodial parent in these types of cases is often the mother. Because these types of cases generally take longer to establish an order and have lower rates of the non-custodial parent complying with the order regardless of the process used to establish the order (see Table A-2), these performance measures are lower for the judicial process than they would have been if the random assignment had produced equivalent groups.

**Table A-1**  
Cases Assigned to the Judicial Process Were More Likely to Involve a Relative as the Caretaker Petitioning for Child Support



Source: OPPAGA analysis of pilot study data.

**Table A-2**  
Cases Where a Relative Is Petitioning for Child Support Take Longer and Have Lower Rates of Payment

Type of Case	Median Days to Serve Notice of Process	Median Days to Establish Support Order	Percentage of Non-Custodial Parents Making Payments	Percentage of Support Order Payments Collected
Child's relative petitioning for support	27	99	61%	37%
Child's parent petitioning for support	16	72	83%	63%

Source: OPPAGA analysis of pilot study data.

***Adjusting performance measures to account for non-equivalent groups***

It is important to adjust the time to establish orders and rates of complying with the order when comparing the administrative and judicial processes. We used an adjustment procedure that weights the cases based on who was petitioning for child support and which support order establishment process was used. After weighting the data, the percentage of administrative cases involving a relative petitioning for support and the percentage of judicial cases involving a relative petitioning for support are similar to that for all cases (see Table A-3). Table A-4 shows the effect of our adjustments on the performance measures.

**Table A-3**  
**Using Weights to Adjust for Non-Equivalent Groups**

Process to Establish Supp	Type of Case	Adjustment	Unadjusted Percentage of es	Adjusted Percentage of Cases
<b>Administrative</b>	Child's relative petitioning for support	3.560	5%	18%
	Child's parent petitioning for support	0.866	95%	82%
<b>Judicial</b>	Child's relative petitioning for support	0.523	34%	18%
	Child's parent petitioning for support	1.245	66%	82%

Source: OPPAGA analysis of pilot study data.

**Table A-4**  
**Comparison of Adjusted and Unadjusted Performance Measures**

Performance Measure	Administrative		Judicial	
	Unadjusted	Adjusted	Unadjusted	Adjusted
Average days to serve notice of process	22	24	29	29
Median days to serve notice of process	8	9	24	22
Average days to establish support order	67	69	108	108
Median days to establish support order	49	53	96	95
Average current support order amount	\$329	\$314	\$272	\$282
Median current support order amount	\$266	\$251	\$241	\$253
Percentage of noncustodial parents making payments	77%	71%	82%	85%
Percentage of support order payments collected	59%	54%	61%	65%

Source: OPPAGA analysis of pilot study data.

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Project conducted by Shruti Graf (850/487-2512), Steve Harkreader (850/487-9225) and Chuck Hefren (850/487-9249)

John W. Turcotte, OPPAGA Director

## Appendix B



Harry Lee Anstead  
Chief Justice

Robin L. Lubitz  
State Courts Administrator

**Office of the State Courts Administrator**

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Email: [osca@flcourts.org](mailto:osca@flcourts.org)

June 25, 2003

Mr. John W. Turcotte, Director  
Office of Program Policy Analysis and Governmental Accountability  
Claude Pepper Building, Room 312  
111 W. Madison St.  
Tallahassee, FL 32399-1475

Dear Mr. Turcotte:

Thank you for the opportunity to review the OPPAGA's Special Examination of the Administrative Child Support Process. The judiciary has been following this issue with interest, as we continue our efforts to examine and improve judicial processing of child support cases. The report highlights many of the issues that the courts have identified as important to improvement of the process: expedient issuance of orders of support, participation by non-custodial parents, the availability of mediation for participants and employment of strategies to increase collections.

We are pleased that the OPPAGA has acknowledged the child support hearing officer system as an efficient method of resolving child support cases. This system is invaluable to the judiciary in accomplishing timely issuance of orders and the expertise developed by both the judges and the hearing officers goes a long way to serve the families of Florida.

For some time, our office has been exploring ways to streamline the child support process. OPPAGA's suggestion of utilizing mediation for child support cases has a number of benefits. The correlation between mediation and increased collection of child support is well-established and thus, increased availability of mediation should result in more revenues collected more quickly for children in Florida. Additionally, use of mediation is consistent with the goals established by the Florida Supreme Court in refining its family courts, as it will enable parties to resolve their disputes on their own and conserve judicial resources for cases that are contested.

We look forward to working with the OPPAGA and the Department of Revenue on the issues identified in this report and in the future as the statewide implementation of the administrative process is evaluated. Thank you.

Sincerely,

/s/

Robin L. Lubitz

RLL:DAL



**DEPARTMENT OF REVENUE**  
TALLAHASSEE, FLORIDA 32399-0100

JIM ZINGALE  
EXECUTIVE DIRECTOR

June 26, 2003

Mr. John W. Turcotte, Director  
Office of Program Policy Analysis and  
Government Accountability  
111 West Madison Street, Room 312  
Tallahassee, Florida 32302

Dear Mr. Turcotte:

Attached is the Department's response to the preliminary findings and recommendations presented OPPAGA's draft report, *Special Examination: Administrative Establishment of Child Support Is Efficient for Uncontested Cases; Compliance Is Better for Orders Established Judicially*, dated June 2003.

We appreciate the professionalism displayed by your staff during this review. Due to the absence of our Inspector General Fred Roche, if further information is needed, please contact Sharon Doredant, Audit Administrator, at 487-1037.

Sincerely,

/s/  
Jim Zingale

JZ/bsa

**Response to Preliminary Findings and Recommendations  
Special Examination: Administrative Establishment of Child Support  
Is Efficient for Uncontested Cases;  
Compliance Is Better for Orders Established Judicially**

The Department of Revenue (DOR) reviewed the OPPAGA Special Examination of the Department's pilot study of the administrative establishment of child support orders in Volusia County. The Department offers the following comments in response to the findings and recommendations.

**Recommendation: Reduce the number of contested administrative cases by using pilot study results to identify cases that are likely to become contested and subsequently assign these cases to the judicial support order establishment process.**

**Response:** Partially concur with the recommendation.

Current law provides for diverting child support cases to the judicial process when issues related to support are contested. Chapter 2002-239, s. 3, Laws of Florida amended s. 409.2563, F.S., to require the Department to terminate an administrative proceeding and commence a court action upon timely request and waiver of service of process by the noncustodial parent (s. 409.2563(2)(f), (4)(m), and (4)(n), F.S.). This provision is applicable to any case in which the noncustodial parent timely notifies the Department of the intent to raise issues concerning custody or rights to parental contact. Section 409.2563(2)(b) and (e), F.S., also provides that neither the Department nor the Division of Administrative Hearings has jurisdiction to adjudicate disputed paternity, change of custody, visitation and other family law matters. The Department provides written notice to both parents of these limitations as well as notice of the right to file an action in circuit court at any time to determine support rights in accordance with s. 409.2563(2)(d), F.S.

As indicated in Exhibit 7 of the report, the Department changed the case eligibility criteria to exclude cases that have complex deviation, special needs, and multiple family issues, and when either parent is a minor. These changes were a result of reviewing pilot cases and an attempt to direct these types of cases to the judicial process prior to commencing an administrative proceeding.

The Department believes that the statutory provisions and the enhancements made to the eligibility criteria presented in Exhibit 7 are sufficient to screen out potential contested cases prior to commencing an administrative proceeding. Additional review of the pilot study results is not necessary. The Department continues to review individual case situations under statewide implementation to determine which process would be most beneficial to families.

**Recommendation:** Transfer cases from the administrative process to the judicial process when identified as contested. Specifically, cases should be transferred when a noncustodial parent requests a hearing and when considerations identified in Florida's child support guidelines warrant a deviation from the calculated guideline amount, but agreement cannot be reached among the affected parties.

**Response:** Do not concur with the recommendation.

The Department knows of no legal mechanism, and none is suggested in the report, for transferring a pending administrative proceeding to circuit court for a judicial determination of support. Under Florida Rule Civil Procedure 1.050, which applies in all family law cases, there is only one way to commence a civil action, and that is by filing a petition or complaint in circuit court. Once a civil action is commenced, the respondent must be served as provided by Rule 1.070 and Family Law Rule 12.070. The only way the Department knows to implement recommendation would be to terminate the pending administrative proceeding when the noncustodial parent makes a timely written request for a hearing and then commence a new civil action.

***OPPAGA Director's Comment***

***Terminating the pending administrative proceeding and commencing a new civil action is the procedure OPPAGA recommends for implementing our recommendations.***

Adopting this recommendation would appear to substantially increase the state's costs and result in unnecessary delays in establishing child support orders. This approach is contrary to the Administrative Procedure Act, Chapter 120, F.S., which provides for the right to administratively challenge intended agency action. Without the right to an administrative hearing, there is no administrative process and the associated cost savings and efficiencies are lost.

The Department is required by ss. 409.2563(2)(c), (4)(f), (5)(a), and (7)(e), F.S., to apply the state's child support guidelines in s. 61.30, F.S. Under s. 61.30, F.S., the Department has a duty to deviate from the presumptively correct guideline amount if its application would be unjust or inappropriate for any of the reasons enumerated in s. 61.30, F.S., and the Department informs parents of the availability of the deviation factors in its initial notice. This approach is consistent with federal law, which provides that state-mandated guidelines must be rebuttable (45 C.F.R. s. 302.56(f)). The Department believes parents in the administrative process should have the same right to seek deviations as those in the judicial process and that the Department and the Division of Administrative Hearings are able to determine guideline deviations appropriately.

**Recommendation: Increase noncustodial parent involvement in the child support establishment process and improve compliance by scheduling informal discussions with noncustodial parents and offering mediation services as part of the administrative support order establishment process.**

**Response:** Partially concur with the recommendation.

The Department agrees that involvement of the noncustodial parent is both beneficial and desirable when establishing a support obligation. The Department also believes that meaningful involvement in the process is likely to result in increased compliance with a support order. However, there are other factors that could explain differences in the compliance rates between the administrative and judicial orders established during the pilot. Judicial enforcement remedies were available for court orders but were not available for administrative orders during the pilot. Other influential factors, including the noncustodial parent's availability of income, assets, employment and suspension of driver's licenses may have contributed to the variance.

The Department will continue to explore options to encourage noncustodial parents' involvement in the process. Encouraging involvement may be accomplished through a variety of methods. The Department will consider options including scheduling informal discussions.

The current administrative process emphasizes the availability of, and the Department's willingness to engage in, informal discussions to exchange information, clarify issues, and reach agreement. The Department will review the mediation provisions in s. 120.573, F.S., and determine if implementing mediation within an administrative proceeding would improve the process. The Department feels it is important to note that the statute requires the Department to calculate the guidelines pursuant to s. 61.30, F.S., and therefore would not have the authority to waive support or to grant concessions in the amounts and types of support required by law, so there is potentially little that could be achieved through mediation.