

T. C. A. T. 71, Ch. 1, Pt. 1, Refs & Annos

T. C. A. § 71-1-101

§ 71-1-101. Short title

This part may be cited as the “Welfare Organization Law of 1937.”

T. C. A. § 71-1-102

§ 71-1-102. Definitions

As used in this part, unless the context otherwise requires:

(1) “Commissioner” means the commissioner of human services;

(2) “Department” means the department of human services;

(3) “Director” means the director of a division within the department;

(4) “Division” means one (1) of the divisions created within the department of human services for the purposes of administration;

(5) “Region” means one (1) or more counties grouped for the purpose of local administration; and

(6) “Regional director” means the director of a region.

T. C. A. § 71-1-103

§ 71-1-103. Creation

There is created a department of state government, which shall be known and designated as the department of human services.

T. C. A. § 71-1-104

§ 71-1-104. Prior agencies; transfer of powers and duties; workshops; deeds and conveyances

Effective: July 9, 2012

(a) The department shall in all respects be the legal successor to the corporate powers, duties, and responsibilities of the commission for the blind, and any other state welfare commissions other than those that may be excepted by § 71-1-105(a)(1). The department shall succeed to all the rights and obligations of these agencies; provided, that the workshops for the blind located at Nashville and Memphis shall, through this department or by contract with a nonprofit organization or organizations, continue to be operated for the employment of blind persons.

(b) Notwithstanding § 12-2-112 or § 12-2-403, the department has the authority, subject to the approval of the state building commission, to convey ownership of the workshops to any such contractor without financial consideration, including real and personal property, inventory of materials, and stores for resale. The instrument of conveyance to such nonprofit contractor shall provide that the real property and production equipment conveyed, or sufficient remuneration for the real property and production equipment, shall revert to the state at any time the contractor or its successor shall cease operating a workshop for the benefit of the blind, unless the state finds in its sole discretion that it is in the state's best interest to allow such real property and production equipment to be sold to such contractor or contractor's successor at such time as the contractor or contractor's successor shall cease operating a workshop for the benefit of the blind. If the state deems it appropriate to convey such real property and production equipment to the contractor, then the amount of remuneration to be paid by the contractor or its successor to the state shall be determined at the time the real property and production equipment is originally conveyed to the contractor, to be based upon the appraised value of the real property and production equipment at the time of the original conveyance to the contractor.

T. C. A. § 71-1-105

§ 71-1-105. Administration or supervisory powers

Effective: May 14, 2013

(a) The department is charged with the administration or supervision of all of the public welfare activities of the state as provided in this section. The department shall:

(1) Administer or supervise all functions of the federal Social Security Act, compiled in 42 U.S.C., established or to be established in Tennessee that may be assigned to it by law, regulation or executive order;

(2) Cooperate with the federal government or its agencies or instrumentalities, in establishing, extending, strengthening or reforming services to assist persons and families in need of such services from the state of Tennessee;

(3) Promote the unified development of the institutional and noninstitutional agencies subject to its jurisdiction, including the determination of all matters of general policy and the control of the administration of each of the institutional or noninstitutional agencies in the department, so that each institutional or noninstitutional agency shall

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perform its function as an integral part of the general system;

(4) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of the government to which they may be furnished shall be limited to the purpose for which they are furnished and by the provisions of the law by which they may be furnished;

(5)(A) License or approve, and supervise, adult day care centers and child care agencies as defined in chapter 2, part 4, and chapter 3, part 5 of this title, and to promulgate any regulations it deems necessary to carry out the licensing laws;

(B) Establish criteria for the approval of persons or entities who receive any state or federal funds for the provision of care for adults or children whether those persons or entities are licensed or approved as provided in chapter 2, part 4 or chapter 3, part 5, of this title, or whether they are otherwise unlicensed, and, if determined by the department to be necessary, provide for such criteria in regulations promulgated pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5, part 2; and

(C) Utilize any state, federal, local or private funding to provide for any child care or adult day care services or training that it deems necessary to promote the welfare of children and adults or that is required or permitted by state or federal law or regulations, and to provide such services or training directly or by contract with any public or private entities;

(6) Promote and employ the use of such measures as are designed to restore persons receiving assistance or services from the department to a condition of self-support in the community and pursue the preventive aspects of its work, including providing, to the extent possible, foster care for adults who are unable to maintain an independent living arrangement, and such other services to those liable to become destitute or handicapped as will prevent their becoming or remaining public charges;

(7) Study the causes of economic dependency or rehabilitative service requirements for persons in need of economic support or rehabilitative services in Tennessee and promote efficient methods for assisting persons in need of such support or services;

(8) Cooperate with the commissioner of social security, and with any other agency or instrumentality of the federal government in any reasonable manner that may be necessary to qualify for federal aid for assistance to persons who are entitled to assistance under the provisions of the Social Security Act, except as otherwise provided by subdivision (a)(1), and in conformity with the provisions of this part, including the making of such reports, in such form and containing such information as the commissioner of social security or any other agency or instrumentality of the federal government may, from time to time, require and comply with such requirements as such commissioner, agency, or instrumentality may, from time to time, find necessary to assure the correctness and verification of such reports;

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(9) Receive and expend as provided by law any public and private donations, not provided for by § 71-1-113, and the department may expend a reasonable proportion of any such donation for administrative purposes;

(10) Assist and cooperate with other departments, agencies, instrumentalities, and institutions of the state and federal governments, when so requested, in performing services in conformity with the purposes of this part;

(11) Act in cooperation with the federal government in welfare matters of mutual concern in conformity with the provisions of this part and in the administration of any federal funds granted to this state or any state appropriations to aid in the furtherance of any such functions of the state government, including relief and assistance of needy citizens;

(12) Make such rules and regulations and take such action as may be deemed necessary or desirable to carry out this part and that are not inconsistent with this part;

(13) Administer such additional public welfare functions as are hereby or may be vested in it by law pursuant to this part;

(14) Be authorized to license blind persons to operate vending stands in state and county buildings; provided that, in the opinion of the director of vocational rehabilitation and the custodian of such building or buildings, a suitable place may be found for the location of such stand or stands to be operated in accordance with the Randolph-Sheppard Vending Stand Act of June 20, 1936, chapter 638, 49 Stat. 1559, compiled in 20 U.S.C. §107 et seq., or amendments to that act;

(15) Enforce the provisions of Title IV-D of the Social Security Act, compiled in 42 U.S.C. § 651 et seq., relative to child and spousal support and establishment of paternity and to contract with public or private entities to provide any services necessary to carry out such provisions; and

(16) Conduct investigations, which shall include, but not be limited to, investigation into the existence of:

(A) Trafficking in, or fraud involving, the food assistance program administered by the department pursuant to chapter 5, part 3 of this title;

(B) Fraud, abuse, theft, misappropriation, or misuse of property, funds, or services by any person or entity in any program administered by the department; and

(C) Misconduct by any employee, contractor, or agent of the department concerning or related to the operation of any department program or any laws, regulations or policies governing the department's operations.

(b) Notwithstanding any state law or regulation to the contrary, the department may provide low-income energy assistance at any percentage of the federal income poverty level that is permitted by federal law.

T. C. A. § 71-1-106

§ 71-1-106. Officers and employees; appointment

The chief administrative and executive officer of the department shall be appointed by the governor solely on a basis of merit as measured by education, ability, and experience in the administration of public welfare activities and without regard to residence or political affiliation. Such officer shall serve at the pleasure of the governor. Such officer shall have general charge and supervision of the department and shall appoint the heads of such divisions as may be created. The choice of personnel shall be made on the basis of merit as measured by experience and training in each particular field. Vacancies in superior positions shall be filled so far as practicable by promotion based on meritorious service.

T. C. A. § 71-1-107

§ 71-1-107. Commissioners; powers and duties

As chief executive officer of the department, the commissioner shall be charged with the supervision and administration of all welfare activities subject to its jurisdiction. The commissioner at all times has the power, which the commissioner may also delegate to officers and employees of the department, of visitation, inspection and administration of local governmental welfare agencies subject to the commissioner's supervision and the books, records and accounts of each institution or agency shall be open to the commissioner's inspection. In the supervision and administration of local welfare activities, the commissioner shall advise with local authorities, and may provide such specialized services as may be necessary to the end that the laws shall be faithfully executed and that the various welfare agencies of the local government shall function effectively in relationship to one another and to the department.

T. C. A. § 71-1-108

§ 71-1-108. Commissioner; powers and duties; officers and employees; compensation and salaries

The commissioner has the power, having regard to the efficient performance of the department's functions, to create positions in the department and in any division, region, agency, institution or service of the department for the accomplishment of the purposes of this part and to abolish these positions and the existing positions of officers and employees who by this part are transferred to the department. The positions in the department shall be classified by the commissioner according to the nature of the duties to be performed and the minimum qualifications for appointment, and such appointments shall be made on a merit basis. The commissioner, having regard to the nature of the services to be performed and the salaries paid for similar work elsewhere, shall establish a salary range for each class of position and within such salary range shall provide by rule for recognition of efficiency of service and length of service. All matters relating to personnel of the department shall be handled in accordance with, and under rules and regulations promulgated pursuant to authority of, title 8, chapter 30, parts 2 and 3.

T. C. A. § 71-1-109

§ 71-1-109. Attorney general; disposition of property; rules and regulations

The attorney general and reporter shall, when requested, advise the department on matters of law. The department may acquire, hold, and alienate property necessary or desirable for the performance of the functions vested in it by law. It shall have all powers necessary and proper for the carrying out of its functions, including the power to adopt and promulgate rules binding upon itself, and all persons subject to its control.

T. C. A. § 71-1-110

§ 71-1-110. Advisory committees; multi-disciplinary adult protective services evaluation teams

Effective: July 9, 2012

(a) The commissioner has the authority to appoint, with the consent and approval of the governor, a committee or committees of citizens to act in an advisory capacity on any matter within the jurisdiction of the department, and to reimburse such members for their actual expenses in attending meetings of such committee or committees called at the commissioner's discretion from time to time. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(b) The commissioner shall establish in each service region at least one (1) multi-disciplinary adult protective services evaluation team for review of protective services cases. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

T. C. A. § 71-1-111

§ 71-1-111. Hearings

The commissioner has the power to conduct or cause to be conducted hearings relating to the fact determination that the department is authorized or required to make; provided, that the commissioner, and any officer or employee of the department upon written authorization from the commissioner, has the power to administer oaths and affirmations, take depositions, issue subpoenas, and require the production of any books and records that may be necessary.

T. C. A. § 71-1-112

§ 71-1-112. Divisions; administration regions; division of housing and emergency shelter

Effective: July 1, 2012

(a) For the efficient and economical performance of the powers and functions vested in the department:

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(1) The commissioner may establish within the department such divisions as may be necessary for the effective administration of the department. These divisions shall be charged with such duties and responsibilities as may be delegated to them by the commissioner, and the commissioner shall have the power to allocate and reallocate functions among such divisions. Each division shall be administered by a director who shall be appointed by the commissioner solely on a basis of merit as measured by training, ability and experience;

(2) There shall be established, for the purposes of local administration throughout the state, regions comprised of one (1) or more counties. Each such region shall be administered or supervised by a regional director, who shall be appointed by the commissioner solely on a basis of merit as measured by training, ability, and experience. The regional director, or such employees as the regional director may delegate, shall have the power of visitation and report of all charitable and relief institutions within the region that rightly come under the department as set out in this part, and such other powers as may be delegated by the commissioner. The regional director shall foster cooperation and intelligent coordination of work between all public and private charitable and social agencies in the region to the end that public resources and charitable donations may be efficiently managed and the needs of the region adequately cared for; and

(3) The commissioner has the power to create such subordinate divisions and such departmental agencies within the department as may be necessary to carry out the purposes of this part.

(b)(1) There is created within the department a division of housing and emergency shelter. The commissioner shall appoint a director of housing and emergency shelter as provided in this subsection (b). The commissioner shall employ all consultants or staff assigned or performing duties for the division.

(2) The director has the power, duty and responsibility to:

(A) Coordinate consultant or staff assignments and administrative functions and activities of the division;

(B) Assign personnel to staff the various offices designated to carry out the purposes of this subsection (b) that assures the most efficient use of personnel; and

(C) Coordinate the efforts of the division of housing and emergency shelter with all other individuals, agencies and organizations providing similar or equivalent services.

(3) The division shall cooperate and integrate its services with local agencies, local homeless coalitions, local and state housing authorities, and other local and state agencies, and shall engage in such activities as well as promote a high level of communication among the many individuals, entities and organizations concerned with homelessness issues. The division shall actively participate, subject to funds specifically appropriated in the general appropriations act, in the weatherization, rehabilitation and renovation of housing that qualifies for appropriate programs as determined by the division. The division shall work directly with the departments of mental health and substance abuse services and intellectual and developmental disabilities to ensure that adequate and appropriate institutional

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and community-based services and shelter are provided to persons in need of them.

(4) The division shall develop and implement a plan for providing rental units on a sliding fee scale. In so doing, emphasis shall be given to locating rental units at a cost to the individual of less than one hundred fifty dollars (\$150) per month. The division shall also develop and implement a plan for providing emergency shelter for individuals who are unable to pay rent. In carrying out its duties and responsibilities, the division shall maximize all federal and private funds and grants and block funding, as well as create a mechanism for providing rental and other deposits and subsidy payments for eligible individuals. The division shall actively be involved in new programs designed to relieve the housing shortage for eligible individuals as determined by the division and shall initiate and implement any such programs as they become available and feasible.

(5) The offices of the division shall be located in areas that are easily accessible to those who require the services of the division. Office space for such offices may be located in conjunction with any present agency of state government or an appropriate agency of local government that serves the population sought to be served by this subsection (b). Personnel from such agencies may be utilized by the division where appropriate. Such offices shall also serve as a coordinating center to provide information and referral services for crisis intervention, counseling, case management, job placement services, day shelter, transportation services and access to other agencies that serve the population in which such individuals are included.

(6) The division is authorized to promulgate necessary and appropriate rules and regulations to implement the effect and intent of this subsection (b). Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(7) The funding for the division, created by this subsection (b), shall be subject to funds specifically appropriated for such purpose in the general appropriations act.

T. C. A. § 71-1-113

§ 71-1-113. Funds; disposition

The department shall administer and expend funds appropriated to it by the general assembly or available from allotments by the federal government to the state or from contributions from the counties, cities, or other local units of government, or from other sources, in carrying out the duties imposed upon it by § 71-1-105, including the special training of personnel required to carry out such duties, and including grants to public or other nonprofit institutions of higher learning for training personnel employed or preparing for employment in a public welfare program, and for such other purposes as may be specified by law or delegated to it by the governor, including the publication of reports and the dissemination of information as to the cause and treatment of social ill-being and the prevention of maladjustment and delinquency.

T. C. A. § 71-1-114

§ 71-1-114. Federal funds; rules and regulations

In the event that the federal government increases the percentages of funds to be furnished by it that may be matched

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by the state and used in connection with chapters 2-4 of this title, providing assistance to aged persons, aid to dependent children, or any successor program, and aid to the needy blind, the department is authorized to conform to the provisions of federal acts relating to the matching of administrative expense in a higher ratio than provided in such acts and to conform to the provisions for a higher ratio of matching of funds for assistance purposes. The department is further authorized to use any funds granted by the federal government in connection with such programs for the purpose for which they are granted and subject to the limitations or conditions contained in such grants.

T. C. A. § 71-1-115

§ 71-1-115. Political subdivisions; grants-in-aid

Whenever the department has discretion to expend funds appropriated for the purposes either through the officers and employees of the department or in the form of grants-in-aid to local governmental authorities, it shall decide with reference to the use of grants-in-aid according to the availability and adequacy of the facilities under the control of the local governmental authorities, as compared with the facilities of the department for furnishing the services required to be rendered; such funds shall be made available according to uniform rules to all local authorities performing similar functions. In formulating such rules, the department has the power to:

- (1) Fix minimum standards of service and efficiency to be required of the local governmental authorities in carrying out the functions reposed in them by law;
- (2) Provide for the termination of any grant-in-aid to any such authority whenever the department shall find that such minimum standards are not being complied with; and
- (3) Require that as a condition of receiving grants-in-aid the local units of government shall bear specific proportions of the total expense of performing the designated functions.

T. C. A. § 71-1-116

§ 71-1-116. Repealed by 1996 Pub.Acts, c. 1079, § 155, eff. May 21, 1996

T. C. A. § 71-1-117

§ 71-1-117. Public welfare grants; lists; public access

The commissioner is authorized and instructed to make public to any citizen of Tennessee through the office of the commissioner or county human services offices the names of all recipients of public welfare grants and the amount of each grant per month, each list to be broken down by counties. Only the list containing the recipients resident in a particular county is to be available for inspection in that county. The lists of all counties are to be available for inspection in the office of the commissioner.

T. C. A. § 71-1-118

§ 71-1-118. Public welfare grants; lists; limitations on access; crimes and offenses

(a) The welfare lists referred to in § 71-1-117 cannot be used for political or commercial purposes and no one will be permitted to copy such a list.

(b) A violation of this section is a Class C misdemeanor.

T. C. A. § 71-1-119

§ 71-1-119. Senior citizen volunteers; funds

Effective: July 1, 2011

The department may establish a program utilizing senior citizens as volunteers and, to the extent funds are available, as employees in programs that provide services for children, persons with disabilities and other senior citizens. The department may utilize such federal funds as are available for these purposes.

T. C. A. § 71-1-120

§ 71-1-120. Construction of law; federal law; cost control

Effective: July 9, 2012

This section shall be construed, insofar as is practicable, so as to be consistent with Title XX of the Social Security Act, compiled in 42 U.S.C. §§ 1397 et seq., and regulations issued under the authority of that act. The commissioner shall take reasonable steps to assure that the cost of administering, monitoring, and overseeing services performed by public providers and private providers shall be accomplished as economically as practicable. In the event that such expenditures are estimated to exceed six percent (6%) of the total estimated expenditures for services provided by public providers and private providers, the commissioner shall include in the annual service plan a statement to that effect, accompanied with an explanation of the reasons why such expenditures cannot be held to or below six percent (6%) of the estimated cost of services provided by public and private providers.

T. C. A. § 71-1-121

§ 71-1-121. Public assistance records and documents; access; attorneys

Effective: July 9, 2012

Notwithstanding any other law to the contrary, the department shall grant access to all public assistance records, reports, documents, case files or other similar documents about a person who has applied for or is receiving or has received public assistance, including, but not limited to, temporary assistance for needy families (TANF), or any successor program, food assistance pursuant to chapter 5, part 3 of this title, medicaid and Title XX services, compiled in 42 U.S.C. §§ 1397 et seq., to authorized counsel for the person.

T. C. A. § 71-1-122

§ 71-1-122. Human services advisory committee; government entity review

Effective: July 9, 2012

The human services advisory committees appointed by the commissioner shall periodically be subject to review pursuant to the governmental entity review law, compiled in title 4, chapter 29, simultaneously with, and as an adjunct to, the department.

T. C. A. § 71-1-123

§ 71-1-123. Incorrect payments; recovery; subrogation

Effective: July 9, 2012

(a)(1) Any benefits paid to, or on behalf of, any recipient cannot be recovered from such a beneficiary unless such assistance has been incorrectly paid, or unless the recipient or beneficiary recovers or is entitled to recover from a third-party reimbursement for all or part of the costs of care or treatment for an injury or illness for which the assistance is paid.

(2) To the extent of payments of assistance, the state shall be subrogated to all rights of recovery, for the cost of care or treatment for an injury or illness for which assistance is provided, contractual or otherwise, of the recipients against any person.

(3) Payments to a provider of services shall not be withdrawn or reduced to recover funds obtained by the recipient from third parties for services rendered by such provider if these funds were obtained without the knowledge or direct assistance of the provider of assistance.

(4) When the state asserts its right to subrogation, the state shall notify the recipient, in language understandable to all recipients, of such recipient's rights of recovery against third parties and that such recipient should seek the advice of an attorney regarding those rights of recovery to which such recipient may be entitled.

(5) If, while receiving assistance, the recipient becomes possessed of any resource or income in excess of the amount stated in the application for the assistance provided, it is the duty of the recipient immediately to notify the agency designated to determine eligibility for the assistance of the receipt or possession of such resource or income.

(6) When it is found that any person has failed to so notify the agency that such person is or was possessed of any resource or income in excess of the amount allowed, or when it is found that within three (3) years prior to the date of that person's application, or as otherwise provided by policy or state plan, a recipient made an assignment or transfer of property for the purpose of rendering the recipient eligible for assistance as provided in this part, any amount of assistance paid in excess of the amount to which the recipient was entitled shall constitute benefits incorrectly paid. Any benefits incorrectly paid shall be recoverable from the recipient, while living, as a debt due to the state and, upon the recipient's death, as a claim classified with taxes having preference under the laws of this state.

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(b)(1) Upon accepting assistance from the programs designated in this part, the recipient shall be deemed to have made an assignment to the state of the right to third-party insurance benefits to which the recipient may be entitled.

(2) Failure of the recipient to reimburse the state for the assistance received from any third-party insurance benefits received as a result of an illness or injury for which the assistance was paid may be grounds for removing the recipient from future participation in the benefits available under these programs as provided by policy or state plan; provided, that:

(A) Any removal from participation shall be after appropriate advance notice to the recipient;

(B) The provider of service shall not be prevented from receiving payment from the state for assistance services previously furnished the recipient; and

(C) Nothing in this subsection (b) shall require an insurer to pay benefits to the state that have already been paid to the recipient.

(c)(1) The right of subrogation by the state to the recipient's right to recovery shall be subject to ordinary and reasonable attorney fees.

(2) Where a recipient has retained an attorney, the attorney shall not be considered liable unless the attorney has notice from the state of the state's claim of subrogation prior to disbursement of the funds to the recipient.

(d) This section shall apply to all programs provided by the department pursuant to the Social Security Act, compiled in 42 U.S.C., as amended, and the federal Rehabilitation Act, compiled in 29 U.S.C § 701 et seq., as amended, and as provided in the Vocational Rehabilitation Law of Tennessee, compiled in title 49, chapter 11, part 6.

T. C. A. § 71-1-124

§ 71-1-124. Transferred to § 37-5-122 by 1996 Pub.Acts, c. 1079, § 156, eff. May 21, 1996

T. C. A. § 71-1-125

§ 71-1-125. Expired eff. December 31, 1993

T. C. A. § 71-1-126

§ 71-1-126. Medicaid; review of programs

Effective: April 19, 2013

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The commissioner of health is hereby directed to begin the process of reviewing, for the purposes of reforming, the state's medicaid program. Such review shall include reviewing managed care programs and applying for needed federal waivers as well as the development of plans for consideration by the governor and the general assembly outlining options the state has under federal law concerning, but not limited to, eligibility, scope and duration of services, optional services, and rate structures. In conducting this review, the commissioner of health is to report no less than quarterly to the chair of the finance, ways and means committee of the senate, the chair of the health and welfare committee of the senate, the chair of the finance, ways and means committee of the house of representatives, the chair of the health committee of the house of representatives, and to such other legislative committees that request such information and to the office of legislative budget analysis. The governor is hereby authorized to appoint committees, as the governor deems appropriate, to assist in the overall review of the medicaid program, it being the legislative intent that the state of Tennessee develop a medicaid program that can continue to provide the necessary health care services to those appropriately in need at a cost that can be supported within existing sources of revenue.

T. C. A. § 71-1-127

§ 71-1-127. Repealed by 1996 Pub.Acts, c. 950, § 24, eff. September 1, 1996

T. C. A. § 71-1-128

§ 71-1-128. Repealed by 1996 Pub.Acts, c. 950, § 25, eff. September 1, 1996

T. C. A. § 71-1-129

§ 71-1-129. "Parents as first teachers" pilot projects

Effective: July 1, 2012

Acting in consultation with the departments of education, health, mental health and substance abuse services, and intellectual and developmental disabilities, through a system of competitive grants and technical assistance, the department of human services shall establish and implement "parents as first teachers" pilot projects in one (1) or more counties of the state. On or before January 1, 1998, the department shall report to the governor and to the general assembly concerning pilot project findings and recommendations.

T. C. A. § 71-1-130

§ 71-1-130. Day care; costs; research and studies; termination of child's subsidy certificate; subsidy copayments

Effective: July 9, 2012

(a) The department shall perform a market rate study of day care rates annually.

(b) In compliance with federal law and regulations and from the market rate study, the department shall annually determine an amount to be paid as reimbursement on behalf of low-income families, for the provision of child or infant care by a day care center, family day care home, or group day care home.

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(c) The commissioner shall report to the governor and the general assembly, no later than October 1 of each year, the results of the market rate study and the annual rate that has been requested by the department in its budget.

(d) The average rate to be paid by the department for day care services in fiscal year 1990-1991 shall be forty-six dollars (\$46.00) per week. An additional two dollars (\$2.00) per day may be paid for transportation in "as-needed" day care, if it is furnished by the day care provider.

(e) The amounts to be paid by the department for day care services and transportation under this section shall be subject to the availability of funding each year in the general appropriations act.

(f) In any case where the department terminates a certificate for an eligible child for child care services with a child care provider, the department shall promptly, but in any event within forty-eight (48) hours, inform the provider that the child's certificate is or will no longer be in effect.

(g)(1) A parent or other caretaker of an eligible child who receives a subsidy certificate from the department shall be solely responsible for payment to the provider of child care services any required copayments or other payments required pursuant to any contractual agreement with the provider of child care services.

(2) Unless extenuating circumstances or other good cause applies as determined by the department, upon removal of a child from a provider of child care services, no subsidy certificate shall be issued or any payments made by the department on behalf of the child to any subsequent provider of child care services, unless the parent or other caretaker of the eligible child has made all required copayments to, or has reached an agreement regarding outstanding copayments with, the previous provider of child care services.

(3) For purposes of this subsection (g), "copayment" means the department-imposed fee required to be paid by the parent or caretaker on behalf of the eligible child to the provider of child care services as a condition for the receipt of a subsidy certificate.

(4) Nothing in this subsection (g) shall be construed to require the department to resolve or mediate any dispute between the parent or caretaker of any eligible child and the provider of child care services relative to outstanding copayments.

T. C. A. § 71-1-131

§ 71-1-131. Title IV-D services; confidential information

Effective: July 9, 2012

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(a)(1)(A) The records of the department, its contractors or agents concerning the provision of Title IV-D child or spousal support services shall be confidential and information in such records shall not be subject to public inspection by any person or entity and the records shall not be used in judicial, administrative or legislative proceedings or for law enforcement activities, except as otherwise provided in this section.

(B) Any information provided to the department, its contractors or agents by any other state or federal agencies or other entities, that is required by federal or state law or regulations to be provided to the department as part of the department's Title IV-D responsibilities to establish, enforce or modify child or spousal support, but which information is otherwise protected as confidential by the laws or regulations of the United States or by any state's, territory's or other government's law or regulations, shall also be confidential, and shall be held by the department in a confidential manner. Such information shall also not be subject to public inspection by any person or entity and shall not be used in judicial, administrative or legislative proceedings or for law enforcement activities, except as otherwise provided in this section.

(C) Except as limited by subdivision (a)(2), the department, its contractors or agents may disclose any information in the records of the Title IV-D child or spousal support records for purposes directly connected with the establishment of paternity or the establishment, modification, or enforcement of child or spousal support in any judicial or administrative proceeding or for the administration of any part of the child support program.

(2) Except where information in the child or spousal support record provided to the department pursuant to any federal or state law or regulation for purposes related to the establishment, enforcement or modification of child or spousal support under the Title IV-D child support program is otherwise specifically protected from further disclosure or further use by any other federal, state, territorial or other government law or regulation, the department is specifically authorized to further utilize or further disclose any information from the Title IV-D child or spousal support records for any purposes that it determines in its sole discretion are directly connected with:

(A) The administration of the plan or program approved under Parts A, B, D, or E of Title IV of the Social Security Act or under Titles I, XIV, XIX, or XX of the Social Security Act, or the supplemental security income program (SSI) established under Title XVI of the Social Security Act;

(B) Any investigations, prosecutions, or civil, criminal or administrative proceeding conducted in connection with the administration of any such plan or program under subdivision (a)(2)(A);

(C) The administration of any other federal or federally assisted program that provides assistance, in cash or in kind, or services, directly to individuals on the basis of need;

(D) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child enforcement activity under circumstances that indicate that the child's health or welfare is threatened by such treatment;

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(E) A response to a request for child support payment records of a child support obligor; and

(F) Inquiries from legislative representatives of an obligor or obligee concerning child support payment records or child support legal and administrative procedures utilized to attempt recovery of support payments involved in individual cases under a support order upon a release for that person authorized in any suitable manner as determined by the department or its contractors by the affected person. An inquiry and release by one party under this subdivision (a)(2)(F) does not authorize release of information involving the other party other than the child support payment record and child support legal or administrative procedures utilized to attempt recovery of support payments from the other party. Nothing in this subdivision (a)(2)(F) shall be construed to authorize release of any information that is otherwise protected as confidential pursuant to this section.

(3)(A) Notwithstanding the foregoing provisions of this section and any other law to the contrary, no information shall be disclosed by the department pursuant to this section from Title IV-D records maintained by the department, its contractors or agents when:

(i) A protective order has been entered against one party and the release of information from such record would disclose the whereabouts of the party or the child for whose benefit the protective order was entered; or

(ii) The department, its contractors or agents have reason to believe that the release of information concerning the whereabouts of one party or the child to another person may result in physical or emotional harm to the party or the child.

(B) In situations in which the prohibitions of subdivisions (a)(3)(A)(i) and (ii) arise, the department shall notify the secretary of health and human services if it determines that there exists reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child.

(C) When a disclosure of information is made from the United States department of health and human services' federal parent locator service (FPLS) to a court of this state or an agent of the court of this state, and the court is notified that FPLS has reasonable evidence to show that domestic violence or child abuse has occurred, the court shall determine whether disclosure to any other person of information received from FPLS could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make such disclosure.

(4) Notwithstanding any law to the contrary, when any information regarding a consumer report, as defined in 15 U.S.C. § 1681a, from a consumer reporting agency is obtained by the department, its contractors or agents, such information will be kept confidential and will be used solely for the purposes of establishing an individual's capacity to make child or spousal support payments or in determining the appropriate level of such payments, and such report shall be confidential and will not be available by subpoena or court order for any civil, criminal, or administrative proceeding, law enforcement activity or for any other purpose, except for the purpose of the establishment, enforcement and modification of child or spousal support obligations by the department, or by any federal, state, territorial, or foreign child or spousal support enforcement agency, or by their contractors or agents.

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(5) Notwithstanding any law to the contrary, any financial information obtained from a financial institution by the department, its contractors or agents regarding an individual shall be confidential and will not be available by subpoena or court order for any civil, criminal or administrative proceeding, law enforcement activity or for any other purpose, and shall be disclosed only for the purpose of and to the extent necessary for the establishment, enforcement and modification of child or spousal support obligations by the department, its contractors or agents or by any federal, state, territorial, or foreign child support enforcement agency or their contractors or agents.

(6) Notwithstanding any law to the contrary, any information that is required to be given to the department of human services, its contractors or agents by any requirement of federal or state law or regulations as part of the department's responsibilities to enforce child or spousal support, but that is otherwise not subject to subdivisions (a)(4) and (a)(5), and that is otherwise ordinarily protected by federal or state law or regulations from disclosure or use because it is protected as confidential information, shall be confidential and shall not be available by subpoena or court order for any civil, criminal, administrative proceeding, law enforcement activity, or for any other purpose. Such information shall be disclosed only to the extent permitted by such federal or state laws or regulations, or only for the purpose of and to the extent necessary for the establishment, enforcement and modification of child support obligations by the department, its contractors or agents or by any federal, state, territorial, or foreign child support enforcement agency or their contractors or agents.

(7)(A)(i) Except as released pursuant to subdivision (a)(2) by the department, its contractors or agents, and except as prohibited by subdivisions (a)(3)--(a)(6), the records or portions of records or testimony of current or former employees, agents or contractors of the department concerning the Title IV-D child support program may be released only pursuant to a written order for their disclosure issued by a judicial or administrative tribunal and served personally upon the commissioner of human services or the commissioner's designee at least five (5) business days prior to the date designated for disclosure. A subpoena shall not be sufficient to obtain the disclosure of Title IV-D child support records. Unless waived by the department, any order for disclosure not properly served shall be void and of no effect whatsoever.

(ii) Except as necessary for use in a judicial proceeding or an administrative proceeding concerning a Title IV-D child or spousal support matter in which such records must be disclosed, and for any appeal from the proceeding, any records of the Title IV-D child support program that may be ordered disclosed pursuant to this subdivision (a)(7)(A) for use in any other civil or criminal judicial or other administrative proceeding must also have a written protective order issued by the court or administrative law judge or hearing officer and served upon the commissioner of human services prior to the release of the records pursuant to this subdivision (a)(7)(A). The protective order shall state that there will be no further disclosure beyond the necessary use by the tribunal and the parties for the conduct of those proceedings. The department shall not be required to disclose any records until the receipt of the protective order by the department or its designee.

(B) The department may comply with a properly served order issued by a state or local judicial or administrative tribunal pursuant to this subdivision (a)(7) by sending copies of pertinent portions of the record requested, or by sending an abstract of the pertinent information from its computer records or other records, in a sealed envelope addressed to the court or administrative body or the person taking a deposition, together with an affidavit of an authorized agent of the department attesting to the authenticity of the record, unless the court or administrative body, for good cause shown, enters an order in the record requiring the attendance of a department, contractor or agent employee at the proceeding.

(C) The department, its contractors or agents may file a motion to quash or modify any subpoena or order for disclosure issued by any judicial or administrative tribunal or by any legislative entity, and no records shall be disclosed pursuant to any subpoena or order until the conclusion, including appeal, of the proceedings seeking to quash or modify the subpoena or order.

(8) A knowing violation of the provisions restricting the disclosure of information pursuant to this section shall be a Class B misdemeanor.

(b) Notwithstanding any other provisions of this section, information that is required to be provided to the department of human services, its contractors or agents by the department of labor and workforce development shall not be further disclosed or utilized except to the extent permitted and for the purposes allowable pursuant to § 50-7-701 or under applicable federal or state law or regulations.

T. C. A. § 71-1-132

§ 71-1-132. Rulemaking authority for the administration of the child support program

Effective: July 9, 2012

(a)(1) The department shall have rulemaking authority to establish any rules necessary for the administration of the child support program operated pursuant to Title IV-D of the Social Security Act, compiled in 42 U.S.C. §651 et seq., and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title that the department administers and that are necessary to implement the Title IV-D child support program and to effectuate any federal legislative or regulatory changes.

(2) Notwithstanding any law to the contrary, the department shall have authority after July 1, 1997, to promulgate any emergency rules, following approval by the attorney general and reporter pursuant to §4-5-208, to implement chapter 551 of the Acts of 1997 or of any title or part of any title that the department administers and that may be necessary to implement chapter 551 of the Acts of 1997, which emergency rules shall become effective upon the effective date of any provisions of Acts 1997, ch. 551, if the implementation period of any provisions of chapter 551 of the Acts of 1997, occurs before July 1, 1998; provided, however, that the department shall promulgate permanent rules to implement chapter 551 of the Acts of 1997, pursuant to a rulemaking hearing as required by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Nothing in this subsection (a) shall be construed to abrogate the ability of the department at any time to utilize the provisions for implementing emergency rules as otherwise permitted by the Uniform Administrative Procedures Act.

(b) Notwithstanding any other state law to the contrary, the department shall have the authority to immediately implement any federal legislative or regulatory changes by emergency rules following approval by the attorney general and reporter pursuant to § 4-5-208 if such federal legislative or regulatory changes occur before July 1, 1998; provided, however, that permanent rules shall be promulgated pursuant to the Uniform Administrative Procedures Act. Nothing in this subsection (b) shall be construed to abrogate the ability of the department at any time to utilize the provisions for implementing emergency rules as otherwise permitted by the Uniform Administrative Procedures Act.

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(c) Notwithstanding any other law to the contrary, any forms mandated by the secretary of health and human services that are required to be utilized by the department of human services in any aspect of the Title IV-D child support program administered by the department shall be implemented immediately by emergency rule of the department following approval by the attorney general and reporter pursuant to § 4-5-208, and shall, in all respects, immediately supersede any forms in use at the time the department implements the use of such federal forms by emergency rule. Any requirements of the laws or regulations of this state that are inconsistent with the language or procedures established by such federal forms shall be subordinate to the requirements imposed by such federal forms.

(d) Prior to the filing of a notice of rulemaking for permanent rules pursuant to this section, the rules shall be sent by the department for review by an advisory group composed of two (2) representatives of the state court clerks' conference appointed by the president of the state court clerks' association, two (2) representatives of the judges of courts who have child support responsibilities, one of whom will be appointed by the chief justice of the supreme court and one of whom will be appointed by the president of the council of juvenile and family court judges, a representative of the administrative office of the courts, and two (2) representatives of the department of human services designated by the commissioner. Nothing contained in this section shall be construed to prevent the department from filing any notice of rulemaking prior to or at the time the proposed permanent rules are sent to the advisory group where the department determines that immediate filing of the notice without prior review by the advisory group is necessary to meet any requirements relative to the potential expiration of emergency rules or to comply with any federal statutory or regulatory requirements or any federal policy directives, nor shall the requirement of this subsection (d) be construed to supersede any requirements of subsection (c).

T. C. A. § 71-1-133

§ 71-1-133. Child care services fraud; restitution; civil recovery of overpayments

Effective: July 9, 2012

(a)(1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person or entity to obtain or attempt to obtain, by means of a willfully false statement or representation or by impersonation, or by any fraudulent scheme, any child care services, or payments for child care services, that are provided under any program by the department of human services or by or through any of the department's grantees or contractors, to which such person or entity is not entitled, or of a value greater than that to which such person or entity is entitled, the value of which is, or would be, one hundred (\$100) or more, commits a Class E felony. Upon conviction, such person shall be sentenced for such offense as provided by law, or shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both.

(2) If the value of child care services or the payment for such services obtained in the manner described in subdivision (a)(1) is, or would be, less than one hundred dollars (\$100), such person commits a Class A misdemeanor and shall be sentenced for such offense, or shall be fined, or both, as provided by law.

(b) In addition to any of the penalties pursuant to subsection (a), any person convicted of any offense specified in subsection (a) shall be ordered to make restitution in the total amount found to be the value of the child care services that form the basis for the conviction. In the event any person ordered to make restitution pursuant to this section is found to be indigent and, therefore, unable to make restitution in full at the time of conviction, the court shall order a

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periodic payment plan consistent with the person's financial ability.

(c) Notwithstanding any other law to the contrary, prosecutions for any of the offenses specified in subsection (a) shall be commenced within four (4) years next after the commission of the offense. For purposes of this subsection (c), any such offense that is based upon a willful failure to report information as required by law or by any program requirements relating to eligibility for child care services is considered a continuing offense until such information is reported.

(d) The department may recover by civil action in any appropriate court the value of child care services that have been incorrectly paid to or received by any person or any entity and the costs of the proceeding and reasonable attorneys fees necessary for collection.

(e)(1) For purposes of this section, "child care" means the supervision, protection, and provision for the basic physical, developmental or emotional needs of a child, or evidence of any effort to provide for, or any apparent or stated intent to provide for, the supervision, protection, and basic physical, developmental or emotional needs of a child by any person or entity outside the child's own home or by a person who comes to the child's home, whether or not the person or entity is licensed to provide such care or is unregulated.

(2) For purposes of this section "services" means the payment for, or provision by, the department, its grantees or its contractors of:

(A) Any costs of, or any fees for, child care provided by any person or entity;

(B) Any transportation costs or any transportation fees for the child to obtain child care or any related child care services; or

(C) Any food supplement or meal assistance programs, excluding the food stamp or food assistance program under chapter 5, part 3 of this title, for a child who is receiving child care.

T. C. A. § 71-1-134

§ 71-1-134. Applicant for or holder of license, certification, or registration; notification and copies of laws; Web site

Effective: January 1, 2013

(a) The department and each board, commission, agency or other governmental entity created pursuant to this title shall notify each applicant for a professional or occupational license, certification or registration from the department, board, commission, agency or other governmental entity where to obtain a copy of any statutes, rules, guidelines, and policies setting forth the prerequisites for the license, certification or registration and shall, upon request, make available to the applicant a copy of the statutes, rules, guidelines, and policies.

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(b) The department and each board, commission, agency or other governmental entity created pursuant to this title shall notify each holder of a professional or occupational license, certification or registration from the board, commission, agency or other governmental entity of changes in state law that impact the holder and are implemented or enforced by the entity, including newly promulgated or amended statutes, rules, policies, and guidelines, upon the issuance and upon each renewal of a holder's license, certification or registration.

(c) The department and each board, commission, agency or other governmental entity created pursuant to this title shall establish and maintain a link or links on the entity's web site to the statutes, rules, policies, and guidelines that are implemented or enforced by the entity and that impact an applicant for, or a holder of, a professional or occupational license, certification, or registration from the entity.

(d)(1) The department and each board, commission, agency, or other governmental entity created pursuant to this title shall allow each holder of a professional or occupational license, certification or registration from the department, board, commission, agency or other governmental entity to have the option of being notified by electronic mail of:

(A) Renewals of the holder's license, certification or registration;

(B) Any fee increases;

(C) Any changes in state law that impact the holder and are implemented or enforced by the entity, including newly promulgated or amended statutes, rules, policies and guidelines; and

(D) Any meeting where changes in rules or fees are on the agenda. For purposes of this subdivision (d)(1)(D), the electronic notice shall be at least forty-five (45) days in advance of the meeting, unless it is an emergency meeting then the notice shall be sent as soon as is practicable.

(2) The department and each board, commission, agency or other governmental entity created pursuant to this title shall notify each holder of a license, certification or registration of the availability of receiving electronic notices pursuant to subdivision (d)(1) upon issuance or renewal of the holder's license, certification or registration.

T. C. A. § 71-1-135

§ 71-1-135. Victims of human trafficking; plan for delivery of services

Effective: April 19, 2013

(a) The commissioner of human services shall establish a plan for the delivery of services to victims of human

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trafficking after consultation with the following departments:

- (1) Department of children's services;
- (2) Department of health;
- (3) Department of intellectual and developmental disabilities;
- (4) Department of mental health and substance abuse services; and
- (5) Tennessee bureau of investigation.

(b) The plan developed under subsection (a) shall include, but not be limited to, provisions to:

- (1) Identify victims of human trafficking in this state;
- (2) Identify community-based services for victims of human trafficking;
- (3) Assist victims of human trafficking through the provision of information regarding access to benefits and services to which those victims may be entitled;
- (4) Coordinate delivery of services and information concerning health care, mental health care, legal services, housing, job training, education and victim's compensation funds;
- (5) Prepare and disseminate educational materials and provide training programs to increase awareness of human trafficking and the services available to victims; and
- (6) Assist victims of human trafficking with family reunification.

(c) In addition to the requirements of subsection (b), the plan shall include a timeline for which the department anticipates the state would be capable of implementing the plan, along with anticipated rates of assistance to victims of human trafficking, cost of implementation, an itemized rationale for both, and any other factor that the

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department opines will significantly contribute to or detract from the success of implementing the plan.

(d) By July 1, 2013, the department of human services shall transmit a copy of the plan and issue a report to the chair of the judiciary committee of the senate and the chair of the criminal justice committee of the house of representatives.