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# **Elder & Family Services Policy Committee**

**Thursday, January 21, 2010  
9:00 AM - 10:15 AM  
24 House Office Building**

**Larry Cretul  
Speaker**

**Thomas "Tom" Anderson  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Elder & Family Services Policy Committee

**Start Date and Time:** Thursday, January 21, 2010 09:00 am  
**End Date and Time:** Thursday, January 21, 2010 10:15 am  
**Location:** 24 HOB  
**Duration:** 1.25 hrs

**Consideration of the following bill(s):**

HB 91 Adult Protective Services by Wood

Overview of the Department of Veterans' Affairs

Overview of the Agency for Health Care Administration

**NOTICE FINALIZED on 01/14/2010 15:44 by Alison.Cindy**



# The Florida House of Representatives

Health & Family Services Policy Council

Elder & Family Services Policy Committee

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## AGENDA

January 21, 2010  
9:00 AM – 10:15 AM  
24 House Office Building

I. Opening Remarks by Chair Anderson

II. Overview of the Department of Veterans' Affairs

Rear Admiral LeRoy Collins Jr., Executive Director  
Florida Department of Veterans' Affairs

III. Overview of the Agency for Health Care Administration

Tom Arnold, Secretary  
Agency for Health Care Administration

IV. Consideration of the Following Bill:

HB 91 – Adult Protective Services by Rep. Wood

V. Closing Remarks from Chair Anderson

VI. Adjournment





# Florida Department of Veterans' Affairs

Rear Admiral LeRoy Collins Jr.  
U.S. Navy Reserve (Ret.)  
Executive Director

House Elder and Family Services Policy Committee  
January 21, 2010



## *Origins of FDVA*

- **Florida creates state office of Veterans' Services in 1944**
- **Florida voters approve 1988 Constitutional Amendment creating FDVA in 1989**



Training aircraft over Miami during World War II.



# *Veterans Facts*

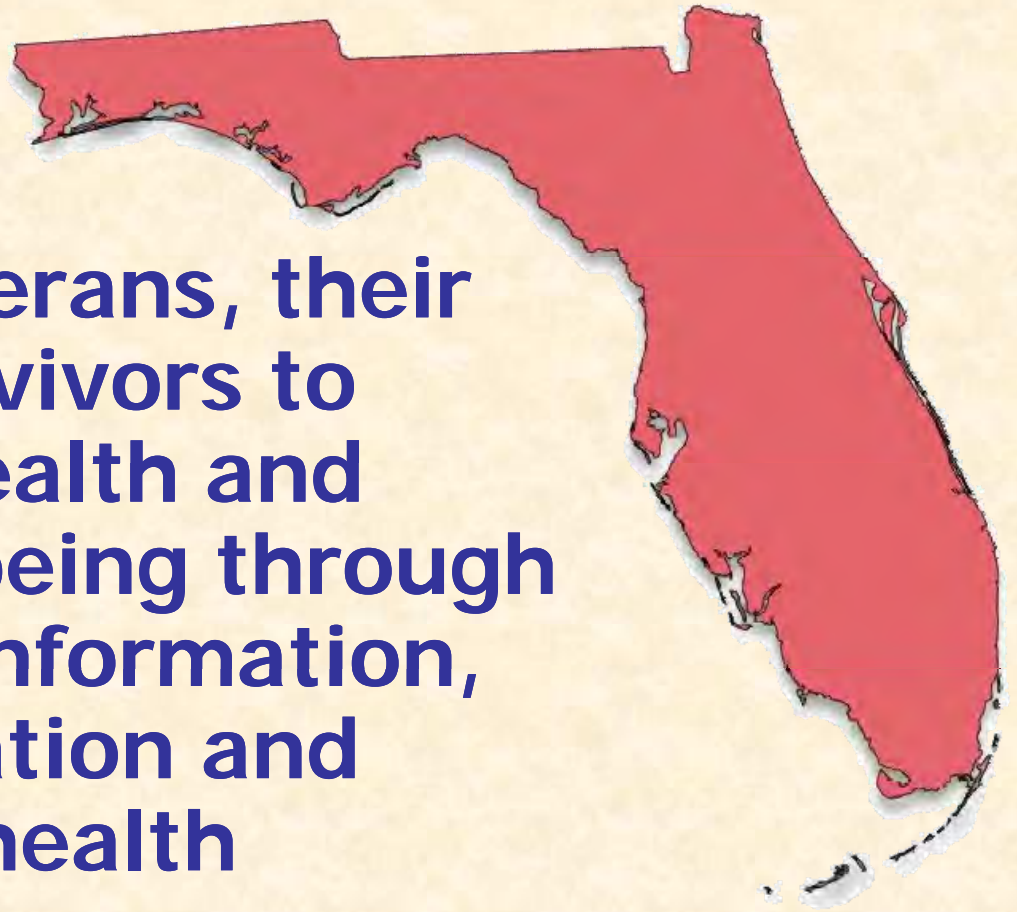
- **Second largest Veteran population:**  
*Approximately 1.7 million Floridians*
- **Fastest growing Veteran population:**  
*Largest in nation by 2020 says census*
- **Largest military retiree population:**  
*218,000 retirees and surviving spouses*
- **174,000 OEF/OIF Veterans claim the Sunshine State as home of record**







## *Our Vision*

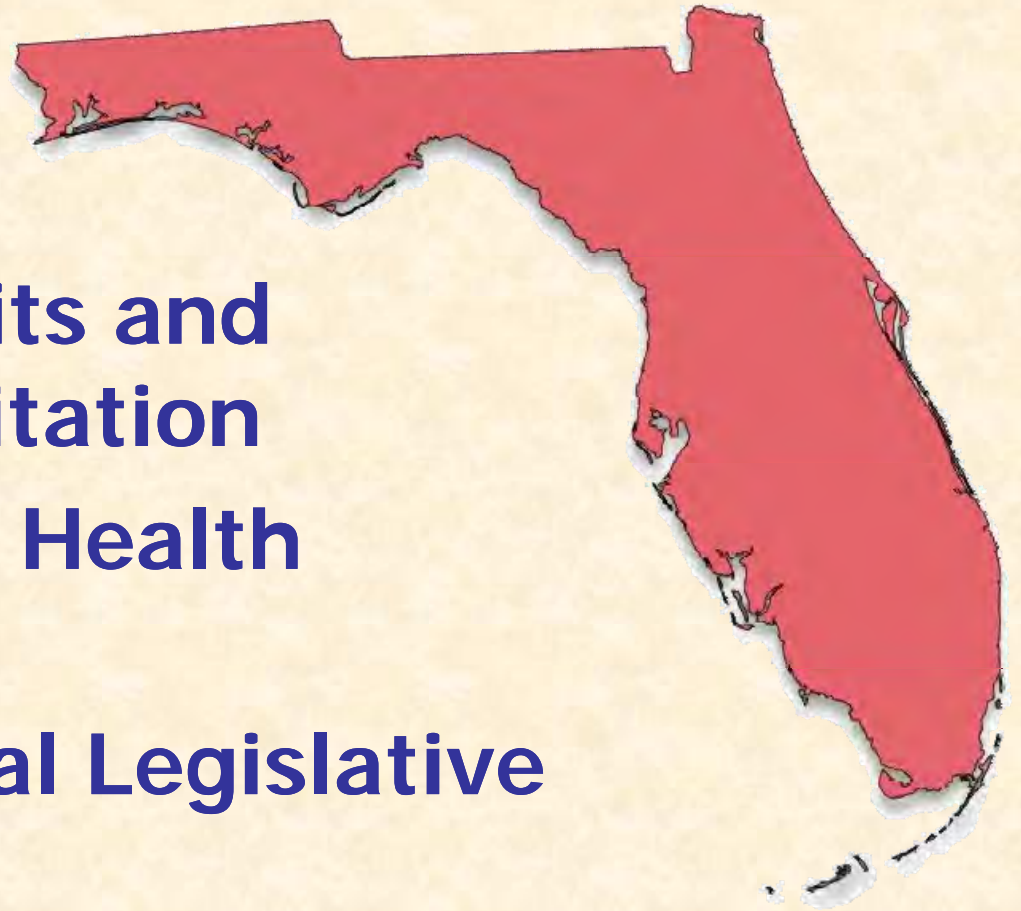


- **Help Florida veterans, their families and survivors to improve their health and economic well-being through quality benefit information, advocacy, education and long-term care health services**



## *How We Serve*

- **Veterans' Benefits and Assistance Facilitation**
- **Long-Term Care Health Services**
- **State and Federal Legislative Advocacy**





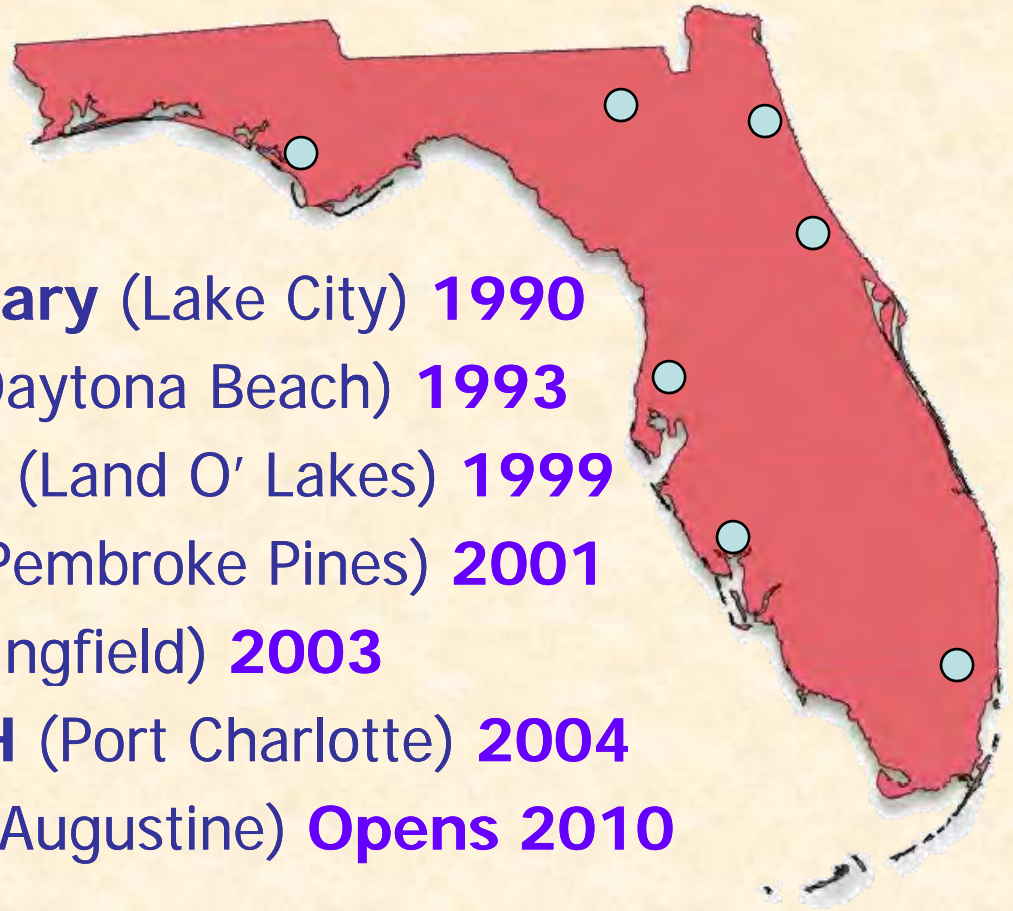
# *Economic Impact*

- **Veterans are a major fiscal force in Florida**
- **More than \$10 Billion Federal dollars for veterans flow annually into Florida's economy**





## *Our Veterans' Homes*



- **Robert Jenkins Domiciliary (Lake City) 1990**
- **Emory Bennett SVNH (Daytona Beach) 1993**
- **Baldomero Lopez SVNH (Land O' Lakes) 1999**
- **Sandy Nininger SVNH (Pembroke Pines) 2001**
- **Clifford Sims SVHN (Springfield) 2003**
- **Douglas Jacobson SVNH (Port Charlotte) 2004**
- **Clyde Lassen SVNH (St. Augustine) Opens 2010**



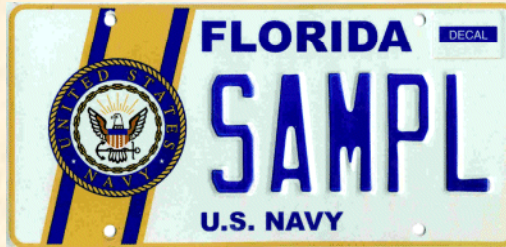
# *Clyde E. Lassen State Veterans' Nursing Home*

- 120-bed skilled nursing facility opens late 2010
- 60 beds for dementia residents
- First new **Green** nursing home built in Florida
- \$7 million in salary & benefits
- \$2 million in expenses & contract services
- \$460,000 in other services
- Florida provided 1/3 of design/construction costs





# Funding Our Homes





# *County Veteran Service Offices*



- **Local assistance available through network of County Veteran Service Offices**
- **FDVA trains and certifies staff**
- **All services provided at no cost to veterans**



## *Recent Legislation*

- **Sergeant 1st Class Paul R. Smith Memorial Act creates the Florida Veterans Foundation, Inc.**
- **Non-profit direct-support organization designed to provide assistance, funding and support for FDVA**







## *Recent Legislation*

- **Service-Disabled Veteran Business Enterprise Opportunity Act**
- **Creates state contract preference for eligible service-disabled veteran owned small businesses**





## *Recent Legislation*

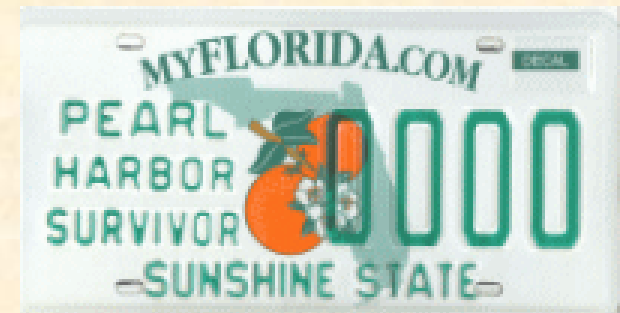
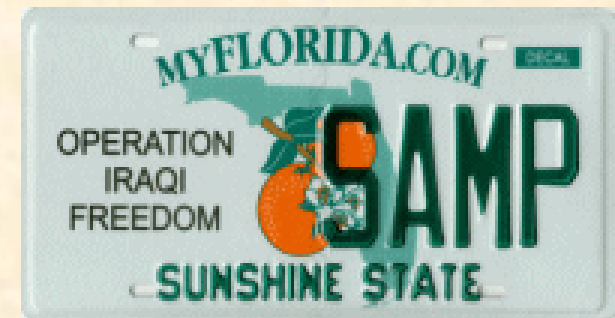
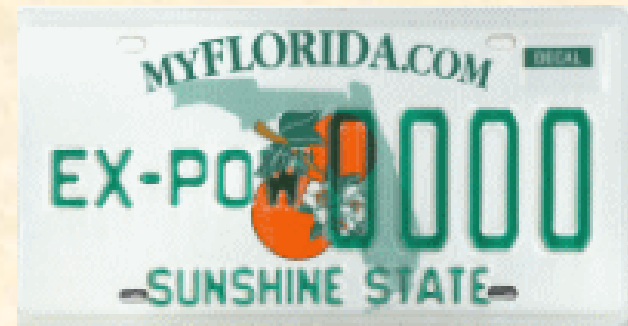
- **Increases revenue for State Veterans' Homes Trust Fund by providing voluntary contribution check box on vehicle registration forms**





## *2009 Legislative Successes*

- All fees from military and veteran “stamped” tags to be deposited in Homes Trust Funds
- No new tags, fees or taxes were created





## *2009 Legislative Successes*

- **Building Permit Fee exemption for 100% Permanently and Totally Disabled Veterans**
- **Safety and habitability improvements to be exempt from fees not just related to wheelchair accessibility**





## *2009 Legislative Successes*

- **GI Bill Tuition Deferrals**
- **Students using GI Bill benefits may use a deferment once a year or anytime their GI Bill payments are late**
- **Amend current Florida statute to include Chapter 33, reflecting new Post 9/11 GI Bill**





# *Campus Veterans Representative Program*

- **Post 9/11 GI Bill began Aug. 1, 2009**
- **More than 75% increase in Veteran enrollment noted by DOE**
- ***Unfunded* Campus Vet Rep assists student Veterans with accessing educational benefits and other earned state and federal benefits**





## ***Florida Physicians Workforce Initiative***

- **Championed by Senator Durrell Peaden Jr.**
- **Enhance the number of graduate medical education programs available in Florida**
- **Address the shortage of health care professionals practicing in underserved areas by exploring limited licensure status for retired military doctors, dentists and nurses not currently licensed in Florida**



## ***2010 Legislative Initiatives***

- **Veterans Suicide Prevention Pilot Project, Senate Bill 7032**
- **Proposed bill by Committee on Military Affairs and Domestic Security**
- **Reduce incidence of suicide among veterans in underserved areas by conducting outreach activities and increasing access to services and support for veterans and their families who may be in need of mental health services and suicide prevention counseling**





## *2010 Legislative Initiatives*

- Funding for the Florida Veterans Foundation
- 20% of fees over 24 months collected from *Florida Salutes Veterans* tag helping start foundation
- Requesting additional 24 months of funding





# Florida Department of Veterans' Affairs

Rear Admiral LeRoy Collins Jr.  
U.S. Navy Reserve (Ret.)  
Executive Director

AHCA

# *Agency for Health Care Administration: Overview*

*Thomas W. Arnold  
Secretary, Agency for Health Care Administration*

*Presented to the House Elder & Family Services Policy  
Committee*

*January 21, 2010*





## *AHCA Overview*

- ▶ The Agency for Health Care Administration (or AHCA) is the chief health policy and planning entity for the state.
- ▶ The Agency:
  - Administers the state's \$18.8 billion Medicaid program.
  - Licenses and regulates more than 41,000 health care facilities and 44 managed care organizations,
  - Issues Certificates of Need for licensed health care services and publishes health care data and reports.
  - Administers programs for health care transparency and designated by the Governor to implement health information exchange.



## *AHCA Overview*

- ▶ Our mission is *Better Health Care for All Floridians*.
- ▶ There are approximately 1,700 employees at the Agency.
- ▶ The Agency is divided into four major divisions: Medicaid, Health Quality Assurance, the Florida Center for Health Information and Policy Analysis, and Operations.

## *Executive Direction*

- ▶ Secretary
- ▶ Chief of Staff
- ▶ Communications
- ▶ General Counsel
- ▶ Legislative Affairs
- ▶ Inspector General

## *Inspector General*

- ▶ The Office of the Inspector General is comprised of the Bureau of Medicaid Program Integrity (MPI), the Bureau of Internal Audit and the Investigations Unit.
- ▶ The Bureau of Medicaid Program Integrity is responsible for overseeing the activities of Medicaid recipients, and Medicaid providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible and for recovering overpayments and imposing sanctions as appropriate.
- ▶ The Investigations Unit and Bureau of Internal Audit complement the efforts of the Bureau of Medicaid Program Integrity to prevent, detect and recoup Medicaid fraud and abuse overpayments.



## *Division of Medicaid*

- ▶ The Florida Medicaid program is a state and federal partnership that provides health care to more than 2.7 million beneficiaries.
- ▶ The operation of the program is conducted by Medicaid bureaus that include:
  - Medicaid Services
  - Health Systems Development
  - Program Analysis
  - Pharmacy Services
  - Quality Management
  - Contract Management
  - Fraud and Abuse Liaison Office

## *Division of Medicaid (continued)*

- Medicaid serves the most vulnerable in Florida:
  - 27% of children.
  - 51.2% of deliveries.
  - 63% of nursing home days.
  - 1,094,709 adults-parents aged and disabled.
  
- Medicaid Eligibles:
  - 2.7 million eligibles.
  - Elders, disabled, families, pregnant women, children in families below poverty.
  - Fourth largest Medicaid population in the nation.

## *Division of Medicaid (continued)*

- ▶ There are 11 Medicaid Field Offices throughout the state.
- ▶ Field office personnel are generally the first point of contact for problem resolution for both providers and beneficiaries.
- ▶ Each office is staffed by a team of experienced individuals who actively work to ensure the effective and efficient local operation of the Medicaid program.

## *Division of Medicaid (continued)*

- ▶ Medicaid processes more than 135 million claims annually.
- ▶ There are more than 68,000 active Medicaid providers in Florida.
- ▶ Medicaid processes an average of 375 Medicaid provider enrollment applications each week.
- ▶ Medicaid call centers handle more than 8,900 calls per day.

## *Division of Health Quality Assurance*

- ▶ The Division of Health Quality Assurance protects the citizens of Florida through oversight of health care service providers.
- ▶ The Division is divided into five bureaus:
  - Long Term Care Services
  - Health Facility Regulation
  - Field Operations
  - Managed Health Care
  - Plans and Construction

## *Division of Health Quality Assurance (continued)*

- ▶ The Division licenses, certifies, regulates or provides exemptions for more than 41,000 providers including:
  - 15,845 Laboratories.
  - 2,036 Health care clinics.
  - 7,189 Health care clinic exemptions.
  - 2,840 Assisted living facilities.
  - 1,240 Home medical equipment providers.
  - 2,383 Home health agencies.
    - 672 Nursing homes.
    - 415 Ambulatory surgery centers.
    - 285 Hospitals.
  - 44 HMOs, both Medicaid and commercial.

## *Division of Health Quality Assurance (continued)*

- ▶ FY 2008/09 Volume Statistics:
  - 26,577 Applications.
  - 7,729 Complaints.
  - 59,845 Background screenings.
  - 21,036 Surveys and investigations.
  - 1,060 CON reviews.
  - 1,289 Financial reviews.
  - 4,031 Plans and construction reviews.
  - 552 Subscriber Assistance Program cases .
  - 3,207 Public information requests.
- ▶ This Division also handles complaints received against health care facilities. Through the first 6 months of this fiscal year, 2,275 complaints have been investigated.



## *The Florida Center*

*[www.FloridaHealthFinder.gov](http://www.FloridaHealthFinder.gov)*

- The Florida Center for Health Information and Policy Analysis (Florida Center) performs several important functions to improve the effectiveness and efficiency of health care services in the state and to support consumers in health care decision making.
- The Florida Center is responsible for collecting, compiling, coordinating, analyzing, and disseminating health related data and statistics for the purpose of developing public policy and promoting the transparency of consumer health care information. These data provide accurate and timely health care information to consumers, policy analysts, administrators, and researchers in order to evaluate cost, quality, and access to care.
- The Florida Center promotes the exchange of secure, privacy-protected health care information, the adoption of electronic health records among providers, and the use of personal health records by all consumers.



## *The Florida Center*

*[www.FloridaHealthFinder.gov](http://www.FloridaHealthFinder.gov)*

- ▶ The Florida Center sets policies and standards for safeguarding the privacy and security of health records and ensuring that health care providers and consumers benefit from the new health information technologies.
- ▶ The Florida Center collects health care patient data from 264 hospitals, 207 emergency departments, 638 ambulatory surgical centers and 15 comprehensive inpatient rehabilitation centers.
- ▶ The Florida Center is also responsible for collecting adverse incident reports from hospitals, ambulatory surgery centers, health maintenance organizations, nursing homes, and assisted living facilities. The Florida Center works closely with facilities and regulatory agencies to assure that corrective actions have been implemented.

## *Division of Operations*

- ▶ The Division of Operations is responsible for the administration of human resources, finance and accounting, budgeting, grants management, revenue management, procurements, purchasing, facility management, safety, and mail room operations.
- ▶ The Division is divided into four bureaus:
  - Budget Services
  - Finance and Accounting
  - Human Resources
  - Support Services

## *Division of Operations (continued)*

- ▶ In FY 2008-09, the Bureau of Finance and Accounting processed 34,458 invoices and filed 53 federal reports.
- ▶ Within the Bureau of Support Services is the Agency's Contract Administration which administered 135 contracts in FY 2008-09 and processed 257 contract amendments.

*Questions?*



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 91

Adult Protective Services

**SPONSOR(S):** Wood

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 336

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Family Services Policy Committee		Guy	Ciccone
2) Public Safety & Domestic Security Policy Committee			
3) Health Care Appropriations Committee			
4) Health & Family Services Policy Council			
5)			

**SUMMARY ANALYSIS**

House Bill 91 amends several provisions in Chapter 415, Florida Statutes, relating to adult protective services. The bill deletes terms "disabled adults" and "elderly persons" and replaces with the term "vulnerable adult." The bill also amends the definition of "vulnerable adult" by including the term "sensory."

The bill creates a definition for "activities of daily living" that aligns with the definition for "activities of daily living," relating to adult family-care homes.

The bill provides that the central abuse hotline must transfer to the appropriate county sheriff's office reports of known or suspected abuse of a vulnerable adult involving a person other than a relative, caregiver, or household member.

The bill clarifies that the Department of Children and Family Services ("the DCF" or "department") may file a petition to determine incapacity in adult protective proceedings. Upon filing the petition, the department is prohibited from being appointed guardian or providing legal counsel to the guardian.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations.

The bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Background

Section 415.101, Florida Statutes, relating to the Adult Protective Services Act, provides legislative intent for comprehensive protective services for Florida's elderly and abused adults. The Department of Children and Families ("the DCF" or "the department") has identified several methods to improve these services.

##### *Adult Protective Services Program<sup>1</sup>*

The Adult Protective Services Program, authorized by ch. 415, F.S., and managed by the DCF, is a system of social services that protects disabled or elderly persons from occurrences of abuse, neglect or exploitation. Upon report of alleged abuse, neglect, or exploitation, an assessment of an individual's need for protective services is initiated.

The program consists of four components:

- The on-site investigation;
- Emergency services if determined necessary;
- Referral to the local law enforcement, if appropriate; and
- Referral to local social service agencies for any identified needs.

##### *Central Abuse Hotline*

When the Florida Abuse Hotline began in the early 1970s, abuse reports were received in 181 state offices throughout Florida.<sup>2</sup> In 1988, the Legislature created the Adult Protective Services Act and centralized the abuse hotline at the DCF, where it currently operates and receives abuse, neglect, or exploitation reports—in writing or through a statewide toll-free telephone number.<sup>3 4</sup> Reports received by the hotline alleging child abuse, abandonment, or neglect by a person who is not a family member,

<sup>1</sup> Department of Children and Families, CF Operating Procedure 140-2, see <http://www.dcf.state.fl.us/publications/policies.shtml#adult> (last visited January 14, 2010).

<sup>2</sup> Department of Children and Families, see <http://www.dcf.state.fl.us/dcf/flash/apr07/hotline.shtml> (last visited January 14, 2010).

<sup>3</sup> *Id.*

<sup>4</sup> Section 415.103(1), Florida Statutes.

household member, or caregiver must be immediately transferred to the appropriate county Sheriff's office<sup>5</sup> --there is no such requirement for reports of adult abuse, neglect, or exploitation.

The hotline has 160 staff members, including 3 managers, 17 supervisors and 140 counselors.<sup>6</sup> From 2007-2008, Florida's Abuse Hotline received approximately 367,000 calls, which resulted in approximately 230,000 filed reports. Specifically relating to adult abuse, the hotline received 77,641 calls, which resulted in 42,919 filed reports.<sup>7</sup> The hotline also maintains a secure web-based reporting system that allows individuals to report suspicions of adult/child abuse, neglect and abandonment, or neglect and exploitation of vulnerable adults.

The Florida Abuse Hotline accepts reports related to vulnerable adults who are residents of Florida or currently located in Florida, and are:<sup>8</sup>

- Believed to have been neglected or abused by a caregiver in Florida;
- Suffering from the ill effects of neglect and in need of services; or
- Being exploited by any person who stands in a position of trust or confidence, or any person who knows or should know that a vulnerable adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use their funds, assets or property.

When a report is determined by a hotline counselor to require an immediate onsite protective investigation, the hotline counselor must immediately notify the DCF's designated district staff responsible for protective investigations. A non-emergency report that is received by the hotline counselor is forwarded to the appropriate district staff in sufficient time so that an investigation occurs within 24 hours.<sup>9</sup>

#### *Protective Service Interventions*

When a report is called into the Florida Abuse hotline it is then referred to the Protective Investigations Unit closest to the victim's location. A protective investigation is initiated which includes observation, interviews with the victim and witnesses, evidence gathering and collateral contacts.<sup>10</sup> Sometimes during an investigation, abused, neglected, or exploited adults are identified, but lack the capacity to consent to protective services. Therefore, the DCF, under reasonable cause, is directed to petition the court for an order authorizing the provision of protective services.<sup>11</sup>

There are also instances when vulnerable adults are identified and lack capacity to consent to emergency protective services. Emergency protective services are warranted when a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury. The DCF, under reasonable cause, may petition the court for an emergency protective services order.<sup>12</sup>

Emergency and non-emergency protective service orders are restricted to 60 days. At the conclusion of 60 days, the department must petition the court to determine whether:<sup>13</sup>

- Protective services will be continued with the consent of the vulnerable adult;
- Protective services will be continued for the vulnerable adult who lacks capacity;
- Protective services will be discontinued; or
- A petition for guardianship should be filed pursuant to ch. 744, F.S., regarding Florida guardianship.

<sup>5</sup> s. 39.201(2)(b), F.S.

<sup>6</sup> Department of Children and Families, see <http://www.dcf.state.fl.us/dcf/flash/apr07/hotline.shtml> (last visited January 20, 2010).

<sup>7</sup> Department of Children and Families, *Florida Abuse Hotline – Call Report Activity Fiscal Year 2008-2009* (on file with the Committee).

<sup>8</sup> Department of Children and Families, *Reporting Abuse of Children and Vulnerable Adults*, see [www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf](http://www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf) (2007) (last visited January 14, 2010).

<sup>9</sup> s. 415.103(2), F.S.

<sup>10</sup> Department of Children and Families, *Adult Abuse, Neglect, and Exploitation*, see <http://www.dcf.state.fl.us/as/> (last visited January 19, 2010).

<sup>11</sup> s. 415.1051(1), F.S.

<sup>12</sup> s. 415.1051(2), F.S.

<sup>13</sup> *Id.*



### *Access to Driver's License Images and Signatures*

The DCF reports that during some adult services investigations, the subject of the investigation denies his or her identity, eluding the investigators. Section 322.142(4), F.S., authorizes the Department of Highway Safety and Motor Vehicles, pursuant to interagency agreements, to share its database information, including digital images and signatures, in response to:

- Law enforcement agency requests;
- The Department of State to determine voter registration eligibility;
- The Department of Revenue to establish paternity and establish, modify, or enforce support obligations;
- The Department of Financial Services relating to unclaimed property; and
- The Department of Children and Families relating to protective investigations regarding children.<sup>14</sup>

Current law does not allow the DCF to access the database system relating to protective investigations regarding vulnerable adults.

### **Effects of Bill**

House Bill 91 amends several provisions in ch. 415, F.S., relating to adult protective services. The bill changes several definitions used in this chapter. Specifically, the bill deletes terms "disabled adults" and "elderly persons" provided in s. 415.101(2), F.S., and replaces with the term "vulnerable adult." The bill amends the definition of "vulnerable adult" by adding the term "sensory," and creates a definition for "activities of daily living" that aligns with the "activities of daily living" definition relating to adult family-care homes.<sup>15</sup> The effect of these changes provides more consistent use of commonly used terms.

The bill amends s. 415.103(2), F.S., and requires the central abuse hotline to transfer reports of known or suspected abuse of a vulnerable adult, where the alleged responsible party is someone other than the caregiver, household member, or family member, to the appropriate county sheriff's office. This provision aligns abuse of vulnerable adult reporting requirements with those for abuse of children and should ensure increased law enforcement notification.

The bill amends s. 415.1051, F.S., and authorizes the DCF, upon a good faith belief that a vulnerable adult lacks capacity, to file a petition to determine capacity in emergency and nonemergency adult protective proceedings, under ch. 744, F.S. The bill prohibits the DCF from serving as a guardian or providing legal counsel to the guardian once such petition has been filed. The effect of these changes will allow the DCF to initiate guardianship petitions to protect vulnerable adults and should allow for ongoing protection once the department's involvement has ended. Additionally, the effect of prohibiting the DCF from being named as guardian to the vulnerable adult will avoid conflicts of interest for the department.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations. Access to this system should assist investigators in the positive identification of victims and responsible persons who are subjects in investigations of abuse, neglect, or exploitation and provide quick access to the location of such persons, including vulnerable adults.

The bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2010.

### **B. SECTION DIRECTORY:**

Section 1. Amends s. 415.101, F.S., relating to the Adult Protective Services Acts; legislative intent.

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<sup>14</sup> s. 322.142(4), F.S.

<sup>15</sup> s. 429.65(1), F.S.

Section 2. Amends s. 415.102, F.S., relating to definitions.

Section 3. Amends s. 415.103, F.S., relating to the central abuse hotline.

Section 4. Amends s. 415.1051, F.S., relating to protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.

Section 5. Amends s. 322.142, F.S., relating to color photographic or digital imaged licenses.

Section 6. Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.

Section 7. Amends s. 943.059, F.S., relating to court-ordered sealing of criminal history records.

Section 8. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

According to the Department of Children and Families, section 4 of the bill, which authorizes the department to file a petition for guardianship, will have no fiscal impact on the department since the petition filing fees will be waived per s. 28.345, F.S.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 91 (2010)

Amendment No.   /  

COUNCIL/COMMITTEE ACTION

ADOPTED        (Y/N)  
ADOPTED AS AMENDED        (Y/N)  
ADOPTED W/O OBJECTION        (Y/N)  
FAILED TO ADOPT        (Y/N)  
WITHDRAWN        (Y/N)  
OTHER           

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1 Council/Committee hearing bill: Elder & Family Services Policy  
2 Committee

3 Representative(s) Wood offered the following:

4

5 **Amendment**

6 Remove lines 55-57 and insert:

7 (2) "Activities of daily living" means functions and tasks  
8 for self-care, including ambulation, bathing, dressing, eating,  
9 grooming, toileting, and other similar tasks.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 91 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Elder & Family Services Policy  
2 Committee

3 Representative(s) Wood offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 187-188, insert:

7 Section 6. Paragraph (a) of subsection (4) of section 435.04,  
8 Florida Statutes, is amended to read:

9 435.04 Level 2 screening standards.-

10 (4) Standards must also ensure that the person:

11 (a) For employees or employers licensed or registered  
12 pursuant to chapter 400 or chapter 429, does not have a  
13 confirmed report of abuse, neglect, or exploitation as defined  
14 in s. 415.102(6), which has been uncontested or upheld under s.  
15 415.103.

16  
17 Redesignate subsequent sections.  
18  
19

Amendment No. \_\_\_\_\_

20  
21  
22  
23  
24

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**T I T L E   A M E N D M E N T**

Remove line 18 and insert:

investigations; amending ss. 435.04, 943.0585, and 943.059,  
F.S.;

HB 91

2010

1                   A bill to be entitled  
 2           An act relating to adult protective services; amending s.  
 3           415.101, F.S.; revising legislative intent with respect to  
 4           adult protective services; providing for care and  
 5           protection of all vulnerable adults; amending s. 415.102,  
 6           F.S.; defining the term "activities of daily living";  
 7           revising the definition of the term "vulnerable adult";  
 8           conforming a cross-reference; amending s. 415.103, F.S.;  
 9           providing for certain suspected abuse cases to be  
 10          transferred to the local county sheriff's office; amending  
 11          s. 415.1051, F.S.; providing for the Department of  
 12          Children and Family Services to file a petition to  
 13          determine incapacity and guardianship under certain  
 14          circumstances; amending s. 322.142, F.S.; authorizing the  
 15          Department of Highway Safety and Motor Vehicles to provide  
 16          copies of drivers' license files to the Department of  
 17          Children and Family Services to conduct protective  
 18          investigations; amending ss. 943.0585 and 943.059, F.S.;  
 19          conforming cross-references; providing an effective date.

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

23           Section 1. Subsection (2) of section 415.101, Florida  
 24   Statutes, is amended to read:

25           415.101 Adult Protective Services Act; legislative  
 26   intent.--

27           (2) The Legislature recognizes that there are many persons  
 28   in this state who, because of age or disability, are in need of

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29 protective services. Such services should allow such an  
 30 individual the same rights as other citizens and, at the same  
 31 time, protect the individual from abuse, neglect, and  
 32 exploitation. It is the intent of the Legislature to provide for  
 33 the detection and correction of abuse, neglect, and exploitation  
 34 through social services and criminal investigations and to  
 35 establish a program of protective services for all vulnerable  
 36 ~~disabled adults or elderly persons~~ in need of them. It is  
 37 intended that the mandatory reporting of such cases will cause  
 38 the protective services of the state to be brought to bear in an  
 39 effort to prevent further abuse, neglect, and exploitation of  
 40 vulnerable ~~disabled adults or elderly persons~~. In taking this  
 41 action, the Legislature intends to place the fewest possible  
 42 restrictions on personal liberty and the exercise of  
 43 constitutional rights, consistent with due process and  
 44 protection from abuse, neglect, and exploitation. Further, the  
 45 Legislature intends to encourage the constructive involvement of  
 46 families in the care and protection of vulnerable ~~disabled~~  
 47 ~~adults or elderly persons~~.

48 Section 2. Subsections (2) through (27) of section  
 49 415.102, Florida Statutes, are renumbered as subsections (3)  
 50 through (28), respectively, current subsections (4) and (26) are  
 51 amended, and a new subsection (2) is added to that section, to  
 52 read:

53 415.102 Definitions of terms used in ss. 415.101-  
 54 415.113.--As used in ss. 415.101-415.113, the term:



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55            (2) "Activities of daily living" means functions and tasks  
 56 for self-care, including eating, bathing, grooming, dressing,  
 57 ambulating, and other similar tasks.

58            (5)-(4) "Caregiver" means a person who has been entrusted  
 59 with or has assumed the responsibility for frequent and regular  
 60 care of or services to a vulnerable adult on a temporary or  
 61 permanent basis and who has a commitment, agreement, or  
 62 understanding with that person or that person's guardian that a  
 63 caregiver role exists. "Caregiver" includes, but is not limited  
 64 to, relatives, household members, guardians, neighbors, and  
 65 employees and volunteers of facilities as defined in subsection  
 66 (9) (8). For the purpose of departmental investigative  
 67 jurisdiction, the term "caregiver" does not include law  
 68 enforcement officers or employees of municipal or county  
 69 detention facilities or the Department of Corrections while  
 70 acting in an official capacity.

71            (27)-(26) "Vulnerable adult" means a person 18 years of age  
 72 or older whose ability to perform the normal activities of daily  
 73 living or to provide for his or her own care or protection is  
 74 impaired due to a mental, emotional, sensory, long-term  
 75 physical, or developmental disability or dysfunction  
 76 dysfunctioning, or brain damage, or the infirmities of aging.

77            Section 3. Subsection (2) of section 415.103, Florida  
 78 Statutes, is amended to read:

79            415.103 Central abuse hotline.--

80            (2) Upon receiving an oral or written report of known or  
 81 suspected abuse, neglect, or exploitation of a vulnerable adult,  
 82 the central abuse hotline must determine if the report requires

83 an immediate onsite protective investigation. For reports  
 84 requiring an immediate onsite protective investigation, the  
 85 central abuse hotline must immediately notify the department's  
 86 designated protective investigative district staff responsible  
 87 for protective investigations to ensure prompt initiation of an  
 88 onsite investigation. For reports not requiring an immediate  
 89 onsite protective investigation, the central abuse hotline must  
 90 notify the department's designated protective investigative  
 91 district staff responsible for protective investigations in  
 92 sufficient time to allow for an investigation to be commenced  
 93 within 24 hours. At the time of notification of district staff  
 94 with respect to the report, the central abuse hotline must also  
 95 provide any known information on any previous report concerning  
 96 a subject of the present report or any pertinent information  
 97 relative to the present report or any noted earlier reports. If  
 98 the report is of known or suspected abuse of a vulnerable adult  
 99 by someone other than a relative, caregiver, or household  
 100 member, the report shall be immediately transferred to the  
 101 appropriate county sheriff's office.

102 Section 4. Paragraph (e) of subsection (1) and paragraph  
 103 (g) of subsection (2) of section 415.1051, Florida Statutes, are  
 104 amended to read:

105 415.1051 Protective services interventions when capacity  
 106 to consent is lacking; nonemergencies; emergencies; orders;  
 107 limitations.--

108 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If  
 109 the department has reasonable cause to believe that a vulnerable  
 110 adult or a vulnerable adult in need of services is being abused,

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111 neglected, or exploited and is in need of protective services  
 112 but lacks the capacity to consent to protective services, the  
 113 department shall petition the court for an order authorizing the  
 114 provision of protective services.

115 (e) Continued protective services.--

116 1. No more than 60 days after the date of the order  
 117 authorizing the provision of protective services, the department  
 118 shall petition the court to determine whether:

119 a. Protective services will be continued with the consent  
 120 of the vulnerable adult pursuant to this subsection;

121 b. Protective services will be continued for the  
 122 vulnerable adult who lacks capacity;

123 c. Protective services will be discontinued; or

124 d. A petition for guardianship should be filed pursuant to  
 125 chapter 744.

126 2. If the court determines that a petition for  
 127 guardianship should be filed pursuant to chapter 744, the court,  
 128 for good cause shown, may order continued protective services  
 129 until it makes a determination regarding capacity.

130 3. If the department has a good faith belief that the  
 131 vulnerable adult lacks the capacity to consent to protective  
 132 services, the petition to determine incapacity under s. 744.3201  
 133 may be filed by the department. Once the petition is filed, the  
 134 department may not be appointed guardian and may not provide  
 135 legal counsel for the guardian.

136 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the  
 137 department has reasonable cause to believe that a vulnerable  
 138 adult is suffering from abuse or neglect that presents a risk of

139 death or serious physical injury to the vulnerable adult and  
 140 that the vulnerable adult lacks the capacity to consent to  
 141 emergency protective services, the department may take action  
 142 under this subsection. If the vulnerable adult has the capacity  
 143 to consent and refuses consent to emergency protective services,  
 144 emergency protective services may not be provided.

145 (g) Continued emergency protective services.--

146 1. Not more than 60 days after the date of the order  
 147 authorizing the provision of emergency protective services, the  
 148 department shall petition the court to determine whether:

149 a. Emergency protective services will be continued with  
 150 the consent of the vulnerable adult;

151 b. Emergency protective services will be continued for the  
 152 vulnerable adult who lacks capacity;

153 c. Emergency protective services will be discontinued; or

154 d. A petition should be filed under chapter 744.

155 2. If it is decided to file a petition under chapter 744,  
 156 for good cause shown, the court may order continued emergency  
 157 protective services until a determination is made by the court.

158 3. If the department has a good faith belief that the  
 159 vulnerable adult lacks the capacity to consent to protective  
 160 services, the petition to determine incapacity under s. 744.3201  
 161 may be filed by the department. Once the petition is filed, the  
 162 department may not be appointed guardian and may not provide  
 163 legal counsel for the guardian.

164 Section 5. Subsection (4) of section 322.142, Florida  
 165 Statutes, is amended to read:

166 322.142 Color photographic or digital imaged licenses.--

167 (4) The department may maintain a film negative or print  
 168 file. The department shall maintain a record of the digital  
 169 image and signature of the licensees, together with other data  
 170 required by the department for identification and retrieval.  
 171 Reproductions from the file or digital record are exempt from  
 172 the provisions of s. 119.07(1) and shall be made and issued only  
 173 for departmental administrative purposes; for the issuance of  
 174 duplicate licenses; in response to law enforcement agency  
 175 requests; to the Department of State pursuant to an interagency  
 176 agreement to facilitate determinations of eligibility of voter  
 177 registration applicants and registered voters in accordance with  
 178 ss. 98.045 and 98.075; to the Department of Revenue pursuant to  
 179 an interagency agreement for use in establishing paternity and  
 180 establishing, modifying, or enforcing support obligations in  
 181 Title IV-D cases; to the Department of Children and Family  
 182 Services pursuant to an interagency agreement to conduct  
 183 protective investigations under part III of chapter 39 and  
 184 chapter 415; or to the Department of Financial Services pursuant  
 185 to an interagency agreement to facilitate the location of owners  
 186 of unclaimed property, the validation of unclaimed property  
 187 claims, and the identification of fraudulent or false claims.

188 Section 6. Paragraph (a) of subsection (4) of section  
 189 943.0585, Florida Statutes, is amended to read:

190 943.0585 Court-ordered expunction of criminal history  
 191 records.--The courts of this state have jurisdiction over their  
 192 own procedures, including the maintenance, expunction, and  
 193 correction of judicial records containing criminal history  
 194 information to the extent such procedures are not inconsistent

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195 with the conditions, responsibilities, and duties established by  
 196 this section. Any court of competent jurisdiction may order a  
 197 criminal justice agency to expunge the criminal history record  
 198 of a minor or an adult who complies with the requirements of  
 199 this section. The court shall not order a criminal justice  
 200 agency to expunge a criminal history record until the person  
 201 seeking to expunge a criminal history record has applied for and  
 202 received a certificate of eligibility for expunction pursuant to  
 203 subsection (2). A criminal history record that relates to a  
 204 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 205 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
 206 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 207 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
 208 any violation specified as a predicate offense for registration  
 209 as a sexual predator pursuant to s. 775.21, without regard to  
 210 whether that offense alone is sufficient to require such  
 211 registration, or for registration as a sexual offender pursuant  
 212 to s. 943.0435, may not be expunged, without regard to whether  
 213 adjudication was withheld, if the defendant was found guilty of  
 214 or pled guilty or nolo contendere to the offense, or if the  
 215 defendant, as a minor, was found to have committed, or pled  
 216 guilty or nolo contendere to committing, the offense as a  
 217 delinquent act. The court may only order expunction of a  
 218 criminal history record pertaining to one arrest or one incident  
 219 of alleged criminal activity, except as provided in this  
 220 section. The court may, at its sole discretion, order the  
 221 expunction of a criminal history record pertaining to more than  
 222 one arrest if the additional arrests directly relate to the

223 original arrest. If the court intends to order the expunction of  
 224 records pertaining to such additional arrests, such intent must  
 225 be specified in the order. A criminal justice agency may not  
 226 expunge any record pertaining to such additional arrests if the  
 227 order to expunge does not articulate the intention of the court  
 228 to expunge a record pertaining to more than one arrest. This  
 229 section does not prevent the court from ordering the expunction  
 230 of only a portion of a criminal history record pertaining to one  
 231 arrest or one incident of alleged criminal activity.

232 Notwithstanding any law to the contrary, a criminal justice  
 233 agency may comply with laws, court orders, and official requests  
 234 of other jurisdictions relating to expunction, correction, or  
 235 confidential handling of criminal history records or information  
 236 derived therefrom. This section does not confer any right to the  
 237 expunction of any criminal history record, and any request for  
 238 expunction of a criminal history record may be denied at the  
 239 sole discretion of the court.

240 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 241 criminal history record of a minor or an adult which is ordered  
 242 expunged by a court of competent jurisdiction pursuant to this  
 243 section must be physically destroyed or obliterated by any  
 244 criminal justice agency having custody of such record; except  
 245 that any criminal history record in the custody of the  
 246 department must be retained in all cases. A criminal history  
 247 record ordered expunged that is retained by the department is  
 248 confidential and exempt from the provisions of s. 119.07(1) and  
 249 s. 24(a), Art. I of the State Constitution and not available to  
 250 any person or entity except upon order of a court of competent

251 jurisdiction. A criminal justice agency may retain a notation  
 252 indicating compliance with an order to expunge.

253 (a) The person who is the subject of a criminal history  
 254 record that is expunged under this section or under other  
 255 provisions of law, including former s. 893.14, former s. 901.33,  
 256 and former s. 943.058, may lawfully deny or fail to acknowledge  
 257 the arrests covered by the expunged record, except when the  
 258 subject of the record:

- 259 1. Is a candidate for employment with a criminal justice  
 260 agency;
- 261 2. Is a defendant in a criminal prosecution;
- 262 3. Concurrently or subsequently petitions for relief under  
 263 this section or s. 943.059;
- 264 4. Is a candidate for admission to The Florida Bar;
- 265 5. Is seeking to be employed or licensed by or to contract  
 266 with the Department of Children and Family Services, the Agency  
 267 for Health Care Administration, the Agency for Persons with  
 268 Disabilities, or the Department of Juvenile Justice or to be  
 269 employed or used by such contractor or licensee in a sensitive  
 270 position having direct contact with children, the  
 271 developmentally disabled, the aged, or the elderly as provided  
 272 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 273 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5)~~(4)~~,  
 274 chapter 916, s. 985.644, chapter 400, or chapter 429;
- 275 6. Is seeking to be employed or licensed by the Department  
 276 of Education, any district school board, any university  
 277 laboratory school, any charter school, any private or parochial



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278 school, or any local governmental entity that licenses child  
 279 care facilities; or

280 7. Is seeking authorization from a seaport listed in s.  
 281 311.09 for employment within or access to one or more of such  
 282 seaports pursuant to s. 311.12.

283 Section 7. Paragraph (a) of subsection (4) of section  
 284 943.059, Florida Statutes, is amended to read:

285 943.059 Court-ordered sealing of criminal history  
 286 records.--The courts of this state shall continue to have  
 287 jurisdiction over their own procedures, including the  
 288 maintenance, sealing, and correction of judicial records  
 289 containing criminal history information to the extent such  
 290 procedures are not inconsistent with the conditions,  
 291 responsibilities, and duties established by this section. Any  
 292 court of competent jurisdiction may order a criminal justice  
 293 agency to seal the criminal history record of a minor or an  
 294 adult who complies with the requirements of this section. The  
 295 court shall not order a criminal justice agency to seal a  
 296 criminal history record until the person seeking to seal a  
 297 criminal history record has applied for and received a  
 298 certificate of eligibility for sealing pursuant to subsection  
 299 (2). A criminal history record that relates to a violation of s.  
 300 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
 301 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
 302 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
 303 916.1075, a violation enumerated in s. 907.041, or any violation  
 304 specified as a predicate offense for registration as a sexual  
 305 predator pursuant to s. 775.21, without regard to whether that

306 offense alone is sufficient to require such registration, or for  
 307 registration as a sexual offender pursuant to s. 943.0435, may  
 308 not be sealed, without regard to whether adjudication was  
 309 withheld, if the defendant was found guilty of or pled guilty or  
 310 nolo contendere to the offense, or if the defendant, as a minor,  
 311 was found to have committed or pled guilty or nolo contendere to  
 312 committing the offense as a delinquent act. The court may only  
 313 order sealing of a criminal history record pertaining to one  
 314 arrest or one incident of alleged criminal activity, except as  
 315 provided in this section. The court may, at its sole discretion,  
 316 order the sealing of a criminal history record pertaining to  
 317 more than one arrest if the additional arrests directly relate  
 318 to the original arrest. If the court intends to order the  
 319 sealing of records pertaining to such additional arrests, such  
 320 intent must be specified in the order. A criminal justice agency  
 321 may not seal any record pertaining to such additional arrests if  
 322 the order to seal does not articulate the intention of the court  
 323 to seal records pertaining to more than one arrest. This section  
 324 does not prevent the court from ordering the sealing of only a  
 325 portion of a criminal history record pertaining to one arrest or  
 326 one incident of alleged criminal activity. Notwithstanding any  
 327 law to the contrary, a criminal justice agency may comply with  
 328 laws, court orders, and official requests of other jurisdictions  
 329 relating to sealing, correction, or confidential handling of  
 330 criminal history records or information derived therefrom. This  
 331 section does not confer any right to the sealing of any criminal  
 332 history record, and any request for sealing a criminal history  
 333 record may be denied at the sole discretion of the court.

334 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
 335 history record of a minor or an adult which is ordered sealed by  
 336 a court of competent jurisdiction pursuant to this section is  
 337 confidential and exempt from the provisions of s. 119.07(1) and  
 338 s. 24(a), Art. I of the State Constitution and is available only  
 339 to the person who is the subject of the record, to the subject's  
 340 attorney, to criminal justice agencies for their respective  
 341 criminal justice purposes, which include conducting a criminal  
 342 history background check for approval of firearms purchases or  
 343 transfers as authorized by state or federal law, to judges in  
 344 the state courts system for the purpose of assisting them in  
 345 their case-related decisionmaking responsibilities, as set forth  
 346 in s. 943.053(5), or to those entities set forth in  
 347 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
 348 licensing, access authorization, and employment purposes.

349 (a) The subject of a criminal history record sealed under  
 350 this section or under other provisions of law, including former  
 351 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 352 deny or fail to acknowledge the arrests covered by the sealed  
 353 record, except when the subject of the record:

- 354 1. Is a candidate for employment with a criminal justice  
 355 agency;
- 356 2. Is a defendant in a criminal prosecution;
- 357 3. Concurrently or subsequently petitions for relief under  
 358 this section or s. 943.0585;
- 359 4. Is a candidate for admission to The Florida Bar;
- 360 5. Is seeking to be employed or licensed by or to contract  
 361 with the Department of Children and Family Services, the Agency

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362 for Health Care Administration, the Agency for Persons with  
 363 Disabilities, or the Department of Juvenile Justice or to be  
 364 employed or used by such contractor or licensee in a sensitive  
 365 position having direct contact with children, the  
 366 developmentally disabled, the aged, or the elderly as provided  
 367 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 368 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5)~~(4)~~,  
 369 s. 415.103, chapter 916, s. 985.644, chapter 400, or chapter  
 370 429;

371 6. Is seeking to be employed or licensed by the Department  
 372 of Education, any district school board, any university  
 373 laboratory school, any charter school, any private or parochial  
 374 school, or any local governmental entity that licenses child  
 375 care facilities;

376 7. Is attempting to purchase a firearm from a licensed  
 377 importer, licensed manufacturer, or licensed dealer and is  
 378 subject to a criminal history check under state or federal law;  
 379 or

380 8. Is seeking authorization from a Florida seaport  
 381 identified in s. 311.09 for employment within or access to one  
 382 or more of such seaports pursuant to s. 311.12.

383 Section 8. This act shall take effect July 1, 2010.