oppaga
OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY

September 2006 **Report No. 06-63**

Administrative Child Support Order Establishment Process Has Not Yet Produced All Expected Benefits

at a glance

The Department of Revenue has implemented an administrative process to establish child support orders, and this process includes specific procedures designed to protect due process and ensure parents' access to the court system. While this process has the potential to improve program outcomes, it has not yet produced the expected number of support orders. While the process is somewhat faster than establishing orders through the courts, it takes an average of over seven months to complete, and costs for administrative hearings are higher than those for judicial hearings.

The department should develop a strategic plan to improve the administrative process and achieve all intended benefits. The plan should establish performance measures and expected outcomes for the administrative process, including the number of support orders to be established; the percentage of cases in which the administrative process is begun but then terminated without resulting in a support order; the average time required to complete the process; the average cost per completed child support order; and the level of compliance with administrative support orders. This strategic plan should be submitted in conjunction with the department's Legislative Budget Request for Fiscal Year 2007-08.

Scope

As specified in Section 409.2563, *Florida Statutes,* OPPAGA evaluated the administrative process for establishing child support obligations. Our evaluation assessed the cost, timeliness, and compliance rates of support orders established through the administrative process compared to support orders established through the judicial process.

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 Department of Health and Human Services. Families receiving public assistance are required to participate in the Child Support Enforcement Program. Families that do not receive federal public assistance also are eligible for program services.

The Department of Revenue (DOR) 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, which include responding to parent inquiries and processing complaints.

Case intake is performed at 44 local service centers located throughout the state and includes collecting information to determine the next appropriate activity for the case. Depending on the services needed, cases may then be transferred to paternity establishment, support order establishment, support order modification, or support order collection and enforcement

activities. For example, if a parent applies for services and paternity has been established, the case is transferred to the support order establishment activity; the case will be transferred to the paternity determination activity if the identity of the noncustodial parent is not known. As part of the intake process, cases directed to the support order establishment activity are reviewed to determine whether they are appropriate for the judicial or administrative process.

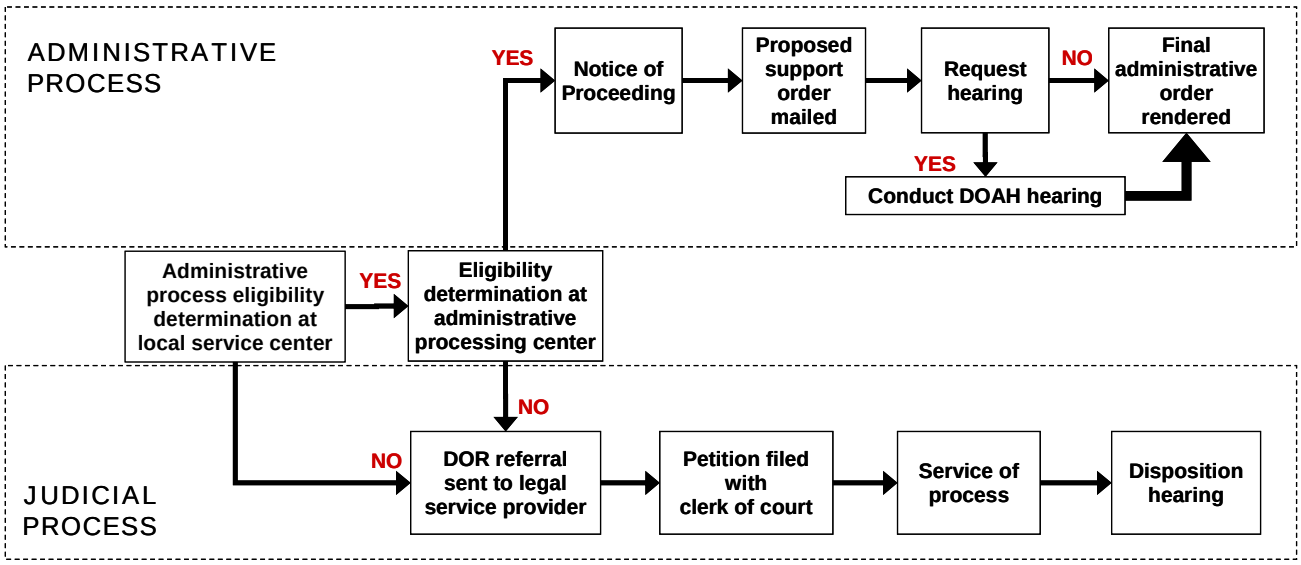
Judicial process. Cases referred to the judicial process are retained at the local service center. The cases are referred to legal service providers who are public and private attorneys that represent the department during judicial proceedings (see Exhibit 1). These legal service providers prepare petitions and motions, file documents with the clerks of court, and represent the department during hearings.

Once a case is filed with the clerk of court, a process server attempts to deliver a summons to the respondent (generally the noncustodial parent). A case cannot proceed to final order until this service of process is completed. Once the summons is served and the respondent has an opportunity to respond, the legal service provider schedules a court hearing and sends a notice of this hearing to the respondent. The court hearing may be conducted by judges, general masters, or hearing officers and is used to create a judicial order that establishes a legal obligation to pay child support.

Administrative process. Administrative orders have the same force and effect as judicial orders but allow the program to issue a support order without a court hearing. Cases determined to be eligible for the administrative process are transferred to the program's central processing center in Orlando. As shown in Exhibit 1, the noncustodial parent is served a notice of proceeding by certified mail or a process server and is requested to respond within 20 days and provide financial information that will be used to prepare a proposed support order. During this period, either parent can opt out of the administrative process and request that the case be handled judicially.

The department then develops a proposed child support order and sends it to both parents for review. During this period the noncustodial parent may request an informal discussion with the department. Informal discussions conducted by the department provide the noncustodial parent with the opportunity to submit additional information and clarify issues about the process.

Exhibit 1
Child Support Orders Can Be Established Through an Administrative or Judicial Process



Source: Department of Revenue and OPPAGA analysis.

Regardless of whether an informal discussion is held, the noncustodial parent may contest the proposed support order by providing a written request for a Division of Administrative Hearings (DOAH) hearing to the central processing center within 20 days after the mailing date of the proposed order. [1] Additionally, the noncustodial parent can request a judicial review of support orders issued by DOAH. If the noncustodial parent does not contest the proposed order by requesting a DOAH hearing, the department issues a final administrative support order that is mailed to both parents.

The administrative process was intended to improve the efficiency and effectiveness of Florida's Child Support Enforcement Program. The process was expected to improve program efficiency by reducing the time and cost to establish child support orders. In addition, the process was expected to improve program effectiveness by increasing the overall number of support orders established and limiting the use of the judicial process to complex cases in which a judicial officer is required, such as cases in which the noncustodial parent has other child support obligations.

Prior studies. The 2001 Legislature authorized the Department of Revenue to conduct a pilot study to determine whether the administrative method of establishing child support orders improved Florida's child support program. Volusia County was chosen as the pilot site. OPPAGA's evaluation of the pilot project, which operated from July 2001 through May 2002, determined that the administrative process was more efficient for establishing uncontested child support orders, although compliance with support orders was higher for those established through the judicial process. [2]

The 2002 Legislature authorized the department to expand the pilot project statewide. [3] In addition, the Legislature required that the process include specific procedures designed to ensure parents' access to the court system in conjunction with the process. [4] These legislatively required changes included enhancements to service of process requirements. Also, based on the results of the pilot study, the department made changes to its support order establishment process. For example, additional enhancements to the service of process procedure were made that required a confirmation of the receipt of notice when the signature is illegible.

DOR implemented the administrative process statewide by using a phased approach. The department began processing cases administratively in October 2002 and by November 2003 had completed implementation in all counties. DOR's preliminary assessment of the process, which was issued in June 2004, indicated that the administrative process established support orders in a shorter time period than the judicial procedure. [5] However, the department did not determine the cost-effectiveness of the administrative procedure as compared to the judicial process. [6]

Findings

The Department of Revenue's statewide implementation of the administrative process to establish child support orders has the potential to improve the efficiency and effectiveness of Florida's Child Support Enforcement Program. The department's implementation of the administrative process has produced some but not all expected benefits. Specifically,

- the courts have generally upheld the results of the department's administrative child support establishment process;
- fewer support orders are being established through the administrative process than were anticipated;

[1] When the noncustodial parent makes a timely request for an informal discussion, the time limit for the noncustodial parent to request a formal hearing is extended until 10 days from the date that the program informs the noncustodial parent that the informal discussions have concluded.

[2] *OPPAGA Special Examination: Administrative Establishment of Child support Is Efficient for Uncontested Cases; Compliance Is Better for Orders Established Judicially*, Report No. 03-36, July 1, 2003.

[3] As specified in s. 409.2563(17)(b), *F.S.*

[4] A summary of the significant changes made to the administrative process that help ensure each parent's legal rights are safeguarded can be found in OPPAGA's evaluation of the pilot project.

[5] *An Evaluation of the Statewide Administrative Support Order Establishment Procedure*, Florida Department of Revenue, June 30, 2004.

[6] The department's evaluation also examined compliance with support orders and noncustodial parent involvement in the establishment process. However, DOR concluded that results were not definitive due to the low number of orders established and limited collections history during the study period.

- the administrative process takes an average of 25 fewer days to establish support orders than through the courts, but takes over seven months to complete;
- compliance rates are similar; and
- while data does not allow a full assessment of the cost of establishing child support orders through the administrative and judicial processes, administrative hearings are more costly than judicial hearings.

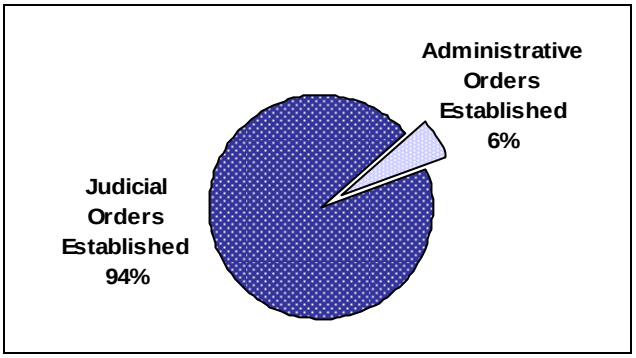
To increase the number of child support orders established through the administrative process and reduce its costs, the department should develop and implement a strategic plan that describes the methods the department will use to meet the intended goals of the administrative process and identifies expected outcomes the process is to achieve.

All expected benefits of the administrative process have not yet been realized

The courts have generally upheld the results of the department's administrative child support order establishment process. In authorizing the administrative child support order establishment process, the Legislature directed the department to take steps to ensure parents' access to the court system. The department has implemented such procedures, and the courts have generally upheld the department's administrative orders in cases in which parents appealed these orders. Since statewide implementation began in October 2002, 294 cases assigned to the administrative process were terminated and transferred to the judicial support order establishment process. Additionally, 1,066 (11.3%) of 9,468 administrative support orders were issued by DOAH after an administrative hearing; 7 other cases were denied an order by DOAH. [7] Of those support orders that were issued by DOAH, a subsequent judicial review was requested for 200 cases. As of August 25, 2006, six of these cases had completed the judicial review process, with the judicial ruling in favor of the department for three of these cases and in favor of the noncustodial parent for the remaining three cases. [8]

Fewer support orders have been established through the administrative process than was expected. Although the department projected that the administrative support order process would produce 5,000 child support orders in federal Fiscal Year 2004-05 (October 1, 2004, through September 30, 2005), it was used to establish only 2,866 orders during that period, slightly over half (57%) of the expected level. As shown in Exhibit 2, this represented only 6% of the total number of support orders established during that period (see Exhibit 2). [9]

Exhibit 2
6% of Fiscal Year 2004-05 Support Orders Were Established Through the Administrative Process



Source: OPPAGA analysis.

The administrative process is somewhat faster than the judicial process, but takes over seven months to complete. Establishing child support orders expeditiously is important because families often do not receive financial support from non-custodial parents until an order is in place.

Our analysis of support orders established through the administrative and judicial processes during federal Fiscal Year 2004-05 found that support orders established through the administrative process took an average of 227 days to complete (slightly over seven months), which was 25 days shorter than the average 252 days required to establish a support order through the judicial process (see Exhibit 3). [10] These time periods were longer than those reported by the Department of Revenue in June 2004—168 days for the judicial

[7] For the period October 1, 2002, through June 30, 2006.

[8] Of the remaining cases, 149 were dismissed due to failure to pay the filing fee, voluntary dismissal, etc., and 45 cases are pending.

[9] DOR reported that it established 48,081 support orders in federal Fiscal Year 2004-05. This total includes 9,517 cases in which Florida requested assistance from another state.

[10] The time to establish orders used the date of case screening and order establishment date as the start and end dates of each process.

process and 171 days for the administrative process. [11]

Exhibit 3
Time to Establish Orders Is Similar for Administrative and Judicial Processes

Process	Average Time to Order	Percentage of Obligated Child Support Collected
Administrative	227 days	66%
Judicial orders	252 days	68%

Source: OPPAGA analysis.

The average amount of time to establish support orders through the administrative process is affected by the Legislature and department's efforts to ensure parents' access to the court system. Ensuring that parents are able to exercise their right to an administrative hearing or judicial review can increase the average amount of time it takes to establish a support order because of the extra time necessary to schedule and conduct hearings and any subsequent appeals for these cases.

Compliance with support orders established through the two processes is comparable. Our analysis determined that payment rates for child support orders established through the two processes are comparable. As shown in Exhibit 3, noncustodial parents paid 66% of the amount of child support ordered by administratively established support orders, versus 68% of the child support obligations established by judicially established orders.

Costs for administrative hearings are higher than those for judicial hearings. Due to limitations in cost data available from DOR, we were unable to reliably determine whether establishing child support orders using the administrative process is less costly than using the judicial process. However, we were able to compare hearing-related costs of the two processes, and using this data determined that administrative hearings are more costly than judicial hearings.

We were unable to capture and compare the total costs of the administrative and judicial order establishment processes because DOR's accounting system combines department administered costs associated with initially establishing child support orders with the costs of modifying support orders. [12] Consequently, we were unable to reliably determine the cost associated with DOR administered activities to initially establish a support order through the judicial or administrative processes.

However, we were able to compare the costs of hearings for the two processes. Our assessment of judicial and administrative hearing costs concluded that the identified cost of DOAH hearings for administrative child support cases is substantially higher than the amount that was billed by courts for support order establishment hearings. We estimated that state courts charged DOR $56 to hold judicial establishment hearings for child support cases, although this does not include the full costs of these hearings (see Exhibit 4). We estimated that state courts billed DOR $2 million to establish 35,575 child support orders through the judicial process in Fiscal Year 2004-05, which equated to an average hearing cost of $56 per case. [13]

In contrast, DOAH assessed DOR $711,697 for child support hearings, an average of $1,816 per case. DOAH hearings are held when parents contest administrative child support orders. In Fiscal Year 2004-05, DOAH hearings were conducted for 392 (14%) of the support orders established through the administrative process. The cost of the DOAH hearings increased the overall average cost to establish orders through the administrative process by $248 per case.

[11] As reported in its statewide evaluation, the department assessed support orders that were established during the evaluation period, March 2003 through February 2004.

[12] DOR-administered activities include those performed by DOR staff, as well as those performed by private entities through contracts with the department.

[13] As specified in 45 CFR s. 304.21, state courts do not bill DOR for expenses that are not eligible for federal reimbursement. The estimated cost per case for court child support establishment hearings only include federally reimbursable expenses for which state courts bill DOR. We were unable to obtain an estimate of non-reimbursable expenses which include the cost incurred by state courts for judges. In addition, we were unable to obtain data on the cost incurred by the clerk of the courts for activities related to support order establishment, such as costs associated with filing, docketing, and processing cases. The estimated cost per case for DOAH child support establishment hearings includes all of the incurred costs.

Exhibit 4
Assessed Costs for Administrative Hearings Are Higher Than Those for Judicial Hearings

Process	Average Assessed Hearing Costs
Administrative	$248
Judicial orders	56

Source: OPPAGA analysis.

While we were able to calculate only the child support hearing costs that were billed to DOR, using available data we concluded that DOAH hearings are more expensive than judicial hearings primarily because they take longer. DOAH reported scheduling two child support establishment hearings each hour. Conversely, state court officials in Leon and Marion counties reported scheduling approximately eight child support hearings per hour. DOAH schedules fewer hearings because they are intended to be less formal than court actions and the administrative judges spend more time trying to ensure that parents are afforded the full opportunity to present all relevant information, understand the process, and learn their rights and responsibilities. The five administrative law judges who hear DOAH child support cases are generalists who also hear cases related to a wide variety of topics such as professional licensing, environmental permitting, public procurement, and growth management. [14] In contrast, most hearings in the judicial process are conducted by child support hearing officers who exclusively handle this type of case, and these staff can limit discussions to obtaining information necessary to establish an order and address relevant questions.

Effectiveness and efficiency of the administrative process can be improved

To better achieve the intended benefits of the administrative process, the Department of Revenue should take steps to improve the effectiveness and efficiency of the process. Specifically, the department should take steps to

- increase the number of cases assigned to the administrative support order process;
- reduce the amount of time needed to establish support orders through the administrative process;
- lower the percentage of administrative cases that are terminated before establishment of a support order; and
- reduce the average cost to establish a support order.

To achieve these goals, the department should consider several options: (1) selectively reviewing all case eligibility determinations; (2) identifying reasons for case delays and terminations; and (3) offering mediation and transferring contested cases to the judicial process when mediation is unsuccessful.

Selectively review all case eligibility determinations. Currently, DOR conducts two layers of screenings to determine if child support cases are eligible for the administrative process, which is costly and duplicative. The department has established eligibility criteria that are used to identify cases where the administrative process is appropriate. Prior to December 2005, cases were initially screened for eligibility through a computer-automated process and then subsequently manually reviewed for eligibility by staff at the central processing center. However, the department determined that the automated eligibility process was ineffective and the local service centers were directed to manually review cases at intake and refer those that met eligibility criteria to the central processing center. In Fiscal Year 2004-05, the department reported spending $216,967 on its manual eligibility review at the central processing center.

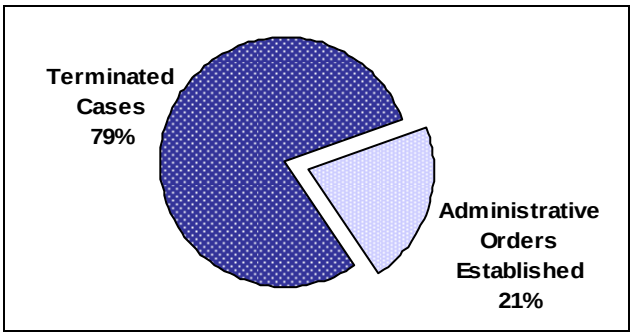
In addition to initiating a manual case screening at local service centers, the department has continued with its manual review of all cases received at the central processing center. This second review, however, has not resulted in identifying only those cases likely to successfully complete the administrative process. As shown in Exhibit 5, 79% of the cases that begin the administrative process subsequently are terminated without an administrative order being established.

It would be more cost-effective for DOR to take additional steps to ensure that local service center staff appropriately refers cases rather than to re-examine each case that is received by the central processing center. To identify steps the local centers should take to better screen cases, the central processing center should identify problems it has observed with local screening and

[14] As specified in ss. 120.569 and 120.57(1), *F.S.*

provide guidance to local service center staff on how to avoid these problems. This would enable DOR to limit secondary screenings to a quality assurance review of a sample of cases in order to identify problems in the screening performed by the local service centers, and substantially reduce the costs of these secondary reviews.

Exhibit 5
In Federal Fiscal Year 2004-05, the Administrative Process Was Terminated for 79% of the Cases



Source: OPPAGA analysis.

Identify reasons for case delays and terminations. A significant percentage of cases referred to the administrative process are terminated prior to an order being established. Exhibit 5 shows that in federal Fiscal Year 2004-05, the administrative process was terminated for nearly three-quarters of the cases prior to a support order being established. Specifically, the central processing center performed activities for 13,536 cases; however, for 10,670 (79%) of these cases the process was subsequently terminated without the establishment of a support order. The case was either closed or the establishment process was reinitiated, thus delaying the establishment of the support order.

DOR analyzed administrative cases that were terminated during its statewide study period March 2003 through February 2004. It determined that these cases are terminated for a wide variety or reasons including the custodial parent no longer required DOR's services, a judicial order was established for the case, and DOR was unable to locate the noncustodial parent.

The department should use statewide study results to reduce the number of administrative cases that are terminated before a support order is established. The department should identify the reasons for each termination and use this information to improve its eligibility determination process at local service centers. For example, the department should be able to reduce the number of cases terminated because the custodial and noncustodial parents were living together by requiring that additional information that identifies primary residence be collected during the case intake process. By improving the case eligibility determination process, the department can help to ensure that only cases that are likely to have an order established will enter the administrative process and avoid the delays caused by restarting the process.

Offer mediation and transfer contested cases to the judicial process. To avoid the relatively high costs associated with DOAH hearings for contested cases, DOR should offer mediation services when parents file for a hearing to contest an administrative child support order; if mediation is unsuccessful DOR should transfer the cases to the judicial process. Currently, parents who contest administrative child support orders may request a hearing before DOAH. These administrative hearings serve the same purpose as court hearings in the judicial process, but are substantially more costly.

Offering mediation services as part of the administrative process should reduce hearing-related expenditures and increase noncustodial parental compliance with support orders. [15] Mediation has proven to be highly successful in reaching 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 offered during the child support establishment process. [16]

[15] 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.

[16] For example, a recent U.S. Department of Health and Human Services Report, *OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes, September 2003*, found that regardless of whether the mediation was successful, compliance with child support orders increased significantly for parents after being offered mediations services. Program staff concluded that by offering mediation an excuse for nonpayment of child support was eliminated and noncustodial parent's anger and frustration with the system was reduced. The mediation referral also may have improved worker-client relationships, which may have had an effect on payment.

Mediation services can be fully funded from the Temporary Assistance to Needy Families (TANF) Block Grants. [17]

If mediation is unsuccessful, cases should be transferred to the less costly judicial process. Before 2001, all of Florida's child support establishment cases were handled through the judicial process, which has proven to be an efficient method to adjudicate contested cases. The judicial system employs hearing officers with extensive experience in adjudicating child support orders and has the necessary resources to process all contested child support cases in a timely manner. Allowing the courts to hear contested cases would avoid the $1,816 average cost of DOAH hearings and reduce assessed costs to the program.

Conclusions and Recommendations

Although the administrative process to establish child support orders has improved some program outcomes, it has not yet produced all expected benefits. Fewer support orders than anticipated are being established through the process, and while the process takes an average of 25 fewer days to establish support orders than through the courts, the process takes over seven months to complete. Moreover, the costs for administrative hearings are higher than those for judicial hearings.

We recommend that the Department of Revenue develop a strategic plan to improve the administrative process to fully achieve the intended benefits of reducing the time and cost needed to obtain child support orders and improving compliance with support obligations. In developing this plan, the department should consider the options we identified and establish performance measures and expected outcomes for the administrative process. At a minimum these performance measures should include the number of support orders established; the percentage of cases in which the administrative process is begun but then terminated without resulting in a support order; the average time required to complete the process; the average cost per completed child support order; and the level of compliance with administrative support orders. The department should compare its performance on each of these measures against the timeliness, cost, and effectiveness of support orders established through the judicial process.

The department should submit this plan in conjunction with its Legislative Budget Request for Fiscal Year 2007-08, which will enable the Legislature to review and approve these proposed performance outcomes. OPPAGA will then reassess the process using these approved performance outcomes in our statutorily required progress review. This progress review will inform the Legislature whether the department has resolved the problems in the current process and provide additional information on whether the process should be retained, modified, or discontinued.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes,* a draft of our report was submitted to the executive director of the Department of Revenue for review and response. The executive director's written response has been reproduced in Appendix A. Where necessary and appropriate, OPPAGA comments have been inserted into the response.

[17] The Personal Responsibility and Work Opportunity Reconciliation Act created the 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.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Kara Collins-Gomez (850/487-4257)

Project conducted by Chuck Hefren (850/487-9249), Jeanine Brown (850/487-4256), Steve Harkreader, and Charmietra Wilson

Gary R. VanLandingham, OPPAGA Director

Appendix A

FLORIDA
DEPARTMENT OF REVENUE

JIM ZINGALE
EXECUTIVE DIRECTOR

DEPARTMENT OF REVENUE
TALLAHASSEE, FLORIDA 32399-0100

September 13, 2006

Mr. Gary R. VanLandingham, Director
Office of Program Policy Analysis and
Government Accountability
Claude Pepper Building, Room 312
111 West Madison Street
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Attached is the Department's response to the preliminary and tentative findings and recommendations presented in OPPAGA's revised draft report, *Administrative Child Support Order Establishment Process Has Not Produced Expected Benefits*.

We appreciate the professionalism displayed by your staff during this review. If further information is needed, please contact Sharon Doredant, Acting Inspector General, at 487-1037.

Sincerely,

Jim Zingale

JZ/bso

Attachment

Response to Preliminary Findings and Recommendations:
Administrative Child Support Order Establishment Process
Has Not Produced Expected Benefits

The Department of Revenue has reviewed the OPPAGA report on the Administrative Support Order Establishment Process and offers the following comments:

The Florida Legislature provided the purpose and scope of the administrative establishment of child support obligations statutory procedure in section 409.2563(2), Florida Statutes. This section states that the procedure "is intended to provide the department with an alternative procedure for establishing child support obligations in Title IV-D cases in a fair and expeditious manner when there is no court order of support." This section further clarifies that the Department and the Division of Administrative Hearings do not have jurisdiction to hear or determine such issues as dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, and award of or change of custody, or visitation. Since 2001, the Department's implementation of the administrative procedure has continued to follow the purpose and intent provided by the Legislature, that of using it as an alternative procedure. The Department has also continued to heed the direction from the sponsors of the legislation, Committee members, and the caution raised in the House of Representative's analysis of the proposed pilot law concerning compromising due process to proceed slowly and ensure that procedures were established and maintained that provide sufficient due process protections.

The Department implemented the administrative support establishment procedure statewide by November 2003. The OPPAGA report provides the number of administrative orders established for FFY 2004/05 and the Department is pleased to report that 4,084 administrative orders have been established thus far in the current federal fiscal year and we are projecting to establish a total of 4,455 by September 30, 2006, which is 14.5% above our statewide target of 3,889 for this federal fiscal year and 55% above the number reported by OPPAGA for FFY 2004/05.

While the number of administrative orders established has increased each year since implementation, the Department continues to identify and implement process improvements that will increase performance. The Department's strategic plan has always included strategies specifically focused on improving the administrative support procedure. Unfortunately, the information contained in OPPAGA's report does not reflect current performance, acknowledge successful process improvements implemented, or, in the case of hearing costs, utilize accepted methodologies available to accurately determine costs.

OPPAGA Finding: The courts have generally upheld the results of the department's administrative child support order establishment process.

The Department concurs with the finding that the courts have generally upheld the results of the Department's administrative child support order process. The Department is encouraged by the fact that 99.4% of the cases taken before DOAH have been upheld, and that, as of August 25,

2006, the District Court of Appeals has dismissed 96% of the requests for judicial review of the DOAH orders leaving these orders intact.

OPPAGA Finding: Fewer support orders have been established through the administrative process than was expected.

The Department projected that 5,000 administrative orders would be rendered in FFY 2004/05 and 7,141 in FFY 2005/06. The Department's numbers were projected using forecasting methodologies and each year the Department reviews and adjusts these methodologies and targets to incorporate trends and conditions present in the child support environment. The Department's strategic planning stretch goal for the number of newly established orders for FFY 2005/06 is 41,743, of which 3,889 of these new orders are targeted to be established administratively. As mentioned earlier, the Department's projected performance is expected to surpass this target as the Department has issued 4,084 administrative support orders as of August 31, 2006.

The Department's strategic plan has always included and continues to include strategies specifically focused on improving the administrative support procedure. Recently, the Department conducted a time-motion study to determine the capacity of the statewide processing center with current staff and workflows and determined that the staff should be able to produce between 4,477 and 5,862 orders annually. Additionally the Department is excited about future opportunities to increase efficiency of the existing resources through higher levels of automation when the second phase of the CAMS system is implemented.

OPPAGA Finding: The administrative process is somewhat faster than the judicial process, but takes over seven months to complete.

The Department does not agree with the methodology used for comparing timeliness of the two procedures for three reasons. First, the two beginning points for measuring processing time for judicial cases and administrative cases were not equivalent. Second, between case establishment on FLORIDA and referral to the legal service provider for the judicial procedure or screened as eligible for the administrative procedure there is "decision period" where determination is made regarding the most appropriate method of case processing. The calculations included this time. Third, the administrative establishment procedure was implemented in October 2002 and production was normalized during SFY 2003/04. By measuring the time to order for all orders established in SFY 2004/05, regardless when the case was screened as eligible for the procedure, implementation effects are included. Thus the methodology used does not provide an accurate measure of actual program performance in establishing administrative orders during the SFY 2004/05.

OPPAGA Comment

We used the best reliable data provided by the department to compute the time required to complete the support order establishment process for cases within our review period. While the department may have recently taken steps to expedite the process, the data we used measured the time from the date case screening was completed by the department to the final order date for the cases in which support orders were finalized in federal Fiscal Year 2004-05. We believe that measuring the time required to complete either the administrative or the judicial process from the date that case screening for assignment to the appropriate process was completed is appropriate, as this represents the length of time families waited to begin to receive mandated child support payments under each process.

The department's objection to comparison of "uncontested and less complicated" judicial cases to contested administrative cases is in conflict with its representation that its case

screening process assigns complex cases to the judicial process and that court hearings under the judicial process are held for cases in which a stipulated agreement on the proposed order amount cannot be reached.

OPPAGA Finding: Compliance with support orders established through the two processes is comparable.

The Department concurs that noncustodial parent compliance with judicial and administrative support orders is similar and did not expect a different finding. The support obligation established in both administrative and judicial orders is based on the same statutory guideline formula and if the noncustodial parent fails to comply with the order, the Department initiates the same enforcement activities regardless of how the order was obtained.

OPPAGA Finding: Costs for administrative hearings are higher than those for judicial hearings.

The Department does not concur with the methodology used by OPPAGA to estimate the cost of establishing administrative orders or for conducting judicial hearings.

First, the Department does not concur with comparing the cost of an administrative hearing to an uncontested judicial hearing before a hearing officer as calculated by OPPAGA. Administrative hearings are held by DOAH for contested administrative support cases. These are cases in which the noncustodial parent disagrees with the proposed order issued by the Department even after the noncustodial parent has been provided all of the financial information related to the case, an informal discussion has been offered and potentially held to discuss the noncustodial parent's concerns, and, in many cases, one or more amended proposed orders have been issued based on input from the noncustodial parent. The judicial duties related to uncontested judicial hearings are typically less complicated and require less time than those related to contested administrative hearings.

Second, the cost for an administrative hearing presented by OPPAGA included costs related to DOAH overhead and administration. The Department's reimbursement to DOAH is based on the current legislative formula, which is totally different than the appropriation provided to the Department for the agreement with the Office of State Court Administrator (OSCA). Based on the current appropriation from the Legislature, the funding of the agreement with OSCA is based only on salary and operating expenses for authorized hearing officers and support positions and does not provide for overhead and administration. The estimate provided by OPPAGA of $56 per judicial hearing is understated and considers only a portion of the funding necessary to conduct judicial hearings. Some of this overhead, administration, and other costs for such activities as filing, docketing, hearings, and processing of final orders are included in the cooperative agreements with the Clerks of Courts but not in the costs reported in this report.

Third, of the approximately $4.2 million provided under the agreement between the Department and OSCA for hearing officers, OPPAGA attributed $2 million for support establishment hearings. However, this funding is not separated into funding for various types of hearings held by hearing officers such as:

- Support establishment
- Support modification
- Compliance
- Motions to vacate
- Defendants' motions
- Change of payees
- Dismissals

In conclusion, while it is the Department's understanding that the cost data used by OPPAGA was information easily available through such sources as FLAIR and DOAH's annual report, there are methodologies and research methods that could have been employed by OPPAGA to provide accurate cost comparisons. While we recognize utilizing a methodology to accurately calculate the cost of these two processes can be difficult and time consuming, OPPAGA did request and the Legislature approved changing the original due date for the evaluation of the administrative process from June 2005 to June 2006. OPPAGA notified the Department February 7, 2006, of intentions to begin their review.

OPPAGA Comment

We used the best reliable data provided by the department, the Office of the State Courts Administrator, the Division of Administrative Hearings and other entities to compare the costs of each hearing process and concluded that DOAH hearings are more costly than judicial hearings. As stated on page 5 of our report, we recognize that the data provided to us by the department and other entities does not account for all costs associated with the judicial hearing process (e.g., costs incurred by state courts for judges' and magistrates' salaries and operating expenses are not included in the costs billed to the department for federal reimbursement). However, for judicial hearing costs to be comparable to the average cost of a DOAH hearing ($1,816) as claimed by the Department, the total costs incurred by the courts for child support establishment hearings would have to exceed $64 million, which is 32 times the amount we calculated was billed by the courts for such cases ($2 million).

As indicated in our report, we recommend that the department establish a performance outcome measure that identifies the average cost per established child support order through both the judicial and administrative processes and that this information be presented in its Legislative Budget Request for Fiscal Year 2007-08 for review and approval by the Legislature. To date the department has reported that it has not determined the cost of department administered activities or hearing costs for either process. We are available to assist the department and the Legislature in their determination and review of this measure to help provide assurances that the methodologies and research methods employed by DOR provide accurate cost comparisons.

OPPAGA Recommendation: Selectively review all case eligibility determinations.

The Department partially concurs with this recommendation. The Department agrees that reducing the need for a second-level review of case eligibility determinations would help streamline the administrative process and has been moving in that direction. During FFY 2004/05, the Department was utilizing the FLORIDA system to identify cases that were potentially eligible for administrative support establishment. A secondary review by staff at the Statewide Processing Center was required because several key data elements were not available for FLORIDA to automatically determine if the condition was met that would make the case ineligible. The accuracy of the referral process on FLORIDA was found to be only about 10%, so in December 2005, the Department stopped using the automated FLORIDA referral process. In its place the Department implemented a process for region staff to identify cases potentially eligible for the administrative process when they reviewed cases to determine the next appropriate action—administrative support or judicial referral. In addition to increasing the percentage of potentially eligible cases being screened as eligible, this change also allowed the reallocation of three screening staff to other functions within the Statewide Processing Center.

The Department continues second-level screening to validate that referrals made by region staff were accurate. Data regarding referral quality are collected and communicated with region staff and incorporated into training in efforts to improve the quality of the referrals. The Department is currently assessing the screening process to determine the acceptable percentage at which to discontinue second-level screening. The Department also continues to identify steps to improve the quality of region referrals.

OPPAGA Recommendation: Identify reasons for case delays and terminations.

The Department partially concurs with the recommendation. The statutory procedure requires the Department to terminate an administrative proceeding under certain circumstances. Since statewide implementation, the Department's procedure for termination of proceedings requires that if an initial notice of proceeding was issued on a case and it is determined that the case should no longer be processed administratively, both parties and the Clerk of Courts must be notified through a termination notice. During FFY 2004/05 the Department issued 2,581 termination notices. A review of these notices reveals a variety of reasons for termination of the administrative action: the noncustodial parent requested that the action be moved to circuit court, the custodial parent requested the case be closed or was uncooperative in providing necessary information to proceed, the parties reconciled or filed for dissolution of marriage, or one of the parties died after initiation of the action.

The Department uses the reasons identified in termination notices to improve the screening process and will continue to do so. Ideally, case eligibility screening would identify cases that would be successful in the administrative process and not result in a termination. However, terminations typically occur because of a change in case circumstances after the administrative support process has begun.

OPPAGA Recommendation: Offer mediation and transfer contested cases to the judicial process.

The Department does not concur with the recommendation to provide mediation. The Department agrees that involvement of the noncustodial parent is both beneficial and desirable when establishing a child support obligation, and continues to explore options to encourage noncustodial parents' involvement in the process. The Department is, in essence, performing activities similar to mediation in the existing administrative support process, which emphasizes the availability of, and the Department's willingness to engage in, informal discussions to exchange information, clarify issues, and reach agreement. The Department feels it is important to note that the Department is required by Florida Statute to calculate the child support guidelines pursuant to section 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. Additionally, as mentioned earlier, section 409.2563(2), F.S., clearly states that the Department and the Division of Administrative Hearings do not have jurisdiction to hear or determine such issues as dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, and award of or change of custody, or visitation—issues more commonly discussed in mediation sessions. The only issues that can be addressed in an administrative support establishment case pursuant to statute are the amount of child support to be paid, which is determined by a financial formula set out in section 61.30, F.S., and determining the availability of medical insurance for the child. There is little to negotiate in either issue; therefore, mediation is of little benefit.

A review of the U.S. Department of Health and Human Services Report, *OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes, September 2003,* referenced in footnote 16 revealed that the mediation research cited by OPPAGA referred, not to a program used during the establishment process, but to a mediation program in California that focused exclusively on resolving the access and visitation issues of noncustodial parents to improve the payment of court-ordered child support. Mediation in these cases was used in lieu of referral to court when a court-ordered obligation existed with which the noncustodial parent was not in compliance and the primary excuse provided by the noncustodial parent regarding nonpayment of court-ordered support was due to access and visitation issues.

The Department does not concur with the recommendation to transfer contested cases to the judicial process. OPPAGA's recommendation to transfer contested cases to the judicial process would appear to substantially increase the state's cost and result in unnecessary delays in establishing court orders. The Department is unaware of a 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 Rules of 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. OPPAGA made a similar recommendation in their June 2003 Special Examination, Report No. 03-36, and in response to the Department's similar response as above, OPPAGA further recommended that the Department terminate the pending administrative proceeding and commence a new civil action, a recommendation that would negatively impact custodial parents and families in three ways. First, if the noncustodial parent cannot be served with the civil action, a support order may never be established. Secondly, it would reduce the custodial parent's ability to collect retroactive child support as section 61.30, F.S., restricts retroactive support to 24 months prior to the date of filing. By terminating the administrative proceeding and filing a new civil action, families could lose several months or more of retroactive child support. Thirdly, while the civil action is being filed, service is being completed, and the hearing is being scheduled, the family is most likely not receiving any support from the noncustodial parent.

OPPAGA Comment

While the department does not concur with our recommendation to offer mediation services, it is currently conducting a mediation pilot that was recommended by the Governor and funded by the Legislature. Our understanding is that the purpose of the pilot study is to determine if mediation could be incorporated into program processes to improve support order timeliness and compliance outcomes. An objectively managed and evaluated mediation pilot study is necessary to identify whether potential cost- and time-savings are achievable through mediation efforts in both the judicial and administrative child support order establishment processes. The department reported that it plans to submit its pilot study results to the Legislature in December 2006.

We consistently have recommended that the department offer mediation as part of the support order establishment process (see our previous reviews of Florida's Child Support Enforcement Program). Use of mediation in the child support order establishment process is expanding nationwide as providers offer services to a growing number of state child support and related programs. The Federal Office of Child Support Enforcement reported in its July 2006 newsletter that the use of mediation both before and after order establishment has well-documented benefits. Moreover, while we recognize that s. 61.30, *Florida Statutes,* does not grant the department the authority to waive support or grant concessions in the amounts and types of support required by law, we do believe that this

statute allows the department to deviate from the calculated support order amount when specific conditions exist.

To reduce the relatively high costs associated with DOAH hearings, we also recommended that the department consider transferring contested administrative cases to the less costly judicial process. By "transferring," we simply mean changing from the administrative to the judicial process, which would involve terminating one action and filing a new one. Like the department, we recognize that timeliness in establishing support orders is an important consideration. One possible tool to reduce time needed to establish support orders in contested cases filed in the judicial process would be to meet the service of process requirement by obtaining written acceptance of service of process and waiver of service of summons by mail from the noncustodial parent.

Conclusions and Recommendations:

OPPAGA recommends that the Department develop a strategic plan to improve the administrative process.

The Department has a strategic plan that provides strategies to improve all of its business processes. The Program's current plan includes strategies for identifying methods to streamline the administrative support order establishment process and to improve its effectiveness and efficiency. As stated previously, the Department has increased the number of administrative support orders established every year since implementation and the Department firmly believes these increases are based on strategies that have been and continue to be included in our strategic plan. The plan is a living document and is constantly reviewed and updated to reflect improvements made and performance changes that occur. Included in this plan are such measurements as: the number of administrative support orders established, modified, suspended, or terminated; the percentage of cases referred by region staff to be determined eligible for the administrative process; the number and reasons for terminations of the administrative process, and outcomes and timelines associated with DOAH cases.