

CHAPTER 2000-151

House Bill No. 1049

An act relating to the Florida Statutes; amending ss. 11.45, 20.12, 20.171, 20.331, 39.001, 39.402, 72.011, 95.091, 110.123, 110.191, 112.317, 112.324, 120.536, 120.545, 120.80, 121.021, 121.031, 121.052, 121.122, 159.804, 159.805, 159.807, 159.81, 163.3187, 175.071, 185.02, 185.06, 185.23, 189.427, 197.343, 201.15, 206.46, 206.609, 207.002, 212.02, 212.054, 212.055, 212.06, and 212.08, F.S.; and reenacting ss. 61.13 and 63.132, F.S., pursuant to s. 11.242, F.S.; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

Be It Enacted by the Legislature of the State of Florida:

Section 15. Paragraph (b) of subsection (2) of section 120.536, Florida Statutes, is amended to read:

120.536 Rulemaking authority; listing of rules exceeding authority; repeal; challenge.--

(2)

(b) By October 1, 1999, each agency shall provide to the Administrative Procedures Committee a listing of each rule, or portion thereof, adopted by that agency before June 18, 1999 ~~the effective date of the bill~~, which exceeds the rulemaking authority permitted by this section. For those rules of which only a portion exceeds the rulemaking authority permitted by this section, the agency shall also identify the language of the rule which exceeds this authority. The Administrative Procedures Committee shall combine the lists and provide the cumulative listing to the President of the Senate and the Speaker of the House of Representatives. The Legislature shall, at the 2000 Regular Session, consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted. By January 1, 2001, each agency shall initiate proceedings pursuant to s. 120.54 to repeal each rule, or portion thereof, identified as exceeding the rulemaking authority permitted by this section for which authorizing legislation does not exist. By February 1, 2001, the Administrative Procedures Committee shall submit to the President of the Senate and the Speaker of the House of Representatives a report identifying those rules that an agency had previously identified as exceeding the rulemaking authority permitted by this section for which proceedings to repeal the rule have not been initiated. As of July 1, 2001, the Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later

than 45 days if the agency is headed by a collegial body, the agency shall initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

Reviser's note.--Amended to improve clarity and facilitate correct interpretation. Paragraph (b) was enacted by s. 3, ch. 99-379, Laws of Florida. Section 8, ch. 99-379, provided that the act would take effect upon becoming law. Committee Substitute for H.B. 107, which became ch. 99-379, was signed by the Governor on June 18, 1999.

Section 16. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2) ~~120.81(1)(d) and (2)~~, and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

- (a) The rule is an invalid exercise of delegated legislative authority.
- (b) The statutory authority for the rule has been repealed.
- (c) The rule reiterates or paraphrases statutory material.
- (d) The rule is in proper form.
- (e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.
- (f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.
- (g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.
- (h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.
- (i) The rule could be made less complex or more easily comprehensible to the general public.
- (j) The rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.
- (k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, the agency has exceeded the scope of its statutory authority, and the rule was promulgated in compliance with the requirements and limitations of s. 120.54(4).

Reviser's note.--Amended to conform to the redesignation of s. 120.81(1)(d) as s. 120.81(1)(e) by s. 7, ch. 99-379, Laws of Florida.

Section 17. Subsection (7) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.--

(7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES.--
Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Children and Family Services in the execution of those social and economic programs administered by the former Division of Family Services of the former Department of Health and Rehabilitative Services ~~that department~~ prior to the reorganization effected by chapter 75-48, Laws of Florida, need not be conducted by an administrative law judge assigned by the division.

Reviser's note.--Amended to improve clarity and facilitate correct interpretation. The referenced former Division of Family Services had been a part of the former Department of Health and Rehabilitative Services.