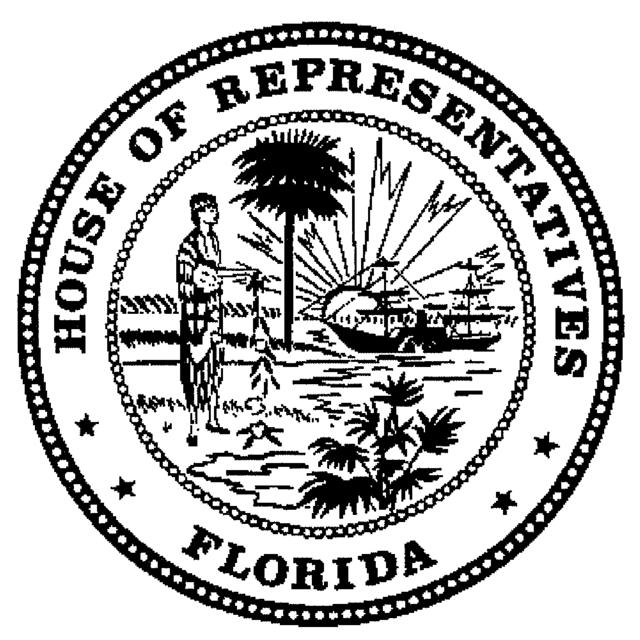


Health & Human Services Committee

Thursday, February 2, 2012
9:00 AM – 11:00 AM
Morris Hall (17 HOB)

Dean Cannon
Speaker

Robert C. "Rob" Schenck
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Committee

Start Date and Time: Thursday, February 02, 2012 09:00 am

End Date and Time: Thursday, February 02, 2012 11:00 am

Location: Morris Hall (17 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 171 Osteopathic Physicians by Health & Human Services Quality Subcommittee, Trujillo
HB 241 Emergency Medical Services by Perry
CS/HB 413 Chiropractic Medicine by Health & Human Services Quality Subcommittee, Mayfield
CS/HB 473 Alzheimer's Disease by Health & Human Services Access Subcommittee, Hudson
CS/HB 479 Animal Control by Health & Human Services Quality Subcommittee, O'Toole
CS/HB 803 Child Protection by Health & Human Services Access Subcommittee, Diaz
CS/HB 4005 Department of Health by Health & Human Services Quality Subcommittee, Diaz
HB 4029 Mosquito Control Districts by Albritton
HB 4037 Standards for Compressed Air by Porter
HB 4105 Agency for Health Care Administration by Nuñez
HB 4139 Repeal of Health Insurance Provisions by Brodeur

Consideration of the following proposed committee bill(s):

PCB HHSC 12-01 -- Domestic Violence
PCB HHSC 12-02 -- State Employee Group Insurance Program

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Wednesday, February 1, 2012.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, February 1, 2012.

NOTICE FINALIZED on 01/31/2012 16:14 by Iseminger.Bobbye

CS/HB 171

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 171 Osteopathic Physicians
SPONSOR(S): Health & Human Services Quality Subcommittee; Trujillo
TIED BILLS: **IDEN./SIM. BILLS:** SB 414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N, As CS	Holt	Calamas
2) Health & Human Services Committee		Holt	Gormley

SUMMARY ANALYSIS

Currently, the Board of Osteopathic Medicine (board) must deny a license by examination if a Doctor of Osteopathic Medicine has an interruption in their practice for at least two years and the board determines that the interruption adversely affects their "present ability and fitness to practice." The board currently does not have the authority to place any conditions on a license, it can either approve or deny. The bill allows the board to deny or place conditions on the license of any applicant who has a lapse in practice, if the board makes such a determination. The bill provides the board more flexibility; it will be able to approve licenses with conditions.

Additionally, the bill removes requirements that an applicant seeking a residency license successfully passes all parts of the national exam, and completes a 12-month residency program to be eligible for a license. A resident physician license is designed to enable a person who holds a degree of Doctor of Osteopathic Medicine to participate in a residency training program prior to seeking a full license to practice osteopathic medicine. Finally, the bill removes the outdated license types of "assistant resident physician" and "house physician" which are no longer available for the profession.

The bill has no fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

All states have rules that govern the ability of health care practitioners to practice medicine. These laws were enacted under the police power reserved to the states by the U.S. Constitution to adopt laws to protect the health, safety and general welfare of their citizens.[1] This gives states the ability to effectively monitor the quality of persons wishing to practice medicine in a specific area. In addition, most state statutes delegate authority for enforcing licensure laws to state boards. Each state determines the tests and procedures for licensing its health care practitioners.

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils. Boards are responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations. Licensed osteopathic physicians (DOs) are governed by rules adopted by the Board of Osteopathic Medicine.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.[2] Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Osteopathic Physicians

Osteopathic physicians are licensed for the full practice of medicine and surgery in all 50 states.[3] In Florida, DOs are governed by chapter 459, F.S., the osteopathic medicine practice act. Osteopathic medicine is defined as the diagnosis, treatment, or prescription for any human disease, pain, injury, deformity or other physical or mental condition, which practice is based upon the educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health[4]. Currently, there are 4,208 individuals who hold an active in-state license to practice as a DO in Florida.[5]

Board of Osteopathic Medicine

The Board of Osteopathic Medicine (board) is composed of seven members as follows:[6]

---

[1] U.S. CONST., Article X.
[2] S. 456.001, F.S.
[3] American Medical Association, Physician Licensure: An Update of Trends. *Available at*: http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/young-physicians-section/advocacy-resources/physician-licensure-an-update-trends.page (last viewed November 28, 2011).
[4] S. 459.003(3), F.S.
[5] Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at*: http://doh.state.fl.us/mqa/reports.htm (last viewed October 27, 2011).
[6] S. 459.004, F.S.

- Five members of the board must be licensed DOs in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to their appointment.
- Two members must be citizens of the state who are not, and have never been, licensed health care practitioners.
- At least one of the seven members must be 60 years of age or older.

All board members are appointed by the Governor and confirmed by the Senate. Members of the board are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

As of June 30, 2010, there were 68 in-state delinquent licenses held by a DO.[7] The board received 552 complaints of DOs practicing outside their scope practice from July 1, 2010 to June 30, 2011.[8] Also during this timeframe, the DOH issue emergency suspension orders for seven licensed DOs immediately prohibiting them from practicing.[9]

Licensure

In Florida, a person desiring to be licensed as a DO must:[10]

- Complete an application and remit $200 application fee;[11]
- Be at least 21 years of age;
- Be of good moral character; and
- Have completed at least 3 years of pre-professional postsecondary education;
- Not be under investigation for any act that would violate the osteopathic medicine practice act unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Have not had an application for a license to practice osteopathic medicine denied, revoked, suspended, or acted against by any licensing authority unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Not have received less than satisfactory evaluation from an internship, residency, or fellowship training program, unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Submit a set of fingerprints and remit $ 43.25 for the background screening fee;[12]
- Demonstrate they are a graduate of a medical college recognized and approved by the American Osteopathic Association;
- Demonstrate that they have completed a resident internship for at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or a program approved by the board.

Licensure by examination is the process by which a physician, having met all other qualifications for licensure, qualifies for licensure by passing an examination offered by an approved body or accredited entity. In Florida, individuals seeking licensure as a DO must demonstrate that they have obtained passing scores on all parts of the exam offered by the National Board of Osteopathic Medical Examiners (NBOME) within 5 years of submitting an application.[13]

---

[7] *Ibid.*
[8] *Ibid.*
[9] Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at:* http://doh.state.fl.us/mqa/reports.htm (last viewed November 28, 2011).
[10] S. 459.0055, F.S.
[11] 64B15-10.002, F.A.C.
[12] Florida Department of Health, Division of Medical Quality Assurance, Background Screening Matrix: Osteopathic Physician, *available at:* http://www.doh.state.fl.us/mqa/background.html (last viewed November 28, 2011).
[13] S. 459.0055(1)(m), F.S. and 64B15-12.003, F.A.C.

Licensure by endorsement is the process by which a physician licensed in one state seeks a license from a second state.[14] If an individual holds a valid DO license from another state and wishes to practice medicine in Florida, he or she is required to submit evidence to the board that they possess an active license from another state or jurisdiction.[15] The initial license from another jurisdiction must have occurred less than 5 years after of receiving a passing score on the examination administered by the NBOME or a similar examination recognized by the Florida Board of Osteopathic Medicine.[16] Additionally, the DO must have practiced medicine recently. If the DO has not practiced for more than 2 years, then the board has the discretion to determine if the lapse in time has adversely affected the DOs present ability and fitness to practice osteopathic medicine.[17] If the board determines that the lapse in time has adversely affected the DO's ability to practice medicine, than the board must deny the application for licensure to practice in Florida.[18]

National Board of Osteopathic Medical Examiners

The NBOME is a not-for-profit corporation dedicated to serving the public and state licensing agencies by administering examinations testing the medical knowledge of those who seek to serve the public as osteopathic physicians.[19] The examination administered by the NBOME is called the "COMLEX-USA." This exam is designed to assess the osteopathic medical knowledge and clinical skills considered essential for osteopathic generalist physicians to practice medicine without supervision. COMLEX-USA is administered in three Levels:

- Level 1-emphasizes the scientific concepts and principles necessary for understanding the mechanisms of health, medical problems and disease processes.
- Level 2- emphasizes the medical concepts and principles necessary for making appropriate medical diagnoses through patient history and physical examination findings
- Level 3-emphasizes the medical concepts and principles required to make appropriate patient management

Resident Physician

Section 459.021, F.S., allows an individual who does not hold an active license to practice osteopathic medicine, but holds a degree of Doctor of Osteopathic Medicine from a college of osteopathic medicine recognized and approved by the American Osteopathic Association, to apply for a resident physician license. A resident physician license allows a DO to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in a fellowship training program. The training program is available to individuals who are seek a subspecialty board certification or wish to participate in residency training. The training program must be conducted at a teaching hospital.[20] Individuals must meet all requirements for an active full license, to include passing all parts of the national exam and completing a 12-month residency, to be eligible for a resident physician license.[21]

[14] American Medical Association, Physician Licensure: An Update of Trends. *Available at*: http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/young-physicians-section/advocacy-resources/physician-licensure-an-update-trends.page (last viewed November 28, 2011).
[15] S. 459.0055(2), F.S.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] National Board of Osteopathic Medical Examiners, About. *Available at*: http://www.nbome.org/about.asp?m=inf (last viewed November 29, 2011).
[20] S. 459.021(1), F.S.
[21] S. 459.021 (6), F.S.

Effect of the Proposed Changes

Currently, the board is allowed to deny a license by examination if the applicant has had an interruption in practice for at least two years and the board determines that the interruption adversely affects the "present ability and fitness to practice." The bill allows the board to deny or place conditions on the license of any applicant if it makes such a determination. The bill will provide the board more flexibility; it will be able to approve licenses with conditions.

Additionally, the bill removes requirements that an applicant seeking a residency license successfully passes all parts of the national exam, and completes a 12-month residency program to be eligible for a license. A resident physician license is designed to enable a person who holds a degree of Doctor of Osteopathic Medicine to participate in a residency training program prior to seeking a full license to practice osteopathic medicine.

The bill removes the outdated license types of "assistant resident physician" and "house physician" which are no longer available for the profession.

B. SECTION DIRECTORY:

Section 1. Amends s. 459.0055, F.S., relating to general licensure requirements.
Section 2. Amends s. 459.021, F.S., relating to registration of resident physicians, interns, and fellows.
Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None identified

2. Expenditures:

   None identified.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Health & Human Services Quality Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes the bill's standard for determining whether to deny or impose conditions on a license to restore the simpler standard that is in current law; and
- Makes a conforming change to strike a second reference to the terms "assistant resident physician" and "house physician" that was overlooked in the original bill.

This analysis is drafted to the committee substitute.

1 A bill to be entitled
2 An act relating to osteopathic physicians; amending s.
3 459.0055, F.S.; revising the requirements for
4 licensure or certification as an osteopathic physician
5 in this state; amending s. 459.021, F.S.; revising
6 provisions relating to registration of physicians,
7 interns, and fellows; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Paragraph (m) of subsection (1) and subsection
12 (2) of section 459.0055, Florida Statutes, are amended to read:
13 459.0055 General licensure requirements.—
14 (1) Except as otherwise provided herein, any person
15 desiring to be licensed or certified as an osteopathic physician
16 pursuant to this chapter shall:
17 (m) Demonstrate that she or he has obtained a passing
18 score, as established by rule of the board, on all parts of the
19 examination conducted by the National Board of Osteopathic
20 Medical Examiners or other examination approved by the board no
21 more than 5 years before making application in this state or, if
22 holding a valid active license in another state, that the
23 initial licensure in the other state occurred no more than 5
24 years after the applicant obtained a passing score on the
25 examination conducted by the National Board of Osteopathic
26 Medical Examiners or other substantially similar examination
27 approved by the board.
28 (2) If the applicant holds a valid active license in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 another state and it has been more than 2 years since the active
30 practice of osteopathic medicine, or if an applicant does not
31 hold a valid active license to practice osteopathic medicine in
32 another state and it has been more than 2 years since completion
33 of a resident internship, residency, or fellowship, and if the
34 board determines that the interruption in practice has adversely
35 affected the osteopathic physician's present ability and fitness
36 to practice, the board may:
37 (a) Deny the application;
38 (b) Issue a license having reasonable restrictions or
39 conditions that may include, but are not limited to, a
40 requirement for the applicant to practice under the supervision
41 of a physician approved by the board; or
42 (c) Issue a license upon receipt of documentation
43 confirming that the applicant has met any reasonable conditions
44 of the board which may include, but are not limited to,
45 completing continuing education or undergoing an assessment of
46 skills and training. ~~For an applicant holding a valid active~~
47 ~~license in another state, he or she shall submit evidence of the~~
48 ~~active licensed practice of medicine in another jurisdiction in~~
49 ~~which initial licensure must have occurred no more than 5 years~~
50 ~~after the applicant obtained a passing score on the examination~~
51 ~~conducted by the National Board of Medical Examiners or other~~
52 ~~substantially similar examination approved by the board;~~
53 ~~however, such practice of osteopathic medicine may have been~~
54 ~~interrupted for a period totaling no more than 2 years or for a~~
55 ~~longer period if the board determines that the interruption of~~
56 ~~the osteopathic physician's practice of osteopathic medicine for~~

57 ~~such longer period has not adversely affected the osteopathic~~
58 ~~physician's present ability and fitness to practice osteopathic~~
59 ~~medicine.~~
60 Section 2. Subsections (1), (3), (4), and (6) of section
61 459.021, Florida Statutes, are amended to read:
62 459.021 Registration of resident physicians, interns, and
63 fellows; list of hospital employees; penalty.—
64 (1) Any person who holds a degree of Doctor of Osteopathic
65 Medicine from a college of osteopathic medicine recognized and
66 approved by the American Osteopathic Association who desires to
67 practice as a resident physician, ~~assistant resident physician,~~
68 ~~house physician,~~ intern, or fellow in fellowship training which
69 leads to subspecialty board certification in this state, or any
70 person desiring to practice as a resident physician, ~~assistant~~
71 ~~resident physician, house physician,~~ intern, or fellow in
72 fellowship training in a teaching hospital in this state as
73 defined in s. 408.07(45) or s. 395.805(2), who does not hold an
74 active license issued under this chapter shall apply to the
75 department to be registered, on an application provided by the
76 department, before commencing such a training program and shall
77 remit a fee not to exceed $300 as set by the board.
78 (3) Every hospital or teaching hospital having employed or
79 contracted with or utilized the services of a person who holds a
80 degree of Doctor of Osteopathic Medicine from a college of
81 osteopathic medicine recognized and approved by the American
82 Osteopathic Association as a resident physician, ~~assistant~~
83 ~~resident physician, house physician,~~ intern, or fellow in
84 fellowship training registered under this section shall

85 designate a person who shall furnish, on dates designated by the
86 board, in consultation with the department, to the department a
87 list of all such persons who have served in such hospital during
88 the preceding 6-month period. The chief executive officer of
89 each such hospital shall provide the executive director of the
90 board with the name, title, and address of the person
91 responsible for filing such reports.
92 (4) The registration may be revoked or the department may
93 refuse to issue any registration for any cause which would be a
94 ground for its revocation or refusal to issue a license to
95 practice osteopathic medicine, as well as on the following
96 grounds:
97 (a) Omission of the name of an intern, resident physician,
98 ~~assistant resident physician, house physician,~~ or fellow in
99 fellowship training from the list of employees required by
100 subsection (3) to be furnished to the department by the hospital
101 or teaching hospital served by the employee.
102 (b) Practicing osteopathic medicine outside of a bona fide
103 hospital training program.
104 (6) Any person desiring registration pursuant to this
105 section shall meet all the requirements of s. 459.0055<u>, except</u>
106 <u>paragraphs (1)(l) and (m)</u>.
107 Section 3. This act shall take effect July 1, 2012.

HB 241

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 241 Emergency Medical Services
SPONSOR(S): Perry
TIED BILLS: **IDEN./SIM. BILLS:** SB 450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N	Holt	Calamas
2) Health & Human Services Committee		Holt	Gormley

SUMMARY ANALYSIS

In 2009, the U.S. Department of Transportation released the new National Emergency Medical Services (EMS) Education Standards for emergency medical technicians (EMTs) and paramedics. The bill updates Florida's EMT and paramedic training requirements to reflect the new 2009 national training standards.

The bill amends the definition of "basic life support" to update the definition to include the name of the new National EMS Education Standards, removes outdated competencies that are captured within the training course and makes conforming changes. The bill increases the timeframe within which EMTs and paramedics can take the state examination following successful completion of an approved training program from 1 to 2 years.

The bill removes the requirement that EMTs and paramedics obtain HIV/AIDS continuing education instruction. The bill amends the timeline that the state emergency medical services plan is updated from biennially to every five years.

The bill has no fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Emergency Medical Technicians and Paramedics

The Department of Health (DOH), Division of Emergency Operations regulates emergency medical technicians (EMTs) and paramedics. EMTs and paramedics are regulated pursuant to ch. 401, Part III, F.S. As of June 30, 2011, there were 33,079 active in-state licensed EMTs and 25,104 active in-state licensed paramedics in Florida.[1]

Currently, the DOH is responsible for the improvement and regulation of basic and advanced life support programs and is required to biennially develop and revise a comprehensive state plan for basic and advanced life support services.[2]

HIV and AIDS Training Requirements

In 2006, the Legislature revised the requirements for HIV/AIDS continuing education instruction in the general licensing provisions for health practitioners[3] regulated by s. 456.033, F.S.[4] The law removed the requirement that the HIV/AIDS continuing education course be completed at each biennial license renewal. Instead, licensees are required to submit confirmation that he or she has completed a course in HIV/AIDS instruction at the time of the first licensure renewal or recertification.[5]

Section 381.0034, F.S., requires the following practitioner groups to complete an HIV/AIDS educational course at the time of biennial licensure renewal or recertification:

- EMTs and paramedics;
- Midwives;
- Radiologic personnel; and
- Laboratory personnel.

Failure to complete the HIV/AIDS continuing education requirement is grounds for disciplinary action.[6]

National EMS Education Standards

In 2009, the U.S. Department of Transportation released the new National Emergency Medical Services (EMS) Education Standards (Standards), which replaces the National Highway Traffic Safety Administration, National Standard Curricula (or Emergency Medical Technician-Basic Standard Curriculum) at all licensure levels.[7]

The Standards define the minimal entry-level educational competencies, clinical behaviors, and judgments that must be met by EMS personnel to meet national practice guidelines.[8] The Standards

[1] Florida Department of Health, Division of Medical Quality Assurance, Annual Report: July 1, 2010-June 30, 2011, *available at*: http://www.doh.state.fl.us/mqa/reports.htm (last viewed November 17, 2011).
[2] S. 401.24, F.S.
[3] Acupuncturist, physician, osteopathic physician, chiropractic physician, podiatric physician, certified optometrist, advanced registered nurse practitioner, registered nurse, clinical nurse specialist, pharmacist, dentist, nursing home administrator, occupational therapist, respiratory therapist, or nutritionist; and physical therapists.
[4] *See* 2006-251, L.O.F.
[5] S. 456.033, F.S.
[6] S. 381.0034(2), F.S.
[7] National Highway Traffic Safety Administration, Emergency Medical Services, Educational Standards and NSC: National Emergency Medical Services Education Standards, *available at*: http://www.ems.gov/education/nationalstandardandncs.html (last viewed November 17, 2011).
[8] *Id.*

provide guidance to instructors, regulators, and publishers to provide interim support as EMS programs across the nation transition from the National Standard Curricula to the National EMS Education Standards.

The Standards assume there is a progression in practice from the entry-level Emergency Medical Responder level to the Paramedic level.[9] That is, licensed personnel at each level are responsible for all knowledge, judgments, and behaviors at their level and at all levels preceding their level.[10] According to the Standards, there are four licensure levels of EMS personnel: Emergency Medical Responder; Emergency Medical Technician; Advanced Emergency Medical Technician; and Paramedic.[11] For example, a Paramedic is responsible for knowing and doing everything identified in that specific area, as well as knowing and doing all tasks in the three preceding levels. Components of the EMS national agenda[12] included creating a single National EMS Accreditation Agency and a single National EMS Certification Agency to ensure consistency and quality of EMS personnel.[13]

Effect of Proposed Changes

The bill removes the requirement that EMTs and paramedics complete HIV/AIDS continuing education instruction. EMTs and paramedics currently employ "universal precautions" in the field. Under the concept of "universal precautions", all patients are considered to be carriers of blood-borne pathogens, including HIV/AIDS. Therefore, additional continuing education regarding HIV/AIDS could be considered duplicative and unnecessary.[14]

The bill amends the definition of "basic life support" to update the definition to include the name of the new National EMS Education Standards and removes outdated competencies that are captured within the training curriculum. The bill makes conforming changes by removing "emergency medical technician basic training course" and adding "National EMS Education Standards," which aligns with the most current national standard. The bill also increases the timeframe that EMTs and paramedics can take the state examination following successful completion of an approved training program from 1 to 2 years.

The bill amends the timeline that the state emergency medical services plan is updated from biennially to every five years.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.0034, F.S., relating to the requirements for instruction on HIV and AIDS.
Section 2. Amends s. 401.23, F.S., relating to definitions.
Section 3. Amends s. 401.24, F.S., relating to emergency medical services state plan.
Section 4. Amends s. 401.27, F.S., relating to personnel standards and certification.
Section 5. Amends s. 401.2701, F.S., relating to emergency medical services training programs.
Section 6. Provides an effective date of July 1, 2012.

---

[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] The EMS Agenda for the Future project was supported by the National Highway Traffic Safety Administration and the Health Resources and Services Administration, Maternal and Child Health Bureau. The project reviewed the lessons learned during the past 30 years in the field of emergency medical services (EMS) and provided direction to strengthen the EMS system. *Available at*: http://www.nhtsa.gov/people/injury/ems/agenda/emsman.html#SUMMARY (last viewed November 17, 2011).
[13] U.S. Department of Transportation, National Emergency Medical Services Education Standards, *available at*: http://www.ems.gov/education/nationalstandardandncs.html (last viewed November 17, 2011),
[14] Per telephone conversation with DOH, Division of Emergency Operations staff (March 2011).

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 identified at this time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to emergency medical services;
3 amending s. 381.0034, F.S.; deleting the requirement
4 for emergency medical technicians and paramedics to
5 complete an educational course on the modes of
6 transmission, infection control procedures, clinical
7 management, and prevention of human immunodeficiency
8 virus and acquired immune deficiency syndrome;
9 amending s. 401.23, F.S.; redefining the term "basic
10 life support" for purposes of the Raymond H.
11 Alexander, M.D., Emergency Medical Transportation
12 Services Act; amending s. 401.24, F.S.; revising the
13 period for review of the comprehensive state plan for
14 emergency medical services and programs; amending s.
15 401.27, F.S.; revising the requirements for
16 certification or recertification as an emergency
17 medical technician or paramedic; revising the
18 requirements for certification for an out-of-state
19 trained emergency medical technician or paramedic;
20 amending s. 401.2701, F.S.; revising requirements for
21 an institution that conducts an approved program for
22 the education of emergency medical technicians and
23 paramedics; revising the requirements that students
24 must meet in order to receive a certificate of
25 completion from an approved program; providing an
26 effective date.
27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (1) of section 381.0034, Florida
31 Statutes, is amended to read:
32 381.0034 Requirement for instruction on HIV and AIDS.—
33 (1) As of July 1, 1991, the Department of Health shall
34 require each person licensed or certified under ~~chapter 401,~~
35 chapter 467, part IV of chapter 468, or chapter 483, as a
36 condition of biennial relicensure, to complete an educational
37 course approved by the department on the modes of transmission,
38 infection control procedures, clinical management, and
39 prevention of human immunodeficiency virus and acquired immune
40 deficiency syndrome. Such course shall include information on
41 current state ~~Florida~~ law on acquired immune deficiency syndrome
42 and its impact on testing, confidentiality of test results, and
43 treatment of patients. Each such licensee or certificateholder
44 shall submit confirmation of having completed the ~~said~~ course,
45 on a form provided by the department, when submitting fees or
46 application for each biennial renewal.
47 Section 2. Subsection (7) of section 401.23, Florida
48 Statutes, is amended to read:
49 401.23 Definitions.—As used in this part, the term:
50 (7) "Basic life support" means treatment of medical
51 emergencies by a qualified person through the use of techniques
52 ~~such as patient assessment, cardiopulmonary resuscitation (CPR),~~
53 ~~splinting, obstetrical assistance, bandaging, administration of~~
54 ~~oxygen, application of medical antishock trousers,~~
55 ~~administration of a subcutaneous injection using a premeasured~~
56 ~~autoinjector of epinephrine to a person suffering an~~

57 ~~anaphylactic reaction, and other techniques~~ described in the
58 Emergency Medical Technician Basic Training Course Curriculum or
59 the National EMS Education Standards of the United States
60 Department of Transportation as approved by the department. The
61 term ~~"basic life support"~~ also includes other techniques that
62 ~~which~~ have been approved and are performed under conditions
63 specified by rules of the department.

64 Section 3. Section 401.24, Florida Statutes, is amended to
65 read:

66 401.24 Emergency medical services state plan.—The
67 department is responsible, at a minimum, for the improvement and
68 regulation of basic and advanced life support programs. The
69 department shall develop, and ~~biennially~~ revise every 5 years, a
70 comprehensive state plan for basic and advanced life support
71 services, the emergency medical services grants program, trauma
72 centers, the injury control program, and medical disaster
73 preparedness. The state plan shall include, but need not be
74 limited to:

75 (1) Emergency medical systems planning, including the
76 prehospital and hospital phases of patient care, and injury
77 control effort and unification of such services into a total
78 delivery system to include air, water, and land services.

79 (2) Requirements for the operation, coordination, and
80 ongoing development of emergency medical services, which
81 includes: basic life support or advanced life support vehicles,
82 equipment, and supplies; communications; personnel; training;
83 public education; state trauma system; injury control; and other
84 medical care components.

85 (3) The definition of areas of responsibility for
86 regulating and planning the ongoing and developing delivery
87 service requirements.
88 Section 4. Subsections (4) and (12) of section 401.27,
89 Florida Statutes, are amended to read:
90 401.27 Personnel; standards and certification.—
91 (4) An applicant for certification or recertification as
92 an emergency medical technician or paramedic must:
93 (a) Have completed an appropriate training course as
94 follows:
95 1. For an emergency medical technician, an emergency
96 medical technician training course equivalent to the most recent
97 National EMS Education Standards ~~emergency medical technician~~
98 ~~basic training course~~ of the United States Department of
99 Transportation as approved by the department;
100 2. For a paramedic, a paramedic training program
101 equivalent to the most recent national standard curriculum or
102 National EMS Education Standards ~~paramedic course~~ of the United
103 States Department of Transportation as approved by the
104 department;
105 (b) Certify under oath that he or she is not addicted to
106 alcohol or any controlled substance;
107 (c) Certify under oath that he or she is free from any
108 physical or mental defect or disease that might impair the
109 applicant's ability to perform his or her duties;
110 (d) Within 2 years ~~1 year~~ after course completion have
111 passed an examination developed or required by the department;
112 (e)1. For an emergency medical technician, hold ~~either~~ a

113 current American Heart Association cardiopulmonary resuscitation
114 course card or an American Red Cross cardiopulmonary
115 resuscitation course card or its equivalent as defined by
116 department rule;
117 2. For a paramedic, hold a certificate of successful
118 course completion in advanced cardiac life support from the
119 American Heart Association or its equivalent as defined by
120 department rule;
121 (f) Submit the certification fee and the nonrefundable
122 examination fee prescribed in s. 401.34, which examination fee
123 will be required for each examination administered to an
124 applicant; and
125 (g) Submit a completed application to the department,
126 which application documents compliance with paragraphs (a), (b),
127 (c), (e), (f), (g), and, if applicable, (d). The application
128 must be submitted so as to be received by the department at
129 least 30 calendar days before the next regularly scheduled
130 examination for which the applicant desires to be scheduled.
131 (12) An applicant for certification who is an out-of-state
132 trained emergency medical technician or paramedic must provide
133 proof of current emergency medical technician or paramedic
134 certification or registration based upon successful completion
135 of the United States Department of Transportation emergency
136 medical technician or paramedic training curriculum or the
137 National EMS Education Standards as approved by the department
138 and hold a current certificate of successful course completion
139 in cardiopulmonary resuscitation (CPR) or advanced cardiac life
140 support for emergency medical technicians or paramedics,

141 respectively, to be eligible for the certification examination.
142 The applicant must successfully complete the certification
143 examination within 1 year after the date of the receipt of his
144 or her application by the department. After 1 year, the
145 applicant must submit a new application, meet all eligibility
146 requirements, and submit all fees to reestablish eligibility to
147 take the certification examination.
148 Section 5. Paragraph (a) of subsection (1) and subsection
149 (5) of section 401.2701, Florida Statutes, are amended to read:
150 401.2701 Emergency medical services training programs.—
151 (1) Any private or public institution in Florida desiring
152 to conduct an approved program for the education of emergency
153 medical technicians and paramedics shall:
154 (a) Submit a completed application on a form provided by
155 the department, which must include:
156 1. Evidence that the institution is in compliance with all
157 applicable requirements of the Department of Education.
158 2. Evidence of an affiliation agreement with a hospital
159 that has an emergency department staffed by at least one
160 physician and one registered nurse.
161 3. Evidence of an affiliation agreement with a current
162 ~~Florida-licensed~~ emergency medical services provider <u>that is</u>
163 <u>licensed in this state</u>. Such agreement shall include, at a
164 minimum, a commitment by the provider to conduct the field
165 experience portion of the education program.
166 4. Documentation verifying faculty, including:
167 a. A medical director who is a licensed physician meeting
168 the applicable requirements for emergency medical services

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

169 medical directors as outlined in this chapter and rules of the
170 department. The medical director shall have the duty and
171 responsibility of certifying that graduates have successfully
172 completed all phases of the education program and are proficient
173 in basic or advanced life support techniques, as applicable.
174 b. A program director responsible for the operation,
175 organization, periodic review, administration, development, and
176 approval of the program.
177 5. Documentation verifying that the curriculum:
178 a. Meets the ~~course guides and instructor's lesson plans~~
179 ~~in the~~ most recent Emergency Medical Technician-Basic National
180 Standard Curricula or the National EMS Education Standards for
181 emergency medical technician programs and paramedic ~~Emergency~~
182 ~~Medical Technician-Paramedic National Standard Curricula for~~
183 ~~paramedic~~ programs as approved by the department.
184 b. Includes 2 hours of instruction on the trauma scorecard
185 methodologies for assessment of adult trauma patients and
186 pediatric trauma patients as specified by the department by
187 rule.
188 ~~c. Includes 4 hours of instruction on HIV/AIDS training~~
189 ~~consistent with the requirements of chapter 381.~~
190 6. Evidence of sufficient medical and educational
191 equipment to meet emergency medical services training program
192 needs.
193 (5) Each approved program must notify the department
194 within 30 days after ~~of~~ any change in the professional or
195 employment status of faculty. Each approved program must require
196 its students to pass a comprehensive final written and practical

197 examination evaluating the skills described in the current
198 United States Department of Transportation EMT-Basic or EMT-
199 Paramedic, National Standard Curriculum or the National EMS
200 Education Standards as approved by the department. Each approved
201 program must issue a certificate of completion to program
202 graduates within 14 days after ~~of~~ completion.
203 Section 6. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Perry offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (1) of section 381.0034, Florida
8 Statutes, is amended to read:
9 381.0034 Requirement for instruction on HIV and AIDS.—
10 (1) As of July 1, 1991, the Department of Health shall require
11 each person licensed or certified under ~~chapter 401,~~ chapter
12 467, part IV of chapter 468, or chapter 483, as a condition of
13 biennial relicensure, to complete an educational course approved
14 by the department on the modes of transmission, infection
15 control procedures, clinical management, and prevention of human
16 immunodeficiency virus and acquired immune deficiency syndrome.
17 Such course shall include information on current state ~~Florida~~
18 law on acquired immune deficiency syndrome and its impact on
19 testing, confidentiality of test results, and treatment of

20 patients. Each such licensee or certificateholder shall submit
21 confirmation of having completed the ~~said~~ course, on a form
22 provided by the department, when submitting fees or application
23 for each biennial renewal.
24 Section 2. Subsection (7) of section 401.23, Florida
25 Statutes, is amended to read:
26 401.23 Definitions.—As used in this part, the term:
27 (7) "Basic life support" means treatment of medical
28 emergencies by a qualified person through the use of techniques
29 ~~such as patient assessment, cardiopulmonary resuscitation (CPR),~~
30 ~~splinting, obstetrical assistance, bandaging, administration of~~
31 ~~oxygen, application of medical antishock trousers,~~
32 ~~administration of a subcutaneous injection using a premeasured~~
33 ~~autoinjector of epinephrine to a person suffering an~~
34 ~~anaphylactic reaction, and other techniques~~ described in the
35 Emergency Medical Technician Basic Training Course Curriculum or
36 the National EMS Education Standards of the United States
37 Department of Transportation, and as approved by the department.
38 The term ~~"basic life support"~~ also includes other techniques
39 that ~~which~~ have been approved and are performed under conditions
40 specified by rules of the department.
41 Section 3. Section 401.24, Florida Statutes, is amended to
42 read:
43 401.24 Emergency medical services state plan.—The
44 department is responsible, at a minimum, for the improvement and
45 regulation of basic and advanced life support programs. The
46 department shall develop, and ~~biennially~~ revise every 5 years, a
47 comprehensive state plan for basic and advanced life support

48 services, the emergency medical services grants program, trauma
49 centers, the injury control program, and medical disaster
50 preparedness. The state plan shall include, but need not be
51 limited to:
52 (1) Emergency medical systems planning, including the
53 prehospital and hospital phases of patient care, and injury
54 control effort and unification of such services into a total
55 delivery system to include air, water, and land services.
56 (2) Requirements for the operation, coordination, and
57 ongoing development of emergency medical services, which
58 includes: basic life support or advanced life support vehicles,
59 equipment, and supplies; communications; personnel; training;
60 public education; state trauma system; injury control; and other
61 medical care components.
62 (3) The definition of areas of responsibility for
63 regulating and planning the ongoing and developing delivery
64 service requirements.
65 Section 4. Subsections (4) and (12) of section 401.27,
66 Florida Statutes, are amended to read:
67 401.27 Personnel; standards and certification.—
68 (4) An applicant for certification or recertification as
69 an emergency medical technician or paramedic must:
70 (a) Have completed an appropriate training course as
71 follows:
72 1. For an emergency medical technician, an emergency
73 medical technician training course equivalent to the most recent
74 national standard curriculum or National EMS Education Standards
75 ~~emergency medical technician basic training course~~ of the United

76 States Department of Transportation, and as approved by the
77 department;
78 2. For a paramedic, a paramedic training program
79 equivalent to the most recent national standard curriculum or
80 National EMS Education Standards ~~paramedic course~~ of the United
81 States Department of Transportation, and as approved by the
82 department;
83 (b) Certify under oath that he or she is not addicted to
84 alcohol or any controlled substance;
85 (c) Certify under oath that he or she is free from any
86 physical or mental defect or disease that might impair the
87 applicant's ability to perform his or her duties;
88 (d) Within 2 years ~~1 year~~ after course completion have
89 passed an examination developed or required by the department;
90 (e)1. For an emergency medical technician, hold ~~either~~ a
91 current American Heart Association cardiopulmonary resuscitation
92 course card or an American Red Cross cardiopulmonary
93 resuscitation course card or its equivalent as defined by
94 department rule;
95 2. For a paramedic, hold a certificate of successful
96 course completion in advanced cardiac life support from the
97 American Heart Association or its equivalent as defined by
98 department rule;
99 (f) Submit the certification fee and the nonrefundable
100 examination fee prescribed in s. 401.34, which examination fee
101 will be required for each examination administered to an
102 applicant; and

103 (g) Submit a completed application to the department,
104 which application documents compliance with paragraphs (a), (b),
105 (c), (e), (f), (g), and, if applicable, (d). The application
106 must be submitted so as to be received by the department at
107 least 30 calendar days before the next regularly scheduled
108 examination for which the applicant desires to be scheduled.
109 (12) An applicant for certification who is an out-of-state
110 trained emergency medical technician or paramedic must provide
111 proof of current emergency medical technician or paramedic
112 certification or registration based upon successful completion
113 of the United States Department of Transportation emergency
114 medical technician or paramedic training curriculum or the
115 National EMS Education Standards, and as approved by the
116 department, and hold a current certificate of successful course
117 completion in cardiopulmonary resuscitation (CPR) or advanced
118 cardiac life support for emergency medical technicians or
119 paramedics, respectively, to be eligible for the certification
120 examination. The applicant must successfully complete the
121 certification examination within 1 year after the date of the
122 receipt of his or her application by the department. After 1
123 year, the applicant must submit a new application, meet all
124 eligibility requirements, and submit all fees to reestablish
125 eligibility to take the certification examination.
126 Section 5. Paragraph (a) of subsection (1) and subsection
127 (5) of section 401.2701, Florida Statutes, are amended to read:
128 401.2701 Emergency medical services training programs.—

129 (1) Any private or public institution in Florida desiring
130 to conduct an approved program for the education of emergency
131 medical technicians and paramedics shall:
132 (a) Submit a completed application on a form provided by
133 the department, which must include:
134 1. Evidence that the institution is in compliance with all
135 applicable requirements of the Department of Education.
136 2. Evidence of an affiliation agreement with a hospital
137 that has an emergency department staffed by at least one
138 physician and one registered nurse.
139 3. Evidence of an affiliation agreement with a current
140 ~~Florida-licensed~~ emergency medical services provider <u>that is</u>
141 <u>licensed in this state</u>. Such agreement shall include, at a
142 minimum, a commitment by the provider to conduct the field
143 experience portion of the education program.
144 4. Documentation verifying faculty, including:
145 a. A medical director who is a licensed physician meeting
146 the applicable requirements for emergency medical services
147 medical directors as outlined in this chapter and rules of the
148 department. The medical director shall have the duty and
149 responsibility of certifying that graduates have successfully
150 completed all phases of the education program and are proficient
151 in basic or advanced life support techniques, as applicable.
152 b. A program director responsible for the operation,
153 organization, periodic review, administration, development, and
154 approval of the program.
155 5. Documentation verifying that the curriculum:

156 a. Meets the ~~course guides and instructor's lesson plans~~
157 ~~in the~~ most recent Emergency Medical Technician-Basic National
158 Standard Curricula or the National EMS Education Standards for
159 emergency medical technician programs and Emergency Medical
160 Technician-Paramedic National Standard Curricula or the National
161 EMS Education Standards for paramedic programs, and as approved
162 by the department.
163 b. Includes 2 hours of instruction on the trauma scorecard
164 methodologies for assessment of adult trauma patients and
165 pediatric trauma patients as specified by the department by
166 rule.
167 ~~c. Includes 4 hours of instruction on HIV/AIDS training~~
168 ~~consistent with the requirements of chapter 381.~~
169 6. Evidence of sufficient medical and educational
170 equipment to meet emergency medical services training program
171 needs.
172 (5) Each approved program must notify the department
173 within 30 days after ~~of~~ any change in the professional or
174 employment status of faculty. Each approved program must require
175 its students to pass a comprehensive final written and practical
176 examination evaluating the skills described in the current
177 United States Department of Transportation EMT-Basic or EMT-
178 Paramedic, National Standard Curriculum or the National EMS
179 Education Standards, and as approved by the department. Each
180 approved program must issue a certificate of completion to
181 program graduates within 14 days after ~~of~~ completion.
182 Section 6. This act shall take effect July 1, 2012.
183

184
185 ---
186 **T I T L E A M E N D M E N T**
187 Remove the entire title and insert:
188 A bill to be entitled
189 An act relating to emergency medical services;
190 amending s. 381.0034, F.S.; deleting the requirement
191 for emergency medical technicians, paramedics, and 911
192 public safety telecommunicators to complete an
193 educational course on the modes of transmission,
194 infection control procedures, clinical management, and
195 prevention of human immunodeficiency virus and
196 acquired immune deficiency syndrome; amending s.
197 401.23, F.S.; redefining the term "basic life support"
198 for purposes of the Raymond H. Alexander, M.D.,
199 Emergency Medical Transportation Services Act;
200 amending s. 401.24, F.S.; revising the period for
201 review of the comprehensive state plan for emergency
202 medical services and programs; amending s. 401.27,
203 F.S.; revising the requirements for certification or
204 recertification as an emergency medical technician or
205 paramedic; revising the requirements for certification
206 for an out-of-state trained emergency medical
207 technician or paramedic; amending s. 401.2701, F.S.;
208 revising requirements for an institution that conducts
209 an approved program for the education of emergency
210 medical technicians and paramedics; revising the
211 requirements that students must meet in order to

212 receive a certificate of completion from an approved
213 program; providing an effective date.

CS/HB 413

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 413 Chiropractic Medicine
SPONSOR(S): Health & Human Services Quality Subcommittee; Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N, As CS	Holt	Calamas
2) Rulemaking & Regulation Subcommittee	13 Y, 0 N	Rubottom	Rubottom
3) Health & Human Services Committee		Holt	Gormley

SUMMARY ANALYSIS

The bill makes several changes to chapter 640, F.S., the chiropractic medicine practice act. The bill revises the requirements for obtaining a chiropractic medicine faculty certificate, adds language regarding the denial of continuing education courses, requires the successful passage of parts I-IV and physiology exam of the National Board of Chiropractic Examiners, addresses the retention of patient funds and property, amends the timeframe for training and oversight of a certified chiropractic physician's assistant, and provides exceptions to the types of entities that may hire independent contractors to provide chiropractic services and states who may exercise control over a chiropractor's practice.

The bill has no fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Quality Assurance

The Florida Department of Health (DOH), Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils. Boards are responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.[1] Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Chiropractic Physicians

In Florida, chiropractic physicians (chiropractors) are governed by chapter 460, F.S., the chiropractic medicine act. The practice of chiropractic medicine is defined to mean a non-combative principle and practice consisting of the science of the adjustment, manipulation, and treatment of the human body.[2] A chiropractor is authorized to adjust, manipulate or treat the human body by manual, mechanical, electrical, or natural methods.[3] Chiropractors are prohibited from prescribing or administering any legend drugs with limited exceptions.[4] According to the American Chiropractic Association, there are more than 60,000 active chiropractic licenses in the United States and all 50 states officially recognize chiropractic medicine as a health care profession.[5] Currently, there are 4,667 individuals who hold an active in-state license to practice chiropractic medicine in Florida.[6]

Licensure requirements for chiropractic physicians include: graduation from a chiropractic college that is accredited by the Council on Chiropractic Education; passage of the National Board of Chiropractic Examiners certification examination; and submission of an application and fees to the department.[7] A Chiropractor may be disciplined for misconduct and violating any provision contained within the chiropractic medicine practice act.[8] A chiropractor may be disciplined for failing to preserve the identity of funds held in trust and property of a patient in any amount.[9] Currently, statute does not provide a cap on the amount of funds that a chiropractor may hold in trust as an advance for costs and expenses for rendered services.

---

[1] S. 456.001, F.S.
[2] S. 460.403(9)(a), F.S.
[3] S. 460.403(9)(c), F.S.
[4] *Id*. Chiropractors may order, store, and administer, for emergency purposes only, prescription medical oxygen, any solution consisting of 25 percent ethylchloride and 75 percent dichlorodifluoromethane, and any solution consisting of 15 percent dichlorodifluormethane and 85 percent trichloromonofluoromethane.
[5] American Chiropractic Association, General Information about Chiropractic Care, *available at*: www.acatoday.org/pdf/Gen_Chiro_Info.pdf (last viewed November 30, 2011).
[6] Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 MQA Annual Report, *available at*: http://doh.state.fl.us/mqa/reports.htm (last viewed October 27, 2011).
[7] S. 460.406, F.S.
[8] S. 460.412, 460.411, and 460.413, F.S.
[9] S. 460.13(1)(y), F.S.

National Examination

The Florida chiropractic licensure examination is conducted by the National Board of Chiropractic Examiners. The exam is composed of four parts and two elective examinations and:[10]

- *Part I* tests individuals on subjects in each of six basic science areas: general anatomy, spinal anatomy, physiology, chemistry, pathology, and microbiology.
- *Part II* tests individuals on each of six clinical science areas: general diagnosis, neuromusculoskeletal diagnosis, diagnostic imaging, and principles of chiropractic, chiropractic practice, and associated clinical sciences.
- *Part III* tests individuals on nine clinical areas: case history, physical examination, neuromusculoskeletal examination, diagnostic imaging, clinical laboratory and special studies, diagnosis or clinical impression, chiropractic techniques, supportive interventions, and case management.
- *Part IV* is a practical exam that tests individuals on three major areas: x-ray interpretation and diagnosis; chiropractic technique; and case management.
- *Physiotherapy* (optional) tests individuals on passive[11] and active[12] adjunctive procedures.
- *Acupuncture* (optional) tests individuals on the history and philosophy of acupuncture in a chiropractic setting, organs, Qi (life energy) and fluid, channels and pathways, acupoints, acupuncture techniques, basic treatment tenets and protocols, and safety and hygiene.

Chiropractic Practice Ownership

Generally, only a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more chiropractic physicians, or by a chiropractic physician and the spouse, parent, child, or sibling of that chiropractic physician, may employ a chiropractic physician or hire a chiropractic physician as an independent contractor to provide chiropractic services.[13] However, exceptions are provided in statute for medical doctors, doctors of osteopathic medicine, hospitals, and state-licensed insurers.[14] Current law also prohibits certain persons from employing or entering into a contract with a chiropractic physician and thereby exercising control over patient records, decisions relating to office personnel and hours of practice, and policies relating to pricing, credit, refunds, warranties, and advertising. Persons who are not chiropractic physicians and entities not wholly owned by chiropractic physicians or chiropractic physicians and the spouse, parent, child, or sibling of a chiropractic physician, are so prohibited. No exceptions to this prohibition are contained in current law.[15]

Board of Chiropractic Medicine

Chiropractors are regulated by the Florida Board of Chiropractic Medicine (board). The board is composed of seven members:[16]

- Five are licensed instate chiropractors engaged in the practice for at least 4 years; and
- Two Florida residents who are not licensed as health care practitioners

[10] National Board of Chiropractic Examiners, Written Examinations: Overview, *available at*: http://www.nbce.org/written/overview.html (last viewed December 2, 2011).
[11] Passive adjunctive procedures include thermotherapy, electrotherapy, mechanotherapy and phototherapy.
[12] Active adjunctive procedures include functional assessment, exercise physiology, endurance training, muscle rehabilitation, neuromuscular rehabilitation, and disorder-specific rehabilitation
[13] S. 460.4167(1), F.S.
[14] *Id.*
[15] S. 460.4167 (4), F.S.
[16] S. 460.404, F.S.

All board members are appointed by the Governor and confirmed by the Senate. Members of the board are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

The board is tasked with approving continuing education courses.[17] The board is required to approve continuing education courses that are sponsored by chiropractic colleges whose graduates are eligible to take the national examination and the courses must build upon the basic courses required for the practice of chiropractic medicine.[18] The board is permitted to approve courses in adjunctive modalities. Furthermore, the board is directed to require licensees to periodically demonstrate their professional competence as a condition of license renewal by completing at least 40 classroom hours of continuing education every biennium.[19]

Chiropractic Faculty Certificates

Section 460.4062, F.S., provides for the certification of chiropractic medical faculty at publicly funded state universities or colleges. A chiropractic medicine faculty certificate authorizes the certificate holder to practice chiropractic medicine only in conjunction with his or her full-time faculty position at a university or college and its affiliated clinics that are registered with the board as sites at which holders of chiropractic medicine faculty certificates will be practicing.[20]

DOH is authorized to issue a chiropractic medicine faculty certificate to an individual without requiring them to pass the state examination if they demonstrate to the board: [21]

- Possession of a valid license to practice in another state;
- Graduation from an accredited school or college of chiropractic medicine accredited by the Council on Chiropractic Education; and
- Acceptance of a full-time faculty appointment to teach chiropractic medicine at a publicly-funded state university or college that is accredited by the Council on Chiropractic Education, which includes a certificate from the dean of the appointing college acknowledging the appointment.

In addition, the individual must be at least 21 years of age, be of good moral character and not be the subject of any disciplinary action. As of November 2011, there are 19 schools accredited by the Council on Chiropractic Education Commission on Accreditation in the United States; two are located in Florida: Palmer College of Chiropractic (Port Orange) and National University of Health Sciences (Pinellas Park).[22] Currently, there are 8 individuals who possess a chiropractic faculty certificate.[23]

Chiropractic Assistants

Chapter 460, F.S., provides for two types of chiropractic assistants: certified and registered.[24] Both are required to work under a licensed chiropractor who has been certified by the board as a supervising chiropractor.[25] The supervising chiropractor is liable for any act or omission of any certified chiropractic assistant under their supervision or control.[26]

[17] S. 460.408, F.S.
[18] S. 460.408(1), F.S.
[19] S.460.408(1), F.S. and 64B2-13.004, F.A.C.
[20] S. 460.4062(2), F.S.
[21] S. 460.4062(1), F.S.
[22] The Council on Chiropractic Education, Accredited Doctor of Chiropractic Programs/Institutions, *available at:* http://www.cce-usa.org/Accredited_Doctor_Chiro.html (last viewed December 1, 2011).
[23] *Supra*, note 6, page 2.
[24] Ss. 460.4165 and 460.4166, F.S.
[25] 64B2-18.005, F.A.C. Certifications are valid for 2 years and must be renewed biennially.
[26] S. 460.4165(11), F.S. and 64B2-18.006, F.A.C.

A "certified chiropractic physician's assistant" is a person who is a graduate of an approved program to perform chiropractic services under the indirect or direct supervision[27] of an approved supervising chiropractic physician or a group of physicians.[28] Training programs for certified chiropractic physician's assistants are approved and issued certificates by the board. The curriculum must consist of at least 200 didactic hours and cover a period of 24 months.[29] A person who desires to be licensed as a certified chiropractic physician's assistant is required to submit an application for licensure, remit a fee and meet eligibility criteria. A person who is not certified as a chiropractic physician's assistant and represents themselves as such, is guilty of a third degree felony.[30] Currently, there are 174 individuals who hold active in-state certificates as a chiropractic physician's assistant.[31]

A "registered chiropractic assistant" is a person who voluntarily registers[32] with the board to perform chiropractic services under the direct supervision[33] of either a chiropractic physician or certified chiropractic assistant.[34] There are no training, educational requirements, or eligibility criteria that must be met to become a registered chiropractic assistant. Section 460.4166, F.S., states that if a person wishes to register as a chiropractic assistant they must adhere to ethical and legal standards of the professional practice, recognize and respond to emergencies, and demonstrate professional characteristics. Currently, there are 2,430 individuals who hold active registrations as chiropractic assistants.[35]

Effect of Proposed Changes

Chiropractic Medicine Faculty Certificate

The bill amends the eligibility requirements for the chiropractic medicine faculty certificate, such that DOH may issue a certificate to a individual who has accepted a part-time faculty appointment or conducts research at a publicly funded state university, college, or a chiropractic college that is accredited by the Council on Chiropractic Education. This will enable individuals who have not passed the chiropractic examination required for licensure to treat patients in conjunction with their duties as faculty members or researchers. Currently, only individuals accepting full-time faculty appointment are eligible.

Patient Funds and Property

A chiropractor may be disciplined for failing to preserve the identity of any funds or property of a patient and failing to hold any money or property in entrusted in trust.[36] Currently, statute does not provide a cap on the amount of funds, value of money or property. The bill caps the value of funds and property of a patient must be over $501 and provides that the maximum amount that may be held in trust is $1,500.

National Examination

The bill adds to statute that individuals seeking licensure as a chiropractor must successfully pass parts IV and the physiotherapy optional exam conducted by the National Board of Chiropractic Examiners.

---

[27] Indirect supervision requires easy availability or physical presence where the supervising chiropractor can be in a location within 30 minutes and must be available when needed for consultation and advice either in person or by electronic means. A chiropractic physician assistant working in a facility that holds a health care clinic license may only render services under direct supervision. *See* Ss. 460.403(8) and 460.4165(14), F.S. and 64B18.001, F.A.C

[28] S. 460.403(3), F.S.

[29] S. 460.414(5), F.S.

[30] Felony of the third degree are punishable by a term of imprisonment not to exceed 5 years or a fine not to exceed $5,000 (ss. 775.082 and 775.083, F.S.).

[31] *Supra,* note 6, page 2.

[32] S. 460.4166(5), F.S. The fee to voluntarily register is $25.

[33] Direct supervision means responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by a registered chiropractic assistant and requires the Chiropractor to be physically located on the premises at all times while patients are receiving patient care management or treatment. See 64B2-18.0075, F.A.C.

[34] S. 460.403(10), F.S.

[35] *Supra,* note 6, page 2.

[36] S. 460.13(1)(y), F.S.

The National Board of Chiropractic Examiners describes the physiotherapy examination as an elective examination.[37] However, state law requires individuals to only successfully complete parts I-III of the national examination.

Chiropractor Practice Ownership

The bill provides exceptions to the limitation on employment of chiropractors. First, the bill provides that a trust whose trustees are licensed chiropractors and the spouse, parent, child, or sibling of a chiropractic physician may employ a chiropractor as an independent contractor to provide chiropractic services. Secondly, the bill provides that a limited liability company, limited partnership, professional association or entity, health maintenance organization, and prepaid health clinic are entities that may also employ a chiropractor as an independent contractor. Third, the bill provides that a surviving spouse of a chiropractor may also employ a chiropractor as an independent contractor.

The bill specifies that the surviving spouse or surviving spouse, parent, child, or sibling of the chiropractic physician may hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the deceased chiropractor's ownership interests as long as the survivors remain the sole proprietors of the practice. The bill states that any entities that are able to hire a chiropractor as an independent contractor may exercise control over the patient records of the employed chiropractor, the policies and decisions relating to pricing, credit, refunds, warranties, and advertising, and the decisions relating to office personnel and hour of operation. The bill corrects cross references to statutory provisions that provide the punishment for a third degree felony.

According to DOH, the board office has been unable to determine if there have ever been any incidences of surviving family members who have been prosecuted by the state for retaining ownership after the death of a practitioners, but there have been inquires concerning the need for disposing of the practice of a deceased chiropractor by his or her estate or close surviving relatives.[38] The advice has always been for the surviving relatives to seek legal guidance in this matter.[39] In practice, these situations are typically resolved by the quick sale of the practice by the estate of the deceased to another appropriately licensed practitioner.

Continuing Education

The bill prohibits the board from approving continuing education courses that include instruction on in the use, application, prescription, recommendation, or administration of a specific company's brand of products or services. Consequently, more continuing education courses may be denied by the board. The bill gives the board more discretion in approving continuing education courses sponsored by chiropractic colleges whose graduates are eligible to take the national examination by removing the mandate to approve all courses that meet the qualifications.

According to DOH, most if not all of the continuing education course offered by chiropractic colleges meet current statutory requirements, thus are automatically approved.[40] Additionally, DOH states that it does not maintain any information on courses and does not review the content of the continuing education courses, this is a board function.[41] Currently, DOH has a contract with a vendor called "CE Broker" that deals with the continuing education providers. Thus, the individuals taking the course and continuing education providers are the only entities that actually view the materials.

[37] National Board of Chiropractor Examiners, Written Examinations: Applicant Eligibility, *available at*: http://www.nbce.org/written/eligibility.html#pht (last viewed December 1, 2011)
[38] Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 413, dated November 29, 2011.
[39] *Id.*
[40] Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 413, dated November 29, 2011.
[41] *Id.*

Certified Chiropractic Physician's Assistant

The bill amends the education requirements for certified chiropractic physician's assistant such that the curriculum of 200 hours does not have to occur in a 24-month period. According to DOH, currently there are two approved certified chiropractic physician's assistant education programs which are modeled to meet statutory requirements. However, there have been proposals submitted to the board for approval that propose offering the same course material over a shorter timeframe.[42]

In addition, the bill changes the location in which a certified chiropractic physician's assistant may provide services under indirect supervision. Currently, they may provide services at the address of record or place of practice. The bill limits the practice setting to the supervising chiropractor's address of record. According to DOH, this limitation will stop the practice of using certified chiropractic physician's assistant to run chiropractic branch offices without the physical presence or direct supervision of a chiropractor.[43]

B. SECTION DIRECTORY:

Section 1. Amends s. 460.4062, F.S., relating to chiropractic medicine faculty certificate.
Section 2. Amends s. 460.408, F.S., relating to continuing chiropractic education.
Section 3. Amends s. 460.406, F.S., relating to licensure by examination.
Section 4. Amends s. 460.413, F.S., relating to grounds for disciplinary action by the board or department.
Section 5. Amends s. 460.4165, F.S., relating to certified chiropractic physician's assistants.
Section 6. Amends s. 460.4167, F.S., relating to proprietorship by persons other than licensed chiropractic physicians.
Section 7. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

---

[42] *Id.*
[43] *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides DOH sufficient rule making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Health & Human Services Quality Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Require individuals seeking licensure to pass the optional physiotherapy examination of the National Board of Chiropractic Examiners; and
- Delete section 7 of the bill to remove the mandatory registration of chiropractic assistants and the fiscal impact of the bill.

This analysis is drafted to the committee substitute.

1 A bill to be entitled
2 An act relating to chiropractic medicine; amending s.
3 460.4062, F.S.; revising the requirements for
4 obtaining a chiropractic medicine faculty certificate;
5 amending s. 460.408, F.S.; authorizing the Board of
6 Chiropractic Medicine to approve continuing education
7 courses sponsored by chiropractic colleges under
8 certain circumstances; prohibiting the board from
9 approving certain courses in continuing chiropractic
10 education; amending s. 460.406, F.S.; revising
11 requirements for a person who desires to be licensed
12 as a chiropractic physician; amending s. 460.413,
13 F.S.; requiring that a chiropractic physician preserve
14 the identity of funds or property of a patient in
15 excess of a specified amount; limiting the amount that
16 may be advanced to a chiropractic physician for
17 certain costs and expenses; amending s. 460.4165,
18 F.S.; providing that services rendered by a certified
19 chiropractic physician's assistant under indirect
20 supervision may occur only at the supervising
21 chiropractic physician's address of record; deleting
22 the length of time specified for the basic program of
23 education and training for certified chiropractic
24 physician's assistants; amending s. 460.4167, F.S.;
25 authorizing certain sole proprietorships, group
26 practices, partnerships, corporations, limited
27 liability companies, limited partnerships,
28 professional associations, other entities, health care

29 clinics licensed under part X of ch. 400, F.S., health
30 maintenance organizations, or prepaid health clinics
31 to employ a chiropractic physician or engage a
32 chiropractic physician as an independent contractor to
33 provide services authorized by ch. 460, F.S.;
34 authorizing the spouse or adult children of a deceased
35 chiropractic physician to hold, operate, pledge, sell,
36 mortgage, assign, transfer, own, or control the
37 deceased chiropractic physician's ownership interests
38 under certain conditions; authorizing an employer that
39 employs a chiropractic physician to exercise control
40 over the patient records of the employed chiropractic
41 physician, the policies and decisions relating to
42 pricing, credit, refunds, warranties, and advertising,
43 and the decisions relating to office personnel and
44 hours of practice; deleting an obsolete provision;
45 providing an effective date.
46
47 Be It Enacted by the Legislature of the State of Florida:
48
49 Section 1. Paragraph (e) of subsection (1) of section
50 460.4062, Florida Statutes, is amended to read:
51 460.4062 Chiropractic medicine faculty certificate.—
52 (1) The department may issue a chiropractic medicine
53 faculty certificate without examination to an individual who
54 remits a nonrefundable application fee, not to exceed $100 as
55 determined by rule of the board, and who demonstrates to the
56 board that he or she meets the following requirements:

57 (e)1. Performs research or has been offered and has
58 accepted a full-time or part-time faculty appointment to teach
59 in a program of chiropractic medicine at a publicly funded state
60 university or college or at a college of chiropractic located in
61 the state and accredited by the Council on Chiropractic
62 Education; and
63 2. Provides a certification from the dean of the
64 appointing college acknowledging the appointment.
65 Section 2. Subsection (1) of section 460.408, Florida
66 Statutes, is amended to read:
67 460.408 Continuing chiropractic education.—
68 (1) The board shall require licensees to periodically
69 demonstrate their professional competence as a condition of
70 renewal of a license by completing up to 40 contact classroom
71 hours of continuing education.
72 (a) Continuing education courses sponsored by chiropractic
73 colleges whose graduates are eligible for examination under any
74 provision of this chapter may ~~shall~~ be approved upon review by
75 the board if all other requirements of board rules setting forth
76 criteria for course approval are met.
77 (b) The board shall approve those courses that build upon
78 the basic courses required for the practice of chiropractic
79 medicine, and the board may also approve courses in adjunctive
80 modalities. Courses that consist of instruction in the use,
81 application, prescription, recommendation, or administration of
82 a specific company's brand of products or services are not
83 eligible for approval.
84 Section 3. Paragraph (e) of subsection (1) of section

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

85 460.406, Florida Statutes, is amended to read:
86 460.406 Licensure by examination.—
87 (1) Any person desiring to be licensed as a chiropractic
88 physician must apply to the department to take the licensure
89 examination. There shall be an application fee set by the board
90 not to exceed $100 which shall be nonrefundable. There shall
91 also be an examination fee not to exceed $500 plus the actual
92 per applicant cost to the department for purchase of portions of
93 the examination from the National Board of Chiropractic
94 Examiners or a similar national organization, which may be
95 refundable if the applicant is found ineligible to take the
96 examination. The department shall examine each applicant who the
97 board certifies has:
98 (e) Successfully completed the National Board of
99 Chiropractic Examiners certification examination in parts I, II,
100 ~~and~~ III, and IV, and the physiotherapy examination of the
101 National Board of Chiropractic Examiners, with a score approved
102 by the board.
103
104 The board may require an applicant who graduated from an
105 institution accredited by the Council on Chiropractic Education
106 more than 10 years before the date of application to the board
107 to take the National Board of Chiropractic Examiners Special
108 Purposes Examination for Chiropractic, or its equivalent, as
109 determined by the board. The board shall establish by rule a
110 passing score.
111 Section 4. Paragraph (y) of subsection (1) of section
112 460.413, Florida Statutes, is amended to read:

113 460.413 Grounds for disciplinary action; action by board
114 or department.—
115 (1) The following acts constitute grounds for denial of a
116 license or disciplinary action, as specified in s. 456.072(2):
117 (y) Failing to preserve identity of funds and property of
118 a patient, the value of which is greater than $501. As provided
119 by rule of the board, money or other property entrusted to a
120 chiropractic physician for a specific purpose, including
121 advances for costs and expenses of examination or treatment
122 which may not exceed the value of $1,500, is to be held in trust
123 and must be applied only to that purpose. Money and other
124 property of patients coming into the hands of a chiropractic
125 physician are not subject to counterclaim or setoff for
126 chiropractic physician's fees, and a refusal to account for and
127 deliver over such money and property upon demand shall be deemed
128 a conversion. This is not to preclude the retention of money or
129 other property upon which the chiropractic physician has a valid
130 lien for services or to preclude the payment of agreed fees from
131 the proceeds of transactions for examinations or treatments.
132 Controversies as to the amount of the fees are not grounds for
133 disciplinary proceedings unless the amount demanded is clearly
134 excessive or extortionate, or the demand is fraudulent. All
135 funds of patients paid to a chiropractic physician, other than
136 advances for costs and expenses, shall be deposited into ~~in~~ one
137 or more identifiable bank accounts maintained in the state in
138 which the chiropractic physician's office is situated, and ~~no~~
139 funds belonging to the chiropractic physician may not ~~shall~~ be
140 deposited therein except as follows:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

141 1. Funds reasonably sufficient to pay bank charges may be
142 deposited therein.
143 2. Funds belonging in part to a patient and in part
144 presently or potentially to the physician must be deposited
145 therein, but the portion belonging to the physician may be
146 withdrawn when due unless the right of the physician to receive
147 it is disputed by the patient, in which event the disputed
148 portion may ~~shall~~ not be withdrawn until the dispute is finally
149 resolved.
150
151 Every chiropractic physician shall maintain complete records of
152 all funds, securities, and other properties of a patient coming
153 into the possession of the physician and render appropriate
154 accounts to the patient regarding them. In addition, every
155 chiropractic physician shall promptly pay or deliver to the
156 patient, as requested by the patient, the funds, securities, or
157 other properties in the possession of the physician which the
158 patient is entitled to receive.
159 Section 5. Subsections (2) and (5) of section 460.4165,
160 Florida Statutes, are amended to read:
161 460.4165 Certified chiropractic physician's assistants.—
162 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S
163 ASSISTANT.—Notwithstanding any other provision of law, a
164 certified chiropractic physician's assistant may perform
165 chiropractic services in the specialty area or areas for which
166 the certified chiropractic physician's assistant is trained or
167 experienced when such services are rendered under the
168 supervision of a licensed chiropractic physician or group of

169 chiropractic physicians certified by the board. Any certified
170 chiropractic physician's assistant certified under this section
171 to perform services may perform those services only:
172 (a) In the office of the chiropractic physician to whom
173 the certified chiropractic physician's assistant has been
174 assigned, in which office such physician maintains her or his
175 primary practice;
176 (b) Under indirect supervision if the indirect supervision
177 occurs at the supervising chiropractic physician's address of
178 record ~~or place of practice~~ required by s. 456.035, other than
179 at a clinic licensed under part X of chapter 400, of the
180 chiropractic physician to whom she or he is assigned as defined
181 by rule of the board;
182 (c) In a hospital in which the chiropractic physician to
183 whom she or he is assigned is a member of the staff; or
184 (d) On calls outside ~~of~~ the office of the chiropractic
185 physician to whom she or he is assigned, on the direct order of
186 the chiropractic physician to whom she or he is assigned.
187 (5) PROGRAM APPROVAL.—The department shall issue
188 certificates of approval for programs for the education and
189 training of certified chiropractic physician's assistants which
190 meet board standards. Any basic program curriculum certified by
191 the board ~~shall cover a period of 24 months. The curriculum~~ must
192 consist of a curriculum of at least 200 didactic classroom hours
193 ~~during those 24 months~~.
194 (a) In developing criteria for program approval, the board
195 shall give consideration to, and encourage, the use ~~utilization~~
196 of equivalency and proficiency testing and other mechanisms

197 whereby full credit is given to trainees for past education and
198 experience in health fields.
199 (b) The board shall create groups of specialty
200 classifications of training for certified chiropractic
201 physician's assistants. These classifications must ~~shall~~ reflect
202 the training and experience of the certified chiropractic
203 physician's assistant. The certified chiropractic physician's
204 assistant may receive training in one or more such
205 classifications, which shall be shown on the certificate issued.
206 (c) The board shall adopt and publish standards to ensure
207 that such programs operate in a manner that ~~which~~ does not
208 endanger the health and welfare of the patients who receive
209 services within the scope of the program. The board shall review
210 the quality of the curricula, faculties, and facilities of such
211 programs; issue certificates of approval; and take whatever
212 other action is necessary to determine that the purposes of this
213 section are being met.
214 Section 6. Section 460.4167, Florida Statutes, is amended
215 to read:
216 460.4167 Proprietorship by persons other than licensed
217 chiropractic physicians.—
218 (1) A ~~No~~ person ~~other than a sole proprietorship, group~~
219 ~~practice, partnership, or corporation that is wholly owned by~~
220 ~~one or more chiropractic physicians licensed under this chapter~~
221 ~~or by a chiropractic physician licensed under this chapter and~~
222 ~~the spouse, parent, child, or sibling of that chiropractic~~
223 ~~physician~~ may not employ a chiropractic physician licensed under
224 this chapter or engage a chiropractic physician licensed under

225 this chapter as an independent contractor to provide services
226 that chiropractic physicians are authorized to offer ~~by this~~
227 ~~chapter to be offered by a chiropractic physician licensed~~ under
228 this chapter, unless the person is any of the following~~, except~~
229 ~~for~~:
230 (a) A sole proprietorship, group practice, partnership,
231 corporation, limited liability company, limited partnership,
232 professional association, or any other entity that is wholly
233 owned by:
234 1. One or more chiropractic physicians licensed under this
235 chapter;
236 2. A chiropractic physician licensed under this chapter
237 and the spouse or surviving spouse, parent, child, or sibling of
238 the chiropractic physician; or
239 3. A trust whose trustees are chiropractic physicians
240 licensed under this chapter and the spouse, parent, child, or
241 sibling of a chiropractic physician.
242
243 If the chiropractic physician described in subparagraph (a)2.
244 dies, notwithstanding part X of chapter 400, the surviving
245 spouse or adult children may hold, operate, pledge, sell,
246 mortgage, assign, transfer, own, or control the chiropractic
247 physician's ownership interests for so long as the surviving
248 spouse or adult children remain the sole proprietors of the
249 chiropractic practice.
250 (b) ~~(a)~~ A sole proprietorship, group practice, partnership,
251 ~~or~~ corporation, limited liability company, limited partnership,
252 professional association, or any other entity that is wholly

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

253 owned by a physician or physicians licensed under this chapter,
254 chapter 458, chapter 459, or chapter 461.
255 (c) ~~(b)~~ An entity ~~Entities~~ that is wholly ~~are~~ owned,
256 directly or indirectly, by an entity licensed or registered by
257 the state under chapter 395.
258 (d) ~~(c)~~ A clinical facility that is ~~facilities~~ affiliated
259 with a college of chiropractic accredited by the Council on
260 Chiropractic Education at which training is provided for
261 chiropractic students.
262 (e) ~~(d)~~ A public or private university or college.
263 (f) ~~(e)~~ An entity wholly owned and operated by an
264 organization that is exempt from federal taxation under s.
265 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community
266 college or university clinic, or an ~~and any~~ entity owned or
267 operated by the Federal Government or by state government,
268 including any agency, county, municipality, or other political
269 subdivision thereof.
270 (g) ~~(f)~~ An entity owned by a corporation the stock of which
271 is publicly traded.
272 (h) ~~(g)~~ A clinic licensed under part X of chapter 400 which
273 ~~that~~ provides chiropractic services by a chiropractic physician
274 licensed under this chapter and other health care services by
275 physicians licensed under chapter 458 or~~,~~ chapter 459, ~~or~~
276 ~~chapter 460,~~ the medical director of which is licensed under
277 chapter 458 or chapter 459.
278 (i) ~~(h)~~ A state-licensed insurer.
279 (j) A health maintenance organization or prepaid health
280 clinic regulated under chapter 641.

281 (2) A ~~No~~ person other than a chiropractic physician
282 licensed under this chapter may not ~~shall~~ direct, control, or
283 interfere with a chiropractic physician's clinical judgment
284 regarding the medical necessity of chiropractic treatment. For
285 purposes of this subsection, a chiropractic physician's clinical
286 judgment does not apply to chiropractic services that are
287 contractually excluded, the application of alternative services
288 that may be appropriate given the chiropractic physician's
289 prescribed course of treatment, or determinations that compare
290 ~~comparing~~ contractual provisions and scope of coverage with a
291 chiropractic physician's prescribed treatment on behalf of a
292 covered person by an insurer, health maintenance organization,
293 or prepaid limited health service organization.
294 (3) Any lease agreement, rental agreement, or other
295 arrangement between a person other than a licensed chiropractic
296 physician and a chiropractic physician whereby the person other
297 than a licensed chiropractic physician provides the chiropractic
298 physician with chiropractic equipment or chiropractic materials
299 must ~~shall~~ contain a provision whereby the chiropractic
300 physician expressly maintains complete care, custody, and
301 control of the equipment or practice.
302 (4) The purpose of this section is to prevent a person
303 other than the ~~a~~ licensed chiropractic physician from
304 influencing or otherwise interfering with the exercise of the ~~a~~
305 chiropractic physician's independent professional judgment. In
306 addition to the acts specified in subsection (2) ~~(1)~~, a person
307 or entity other than an employer or entity authorized in
308 subsection (1) ~~a licensed chiropractic physician and any entity~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

309 ~~other than a sole proprietorship, group practice, partnership,~~
310 ~~or corporation that is wholly owned by one or more chiropractic~~
311 ~~physicians licensed under this chapter or by a chiropractic~~
312 ~~physician licensed under this chapter and the spouse, parent,~~
313 ~~child, or sibling of that physician,~~ may not employ or engage a
314 chiropractic physician licensed under this chapter. A person or
315 entity may not ~~or~~ enter into a contract or arrangement with a
316 chiropractic physician pursuant to which such ~~unlicensed~~ person
317 or ~~such~~ entity exercises control over the following:
318 (a) The selection of a course of treatment for a patient,
319 the procedures or materials to be used as part of the ~~such~~
320 course of treatment, and the manner in which the ~~such~~ course of
321 treatment is carried out by the chiropractic physician ~~licensee~~;
322 (b) The patient records of the chiropractic physician ~~a~~
323 ~~chiropractor~~;
324 (c) The policies and decisions relating to pricing,
325 credit, refunds, warranties, and advertising; or
326 (d) The decisions relating to office personnel and hours
327 of practice.
328
329 However, a person or entity that is authorized to employ a
330 chiropractic physician under subsection (1) may exercise control
331 over the patient records of the employed chiropractic physician;
332 the policies and decisions relating to pricing, credit, refunds,
333 warranties, and advertising; and the decisions relating to
334 office personnel and hours of practice.
335 (5) Any person who violates this section commits a felony
336 of the third degree, punishable as provided in s. 775.082 ~~s.~~

337 ~~775.081~~, s. 775.083, or <u>s. 775.084</u> ~~s. 775.035~~.
338 (6) Any contract or arrangement entered into or undertaken
339 in violation of this section <u>is</u> ~~shall be~~ void as contrary to
340 public policy. ~~This section applies to contracts entered into or~~
341 ~~renewed on or after July 1, 2008.~~
342 Section 7. This act shall take effect July 1, 2012.

CS/HB 473

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 473 Alzheimer's Disease
SPONSOR(S): Health & Human Services Access Subcommittee; Hudson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	15 Y, 0 N, As CS	Guzzo	Schoolfield
2) Health & Human Services Committee		Guzzo	Gormley

SUMMARY ANALYSIS

The bill creates the Purple Ribbon Task Force within the Department of Elder Affairs (DOEA) to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers.

The bill requires the task force to assess the current and future impact of Alzheimer's disease and related forms of dementia on the state; examine the existing industries, services, and resources in place that address the needs of individuals with Alzheimer's disease; develop a strategy to mobilize a state response to the Alzheimer's disease epidemic; and provide certain information regarding the development of state policy with respect to individuals with Alzheimer's disease, the role of the state in providing care to those with Alzheimer's disease, and the number of people having Alzheimer's disease in the state.

The bill requires the task force to consist of 18 volunteer members to serve without compensation or reimbursement for per diem or travel expenses with six members appointed by each the Governor, the Speaker of the House of Representatives and the President of the Senate. The bill requires the members of the task force to be appointed by July 1, 2012.

The bill requires DOEA to convene the task force and provide necessary administrative support.

The bill requires the task force to submit a report of its findings and date-specific recommendations in the form of an Alzheimer's disease state plan to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than August 1, 2013. The task force will terminate on the earlier of the date the report is submitted or August 1, 2013.

The bill has an insignificant fiscal impact which can be absorbed by the Department of Elder Affairs.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Alzheimer's Disease Statistics

There is an estimated 5.4 million people in the United States with Alzheimer's disease, including 5.2 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's disease.[1] In addition, there is an estimated 459,806 individuals suffering from Alzheimer's disease in the state of Florida.[2]

By 2030, the segment of the United States population aged 65 years and older is expected to double, and the estimated 71 million older Americans will make up approximately 20 percent of the total population.[3] By 2050, the number of people aged 65 and older with Alzheimer's disease is expected to triple to a projected 16 million people.[4]

State Plans

Currently, 30 states have developed or are in the process of developing state plans to deal with the Alzheimer's disease epidemic. In 2009, the Alzheimer's Study Group (ASG), an eleven member blue ribbon panel released a report outlining recommendations to deal with Alzheimer's disease related issues and policy. In response to the ASG report, Congress passed the National Alzheimer's Project Act (NAPA). NAPA requires the federal Department of Health and Human Services to create a national strategic plan to coordinate Alzheimer's disease efforts across the federal government.[5] Florida does not currently have a state plan or task force in place to deal with the Alzheimer's disease epidemic. However, the Alzheimer's Disease Initiative (ADI), which was created by the Florida Legislature in 1985, does conduct research and advise the Department of Elder Affairs (DOEA) regarding legislative, programmatic and administrative matters that are related to Alzheimer's disease and their caretakers.[6]

Alzheimer's Disease Initiative

The Alzheimer's Disease Initiative was created to provide a continuum of services to meet the changing needs of individuals with Alzheimer's disease and their families. The Department of Elder Affairs coordinates and develops policy to carry out the statutory requirements for the ADI. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes the following four components:[7]

- Supportive services including counseling, consumable medical supplies and respite for caregiver relief;
- Memory disorder clinics to provide diagnosis, research, treatment, and referral;
- Model day care programs to test new care alternatives; and
- A research database and brain bank to support research.

---

[1] Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp
[2] Florida Department of Elder Affairs, 2011 Florida State Profile, located at http://elderaffairs.state.fl.us/english/pubs/stats/County_2011Projections/Florida_Map.html
[3] Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp
[4] Id.
[5] Alzheimer's Association, *Issue Kit: State Government Alzheimer's Disease Plans*
[6] Florida Department of Elder Affairs, see http://elderaffairs.state.fl.us/english/alz.php (last visited November 30, 2011).
[7] Id.

Section 430.501, F.S., authorizes DOEA to adopt rules necessary to carry out the duties of the advisory committee. The area agency on aging, under contract with DOEA, is responsible for the planning and administration of respite and model day care services funded under the ADI and must contract with local service providers for the provision of these services.[8]

The ADI is funded by General Revenue and Tobacco Settlement funds. The DOEA allocates General Revenue funding to each of the Area Agencies on Aging, which in turn fund providers of model day care and respite care programs in designated counties.[9] Provider agencies are responsible for the collection of fees for ADI services. To help pay for services received pursuant to the ADI, a functionally impaired elderly person is assessed a fee based on an overall ability to pay in accordance with Rule 58C-1.007, F.A.C.

Alzheimer's Disease Advisory Committee
The Alzheimer's Disease Advisory Committee is a 10-member panel that advises DOEA regarding legislative, programmatic and administrative matters that are related to Alzheimer's disease victims and their caretakers. Committee members must be Florida residents and reflect the following representation:[10]

- At least four of the 10 members must be licensed pursuant to Chapter 458 or 459, F.S., or hold a Ph.D. degree and be currently involved in research of Alzheimer's disease;
- The 10 members must include at least four people who have been caregivers of victims of Alzheimer's disease; and
- Whenever possible, there should be one individual from each of the following professions: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker and a registered nurse.

Members are appointed to four-year staggered terms. The committee elects one of its members to serve as chair for a one-year term. Committee meetings are held quarterly or as frequently as needed.

The function of the Advisory Committee is to advise DOEA in the performance of its duties under the ADI. As appropriate, and with the approval of DOEA, the Advisory Committee may establish subcommittees.[11]

Respite Services
Alzheimer's Respite Care programs are established in all of Florida's 67 counties.[12] ADI respite includes in-home, facility-based, emergency and extended care (up to 30 days) respite for caregivers who serve individuals with memory disorders. In addition to respite care services, caregivers and consumers may receive supportive services essential to maintaining individuals with Alzheimer's disease or related dementia in their own homes. The supportive services may include caregiver training and support groups, counseling, consumable medical supplies and nutritional supplements. Services are authorized by a case manager based on a comprehensive assessment and on unmet needs identified during that assessment.

Memory Disorder Clinics
There are 15 memory disorder clinics authorized to provide diagnostic and referral services for persons with Alzheimer's disease and related dementia.[13] The centers, 13 of which are funded by the state, also conduct service-related research and develop caregiver training materials and educational opportunities. Clinics are established at medical schools, teaching hospitals, and public and private not-for-profit hospitals throughout the state in accordance with s. 430.502, F.S.

---

[8] Rule 58D-1.005, F.A.C.
[9] Florida Department of Elder Affairs, *State General Revenue Program Report 2011.*
[10] Section 430.501(3), F.S.
[11] Id.
[12] Florida Department of Elder Affairs, see http://elderaffairs.state.fl.us/english/alz.php (last visited November 18, 2011).
[13] Section 430.502(1), F.S.

Model Day Care
Model day care programs have been established in conjunction with memory disorder clinics to test therapeutic models and provide day care services. The model day care programs provide a safe environment where Alzheimer's patients congregate for the day and socialize with each other, as well as receive therapeutic interventions designed to maintain or improve their cognitive functioning. Model day care programs also provide training for health care and social service personnel in the care of individuals with Alzheimer's disease and related memory disorders. There are currently four model day care programs in the state.[14]

Brain Bank
The Florida Alzheimer's disease brain bank is a service and research oriented network of statewide regional sites. The intent of the brain bank program is to collect and study the brains of deceased patients who had been clinically diagnosed with dementia. Mt. Sinai Medical Center contracts annually with the state of Florida to operate the primary brain bank. Coordinators at regional brain bank sites in Orlando, Tampa and Pensacola help recruit participants and act as liaisons between the brain bank and participants' families.[15]

Effect of Proposed Changes

The bill establishes the Purple Ribbon Task Force within the Department of Elder Affairs and contains the following "whereas clauses:"

- Whereas, Alzheimer's disease is a slow, progressive disorder of the brain that results in loss of memory and other cognitive functions and eventually death;
- Whereas, because Alzheimer's disease is accompanied by memory loss, poor judgment, changes in personality and behavior, and a tendency to wander or become lost, a person with this disease is at an increased risk for accidental injury, abuse, neglect, and exploitation;
- Whereas, approximately one in eight Americans 65 years of age or older and almost half of Americans 85 years of age or older develop Alzheimer's disease or a related form of dementia;
- Whereas this state has an estimated 459,806 persons having Alzheimer's disease, which population is expected to triple by the year 2050;
- Whereas, Alzheimer's disease takes an enormous toll on family members, with an estimated one in four family members providing caregiving support for individuals with Alzheimer's disease;
- Whereas, caregivers for persons having Alzheimer's disease witness the deteriorating effects of the disease and often suffer more emotional stress, depression, and health problems than caregivers of people having other illnesses, which can negatively affect such caregivers' employment, income, and financial security;
- Whereas, younger-onset Alzheimer's disease is a form of Alzheimer's disease that strikes a person who is younger than 65 years of age when symptoms first appear, but younger-onset Alzheimer's disease can strike persons as early as 30, 40, or 50 years of age, with new data showing that there may be as many as 500,000 Americans under the age of 65 who have dementia or cognitive impairment at a level of severity consistent with dementia; and
- Whereas, the state needs to assess the current and future impact of Alzheimer's disease on Floridians and the state's health care system, programs, resources, and services to ensure the continued development and implementation of more inclusive and integrated, comprehensive, coordinated, and current strategy to address the needs of the growing number of Floridians having Alzheimer's disease or a related form of dementia and the corresponding needs of their caregivers.

The bill creates the Purple Ribbon Task Force within DOEA to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers. The bill does not address or make any changes to the current Alzheimer's Disease Initiative.

---

[14] Florida Department of Elder Affairs, see http://elderaffairs.state.fl.us/english/alz.php (last visited November 30, 2011).
[15] Florida Department of Elder Affairs, *State General Revenue Program Report 2011.*

The bill requires the task force to consist of 18 volunteer members to serve without compensation or reimbursement for per diem or travel expenses. Six of the members must be appointed by each the Governor, the Speaker of the House of Representatives and the President of the Senate. The bill requires the members of the task force to be appointed by July 1, 2012. The task force must consist of the following:

- A member of the House of Representatives;
- A member of the Senate;
- A representative from the Alzheimer's Association;
- At least one person having Alzheimer's disease or a related form of dementia;
- At least one family caregiver of a person with Alzheimer's disease or a related form of dementia;
- A representative from the Alzheimer's Disease Advisory Committee;
- A representative of law enforcement with knowledge about disappearance and recovery, self-neglect, abuse, exploitation, and suicide of persons having Alzheimer's disease or a related form of dementia;
- A representative having knowledge of and expertise with the Baker Act and its impact on individuals with Alzheimer's disease;
- An expert on disaster preparedness and response for individuals with Alzheimer's disease;
- A representative of a health care facility or hospice that serves individuals with Alzheimer's disease;
- A representative of the adult day care services industry;
- A representative of health care practitioners specializing in the treatment of individuals with Alzheimer's disease;
- A Florida board certified elder law attorney;
- A representative of the area agencies on aging and disability resource centers;
- A person who is an Alzheimer's disease researcher;
- A representative from a memory disorder clinic;
- A representative of the assisted living facility industry; and
- A representative of the skilled nursing facility industry.

The bill requires DOEA to convene the task force and provide necessary administrative support. Meetings of the task force may be held in person without compensation or travel reimbursement, by teleconference or by other electronic means.

The bill requires the task force to perform the following duties:

- Access the current and future impact of Alzheimer's disease on the state;
- Examine the existing industries, services, and resources addressing the needs of people with Alzheimer's disease;
- Examine the needs of individuals with Alzheimer's disease or a related form of dementia and the effects it has from the early-onset, mid-state, and late stage inclusive of all cultures;
- Develop a strategy to mobilize a state response; and
- Hold public meetings and employ technological means to gather feedback on the recommendations submitted by individuals with Alzheimer's disease or a related form of dementia, their caregivers, and by the general public.

The bill requires the task force to provide information regarding state trends with respect to people with Alzheimer's disease or a related form of dementia and their needs, including, but not limited to:

- The role of the state in providing community based care, long-term care, family caregiver support including respite, education, and assistance to people in the early stages of Alzheimer's disease, who have younger-onset Alzheimer's disease, or who have a related form of dementia;
- The development of state policy with respect to individuals with Alzheimer's disease or a related form of dementia;

- Surveillance of people with Alzheimer's disease for the purpose of accurately estimating the number of such persons in the state at present and projected population;
- Existing services, resources, and capacity;
- The type, cost, and availability of dementia-specific services throughout the state;
- Policy requirements and effectiveness for dementia-specific training for professionals providing care;
- Quality care measures employed by providers of care including respite, adult day care, assisted living facility, skilled nursing facility and hospice;
- The capability of public safety workers and law enforcement officers to respond to people with Alzheimer's disease or a related form of dementia;
- The availability of home and community-based services and respite care for people with Alzheimer's disease or a related form of dementia, and education and support services to assist their families and caregivers;
- An inventory of long-term care facilities and community based services serving people with Alzheimer's disease or a related form of dementia;
- The adequacy and appropriateness of geriatric-psychiatric units for people who have behavior disorders associated with Alzheimer's disease or a related form of dementia;
- Residential assisted living options for people with Alzheimer's disease or a related form of dementia;
- The level of preparedness of service providers before, during, and after a catastrophic emergency involving people with Alzheimer's disease or a related form of dementia, their caregivers and families; and
- Needed state policies or responses.

Finally, the bill requires the task force to submit a report of its findings and date-specific recommendations in the form of an Alzheimer's disease state plan to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than August 1, 2013. The task force will terminate on the earlier of the date the report is submitted or August 1, 2013.

B. SECTION DIRECTORY:

Section 1. Establishes the Purple Ribbon Task Force within the Department of Elder Affairs in an unnamed section of law.
Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Insignificant impact. Any potential fiscal impact is expected to be absorbed with existing resources at the Department of Elder Affairs.[16]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[16] Email from Joshua Spagnola, Florida Department of Elder Affairs, November 14, 2011. (On file with committee staff).

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   None.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 7, 2011, the Health and Human Services Access Subcommittee adopted a strike-all amendment. The amendment:

- Makes several technical changes to provide clarification;
- Requires additional representation of the task force to include a representative from a memory disorder clinic, assisted living facility, and a skilled nursing facility;
- Requires the task force to examine the needs of individuals with Alzheimer's disease or a related form of dementia and the effects it has from the early-onset, mid-state, and late stage inclusive of all cultures;
- Provides that the task force may meet in person without compensation or travel reimbursement; and
- Changes the name of the Alzheimer's disease state strategy and policy recommendations to the Alzheimer's disease state plan.

1 A bill to be entitled
2 An act relating to Alzheimer's disease; establishing
3 the Purple Ribbon Task Force within the Department of
4 Elderly Affairs; providing for membership; providing
5 that members shall serve without compensation or
6 reimbursement for per diem or travel expenses;
7 requiring the department to provide administrative
8 support; providing duties of the task force;
9 authorizing the task force to hold meetings by
10 teleconference or other electronic means, or in person
11 without compensation or reimbursement for per diem or
12 travel expenses; requiring the task force to submit a
13 report in the form of an Alzheimer's disease state
14 plan to the Governor and Legislature; providing for
15 termination of the task force; providing an effective
16 date.
17
18 WHEREAS, Alzheimer's disease is a slow, progressive
19 disorder of the brain that results in loss of memory and other
20 cognitive functions and eventually death, and
21 WHEREAS, because Alzheimer's disease is accompanied by
22 memory loss, poor judgment, changes in personality and behavior,
23 and a tendency to wander or become lost, a person with this
24 disease is at an increased risk for accidental injury, abuse,
25 neglect, and exploitation, and
26 WHEREAS, approximately one in eight Americans 65 years of
27 age or older and almost half of Americans 85 years of age or

28 older develop Alzheimer's disease or a related form of dementia,
29 and
30 WHEREAS, there are 459,806 probable cases of Alzheimer's
31 disease in this state in 2011, which population is expected to
32 triple by the year 2050, and
33 WHEREAS, Alzheimer's disease takes an enormous toll on
34 family members, with an estimated one in four family members
35 providing caregiving support for individuals with the disease,
36 and
37 WHEREAS, caregivers for persons having Alzheimer's disease
38 witness the deteriorating effects of the disease and often
39 suffer more emotional stress, depression, and health problems
40 than caregivers of people having other illnesses, which can
41 negatively affect such caregivers' employment, income, and
42 financial security, and
43 WHEREAS, younger-onset Alzheimer's disease is a form of
44 Alzheimer's disease that strikes a person who is younger than 65
45 years of age when symptoms first appear, but younger-onset
46 Alzheimer's disease can strike persons as early as 30, 40, or 50
47 years of age, with new data showing that there may be as many as
48 500,000 Americans under the age of 65 who have dementia or
49 cognitive impairment at a level of severity consistent with
50 dementia, and
51 WHEREAS, the state needs to assess the current and future
52 impact of Alzheimer's disease on Floridians and the state's
53 health care system, programs, resources, and services to ensure
54 the continued development and implementation of a more
55 inclusive, integrated, comprehensive, coordinated, and current

56 strategy to address the needs of the growing number of
57 Floridians having Alzheimer's disease or a related form of
58 dementia and the corresponding needs of their caregivers, NOW,
59 THEREFORE,
60
61 Be It Enacted by the Legislature of the State of Florida:
62
63 Section 1. The Purple Ribbon Task Force.—The Purple Ribbon
64 Task Force is established within the Department of Elderly
65 Affairs.
66 (1) The task force shall consist of 18 volunteer members,
67 of whom six shall be appointed by the Governor, six shall be
68 appointed by the Speaker of the House of Representatives, and
69 six shall be appointed by the President of the Senate, as
70 follows:
71 (a) A member of the House of Representatives.
72 (b) A member of the Senate.
73 (c) A representative from the Alzheimer's Association.
74 (d) At least one person having Alzheimer's disease or a
75 related form of dementia.
76 (e) At least one family caregiver or former family
77 caregiver of a person having Alzheimer's disease or a related
78 form of dementia.
79 (f) A representative from the Alzheimer's Disease Advisory
80 Committee.
81 (g) A representative of law enforcement with knowledge
82 about the disappearance and recovery, self-neglect, abuse,

83 exploitation, and suicide of persons having Alzheimer's disease
84 or a related form of dementia.
85 (h) A representative who has knowledge of and experience
86 with the Baker Act and its impact on persons having Alzheimer's
87 disease or a related form of dementia.
88 (i) An expert on disaster preparedness and response for
89 persons having Alzheimer's disease or a related form of
90 dementia.
91 (j) A representative of a health care facility or hospice
92 that serves persons with Alzheimer's disease.
93 (k) A representative of the adult day care services
94 industry.
95 (l) A representative of health care practitioners
96 specializing in the treatment of persons having Alzheimer's
97 disease or a related form of dementia.
98 (m) A Florida board-certified elder law attorney.
99 (n) A representative of the area agencies on aging or
100 aging and disability resource centers.
101 (o) A person who is an Alzheimer's disease researcher.
102 (p) A representative from a memory disorder clinic.
103 (q) A representative of the assisted living facility
104 industry.
105 (r) A representative of the skilled nursing facility
106 industry.
107 (2) Initial appointments to the task force shall be made
108 by July 1, 2012. A vacancy on the task force shall be filled for
109 the unexpired portion of the term in the same manner as the
110 original appointment.

111 (3) Members shall serve on the task force without
112 compensation and may not receive reimbursement for per diem or
113 travel expenses.
114 (4) The Department of Elderly Affairs shall convene the
115 task force and provide necessary administrative support.
116 (5) The task force shall:
117 (a) Assess the current and future impact of Alzheimer's
118 disease and related forms of dementia on the state.
119 (b) Examine the existing industries, services, and
120 resources addressing the needs of persons having Alzheimer's
121 disease or a related form of dementia and their family
122 caregivers.
123 (c) Examine the needs of persons of all cultural
124 backgrounds having Alzheimer's disease or a related form of
125 dementia and how their lives are affected by the disease from
126 younger-onset, through mid-stage, to late-stage.
127 (d) Develop a strategy to mobilize a state response to
128 this public health crisis.
129 (e) Provide information regarding:
130 1. State trends with respect to persons having Alzheimer's
131 disease or a related form of dementia and their needs,
132 including, but not limited to:
133 a. The role of the state in providing community-based
134 care, long-term care, and family caregiver support, including
135 respite, education, and assistance to persons who are in the
136 early stages of Alzheimer's disease, who have younger-onset
137 Alzheimer's disease, or who have a related form of dementia.

138 b. The development of state policy with respect to persons
139 having Alzheimer's disease or a related form of dementia.
140 c. Surveillance of persons having Alzheimer's disease or a
141 related form of dementia for the purpose of accurately
142 estimating the number of such persons in the state at present
143 and projected population levels.
144 2. Existing services, resources, and capacity, including,
145 but not limited to:
146 a. The type, cost, and availability of dementia-specific
147 services throughout the state.
148 b. Policy requirements and effectiveness for dementia-
149 specific training for professionals providing care.
150 c. Quality care measures employed by providers of care,
151 including providers of respite, adult day care, assisted living
152 facility, skilled nursing facility, and hospice services.
153 d. The capability of public safety workers and law
154 enforcement officers to respond to persons having Alzheimer's
155 disease or a related form of dementia, including, but not
156 limited to, responding to their disappearance, search and
157 rescue, abuse, elopement, exploitation, or suicide.
158 e. The availability of home and community-based services
159 and respite care for persons having Alzheimer's disease or a
160 related form of dementia and education and support services to
161 assist their families and caregivers.
162 f. An inventory of long-term care facilities and
163 community-based services serving persons having Alzheimer's
164 disease or a related form of dementia.

165 g. The adequacy and appropriateness of geriatric-
166 psychiatric units for persons having behavior disorders
167 associated with Alzheimer's disease or a related form of
168 dementia.
169 h. Residential assisted living options for persons having
170 Alzheimer's disease or a related form of dementia.
171 i. The level of preparedness of service providers before,
172 during, and after a catastrophic emergency involving a person
173 having Alzheimer's disease or a related form of dementia and
174 their caregivers and families.
175 3. Needed state policies or responses, including, but not
176 limited to, directions for the provision of clear and
177 coordinated care, services, and support to persons having
178 Alzheimer's disease or a related form of dementia and their
179 caregivers and families and strategies to address any identified
180 gaps in the provision of services.
181 (f) Hold public meetings and employ technological means to
182 gather feedback on the recommendations submitted by persons
183 having Alzheimer's disease or a related form of dementia, their
184 caregivers and families, and the general public. Meetings of the
185 task force may be held in person without compensation or
186 reimbursement for travel expenses, by teleconference, or by
187 other electronic means.
188 (6) The task force shall submit a report of its findings
189 and date-specific recommendations in the form of an Alzheimer's
190 disease state plan to the Governor, the Speaker of the House of
191 Representatives, and the President of the Senate no later than

192 August 1, 2013. The task force shall terminate on the earlier of
193 the date the report is submitted or August 1, 2013.
194 Section 2. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Hudson offered the following:
4
5 **Amendment**
6 Remove line 66 and insert:
7 (1) The task force shall consist of 18 volunteer,
8 culturally diverse members,
9

Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Hudson offered the following:
4
5 **Amendment (with title amendment)**
6 Between lines 116 and 117, insert:
7 (a) Submit to the Governor, the President of the Senate,
8 and the Speaker of the House of Representatives by January 30,
9 2013 an interim study regarding state trends with respect to
10 persons having Alzheimer's disease or a related form of dementia
11 and their needs.
12
13
14 ---
15 **T I T L E A M E N D M E N T**
16 Between lines 8 and 9, insert:
17 requiring the task force to submit an interim study to the
18 Governor and legislature regarding state trends with respect to

19 persons having Alzheimer's disease or a related form of
20 dementia;
21

CS/HB 479

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 479 Animal Control
SPONSOR(S): Health & Human Services Quality Subcommittee; O'Toole and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 654

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N, As CS	Poche	Calamas
2) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Cunningham	Blalock
3) Rulemaking & Regulation Subcommittee	14 Y, 0 N	Rubottom	Rubottom
4) Health & Human Services Committee		Poche	Gormley

SUMMARY ANALYSIS

Animal control services in Florida are administered by county and municipal government agencies and by humane societies registered to do business with the Secretary of State. One of the services provided by the agencies and societies is euthanasia of sick, injured and abandoned animals. These facilities are required by law and rule to obtain a permit that allows the purchase, possession and use of euthanasia drugs. Currently, the only acceptable methods of euthanizing domestic animals in the state are injections of sodium pentobarbital or a sodium pentobarbital derivative, or adding sodium pentobarbital or a derivative in solution or powder form to food.

House Bill 479 expands the list of drugs that can be used to euthanize domestic animals and adds certain drugs that may be used to immobilize domestic animals. The bill allows agencies and societies to obtain drugs for the purpose of chemical immobilization using the same permit for obtaining drugs for euthanasia. The bill allows the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to expand the list of drugs that may be used to euthanize or immobilize domestic animals in the future if findings support the addition of drugs to the list for humane and lawful treatment of animals. The bill limits the possession and use of these drugs to animal control officers and employees or agents of animal control agencies and humane societies while operating within the scope of their employment or official duties.

The bill clarifies that the Department of Health is responsible for issuing the permit, by removing an outdated reference to the Department of Business and Professional Regulation being responsible for issuing the permit. The bill provides the Department of Health and the Board of Pharmacy with the authority to deny a permit, or fine, place on probation, or otherwise discipline an applicant or permittee for failure to maintain certain standards or violation of statutes. The bill allows the Department of Health to immediately suspend a permit through emergency order upon a determination that a permittee poses a threat to public health, safety and welfare.

The bill eliminates food-based delivery of euthanasia drugs as an acceptable method of euthanization. The bill permits euthanasia by intracardial injection only upon a dog or cat which is unconscious and exhibits no corneal reflex.

Lastly, the bill requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report to the Department of Health knowledge of any animal bite, diagnosis or suspicion of a group of animals having similar disease, or any symptom or syndrome that may pose a threat to humans.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Animal Control in Florida

Animal control agencies operated by a humane society or by a city, county or other political subdivision are generally responsible for enforcing state, county and local animal control laws and regulations in Florida. Animal control officers employed or appointed by a county or municipality are authorized to investigate violations of animal control laws or regulations.[1] The governing body of a county or municipality is authorized to enact animal control ordinances.[2]

Euthanasia of Domestic Animals in Florida

Euthanasia is the act or practice of killing or permitting the death of sick or injured animals in a relatively painless way for reasons of mercy.[3] Approximately 5 million to 7 million companion animals enter animal shelters nationwide every year, and approximately 3 million to 4 million are euthanized.[4] There are various means of euthanasia employed throughout the United States, some of which are considered humane[5] and some of which are considered inhumane.[6] In Florida, the only approved drugs for use in euthanasia of domestic animals are sodium pentobarbital[7] or a sodium pentobarbital derivative. Euthanasia drugs are to be delivered by the following methods, in order of preference:

- Intravenous injection by hypodermic needle;
- Intraperitoneal injection by hypodermic needle;
- Intracardial injection by hypodermic needle; or
- Solution or powder added to food. [8]

County or municipal animal control agencies or humane agencies registered with the Secretary of State are regulated under county and municipal ordinances related to animal control and, in part, by chapter 828, F.S. In order for an animal control agency or humane agency to provide euthanasia services, the agency must obtain a permit from the Department of Health (DOH) to purchase, possess, and use the euthanasia drugs approved by statute. Current law states that the Department of Business and Professional Regulation (DBPR) is responsible for receiving the application for, and issuing, the permit.[9] The law was enacted at a time when health care professional boards were administratively housed under DPBR. However, due to reorganization of DBPR and the DOH, DOH and the Board of Pharmacy have primary responsibility for evaluating applications for the permit, issuing the permit, and taking disciplinary actions against holders of the permit for violations of law and rule.

---

[1] S. 828.27, F.S.
[2] S. 828.27(2), F.S.
[3] *See* www.merriam-webster.com/dictionary/euthanasia (last viewed November 29, 2011).
[4] *See* American Society for the Prevention of Cruelty to Animals, *Pet Statistics*, at www.aspca.org/about-us/faq/pet-statistics.aspx (last viewed November 29, 2011).
[5] *See* American Veterinary Medical Association Guidelines on Euthanasia, June 2007, Appendix 2, pages 30-31(for example, use of barbiturate drugs, carbon dioxide, carbon monoxide, inhalant anesthetics, penetrating captive bolt, and potassium chloride).
[6] *See id.* at Appendix 4, pages 35-36 (for example, air embolism, burning, chloroform, cyanide, decompression, drowning, and exsanguinations).
[7] Sodium pentobarbital is a barbiturate that is used as a sedative, hypnotic and antispasmodic. When administered in high doses for purposes of euthanasia, sodium pentobarbital causes unconsciousness, followed rapidly by respiratory and cardiac arrest resulting in death.
[8] S. 828.058(1), F.S.
[9] S. 828.055(2), F.S.

The Board of Pharmacy, within the Department of Health, has adopted rules to govern the issuance of permits to county or municipal animal control agencies or humane agencies registered with the Secretary of State to purchase, possess, and use sodium pentobarbital and sodium pentobarbital with lidocaine to euthanize sick, injured or abandoned domestic animals.[10] Currently, there are 105 active animal control shelter permits with the Board of Pharmacy.[11] The initial cost of the permit is $50.00 and is renewable biennially.[12] DBPR currently issues exemption letters to fewer than 20 entities which authorize the entities to possess immobilizers without violating s. 499.03, F.S., which imposes criminal sanctions for the unauthorized possession of habit-forming, toxic, harmful, or new drugs.[13] DBPR does not charge a fee for issuing the exemption letter.[14]

Euthanasia can only be performed by a licensed veterinarian or an employee or agent of an agency, animal shelter or other facility operated for the collection and care of stray, neglected, abandoned, or unwanted animals if the employee or agent has completed an euthanasia technician certification course.[15] However, any law enforcement officer, veterinarian, officer or agent of a municipal or county animal control unit, or officer or agent of any society or association for the prevention of cruelty to animals may destroy a sick or injured animal by shooting the animal or injecting it with a barbiturate drug if the officer or agent finds the animal so injured or sick as to appear useless and suffering, and the officer or agent reasonably believes the animal is imminently near death or cannot be cured, and a reasonable attempt is made to locate the owner of the animal or a veterinarian for consultation regarding destruction of the animal.[16]

Chemical Immobilization of Animals

Chemical immobilization is the anesthesia of wild, free-ranging, feral animals or animals that are fractious or unaccustomed to human contact.[17] Chemical immobilization can be given with restraint of the animal (intravenous, intraperitoneal or intracardial delivery of the drug) or without restraint of the animal (compressed air delivery systems, modified firearms, or blow darts). Chemical immobilization should be considered an action of last resort when all other means of restraining an animal are insufficient.[18] The danger posed to the animal and the community must outweigh the risk posed to the animal's life by the drug used to immobilize it before it is used.[19]

Three major types of drugs used to immobilize animals are opioids, arylcyclohexamines, and neuroleptics. Opioids cause loss of consciousness and alleviate the perception of pain.[20] They are highly potent and effective in relatively small doses.[21] As a result, there is a wide margin of safety in using opioids because the effects can be immediately reversed.[22] Common opioids used in animal immobilization are carfentanil, etorphine, sufentanil, fentanyl, and butorphanol.[23] Arylcyclohexamines produce altered states of consciousness by dissociating mental state from stimulation created by the environment.[24] An animal under the influence of arylcyclohexamines cannot walk but retains many vital functions and reflexes, such

[10] S. 828.055(1), F.S.; *see also* Chapter 64B16-29, F.A.C.
[11] HB 479 Bill Analysis, Economic Statement and Fiscal Note, Department of Health, at page 6, November 30, 2011 (on file with the Health and Human Services Quality subcommittee).
[12] Rule 64B16-29.002(1)(a) and (b), F.A.C.
[13] S. 499.03(1), F.S.
[14] 2012 Legislative Analysis Form for HB 479, Office of Legislative Affairs, Department of Business and Professional Regulation, dated December 2, 2011, page 4 (on file with the Health and Human Services Quality subcommittee).
[15] S. 828.058(4)(a), F.S.
[16] S. 828.05(3), F.S.
[17] *See* Chemical Immobilization presentation, Auburn University School of Forestry and Wildlife Services, slide 2 available at https://fp.auburn.edu/sfws/ditchkoff/Course%20Pages/6291/Chemical%20Immobilization.ppt (hard copy on file with Health and Human Services Quality subcommittee)
[18] *See id.* at slide 4.
[19] *See id.*
[20] *See id.* at slide 26.
[21] *See id.*
[22] *See id.*
[23] *See id.* at slide 27.
[24] *See id.* at slide 28.

as blinking, swallowing and motion, other than walking.[25] Common arylcyclohexamines include ketamine[26], tiletamine[27], and phencyclidine.[28] It is important to note that the affect of arylcyclohexamines is not reversible and must be used in conjunction with neuroleptics to achieve sufficient and safe immobilization.[29] Neuroleptics are tranquilizers, producing calmness and relaxation.[30] Neuroleptics do not cause loss of consciousness or alleviate pain perception.[31] These drugs are used in conjunction with opioids and arylcyclohexamines.[32] Common neuroleptics include diazapam[33] and xylazine.[34]

Disease Reporting

Section 381.0031, F.S., requires certain medical providers, any hospital licensed under chapter 395, and any laboratory licensed under chapter 483 to report to the DOH the diagnosis or suspicion of a disease of public health importance.[35] The DOH is required to periodically issue a list of infectious and noninfectious diseases which it determines to be a threat to public health and therefore of public health importance.[36] The current list of diseases or conditions to be reported includes, but is not limited to,[37]:

Acquired Immune Deficiency Syndrome (AIDS)	Amebic Encephalitis
Botulism	Chlamydia
Cholera	Diptheria
Gonorrhea	Hepatitis A, B, C, D, E and G
Human Immunodeficiency Virus (HIV)	Influenza
Lyme disease	Meningitis
Mumps	Plague
Rabies	Smallpox
Syphilis	Tuberculosis
Typhoid fever	Viral hemorrhagic fevers
West Nile virus	Yellow fever

The diseases or conditions listed in the rule must be reported by telephone, facsimile, electronic data transfer, or other confidential means of communication to the County Health Department having jurisdiction for the area in which the disease or condition is found and within the time period specified by rule.[38] Additional rules provide for written reports to be issued by practitioners, laboratories, medical facilities, and other persons following the initial reporting of a disease or condition of public health significance.[39]

The following persons are required to report suspected rabies exposure to humans, as well as conditions that are diagnosed or suspected in animals, pursuant to subsection 64D-3.039(2), F.A.C.[40]:

[25] *See id.*
[26] Also known by the street name "Special K".
[27] Also marketed under the brand name Telazol®.
[28] Also known as the street drug "PCP".
[29] *See supra* at FN 11, slide 29.
[30] *See id.* at slide 30.
[31] *See id.*
[32] *See id.*
[33] Marketed as Valium®; provides a calming effect with muscle relaxation.
[34] Marketed under the brand names Rompun® and Tolazine®; also called cervizine and anased; effects are immediately and completely reversible.
[35] S. 381.0031(1), F.S.
[36] S. 381.0031(2), F.S.
[37] The complete list of diseases or conditions to be reported is codified at Rule 64D-3.029(3), F.A.C.
[38] Rule 64D-3.029(1), F.A.C.; the time period for reporting varies according to the severity of the threat to public health posed by the identified disease or condition.
[39] Rule 64D-3.030, F.A.C. (notification by practitioners); Rule 64D-3.031, F.A.C. (notification by laboratories); Rule 64D-3.032, F.A.C. (notification by medical facilities); Rule 64D-3.033, F.A.C. (notification by others).
[40] The rule states "Any grouping or clustering of animals having similar disease, symptoms or syndromes that may indicate the presence of a threat to humans including those for biological agents associated with terrorism shall be reported."

- Animal control officers operating under s. 828.27, F.S.;
- Employees or agents of a public or private agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals;
- Animal disease laboratories licensed under s. 585.61, F.S.;
- Wildlife officers operating under s. 372.07, F.S.;
- Wildlife rehabilitators permitted by the Fish and Wildlife Conservation Commission; and
- Florida state park personnel operating under s. 258.007, F.S.[41]

Effect of Proposed Changes

The bill expands the list of controlled substances and legend drugs that can be used for the purpose of euthanasia or immobilization to include:

- Tiletamine hydrochloride, alone or in combination with zolazepam (Telazol®)- both drugs are schedule III drugs in Florida; non-narcotic, non-barbiturate injectable anesthetic;
- Xylazine (Rompun®)- a sedative that provides pain relief and muscle relaxation; not a controlled substance in Florida;
- Ketamine- schedule III drug in Florida; anesthetic;
- Acepromazine maleate (Atravet®)- not a controlled substance in Florida; a tranquilizer used for dogs, cats, and horses; also helps control seizures;
- Acetylpromazine (Acezine 2)- not a controlled substance in Florida; used as a chemical restraint to quiet and calm frightened and aggressive animals;
- Etorphine (Immobilon®)- Schedule I drug in Florida; used for immobilizing animals; resembles morphine by causing analgesia and catatonia, blocking conditional reflexes, and providing an anti-diuretic effect;
- Yohimbine hydrochloride- not a controlled substance in Florida; used to reverse the effects of xylazine in dogs; and
- Atipamezole (Antisedan®)- not a controlled substance in Florida; reverses the sedative and analgesic effects of certain drugs in dogs.

The bill will eliminate the need for an animal control agency or humane agency to obtain an exemption letter from DBPR in order to purchase, possess and use drugs for euthanasia and chemical immobilization listed in the bill. The bill allows the Board of Pharmacy, upon formal, written request and recommendation adopted during a public meeting by the Board of Veterinary Medicine, to add controlled substances and legend drugs to the list of approved drugs, if it is found that the additions are necessary for the humane and lawful treatment euthanasia or chemical immobilization of domestic animals.

The bill clarifies that the DOH is responsible for issuing a permit to an animal control agency or humane agency for the purpose of purchasing, possessing and using euthanasia and immobilizing drugs, not DBPR. Current law requires agencies to submit an application for the permit to DBPR. This is assumed to be an inadvertent provision that was not changed when health care professional boards were moved from DBPR to the DOH. In practice, DOH has been issuing the permits since the Board of Pharmacy was first housed within the department. The bill changes the current law to reflect the current permitting process.

The bill provides the DOH and the Board of Pharmacy with the power and rulemaking authority to deny a permit, or suspend, fine, or otherwise discipline an applicant for a permit or a permittee for failure to maintain certain standards or violation of certain statutes. For example, use of prescription drugs listed in the bill for a purpose other than the purposes allowed in the bill, failure to take reasonable precautions against theft, loss or diversion of the drugs listed in the bill, and failure to notice or report to the DOH a significant loss, theft, or inventory shortage are grounds upon which denial of an application for the permit, suspension, revocation, or refusal to renew a permit may be based. The bill gives the DOH the power to immediately suspend a permit by emergency order upon a determination that a permittee poses a threat to the public health, safety, or welfare.

[41] Rule 64D-3.033(1), F.A.C.

The bill further limits acceptable methods of administering drugs for euthanasia to animals. First, an injection into the heart of a dog or cat by hypodermic needle is appropriate only if the dog or cat is unconscious with no corneal reflex. The corneal reflex is tested by pressing on the eye of the animal. If the animal blinks or the eye moves, the animal is conscious and intracardial injection cannot be used. Second, the bill removes food-based delivery of euthanasia drugs as an acceptable method of euthanization.

Lastly, the bill requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans. This provision is consistent with Rule 64D-3.033, F.A.C., which currently requires animal control officers, animal disease laboratories, and wildlife officers to report suspected rabies exposure to humans and conditions that they diagnose or suspect in any grouping or clustering of animals having similar diseases, symptoms, or syndromes that may indicate the presence of a threat to humans, including those for biological agents associated with terrorism.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.0031, F.S., relating to report of diseases of public health significance to department;
Section 2: Amends s. 828.055, F.S., relating to sodium pentobarbital; permits for use in euthanasia of domestic animals;
Section 3: Amends s. 828.058, F.S., relating to euthanasia of dogs and cats;
Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

An increase in the number of permits filed by facilities seeking to purchase, possess and use the drugs authorized by the bill for chemical immobilization and euthanasia will result in the collection of additional permit fees. At a minimum, the entities which currently obtain exemption letters from DBPR to possess and use immobilizers are likely to apply for a permit from DOH to purchase, possess and use these drugs. According to DBPR, it issues fewer than 20 exemption letters for this purpose. Assuming 20 entities apply for a permit, at a cost of $50 per permit, DOH will collect, at a minimum, $1,000 in permit fees. It is possible that additional animal control agencies and humane agencies will apply for the permit, which will increase revenue collected from permit fees.

2. Expenditures:

The increased number of permit applications will increase the workload of the Board of Pharmacy to review and certify applications. The increased number of permit applications will increase the workload of DOH to approve or deny permits. The Board of Pharmacy and DOH can handle the increased workload within existing resources. DOH also expects to incur non-recurring costs for rulemaking as required by the bill, which current budget authority can absorb adequately.[42] DBPR expects an insignificant reduction in work load as a result of no longer issuing exemption letters to allow animal shelters to possess certain drugs without violating s. 499.03, F.S.[43]

[42] *See supra* at FN 9, at page 4.
[43] *See supra* at FN 41.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will result in savings to certain animal control agencies. Without exemption letters allowing purchase and possession of euthanasia and immobilizing drugs without the need to maintain a veterinarian on staff, animal control agencies were forced to contract with veterinarians in the community in order to obtain certain controlled substances for use in chemical immobilization.[44] Because private veterinarians were using their license to obtain the controlled substances for use by another party, the fees charged by private veterinarians were substantial, averaging between $10,000 and $30,000.[45] Smaller animal control agencies with smaller budgets could not afford to pay those fees. The bill allows all animal control agencies to use the same permit used to obtain drugs for euthanasia to obtain drugs for chemical immobilization without paying additional fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.[46] Rulemaking authority is delegated by the Legislature[47] through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"[48] a rule. Agencies do not have discretion

---

[44] Veterinarians are authorized to prescribe, dispense, and administer drugs for animals within the practice of veterinary medicine under s. 474.202(9), F.S. In order to possess and distribute controlled substances, veterinarians are required to obtain a permit from the federal Drug Enforcement Administration using DEA Forms 224 or 224a, depending on whether it is an application for a new permit or renewal of an existing permit. Lastly, in order to possess controlled substances within the state, veterinarians must obtain a permit from the DBPR through the Drug, Device, and Cosmetics Division.

[45] Florida Animal Control Association, Scott Trebatoski, President, telephone conference with Health and Human Services Quality subcommittee staff, November 29, 2011.

[46] Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region,* 969 So.2d 527, 530 (Fla. 1st DCA 2007).

[47] *Southwest Florida Water Management District v. Save the Manatee Club, Inc.,* 773 So.2d 594 (Fla. 1st DCA 2000).

[48] Section 120.52(17), F.S.

whether to engage in rulemaking.[49] To adopt a rule an agency must have a general grant of authority to implement a specific law by rulemaking.[50] The grant of rulemaking authority itself need not be detailed.[51] The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[52]

The bill provides appropriate rulemaking authority to the Board of Pharmacy to add the prescription drugs included in the bill and to add other controlled substances and legend drugs to that list authorizing purchase, possession and use for lawful animal euthanasia. Additions to the list must be requested by the Board of Veterinary Medicine. This appears to provide clear guidance and standards for the exercise of the rulemaking authority provided.

The bill also provides clear new grounds for rules of the Board of Pharmacy to discipline permittees and to deny, revoke and refuse renewal of permits for those who fail to properly store and protect prescription drugs or fail to follow applicable rules and law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Health and Human Services Quality Subcommittee adopted a strike-all amendment for House Bill 479. The strike-all amendment made the following changes to the bill:

- Allowed the Board of Pharmacy to add drugs to the list upon a formal, written recommendation from the Board of Veterinary Medicine, adopted at a public meeting, that the additional drugs are necessary for humane and lawful treatment of domestic animals.
- Clarified that the DOH- not the DBPR –issues the permit for purchase, possession, and use of the euthanasia and immobilizing drugs listed in the bill.
- Allowed the DOH or the Board of Pharmacy to deny a permit, or fine, place on probation or otherwise discipline an applicant or permittee upon a determination that the applicant or permittee has failed to abide by certain standards or violated statute.
- Provided the Board of Pharmacy with rulemaking authority to implement denial of a permit or other disciplinary action upon a finding that an applicant or permittee failed to abide by certain standards or violated statute.
- Provided the DOH with authority to issue an emergency order suspending a permit if there is a danger to the public health, safety and welfare.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.

---

[49] Section 120.54(1)(a), F.S.
[50] Sections 120.52(8) and 120.536(1), F.S.
[51] *Supra Save the Manatee Club, Inc.,* at 599.
[52] *Sloban v. Florida Board of Pharmacy,* 982 So.2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.,* 794 So.2d 696, 704 (Fla. 1st DCA 2001).

1 A bill to be entitled
2 An act relating to animal control; amending s.
3 381.0031, F.S.; requiring animal control officers,
4 wildlife officers, and disease laboratories to report
5 potential health risks to humans from animals;
6 amending s. 828.055, F.S.; providing for use of
7 additional prescription drugs for euthanasia and
8 chemical immobilization of animals; providing for
9 rulemaking to expand the list of additional
10 prescription drugs; providing that the Board of
11 Pharmacy or the Department of Health may revoke or
12 suspend a permit upon a determination that the
13 permittee or its employees or agents is using or has
14 used an authorized drug for other purposes or if a
15 permittee has committed specified violations; amending
16 s. 828.058, F.S.; restricting the use of intracardial
17 injection for euthanizing animals; prohibiting the
18 delivery of a lethal solution or powder by adding it
19 to food; providing an effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Section 381.0031, Florida Statutes, is amended
24 to read:
25 381.0031 Report of diseases of public health significance
26 to department.—
27 (1) Any practitioner licensed in this state to practice
28 medicine, osteopathic medicine, chiropractic medicine,

29 naturopathy, or veterinary medicine; any hospital licensed under
30 part I of chapter 395; or any laboratory licensed under chapter
31 483 that diagnoses or suspects the existence of a disease of
32 public health significance shall immediately report the fact to
33 the Department of Health.
34 (2) An animal control officer operating under s. 828.27, a
35 wildlife officer operating under s. 379.3311, or an animal
36 disease laboratory operating under s. 585.61 shall report
37 knowledge of any animal bite, diagnosis of disease in an animal,
38 or suspicion of a grouping or clustering of animals having
39 similar disease, symptoms, or syndromes that may indicate the
40 presence of a threat to humans.
41 (3) ~~(2)~~ ~~Periodically~~ The department shall periodically
42 issue a list of infectious or noninfectious diseases determined
43 by it to be a threat to public health and therefore of
44 significance to public health and shall furnish a copy of the
45 list to the practitioners listed in subsection (1).
46 (4) ~~(3)~~ Reports required by this section must be in
47 accordance with methods specified by rule of the department.
48 (5) ~~(4)~~ Information submitted in reports required by this
49 section is confidential, exempt from the provisions of s.
50 119.07(1), and is to be made public only when necessary to
51 public health. A report so submitted is not a violation of the
52 confidential relationship between practitioner and patient.
53 (6) ~~(5)~~ The department may obtain and inspect copies of
54 medical records, records of laboratory tests, and other medical-
55 related information for reported cases of diseases of public
56 health significance described in subsection (3) ~~(2)~~. The

57 department shall examine the records of a person who has a
58 disease of public health significance only for purposes of
59 preventing and eliminating outbreaks of disease and making
60 epidemiological investigations of reported cases of diseases of
61 public health significance, notwithstanding any other law to the
62 contrary. Health care practitioners, licensed health care
63 facilities, and laboratories shall allow the department to
64 inspect and obtain copies of such medical records and medical-
65 related information, notwithstanding any other law to the
66 contrary. Release of medical records and medical-related
67 information to the department by a health care practitioner,
68 licensed health care facility, or laboratory, or by an
69 authorized employee or agent thereof, does not constitute a
70 violation of the confidentiality of patient records. A health
71 care practitioner, health care facility, or laboratory, or any
72 employee or agent thereof, may not be held liable in any manner
73 for damages and is not subject to criminal penalties for
74 providing patient records to the department as authorized by
75 this section.
76 (7)~~(6)~~ The department may adopt rules related to reporting
77 diseases of significance to public health, which must specify
78 the information to be included in the report, who is required to
79 report, the method and time period for reporting, requirements
80 for enforcement, and required followup activities by the
81 department which are necessary to protect public health.
82 (8) This section does not affect s. 384.25.
83 Section 2. Section 828.055, Florida Statutes, is amended
84 to read:

85 828.055 Controlled substances and legend drugs ~~Sodium~~
86 ~~pentobarbital~~; permits for use ~~in euthanasia of domestic~~
87 ~~animals~~.—
88 (1) The Board of Pharmacy shall adopt rules providing for
89 the issuance of permits authorizing the purchase, possession,
90 and use of sodium pentobarbital, ~~and~~ sodium pentobarbital with
91 lidocaine, tiletamine hydrochloride, alone or combined with
92 zolazepam (including Telazol), xylazine (including Rompun),
93 ketamine, acepromazine maleate (also acetylpromazine, and
94 including Atravet or Acezine), alone or combined with etorphine
95 (including Immobilon), and yohimbine hydrochloride, alone or
96 combined with atipamezole (including Antisedan) by county or
97 municipal animal control agencies or humane societies registered
98 with the Secretary of State for the purpose of euthanizing
99 injured, sick, or abandoned domestic animals which are in their
100 lawful possession or for the chemical immobilization of animals.
101 The rules shall set forth guidelines for the proper storage and
102 handling of these prescription drugs ~~sodium pentobarbital and~~
103 ~~sodium pentobarbital with lidocaine~~ and such other provisions as
104 may be necessary to ensure that the drugs are used solely for
105 the purpose set forth in this section. The rules shall also
106 provide for an application fee not to exceed $50 and a biennial
107 renewal fee not to exceed $50. Upon formal, written request and
108 recommendation adopted in a public meeting by the Board of
109 Veterinary Medicine, the Board of Pharmacy may, by rule, add
110 controlled substances and legend drugs to the list of
111 prescription drugs in this subsection upon a finding that such
112 additions are necessary for the humane and lawful euthanasia of

113 injured, sick, or abandoned domestic animals or chemical
114 immobilization of animals.
115 (2) Any county or municipal animal control agency or any
116 humane society registered with the Secretary of State may apply
117 to the Department of Health ~~Business and Professional Regulation~~
118 for a permit to purchase, possess, and use the prescription
119 drugs authorized under ~~sodium pentobarbital or sodium~~
120 ~~pentobarbital with lidocaine pursuant to~~ subsection (1). Upon
121 certification by the Board of Pharmacy that the applicant meets
122 the qualifications set forth in the rules, the Department of
123 Health shall issue the permit. The possession and use of the
124 prescription drugs authorized under subsection (1) is limited to
125 those employees or agents of the permittee certified in
126 accordance with s. 828.058 or s. 828.27 while operating in the
127 scope of their respective official or employment duties with the
128 permittee.
129 (3) The department or the board may deny a permit, and
130 revoke, ~~or~~ suspend, or refuse to renew the permit of any
131 permittee, and may fine, place on probation, or otherwise
132 discipline any permittee, upon a determination that:
133 (a) The applicant or permittee or any of its employees or
134 agents is using or has used a prescription drug authorized under
135 subsection (1) ~~sodium pentobarbital or sodium pentobarbital with~~
136 ~~lidocaine~~ for any purpose other than that set forth in this
137 section; ~~or if the permittee fails to follow the rules of the~~
138 ~~board regarding proper storage and handling.~~
139 (b) The applicant or permittee has failed to take
140 reasonable precautions against misuse, theft, loss, or diversion

141 of such prescription drugs;
142 (c) The applicant or permittee has failed to detect or to
143 report to the Department of Health a significant loss, theft, or
144 inventory shortage of such prescription drugs;
145 (d) The applicant or permittee has failed to follow the
146 rules of the Board of Pharmacy regarding proper storage and
147 handling of such prescription drugs; or
148 (e) The permittee has violated any provision of this
149 section, chapter 465, chapter 499, or any rule adopted under
150 those chapters.
151 (4) The Board shall adopt rules implementing subsection
152 (3), provided that disciplinary action may be taken only for a
153 substantial violation of the provisions of this section or the
154 rules adopted under this section. In determining the severity of
155 an administrative penalty to be assessed under this section, the
156 Department or the Board of Pharmacy shall consider:
157 (a) The severity of the violation;
158 (b) Any actions taken by the person to correct the
159 violation or to remedy complaints, and the timing of those
160 actions; and
161 (c) Any previous violations.
162 (5) The Department of Health may issue an emergency order
163 immediately suspending a permit issued under this section upon a
164 determination that a permittee, as a result of any violation of
165 any provision of this section or any rule adopted under this
166 section, presents a danger to the public health, safety, and
167 welfare.
168 (6) This section shall not apply to licensed pharmacies,

169 veterinarians, or health care practitioners operating within the
170 scope of the applicable professional act.
171 Section 3. Subsection (1) of section 828.058, Florida
172 Statutes, is amended to read:
173 828.058 Euthanasia of dogs and cats.—
174 (1) Sodium pentobarbital, a sodium pentobarbital
175 derivative, or other agent the Board of Veterinary Medicine may
176 approve by rule shall be the only methods used for euthanasia of
177 dogs and cats by public or private agencies, animal shelters, or
178 other facilities which are operated for the collection and care
179 of stray, neglected, abandoned, or unwanted animals. A lethal
180 solution shall be used in the following order of preference:
181 (a) Intravenous injection by hypodermic needle;
182 (b) Intraperitoneal injection by hypodermic needle;
183 (c) If the dog or cat is unconscious with no corneal
184 reflex, intracardial injection by hypodermic needle; or
185 (d) Solution or powder added to food.
186 Section 4. This act shall take effect July 1, 2012.

CS/HB 803

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 803 Child Protection
SPONSOR(S): Health & Human Services Access Subcommittee; Diaz
TIED BILLS: None **IDEN./SIM. BILLS:** SPB 7166

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	14 Y, 0 N, As CS	Batchelor	Schoolfield
2) Civil Justice Subcommittee	14 Y, 0 N	Bond	Bond
3) Health & Human Services Committee		Batchelor	Gormley

SUMMARY ANALYSIS

CS/HB 803 makes substantial changes to various provisions in statutes relating to child abuse, the Florida Abuse Hotline, Child Protective Investigations, and the dependency process. Specifically, the bill does the following:

- Amends hotline procedures to specify that the hotline may accept a call from a parent or legal custodian seeking assistance for themselves when the call does not meet the statutory requirement of abuse, abandonment or neglect.
- Permits the Department of Children and Families (DCF) to discontinue an investigation if they determine that a false report of abuse, abandonment or neglect has been filed.
- Requires DCF to maintain one electronic child welfare case file for each child.
- Requires Child Protective Investigators (CPI) to determine the need for immediate consultation with law enforcement, child protection teams, and others prior to the commencement of an investigation.
- Outlines the activities and training requirements for CPI's.
- Requires that monitoring of protective investigation reports are used to determine the quality and timeliness of safety assessments, and teamwork with other professionals and engagement with families.
- Provides DCF with discretion as to whether to file a dependency petition to the court when a child is in need of protection and supervision. Current law which requires that a dependency petition be filed under certain conditions is deleted by the bill.
- The bill amends court procedures and jurisdiction to specify that jurisdiction of the court attaches to a case when a petition for injunction to prevent child abuse has been issued.
- The bill makes improvements and changes to the injunction process to prevent child abuse.
- Requires DCF for out-of-home placement of a child to submit fingerprints of any household members who are 18 years of age or older to the state for criminal background and records checks.
- Amends the time frame for parents to comply with a case plan from 9 months to 12 months as it relates to grounds for termination of parental rights. This is a conforming change to other sections of law that already specify 12 months.
- The bill provides specific circumstances in which the court may have maintaining and strengthening families as a permanency goal in the child's case plan when the child resides with a parent.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 39, Florida Statutes

Chapter 39, F.S., provides Legislative direction for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; to promote the health and well-being of all children under the state's care; and to prevent the occurrence of child abuse, neglect, and abandonment.[1] The Legislature has established the Florida Abuse Hotline, Child Protection Investigations, and Community Based Care system to help ensure the safety and protection of children.

Florida Abuse Hotline

DCF operates the Florida Abuse Hotline (hotline), a 24 hour a day 7 day a week hotline that receives calls relating to child abuse or neglect. The hotline serves as a point of contact for people who reasonably suspect or believe that a child is being abused, abandoned or neglected. [2] Callers to the hotline may remain anonymous; however, various professions[3] are required to report to the hotline and are required to provide their name as part of the permanent report.[4] Once a call has been made to the hotline, the operators of the hotline are required to enter all information into the Florida Safe Families Network (FSFN), and determine if the report meets the statutory definition of child abuse, abandonment or neglect by a caregiver.[5] If the report meets the definition it is then referred to the appropriate child investigative office.[6] DCF is required to maintain a master file for each child whose report is accepted by the hotline. [7]

DCF has authorized the hotline to also accept calls which do not meet the criteria for abuse, abandonment or neglect. These are called Special Condition Referrals and include when the parent, adult household member, or other person responsible for the child's welfare:[8]

- Has been or is about to be incarcerated;
- Has been or is about to be hospitalized;
- Has died; or
- Is having difficulty caring for a child to the degree that it appears likely that without intervention, abuse will occur.

Child Protective Investigations

Once a call is received to the hotline and a determination has been made that a child may be a victim of abuse, abandonment or neglect, a Child Protective Investigator (CPI) is sent out for an immediate onsite investigation, if appropriate, or within 24 hours from the time the report was accepted by the hotline.[9] DCF is required to report criminal conduct[10] immediately to county law enforcement in which

---

[1] Section 39.001(1)(a), F.S.
[2] Section 39.201(1)(a), F.S.
[3] Section 39.201(1)(b), F.S.
[4] *Id.*
[5] Section 39.01(1), (2), (44), F.S.
[6] Section 39.201(2)(a), F.S.
[7] Section 39.301, F.S.
[8] *Id.*
[9] Rule 65C-29.003, F.A.C.
[10] Section 39.301(2)(b), F.S.

the alleged conduct has occurred. [11] The CPI is required to inform all parties of the report, once the initial assessment is complete, including the parent, legal custodian or other person responsible for the child's welfare.[12] All investigations are required to be completed within 60 days, unless there is a concurrent criminal investigation, the death of a child is involved, or the child is determined to be missing.[13]

Current statute provides for 2 options for response once the CPI determines the report is complete.[14] If it is determined that child would best be served in the home and child care or other treatment is voluntarily accepted by the child and the parent or legal custodian, the CPI may make the necessary references for treatment.[15] If the child is in need of protection and supervision from the court, DCF shall file a petition for dependency.[16] A petition for dependency is required for all cases classified as high risk, including but not limited to the young age of the parents or legal custodians, the use of illegal drugs, the arrest of parents or legal guardians for the manufacturing, processing, disposing of or storing of any substances in violation of Chapter 893, F.S. (drug laws), and domestic violence. [17]

If the CPI determines that a false report has been filed[18], the CPI will inform the reporter of criminal penalties and administrative fines associated with false reporting and will work with their supervisor to close the case. If the alleged perpetrator of abuse, abandonment or neglect consents, DCF may refer the report to law enforcement for prosecution of filing a false report.[19]

DCF currently performs child protection investigation services in 60 counties using department staff. [20] In the remaining 7 counties[21], investigations are conducted by local Sheriff's offices under contract with DCF.[22] There are currently 1,475 CPI's in the state that are either employed through DCF or the sheriff's office. [23]

Protective Injunction

Current law allows a court to issue an injunction to prevent an act of child abuse including protection from acts of domestic violence at any time after a protective investigation has been initiated, and there is reasonable cause for the injunction.[24] An injunction issued pursuant to this section may order an alleged or actual offender to do one or more of the following:

- Refrain from further abuse or acts of domestic violence.
- Participate in a specialized treatment program.
- Limit contact or communication with the child victim, other children in the home, or any other child.
- Refrain from contacting the child at home, school, work, or wherever the child may be found.

---

[11] Section 39.301(2)(a), F.S.
[12] Rule 65C-29.003, F.A.C.
[13] Section 39.301(17), F.S.
[14] Section 39.301(9)(a)(b), F.S.
[15] Section 39.301(9)(a), F.S.
[16] Section 39.301(9)(b), F.S.
[17] *Id.*
[18] Rule 65C-29.010, F.A.C.
[19] Section 39.205(5), F.S.
[20] OPPAGA Memorandum, Sheriff's Offices have Advantages for Conducting Child Abuse Investigations, but Quality Cannot be Directly Compared to DCF. (February 26, 2011).
[21] Broward, Citrus, Hillsborough, Manatee, Pasco, Pinellas, and Seminole.
[22] OPPAGA Memorandum, Sheriff's Offices have Advantages for Conducting Child Abuse Investigations, but Quality Cannot be Directly Compared to DCF. (February 26, 2011).
[23] Staff Analysis for CS/HB 279 (2011); (on file with committee staff).
[24] Section 39.504((1), F.S.

- Have limited or supervised visitation with the child.; pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child incurred as a result of the offenses; and similar costs for other family members.
- Vacate the home in which the child resides.[25]

The injunction will remain in effect until modified or dissolved by the court, and is enforceable in all counties in the state,[26] allowing law enforcement to exercise arrest powers in the enforcement of the injunction, if necessary.[27]

Petitions

If during the course of a protective investigation, DCF or law enforcement deems that a child cannot safely remain in a home, because of abuse, abandonment or neglect, the child can be taken into custody.[28] Once a child is taken into custody, DCF will review the facts supporting the removal of the child and determine if sufficient cause exist to file a shelter petition. If sufficient cause does not exist the child shall be returned to their parent or legal custodian.[29] If sufficient cause does exist, DCF shall file a petition and schedule a hearing with the courts, and request that a shelter hearing be held within 24 hours from the removal of the child from the home. [30] Each petition filed must contain the identity and residences of the parent or legal custodians, and must identify the name, age and sex of each child named in the petition. [31] Additionally, the petition must detail what voluntary services/and or dependency mediations the parents or legal custodian were offered and what the results were.[32]

At the adjudicatory hearing the court may make one the following rulings: [33]

- That the child is not a dependent child and dismiss the case.
- That the child is adjudicated dependent and may remain in the home, under supervision of the court, or be placed in out-of-home care.
- That the child may remain in the home, under the supervision of DCF; adjudication of dependency would be withheld assuming the family complies with the conditions of supervision.

DCF will develop a case plan for each child taken from the home with the goal of achieving permanency for the child.

Effect of Proposed Changes

Section 1. Definitions

The bill amends the definition of "institutional child abuse or neglect" to include a cross reference which provides a definition for "other person" which is referenced in the institutional child abuse or neglect definition.

Section 2. Procedures and Jurisdiction of the Court

The bill amends 39.013, F.S., related to court procedures and jurisdiction to specify that jurisdiction of the court attaches to a case when a petition for injunction to prevent child abuse has been issued pursuant to s. 39.504, F.S. Current law provides that court jurisdiction attaches to a case when

[25] Section 39.504(3)(a), F.S.
[26] Section 39.504(30(c), F. S.
[27] Section 39.504(4), F.S.
[28] Section 39.401(1)(b)(1), F.S.
[29] Section 39.401(3)(a), F.S.
[30] Section 39.401(3)(b), F.S.
[31] Fla.R.Jud.Admin.8.310.
[32] *Id.*
[33] Section 39.507, F.S.

petitions for shelter, dependency or termination of parental rights are filed or the child is taken into DCF custody. DCF reports that some courts will not recognize or hear an injunction unless a shelter, dependency or termination of parental rights petition has already been filed. This change will assist DCF by not requiring one of these other petitions when all that may be needed to resolve a situation is an injunction to protect the child.

Section 3. Criminal History Records Checks

The bill amends the requirements for background screening for persons being considered by DCF for the placement of a child. The bill requires that all persons, including parents, undergo a background screening through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal check. Additionally, the bill specifies that all household members and visitors 18 years of age or older are required to submit fingerprints to the Florida Department of Law Enforcement (FDLE) as a condition of background screening. Lastly, the bill requires that an out-of-state criminal history records check, for anyone 18 years of age or older, be conducted if the state allows for the release of such records.

Section 4. Hotline Reports of Child Abuse, Abandonment or Neglect

The bill amends hotline procedures to specify that the hotline may accept a call from a parent or legal custodian that does not meet the statutory requirement of abuse, abandonment or neglect if the person is calling on their own behalf for services. If DCF determines that the parent or legal custodian is in need of services to prevent a possible future harm to the child, DCF may make a referral for voluntary community services. DCF is currently making these referrals as "Special Condition Referrals" outlined in their Operating Procedures, without statutory authority. Adding this section to law clarifies current practice. The bill also clarifies that the hotline is the first step in the safety assessment and investigative process.

Section 5. False Reports of Abuse, Abandonment or Neglect

The bill permits that if DCF or its agent determines that a false report of abuse, abandonment or neglect has been filed, DCF may discontinue all investigative services during the course of investigation. Currently, DCF may not discontinue until the investigation has closed. This could help reduce the workload of CPI's by not requiring them to finish an investigation when a false report has been filed.

Section 6. Child Protection Investigations

The bill makes several changes to the current child protective investigation process.

- The bill provides DCF with discretion as to whether to file a dependency petition to the court when a child is in need of protection and supervision. Current law is deleted which requires that a dependency petition be filed when the child needs protection and supervision of the court and when the case is determined to be high risk.[34]

- The bill requires that the case record for each child be electronic and include all information from reports called into the hotline and all services the child and the family has received.

- The bill removes several provisions from current law which provided conditions as to when a child protective investigation is to be performed. This is replaced with a general directive that each report from the hotline which is accepted will be investigated and provides the following list of activities to be performed, some of which are already in current law:

    - Review all available information specific to the child and family and the alleged maltreatment including past family child welfare history, criminal records checks, and requests for law enforcement assistance provided by the hotline.

[34] Section 39.301(9)(b), F.S.

- Interview collateral contacts, which may include professionals who know the child.
- Conduct face-to-face interviews, including with the child's parent or caregiver.
- Assess the child's residence.

(The following are new requirements proposed by the bill)

- Determine the need for immediate consultation with law enforcement, child protection teams, domestic violence shelters and substance abuse and mental health professionals.
- Document impending dangers to the child based on safety assessment instruments as opposed to a risk assessment instrument which is required in current law. Neither the bill or current law defines "safety" or "risk". It is, therefore, not clear what change is intended by a safety assessment versus a risk assessment.

- The bill provides conditions under which an investigator may close a case and also makes changes to the case review process to identify strengths and weaknesses.

Section 7. Protective Investigations of Institutional Child Abuse, Abandonment or Neglect

The bill clarifies that during a protective investigation of institutional child abuse, abandonment or neglect, the CPI must include an interview with the child's parent or legal guardian as opposed to making an onsite visit to the residence.

Section 8.Child on Child Sexual Abuse

The bill specifies that DCF contracted Sheriff's offices that provide CPI services, or contracted case management personnel as opposed to district staff must follow the procedures in s. 39.307, F.S., involving child-on-child sexual abuse. The bill also removes the 7 day timeframe in which an assessment of service and treatment needs must be completed for a child who is a victim or perpetrator of child-on-child sexual abuse. This allows DCF more time to make the assessment as it often takes more than 7 days.[35]

Section 9. Injunctions

The bill makes improvements and changes to the injunction process to prevent child abuse in s. 39.504, F.S., and mirrors language in the civil injunction process in Chapter 741, F.S. The bill requires a petitioner seeking an injunction to file a verified petition or a petition along with an affidavit, specifying the actions of the alleged offender and the remedies sought. The court of jurisdiction is required to set the hearing on the petition to take place as soon as possible. Prior to the hearing, the court may issue a temporary ex parte injunction lasting no more than 15 days. The hearing on the petition must take place within these 15 days, unless good cause is shown otherwise. The bill specifies that before the hearing the alleged offender must be served with a copy of the petition and the temporary injunction if one has been filed. The current injunction process in s. 39.504, F.S., does not specify a timeframe for hearings.

The bill also clarifies that the person whom an injunction is against is not automatically a party to subsequent dependency actions.

Section 10. Disposition Hearings

The bill clarifies that parents are included in the list of adults for which a home study must be conducted when considered for out of home placement for a child. In addition, the requirements for the home study are increased to include that DCF must submit fingerprints of any household members who are 18 years of age or older to FDLE for state and criminal background checks and a records check through State Automated Child Welfare Information System. The bill also provides that DCF has the discretion to submit fingerprints of other visitors in the home who are made known to DCF.

---

[35] HB 803, DCF Analysis 2012 (on file with committee staff).

Section 11. Case Plan Development

The bill provides specific circumstances in which the court may have maintaining and strengthening families as a permanency goal in the child's case plan when the child resides with a parent. The bill adds the date a child was adjudicated dependent to the list of event dates used to measure compliance with the 12 month case plan.

Section 12. Permanency Determination

The bill makes minor technical wording changes.

Section 13. Judicial Review

The bill adds the date the child was adjudicated dependent as a starting point when considering extending the goal of reunification in a case plan beyond 12 months.

Section 14. Requirement to file a petition to Terminate Parental Rights

The bill provides that if a child is still in DCF custody 12 months after the child was sheltered or adjudicated dependent, whichever occurs first, that DCF shall file a petition to terminate parental rights. Current law provides for this to occur at the 12 month judicial review hearing.

Section 15. Termination of Parental Rights

The bill amends the timeframe for parents to comply with a case plan from 9 months to 12 months as it relates to grounds for termination of parental rights. This is a conforming change to other sections of law (including ss. 39.401, 39.6011, 39.621, 39.701, 39.8055, F.S.) that already specify 12 months.

Sections 16, 17 and 18

The bill makes conforming changes.

Section 19

The bill provides an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1: Amends s. 39.01, F.S., relating to definitions.

Section 2: Amends s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel.

Section 3: Amends s. 39.0138, F.S., relating to criminal history records check; limit on placement of a child.

Section 4: Amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

Section 5: Amends s. 39.205, F.S., relating to penalties relating to reporting of child abuse, abandonment, or neglect.

Section 6: Amends s. 39.301, F.S., relating to initiation of protective investigations.

Section 7: Amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment or neglect.

Section 8: Amends s. 39.307, F.S., relating to reports of child-on-child sexual abuse.

Section 9: Amends s. 39.504, F.S., relating to injunction pending disposition of petition.

Section 10: Amends s. 39.521, F.S., relating to disposition hearings; powers of disposition.

Section 11: Amends s. 39.6011, F.S., relating to case plan development.

Section 12: Amends s. 39.621, F.S., relating to permanency determination by the court.

Section 13: Amends s. 39.701, F.S., relating to judicial review.

Section 14: Amends s. 39.8055, F.S., relating to requirement to file a petition to terminate parental rights; exceptions.

Section 15: Amends s. 39.806, F.S., relating to grounds for termination of parental rights.

Section 16: Amends s. 39.502, F.S., relating to notice, process, and service.

Section 17: Amends s. 39.823, F.S., relating to guardian advocates for drug dependent newborns.

Section 18: Amends s. 39.828, F.S., relating to grounds for appointment of a guardian advocate.

Section 19: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have any impact on state revenues.

2. Expenditures:

   The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have any impact on local government revenues.

2. Expenditures:

   The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 345 requires DCF to have a single, standard, electronic record. This limits DCF's ability to use a paper copy of a child's record, if needed, and could have budget implications by requiring the use of an electronic record.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Health and Human Services Access Subcommittee adopted three amendments to House Bill 803. All three amendments are technical amendments that either clarify the bills intent or correct cross references. The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

1 A bill to be entitled
2 An act relating to child protection; amending s.
3 39.01, F.S.; revising the definition of "institutional
4 child abuse or neglect"; amending s. 39.013, F.S.;
5 specifying when jurisdiction attaches for a petition
6 for an injunction to prevent child abuse issued
7 pursuant to specified provisions; amending s. 39.0138,
8 F.S.; revising provisions relating to criminal history
9 records check on persons being considered for
10 placement of a child; requiring a records check
11 through the State Automated Child Welfare Information
12 System; providing for an out-of-state criminal history
13 records check of certain persons who have lived out of
14 state if such records may be obtained; amending s.
15 39.201, F.S.; providing procedures for calls from a
16 parent or legal custodian seeking assistance for
17 himself or herself which do not meet the criteria for
18 being a report of child abuse, abandonment, or
19 neglect, but show a potential future risk of harm to a
20 child and requiring a referral if a need for community
21 services exists; specifying that the central abuse
22 hotline is the first step in the safety assessment and
23 investigation process; amending s. 39.205, F.S.;
24 permitting discontinuance of an investigation of child
25 abuse, abandonment, or neglect during the course of
26 the investigation if it is determined that the report
27 was false; amending s. 39.301, F.S.; substituting
28 references to a standard electronic child welfare case

29 for a master file; revising requirements for such a
30 file; revising requirements for informing the subject
31 of an investigation; deleting provisions relating to a
32 preliminary determination as to whether an
33 investigation report is complete; revising
34 requirements for child protective investigation
35 activities to be performed to determine child safety;
36 specifying uses for certain criminal justice
37 information accesses by child protection
38 investigators; requiring documentation of the present
39 and impending dangers to each child through use of a
40 standardized safety assessment; revising provisions
41 relating to required protective, treatment, and
42 ameliorative services; revising requirements for the
43 Department of Children and Family Service's training
44 program for staff responsible for responding to
45 reports accepted by the central abuse hotline;
46 requiring the department's training program at the
47 regional and district levels to include results of
48 qualitative reviews of child protective investigation
49 cases handled within the region or district; revising
50 requirements for the department's quality assurance
51 program; amending s. 39.302, F.S.; requiring that a
52 protective investigation must include an interview
53 with the child's parent or legal guardian; amending s.
54 39.307, F.S.; requiring the department, contracted
55 sheriff's office providing protective investigation
56 services, or contracted case management personnel

57 responsible for providing services to adhere to
58 certain procedures relating to reports of child-on-
59 child sexual abuse; deleting a requirement that an
60 assessment of service and treatment needs to be
61 completed within a specified period; amending s.
62 39.504, F.S.; revising provisions relating to the
63 process for seeking a child protective injunction;
64 providing for temporary ex parte injunctions;
65 providing requirements for service on an alleged
66 offender; revising provisions relating to the contents
67 of an injunction; providing for certain relief;
68 providing requirements for notice of a hearing on a
69 motion to modify or dissolve an injunction; providing
70 that a person against whom an injunction is entered
71 does not automatically become a party to a subsequent
72 dependency action concerning the same child; amending
73 s. 39.521, F.S.; requiring a home study report if a
74 child has been removed from the home and will be
75 remaining with a parent; substituting references to
76 the State Automated Child Welfare Information System
77 for the Florida Abuse Hotline Information System
78 applicable to records checks; authorizing submission
79 of fingerprints of certain household members;
80 authorizing requests for national criminal history
81 checks and fingerprinting of any visitor to the home
82 known to the department; amending s. 39.6011, F.S.;
83 providing additional options for the court with
84 respect to case plans; providing for expiration of a

85 child's case plan no later than 12 months after the
86 date the child was adjudicated dependent; conforming a
87 cross-reference to changes made by the act; amending
88 s. 39.621, F.S.; revising terminology relating to
89 permanency determinations; amending s. 39.701, F.S.;
90 providing that a court must schedule a judicial review
91 hearing if the citizen review panel recommends
92 extending the goal of reunification for any case plan
93 beyond 12 months from the date the child was
94 adjudicated dependent, unless specified other events
95 occurred earlier; conforming a cross-reference to
96 changes made by the act; amending s. 39.8055, F.S.;
97 requiring the department to file a petition to
98 terminate parental rights within a certain number of
99 days after the completion of a specified period after
100 the child was sheltered or adjudicated dependent,
101 whichever occurs first; amending s. 39.806, F.S.;
102 increasing the number of months of failure of the
103 parent or parents to substantially comply with a
104 child's case plan in certain circumstances that
105 constitutes evidence of continuing abuse, neglect, or
106 abandonment and grounds for termination of parental
107 rights; revising a cross-reference; amending ss.
108 39.502, 39.823, and 39.828, F.S.; conforming cross-
109 references to changes made by the act; providing an
110 effective date.
111
112 Be It Enacted by the Legislature of the State of Florida:

113
114 Section 1. Subsection (33) of section 39.01, Florida
115 Statutes, is amended to read:
116 39.01 Definitions.—When used in this chapter, unless the
117 context otherwise requires:
118 (33) "Institutional child abuse or neglect" means
119 situations of known or suspected child abuse or neglect in which
120 the person allegedly perpetrating the child abuse or neglect is
121 an employee of a private school, public or private day care
122 center, residential home, institution, facility, or agency or
123 any other person at such institution responsible for the child's
124 care as defined in subsection (47).
125 Section 2. Subsection (2) of section 39.013, Florida
126 Statutes, is amended to read:
127 39.013 Procedures and jurisdiction; right to counsel.—
128 (2) The circuit court has exclusive original jurisdiction
129 of all proceedings under this chapter, of a child voluntarily
130 placed with a licensed child-caring agency, a licensed child-
131 placing agency, or the department, and of the adoption of
132 children whose parental rights have been terminated under this
133 chapter. Jurisdiction attaches when the initial shelter
134 petition, dependency petition, or termination of parental rights
135 petition, or a petition for an injunction to prevent child abuse
136 issued pursuant to s. 39.504, is filed or when a child is taken
137 into the custody of the department. The circuit court may assume
138 jurisdiction over any such proceeding regardless of whether the
139 child was in the physical custody of both parents, was in the
140 sole legal or physical custody of only one parent, caregiver, or

141 some other person, or was not in the physical or legal custody
142 of any ~~no~~ person when the event or condition occurred that
143 brought the child to the attention of the court. When the court
144 obtains jurisdiction of any child who has been found to be
145 dependent, the court shall retain jurisdiction, unless
146 relinquished by its order, until the child reaches 18 years of
147 age. However, if a youth petitions the court at any time before
148 his or her 19th birthday requesting the court's continued
149 jurisdiction, the juvenile court may retain jurisdiction under
150 this chapter for a period not to exceed 1 year following the
151 youth's 18th birthday for the purpose of determining whether
152 appropriate aftercare support, Road-to-Independence Program,
153 transitional support, mental health, and developmental
154 disability services, to the extent otherwise authorized by law,
155 have been provided to the formerly dependent child who was in
156 the legal custody of the department immediately before his or
157 her 18th birthday. If a petition for special immigrant juvenile
158 status and an application for adjustment of status have been
159 filed on behalf of a foster child and the petition and
160 application have not been granted by the time the child reaches
161 18 years of age, the court may retain jurisdiction over the
162 dependency case solely for the purpose of allowing the continued
163 consideration of the petition and application by federal
164 authorities. Review hearings for the child shall be set solely
165 for the purpose of determining the status of the petition and
166 application. The court's jurisdiction terminates upon the final
167 decision of the federal authorities. Retention of jurisdiction
168 in this instance does not affect the services available to a

169 young adult under s. 409.1451. The court may not retain
170 jurisdiction of the case after the immigrant child's 22nd
171 birthday.
172 Section 3. Subsection (1) of section 39.0138, Florida
173 Statutes, is amended to read:
174 39.0138 Criminal history and other records checks ~~check~~;
175 limit on placement of a child.—
176 (1) The department shall conduct a records check through
177 the State Automated Child Welfare Information System (SACWIS)
178 and a local and statewide criminal history records check on all
179 persons, including parents, being considered by the department
180 for placement of a child ~~subject to a placement decision~~ under
181 this chapter, including all nonrelative placement decisions, and
182 all members of the household, 12 years of age and older, of the
183 person being considered~~, and frequent visitors to the household~~.
184 For purposes of this section, a criminal history records check
185 may include, but is not limited to, submission of fingerprints
186 to the Department of Law Enforcement for processing and
187 forwarding to the Federal Bureau of Investigation for state and
188 national criminal history information, and local criminal
189 records checks through local law enforcement agencies of all
190 household members 18 years of age and older and other visitors
191 to the home. An out-of-state criminal history records check must
192 be initiated for any person 18 years of age or older who resided
193 in another state if that state allows the release of such
194 records. ~~A criminal history records check must also include a~~
195 ~~search of the department's automated abuse information system.~~
196 The department shall establish by rule standards for evaluating

197 any information contained in the automated system relating to a
198 person who must be screened for purposes of making a placement
199 decision.
200 Section 4. Paragraph (a) of subsection (2) and subsection
201 (4) of section 39.201, Florida Statutes, are amended to read:
202 39.201 Mandatory reports of child abuse, abandonment, or
203 neglect; mandatory reports of death; central abuse hotline.—
204 (2)(a) Each report of known or suspected child abuse,
205 abandonment, or neglect by a parent, legal custodian, caregiver,
206 or other person responsible for the child's welfare as defined
207 in this chapter, except those solely under s. 827.04(3), and
208 each report that a child is in need of supervision and care and
209 has no parent, legal custodian, or responsible adult relative
210 immediately known and available to provide supervision and care
211 shall be made immediately to the department's central abuse
212 hotline. Such reports may be made on the single statewide toll-
213 free telephone number or via fax or web-based report. Personnel
214 at the department's central abuse hotline shall determine if the
215 report received meets the statutory definition of child abuse,
216 abandonment, or neglect. Any report meeting one of these
217 definitions shall be accepted for the protective investigation
218 pursuant to part III of this chapter. Any call received from a
219 parent or legal custodian seeking assistance for himself or
220 herself which does not meet the criteria for being a report of
221 child abuse, abandonment, or neglect may be accepted by the
222 hotline for response to ameliorate a potential future risk of
223 harm to a child. If it is determined by a child welfare
224 professional that a need for community services exists, the

225 <u>department shall refer the parent or legal custodian for</u>
226 <u>appropriate voluntary community services.</u>
227 (4) The department shall <u>operate</u> ~~establish~~ and maintain a
228 central abuse hotline to receive all reports made pursuant to
229 this section in writing, via fax, via web-based reporting, or
230 through a single statewide toll-free telephone number, which any
231 person may use to report known or suspected child abuse,
232 abandonment, or neglect at any hour of the day or night, any day
233 of the week. <u>The central abuse hotline is the first step in the</u>
234 <u>safety assessment and investigation process.</u> The central abuse
235 hotline shall be operated in such a manner as to enable the
236 department to:
237 (a) Immediately identify and locate prior reports or cases
238 of child abuse, abandonment, or neglect through utilization of
239 the department's automated tracking system.
240 (b) Monitor and evaluate the effectiveness of the
241 department's program for reporting and investigating suspected
242 abuse, abandonment, or neglect of children through the
243 development and analysis of statistical and other information.
244 (c) Track critical steps in the investigative process to
245 ensure compliance with all requirements for any report of abuse,
246 abandonment, or neglect.
247 (d) Maintain and produce aggregate statistical reports
248 monitoring patterns of child abuse, child abandonment, and child
249 neglect. The department shall collect and analyze child-on-child
250 sexual abuse reports and include the information in aggregate
251 statistical reports.
252 (e) Serve as a resource for the evaluation, management,

253 and planning of preventive and remedial services for children
254 who have been subject to abuse, abandonment, or neglect.
255 (f) Initiate and enter into agreements with other states
256 for the purpose of gathering and sharing information contained
257 in reports on child maltreatment to further enhance programs for
258 the protection of children.
259 Section 5. Subsections (3) and (5) of section 39.205,
260 Florida Statutes, are amended to read:
261 39.205 Penalties relating to reporting of child abuse,
262 abandonment, or neglect.—
263 (3) A person who knowingly and willfully makes public or
264 discloses any confidential information contained in the central
265 abuse hotline or in the records of any child abuse, abandonment,
266 or neglect case, except as provided in this chapter, commits ~~is~~
267 ~~guilty of~~ a misdemeanor of the second degree, punishable as
268 provided in s. 775.082 or s. 775.083.
269 (5) If the department or its authorized agent has
270 determined during the course of ~~after~~ its investigation that a
271 report is a false report, the department may discontinue all
272 investigative activities and shall, with the consent of the
273 alleged perpetrator, refer the report to the local law
274 enforcement agency having jurisdiction for an investigation to
275 determine whether sufficient evidence exists to refer the case
276 for prosecution for filing a false report as defined in s.
277 39.01. During the pendency of the investigation, the department
278 must notify the local law enforcement agency of, and the local
279 law enforcement agency must respond to, all subsequent reports
280 concerning children in that same family in accordance with s.

281 39.301. If the law enforcement agency believes that there are
282 indicators of abuse, abandonment, or neglect, it must
283 immediately notify the department, which must ensure the safety
284 of the children. If the law enforcement agency finds sufficient
285 evidence for prosecution for filing a false report, it must
286 refer the case to the appropriate state attorney for
287 prosecution.
288 Section 6. Section 39.301, Florida Statutes, is amended to
289 read:
290 39.301 Initiation of protective investigations.—
291 (1) Upon receiving a report of known or suspected child
292 abuse, abandonment, or neglect, or that a child is in need of
293 supervision and care and has no parent, legal custodian, or
294 responsible adult relative immediately known and available to
295 provide supervision and care, the central abuse hotline shall
296 determine if the report requires an immediate onsite protective
297 investigation. For reports requiring an immediate onsite
298 protective investigation, the central abuse hotline shall
299 immediately notify the department's designated district staff
300 responsible for protective investigations to ensure that an
301 onsite investigation is promptly initiated. For reports not
302 requiring an immediate onsite protective investigation, the
303 central abuse hotline shall notify the department's designated
304 district staff responsible for protective investigations in
305 sufficient time to allow for an investigation. At the time of
306 notification, the central abuse hotline shall also provide
307 information to district staff on any previous report concerning
308 a subject of the present report or any pertinent information

309 relative to the present report or any noted earlier reports.
310 (2)(a) The department shall immediately forward
311 allegations of criminal conduct to the municipal or county law
312 enforcement agency of the municipality or county in which the
313 alleged conduct has occurred.
314 (b) As used in this subsection, the term "criminal
315 conduct" means:
316 1. A child is known or suspected to be the victim of child
317 abuse, as defined in s. 827.03, or of neglect of a child, as
318 defined in s. 827.03.
319 2. A child is known or suspected to have died as a result
320 of abuse or neglect.
321 3. A child is known or suspected to be the victim of
322 aggravated child abuse, as defined in s. 827.03.
323 4. A child is known or suspected to be the victim of
324 sexual battery, as defined in s. 827.071, or of sexual abuse, as
325 defined in s. 39.01.
326 5. A child is known or suspected to be the victim of
327 institutional child abuse or neglect, as defined in s. 39.01,
328 and as provided for in s. 39.302(1).
329 6. A child is known or suspected to be a victim of human
330 trafficking, as provided in s. 787.06.
331 (c) Upon receiving a written report of an allegation of
332 criminal conduct from the department, the law enforcement agency
333 shall review the information in the written report to determine
334 whether a criminal investigation is warranted. If the law
335 enforcement agency accepts the case for criminal investigation,
336 it shall coordinate its investigative activities with the

337 department, whenever feasible. If the law enforcement agency
338 does not accept the case for criminal investigation, the agency
339 shall notify the department in writing.
340 (d) The local law enforcement agreement required in s.
341 39.306 shall describe the specific local protocols for
342 implementing this section.
343 (3) The department shall maintain a single, standard
344 electronic child welfare case ~~master~~ file for each child whose
345 report is accepted by the central abuse hotline for
346 investigation. Such file must contain information concerning all
347 reports received by the abuse hotline concerning that child and
348 all services received by that child and family. The file must be
349 made available to any department staff, agent of the department,
350 or contract provider given responsibility for conducting a
351 protective investigation.
352 (4) To the extent practical, all protective investigations
353 involving a child shall be conducted or the work supervised by a
354 single individual in order for there to be broad knowledge and
355 understanding of the child's history. When a new investigator is
356 assigned to investigate a second and subsequent report involving
357 a child, a multidisciplinary staffing shall be conducted which
358 includes new and prior investigators, their supervisors, and
359 appropriate private providers in order to ensure that, to the
360 extent possible, there is coordination among all parties. The
361 department shall establish an internal operating procedure that
362 ensures that all required investigatory activities, including a
363 review of the child's complete investigative and protective
364 services history, are completed by the investigator, reviewed by

365 the supervisor in a timely manner, and signed and dated by both
366 the investigator and the supervisor.
367 (5)(a) Upon commencing an investigation under this part,
368 the child protective investigator shall inform any subject of
369 the investigation of the following:
370 1. The names of the investigators and identifying
371 credentials from the department.
372 2. The purpose of the investigation.
373 3. The right to obtain his or her own attorney and ways
374 that the information provided by the subject may be used.
375 4. The possible outcomes and services of the department's
376 response ~~shall be explained to the parent or legal custodian~~.
377 5. The right of the parent or legal custodian to be
378 engaged ~~involved~~ to the fullest extent possible in determining
379 the nature of the allegation and the nature of any identified
380 problem and the remedy.
381 6. The duty of the parent or legal custodian to report any
382 change in the residence or location of the child to the
383 investigator and that the duty to report continues until the
384 investigation is closed.
385 (b) The investigator shall ~~department's training program~~
386 ~~shall ensure that protective investigators know how to~~ fully
387 inform parents or legal custodians of their rights and options,
388 including opportunities for audio or video recording of
389 investigators' interviews with parents or legal custodians or
390 children.
391 (6) Upon commencing an investigation under this part, if a
392 report was received from a reporter under s. 39.201(1)(b), the

393 protective investigator must provide his or her contact
394 information to the reporter within 24 hours after being assigned
395 to the investigation. The investigator must also advise the
396 reporter that he or she may provide a written summary of the
397 report made to the central abuse hotline to the investigator
398 which shall become a part of the electronic child welfare case
399 ~~master~~ file.
400 (7) An assessment of safety ~~risk~~ and the perceived needs
401 for the child and family shall be conducted in a manner that is
402 sensitive to the social, economic, and cultural environment of
403 the family. This assessment must include a face-to-face
404 interview with the child, other siblings, parents, and other
405 adults in the household and an onsite assessment of the child's
406 residence.
407 (8) Protective investigations shall be performed by the
408 department or its agent.
409 ~~(9) The person responsible for the investigation shall~~
410 ~~make a preliminary determination as to whether the report is~~
411 ~~complete, consulting with the attorney for the department when~~
412 ~~necessary. In any case in which the person responsible for the~~
413 ~~investigation finds that the report is incomplete, he or she~~
414 ~~shall return it without delay to the person or agency~~
415 ~~originating the report or having knowledge of the facts, or to~~
416 ~~the appropriate law enforcement agency having investigative~~
417 ~~jurisdiction, and request additional information in order to~~
418 ~~complete the report; however, the confidentiality of any report~~
419 ~~filed in accordance with this chapter shall not be violated.~~
420 ~~(a) If it is determined that the report is complete, but~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

421 ~~the interests of the child and the public will be best served by~~
422 ~~providing the child care or other treatment voluntarily accepted~~
423 ~~by the child and the parents or legal custodians, the protective~~
424 ~~investigator may refer the parent or legal custodian and child~~
425 ~~for such care or other treatment.~~
426 ~~(b) If it is determined that the child is in need of the~~
427 ~~protection and supervision of the court, the department shall~~
428 ~~file a petition for dependency. A petition for dependency shall~~
429 ~~be filed in all cases classified by the department as high-risk.~~
430 ~~Factors that the department may consider in determining whether~~
431 ~~a case is high-risk include, but are not limited to, the young~~
432 ~~age of the parents or legal custodians; the use of illegal~~
433 ~~drugs; the arrest of the parents or legal custodians on charges~~
434 ~~of manufacturing, processing, disposing of, or storing, either~~
435 ~~temporarily or permanently, any substances in violation of~~
436 ~~chapter 893; or domestic violence.~~
437 ~~(c) If a petition for dependency is not being filed by the~~
438 ~~department, the person or agency originating the report shall be~~
439 ~~advised of the right to file a petition pursuant to this part.~~
440 (9)~~(10)~~(a) For each report received from the central abuse
441 hotline and accepted for investigation ~~that meets one or more of~~
442 ~~the following criteria~~, the department or the sheriff providing
443 child protective investigative services under s. 39.3065, shall
444 perform the following ~~an onsite~~ child protective investigation
445 activities to determine child safety:
446 1. Conduct a review of all relevant, available information
447 specific to the child and family and alleged maltreatment;
448 family child welfare history; local, state, and federal criminal

449 records checks; and requests for law enforcement assistance
450 provided by the abuse hotline. Based on a review of available
451 information, including the allegations in the current report, a
452 determination shall be made as to whether immediate consultation
453 should occur with law enforcement, the child protection team, a
454 domestic violence shelter or advocate, or a substance abuse or
455 mental health professional. Such consultations should include
456 discussion as to whether a joint response is necessary and
457 feasible. A determination shall be made as to whether the person
458 making the report should be contacted before the face-to-face
459 interviews with the child and family members ~~A report for which~~
460 ~~there is obvious compelling evidence that no maltreatment~~
461 ~~occurred and there are no prior reports containing some~~
462 ~~indicators or verified findings of abuse or neglect with respect~~
463 ~~to any subject of the report or other individuals in the home. A~~
464 ~~prior report in which an adult in the home was a victim of abuse~~
465 ~~or neglect before becoming an adult does not exclude a report~~
466 ~~otherwise meeting the criteria of this subparagraph from the~~
467 ~~onsite child protective investigation provided for in this~~
468 ~~subparagraph. The process for an onsite child protective~~
469 ~~investigation stipulated in this subsection may not be conducted~~
470 ~~if an allegation meeting the criteria of this subparagraph~~
471 ~~involves physical abuse, sexual abuse, domestic violence,~~
472 ~~substance abuse or substance exposure, medical neglect, a child~~
473 ~~younger than 3 years of age, or a child who is disabled or lacks~~
474 ~~communication skills~~.
475 2. Conduct ~~A report concerning an incident of abuse which~~
476 ~~is alleged to have occurred 2 or more years prior to the date of~~

477 ~~the report and there are no other indicators of risk to any~~
478 ~~child in the home.~~
479 ~~(b) The onsite child protective investigation to be~~
480 ~~performed shall include a~~ face-to-face interviews ~~interview~~ with
481 the child; other siblings, if any; and the parents, legal
482 custodians, or caregivers.~~; and other adults in the household~~
483 ~~and an onsite assessment of the child's residence in order to:~~
484 3.~~1.~~ Assess the child's residence, including a
485 determination of ~~Determine~~ the composition of the family and ~~or~~
486 household, including the name, address, date of birth, social
487 security number, sex, and race of each child named in the
488 report; any siblings or other children in the same household or
489 in the care of the same adults; the parents, legal custodians,
490 or caregivers; and any other adults in the same household.
491 4.~~2.~~ Determine whether there is any indication that any
492 child in the family or household has been abused, abandoned, or
493 neglected; the nature and extent of present or prior injuries,
494 abuse, or neglect, and any evidence thereof; and a determination
495 as to the person or persons apparently responsible for the
496 abuse, abandonment, or neglect, including the name, address,
497 date of birth, social security number, sex, and race of each
498 such person.
499 5.~~3.~~ Complete assessment of immediate child safety for
500 ~~Determine the immediate and long-term risk to~~ each child based
501 on available records, interviews, and observations with all
502 persons named in subparagraph 2. and appropriate collateral
503 contacts, which may include other professionals ~~by conducting~~
504 ~~state and federal records checks, including, when feasible, the~~

505 ~~records of the Department of Corrections, on the parents, legal~~
506 ~~custodians, or caregivers, and any other persons in the same~~
507 ~~household. This information shall be used solely for purposes~~
508 ~~supporting the detection, apprehension, prosecution, pretrial~~
509 ~~release, posttrial release, or rehabilitation of criminal~~
510 ~~offenders or persons accused of the crimes of child abuse,~~
511 ~~abandonment, or neglect and shall not be further disseminated or~~
512 ~~used for any other purpose~~. The department's child protection
513 investigators are hereby designated a criminal justice agency
514 for the purpose of accessing criminal justice information to be
515 used for enforcing this state's laws concerning the crimes of
516 child abuse, abandonment, and neglect. This information shall be
517 used solely for purposes supporting the detection, apprehension,
518 prosecution, pretrial release, posttrial release, or
519 rehabilitation of criminal offenders or persons accused of the
520 crimes of child abuse, abandonment, or neglect and may not be
521 further disseminated or used for any other purpose.
522 6.~~4.~~ Document the present and impending dangers ~~Determine~~
523 ~~the immediate and long-term risk~~ to each child based on the
524 identification of inadequate protective capacity through
525 utilization of a standardized safety ~~risk~~ assessment instrument
526 ~~instruments~~.
527 (b) Upon completion of the immediate safety assessment,
528 the department shall determine the additional activities
529 necessary to assess impending dangers, if any, and close the
530 investigation.
531 ~~5. Based on the information obtained from available~~
532 ~~sources, complete the risk assessment instrument within 48 hours~~

533 ~~after the initial contact and, if needed, develop a case plan.~~
534 (c)~~6.~~ For each report received from the central abuse
535 hotline, the department or the sheriff providing child
536 protective investigative services under s. 39.3065, shall
537 determine the protective, treatment, and ameliorative services
538 necessary to safeguard and ensure the child's safety and well-
539 being and development, and cause the delivery of those services
540 through the early intervention of the department or its agent.
541 As applicable, ~~The training provided to staff members who~~
542 ~~conduct~~ child protective investigators ~~investigations~~ must
543 inform parents and caregivers ~~include instruction on~~ how and
544 when to use the injunction process under ~~s. 39.504 or~~ s. 741.30
545 to remove a perpetrator of domestic violence from the home as an
546 intervention to protect the child.
547 1. If the department or the sheriff providing child
548 protective investigative services determines that the interests
549 of the child and the public will be best served by providing the
550 child care or other treatment voluntarily accepted by the child
551 and the parents or legal custodians, the parent or legal
552 custodian and child may be referred for such care, case
553 management, or other community resources.
554 2. If the department or the sheriff providing child
555 protective investigative services determines that the child is
556 in need of protection and supervision, the department may file a
557 petition for dependency.
558 3. If a petition for dependency is not being filed by the
559 department, the person or agency originating the report shall be
560 advised of the right to file a petition pursuant to this part.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

561 ~~(c) The determination that a report requires an~~
562 ~~investigation as provided in this subsection and does not~~
563 ~~require an enhanced onsite child protective investigation~~
564 ~~pursuant to subsection (11) must be approved in writing by the~~
565 ~~supervisor with documentation specifying why additional~~
566 ~~investigative activities are not necessary.~~
567 ~~(d) A report that meets the criteria specified in this~~
568 ~~subsection is not precluded from further investigative~~
569 ~~activities. At any time it is determined that additional~~
570 ~~investigative activities are necessary for the safety of the~~
571 ~~child, such activities shall be conducted.~~
572 (10)~~(11)~~(a) The department's training program for staff
573 responsible for responding to reports accepted by the central
574 abuse hotline must also ensure that child protective responders:
575 1. Know how to fully inform parents or legal custodians of
576 their rights and options, including opportunities for audio or
577 video recording of child protective responder interviews with
578 parents or legal custodians or children.
579 2. Know how and when to use the injunction process under
580 s. 39.504 or s. 741.30 to remove a perpetrator of domestic
581 violence from the home as an intervention to protect the child.
582 (b) To enhance the skills of individual staff members and
583 to improve the region's and district's overall child protection
584 system, the department's training program at the regional and
585 district levels must include results of qualitative reviews of
586 child protective investigation cases handled within the region
587 or district in order to identify weaknesses as well as examples
588 of effective interventions which occurred at each point in the

589 case. ~~For each report that meets one or more of the following~~
590 ~~criteria, the department shall perform an enhanced onsite child~~
591 ~~protective investigation:~~
592 ~~1. Any allegation that involves physical abuse, sexual~~
593 ~~abuse, domestic violence, substance abuse or substance exposure,~~
594 ~~medical neglect, a child younger than 3 years of age, or a child~~
595 ~~who is disabled or lacks communication skills.~~
596 ~~2. Any report that involves an individual who has been the~~
597 ~~subject of a prior report containing some indicators or verified~~
598 ~~findings of abuse, neglect, or abandonment.~~
599 ~~3. Any report that does not contain compelling evidence~~
600 ~~that the maltreatment did not occur.~~
601 ~~4. Any report that does not meet the criteria for an~~
602 ~~onsite child protective investigation as set forth in subsection~~
603 ~~(10).~~
604 ~~(b) The enhanced onsite child protective investigation~~
605 ~~shall include, but is not limited to:~~
606 ~~1. A face-to-face interview with the child, other~~
607 ~~siblings, parents or legal custodians or caregivers, and other~~
608 ~~adults in the household;~~
609 ~~2. Collateral contacts;~~
610 ~~3. Contact with the reporter as required by rule;~~
611 ~~4. An onsite assessment of the child's residence in~~
612 ~~accordance with paragraph (10)(b); and~~
613 ~~5. An updated assessment.~~
614 (c) For all reports received, detailed documentation is
615 required for the investigative activities.
616 (11) ~~(12)~~ The department shall incorporate into its quality

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

617 assurance program the monitoring of ~~the determination of~~ reports
618 that receive a ~~an onsite~~ child protective investigation to
619 determine the quality and timeliness of safety assessments,
620 engagements with families, teamwork with other experts and
621 professionals, and appropriate investigative activities that are
622 uniquely tailored to the safety factors associated with each
623 child and family ~~and those that receive an enhanced onsite child~~
624 ~~protective investigation~~.
625 (12)~~(13)~~ If the department or its agent is denied
626 reasonable access to a child by the parents, legal custodians,
627 or caregivers and the department deems that the best interests
628 of the child so require, it shall seek an appropriate court
629 order or other legal authority before ~~prior to~~ examining and
630 interviewing the child.
631 (13)~~(14)~~ Onsite visits and face-to-face interviews with
632 the child or family shall be unannounced unless it is determined
633 by the department or its agent or contract provider that such
634 unannounced visit would threaten the safety of the child.
635 (14)~~(15)~~(a) If the department or its agent determines that
636 a child requires immediate or long-term protection through:
637 1. Medical or other health care; or
638 2. Homemaker care, day care, protective supervision, or
639 other services to stabilize the home environment, including
640 intensive family preservation services through the Intensive
641 Crisis Counseling Program,
642
643 such services shall first be offered for voluntary acceptance
644 unless there are high-risk factors that may impact the ability

645 of the parents or legal custodians to exercise judgment. Such
646 factors may include the parents' or legal custodians' young age
647 or history of substance abuse or domestic violence.
648 (b) The parents or legal custodians shall be informed of
649 the right to refuse services, as well as the responsibility of
650 the department to protect the child regardless of the acceptance
651 or refusal of services. If the services are refused, a
652 collateral contact ~~required under subparagraph (11)(b)2.~~ shall
653 include a relative, if the protective investigator has knowledge
654 of and the ability to contact a relative. If the services are
655 refused and the department deems that the child's need for
656 protection so requires, the department shall take the child into
657 protective custody or petition the court as provided in this
658 chapter. At any time after the commencement of a protective
659 investigation, a relative may submit in writing to the
660 protective investigator or case manager a request to receive
661 notification of all proceedings and hearings in accordance with
662 s. 39.502. The request shall include the relative's name,
663 address, and phone number and the relative's relationship to the
664 child. The protective investigator or case manager shall forward
665 such request to the attorney for the department. The failure to
666 provide notice to either a relative who requests it pursuant to
667 this subsection or to a relative who is providing out-of-home
668 care for a child <u>may</u> ~~shall~~ not result in any previous action of
669 the court at any stage or proceeding in dependency or
670 termination of parental rights under any part of this chapter
671 being set aside, reversed, modified, or in any way changed
672 absent a finding by the court that a change is required in the

673 child's best interests.
674 (c) The department, in consultation with the judiciary,
675 shall adopt by rule criteria that are factors requiring that the
676 department take the child into custody, petition the court as
677 provided in this chapter, or, if the child is not taken into
678 custody or a petition is not filed with the court, conduct an
679 administrative review. If after an administrative review the
680 department determines not to take the child into custody or
681 petition the court, the department shall document the reason for
682 its decision in writing and include it in the investigative
683 file. For all cases that were accepted by the local law
684 enforcement agency for criminal investigation pursuant to
685 subsection (2), the department must include in the file written
686 documentation that the administrative review included input from
687 law enforcement. In addition, for all cases that must be
688 referred to child protection teams pursuant to s. 39.303(2) and
689 (3), the file must include written documentation that the
690 administrative review included the results of the team's
691 evaluation. Factors that must be included in the development of
692 the rule include noncompliance with the case plan developed by
693 the department, or its agent, and the family under this chapter
694 and prior abuse reports with findings that involve the child or
695 caregiver.
696 (15) ~~(16)~~ When a child is taken into custody pursuant to
697 this section, the authorized agent of the department shall
698 request that the child's parent, caregiver, or legal custodian
699 disclose the names, relationships, and addresses of all parents
700 and prospective parents and all next of kin, so far as are

701 known.

702 (16) ~~(17)~~ The department shall complete its protective
703 investigation within 60 days after receiving the initial report,
704 unless:

705 (a) There is also an active, concurrent criminal
706 investigation that is continuing beyond the 60-day period and
707 the closure of the protective investigation may compromise
708 successful criminal prosecution of the child abuse or neglect
709 case, in which case the closure date shall coincide with the
710 closure date of the criminal investigation and any resulting
711 legal action.

712 (b) In child death cases, the final report of the medical
713 examiner is necessary for the department to close its
714 investigation and the report has not been received within the
715 60-day period, in which case the report closure date shall be
716 extended to accommodate the report.

717 (c) A child who is necessary to an investigation has been
718 declared missing by the department, a law enforcement agency, or
719 a court, in which case the 60-day period shall be extended until
720 the child has been located or until sufficient information
721 exists to close the investigation despite the unknown location
722 of the child.

723 (17) ~~(18)~~ Immediately upon learning during the course of an
724 investigation that:

725 (a) The immediate safety or well-being of a child is
726 endangered;

727 (b) The family is likely to flee;

728 (c) A child died as a result of abuse, abandonment, or

729 neglect;
730 (d) A child is a victim of aggravated child abuse as
731 defined in s. 827.03; or
732 (e) A child is a victim of sexual battery or of sexual
733 abuse,
734
735 the department shall ~~orally~~ notify the jurisdictionally
736 responsible state attorney, and county sheriff's office or local
737 police department, and, within 3 working days, transmit a full
738 written report to those agencies. The law enforcement agency
739 shall review the report and determine whether a criminal
740 investigation needs to be conducted and shall assume lead
741 responsibility for all criminal fact-finding activities. A
742 criminal investigation shall be coordinated, whenever possible,
743 with the child protective investigation of the department. Any
744 interested person who has information regarding an offense
745 described in this subsection may forward a statement to the
746 state attorney as to whether prosecution is warranted and
747 appropriate.
748 (18)~~(19)~~ In a child protective investigation or a criminal
749 investigation, when the initial interview with the child is
750 conducted at school, the department or the law enforcement
751 agency may allow, notwithstanding ~~the provisions of~~ s.
752 39.0132(4), a school staff member who is known by the child to
753 be present during the initial interview if:
754 (a) The department or law enforcement agency believes that
755 the school staff member could enhance the success of the
756 interview by his or her presence; and

757 (b) The child requests or consents to the presence of the
758 school staff member at the interview.
759
760 School staff may be present only when authorized by this
761 subsection. Information received during the interview or from
762 any other source regarding the alleged abuse or neglect of the
763 child is ~~shall be~~ confidential and exempt from ~~the provisions of~~
764 s. 119.07(1), except as otherwise provided by court order. A
765 separate record of the investigation of the abuse, abandonment,
766 or neglect may ~~shall~~ not be maintained by the school or school
767 staff member. Violation of this subsection is ~~constitutes~~ a
768 misdemeanor of the second degree, punishable as provided in s.
769 775.082 or s. 775.083.
770 (19)~~(20)~~ When a law enforcement agency conducts a criminal
771 investigation into allegations of child abuse, neglect, or
772 abandonment, photographs documenting the abuse or neglect shall
773 ~~will~~ be taken when appropriate.
774 (20)~~(21)~~ Within 15 days after the case is reported to him
775 or her pursuant to this chapter, the state attorney shall report
776 his or her findings to the department and shall include in such
777 report a determination of whether or not prosecution is
778 justified and appropriate in view of the circumstances of the
779 specific case.
780 ~~(22) In order to enhance the skills of individual staff~~
781 ~~and to improve the district's overall child protection system,~~
782 ~~the department's training program at the district level must~~
783 ~~include periodic reviews of cases handled within the district in~~
784 ~~order to identify weaknesses as well as examples of effective~~

785 ~~interventions that occurred at each point in the case.~~
786 (21)~~(23)~~ When an investigation is closed and a person is
787 not identified as a caregiver responsible for the abuse,
788 neglect, or abandonment alleged in the report, the fact that the
789 person is named in some capacity in the report may not be used
790 in any way to adversely affect the interests of that person.
791 This prohibition applies to any use of the information in
792 employment screening, licensing, child placement, adoption, or
793 any other decisions by a private adoption agency or a state
794 agency or its contracted providers, except that a previous
795 report may be used to determine whether a child is safe and what
796 the known risk is to the child at any stage of a child
797 protection proceeding.
798 (22)~~(24)~~ If, after having been notified of the requirement
799 to report a change in residence or location of the child to the
800 protective investigator, a parent or legal custodian causes the
801 child to move, or allows the child to be moved, to a different
802 residence or location, or if the child leaves the residence on
803 his or her own accord and the parent or legal custodian does not
804 notify the protective investigator of the move within 2 business
805 days, the child may be considered to be a missing child for the
806 purposes of filing a report with a law enforcement agency under
807 s. 937.021.
808 Section 7. Subsection (1) of section 39.302, Florida
809 Statutes, is amended to read:
810 39.302 Protective investigations of institutional child
811 abuse, abandonment, or neglect.—
812 (1) The department shall conduct a child protective

813 investigation of each report of institutional child abuse,
814 abandonment, or neglect. Upon receipt of a report that alleges
815 that an employee or agent of the department, or any other entity
816 or person covered by s. 39.01(33) or (47), acting in an official
817 capacity, has committed an act of child abuse, abandonment, or
818 neglect, the department shall initiate a child protective
819 investigation within the timeframe established under s.
820 39.201(5) and ~~orally~~ notify the appropriate state attorney, law
821 enforcement agency, and licensing agency, which shall
822 immediately conduct a joint investigation, unless independent
823 investigations are more feasible. When conducting investigations
824 ~~onsite~~ or having face-to-face interviews with the child,
825 investigation visits shall be unannounced unless it is
826 determined by the department or its agent that unannounced
827 visits threaten the safety of the child. If a facility is exempt
828 from licensing, the department shall inform the owner or
829 operator of the facility of the report. Each agency conducting a
830 joint investigation is entitled to full access to the
831 information gathered by the department in the course of the
832 investigation. A protective investigation must include an
833 interview with the child's parent or legal guardian ~~an onsite~~
834 ~~visit of the child's place of residence~~. The department shall
835 make a full written report to the state attorney within 3
836 working days after making the oral report. A criminal
837 investigation shall be coordinated, whenever possible, with the
838 child protective investigation of the department. Any interested
839 person who has information regarding the offenses described in
840 this subsection may forward a statement to the state attorney as

841 to whether prosecution is warranted and appropriate. Within 15
842 days after the completion of the investigation, the state
843 attorney shall report the findings to the department and shall
844 include in the report a determination of whether or not
845 prosecution is justified and appropriate in view of the
846 circumstances of the specific case.
847 Section 8. Subsection (2) of section 39.307, Florida
848 Statutes, is amended to read:
849 39.307 Reports of child-on-child sexual abuse.—
850 (2) The department, contracted sheriff's office providing
851 protective investigation services, or contracted case management
852 personnel responsible for providing services ~~District staff~~, at
853 a minimum, shall adhere to the following procedures:
854 (a) The purpose of the response to a report alleging
855 juvenile sexual abuse behavior shall be explained to the
856 caregiver.
857 1. The purpose of the response shall be explained in a
858 manner consistent with legislative purpose and intent provided
859 in this chapter.
860 2. The name and office telephone number of the person
861 responding shall be provided to the caregiver of the alleged
862 juvenile sexual offender or child who has exhibited
863 inappropriate sexual behavior and the victim's caregiver.
864 3. The possible consequences of the department's response,
865 including outcomes and services, shall be explained to the
866 caregiver of the alleged juvenile sexual offender or child who
867 has exhibited inappropriate sexual behavior and the victim's
868 caregiver.

869 (b) The caregiver of the alleged juvenile sexual offender
870 or child who has exhibited inappropriate sexual behavior and the
871 victim's caregiver shall be involved to the fullest extent
872 possible in determining the nature of the sexual behavior
873 concerns ~~allegation~~ and the nature of any problem or risk to
874 other children.
875 (c) The assessment of risk and the perceived treatment
876 needs of the alleged juvenile sexual offender or child who has
877 exhibited inappropriate sexual behavior, the victim, and
878 respective caregivers shall be conducted by the district staff,
879 the child protection team of the Department of Health, and other
880 providers under contract with the department to provide services
881 to the caregiver of the alleged offender, the victim, and the
882 victim's caregiver.
883 (d) The assessment shall be conducted in a manner that is
884 sensitive to the social, economic, and cultural environment of
885 the family.
886 (e) If necessary, the child protection team of the
887 Department of Health shall conduct a physical examination of the
888 victim, which is sufficient to meet forensic requirements.
889 (f) Based on the information obtained from the alleged
890 juvenile sexual offender or child who has exhibited
891 inappropriate sexual behavior, his or her caregiver, the victim,
892 and the victim's caregiver, an assessment of service and
893 treatment needs ~~report~~ must be completed ~~within 7 days~~ and, if
894 needed, a case plan developed within 30 days.
895 (g) The department shall classify the outcome of the
896 report as follows:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

897 1. Report closed. Services were not offered because the
898 department determined that there was no basis for intervention.
899 2. Services accepted by alleged juvenile sexual offender.
900 Services were offered to the alleged juvenile sexual offender or
901 child who has exhibited inappropriate sexual behavior and
902 accepted by the caregiver.
903 3. Report closed. Services were offered to the alleged
904 juvenile sexual offender or child who has exhibited
905 inappropriate sexual behavior, but were rejected by the
906 caregiver.
907 4. Notification to law enforcement. The risk to the
908 victim's safety and well-being cannot be reduced by the
909 provision of services or the caregiver rejected services, and
910 notification of the alleged delinquent act or violation of law
911 to the appropriate law enforcement agency was initiated.
912 5. Services accepted by victim. Services were offered to
913 the victim and accepted by the caregiver.
914 6. Report closed. Services were offered to the victim but
915 were rejected by the caregiver.
916 Section 9. Section 39.504, Florida Statutes, is amended to
917 read:
918 39.504 Injunction pending disposition of petition;
919 penalty.—
920 (1) At any time after a protective investigation has been
921 initiated pursuant to part III of this chapter, the court, upon
922 the request of the department, a law enforcement officer, the
923 state attorney, or other responsible person, or upon its own
924 motion, may, if there is reasonable cause, issue an injunction

925 to prevent any act of child abuse. Reasonable cause for the
926 issuance of an injunction exists if there is evidence of child
927 abuse or if there is a reasonable likelihood of such abuse
928 occurring based upon a recent overt act or failure to act.
929 (2) The petitioner seeking the injunction shall file a
930 verified petition, or a petition along with an affidavit,
931 setting forth the specific actions by the alleged offender from
932 which the child must be protected and all remedies sought. Upon
933 filing the petition, the court shall set a hearing to be held at
934 the earliest possible time. Pending the hearing, the court may
935 issue a temporary ex parte injunction, with verified pleadings
936 or affidavits as evidence. The temporary ex parte injunction
937 pending a hearing is effective for up to 15 days and the hearing
938 must be held within that period unless continued for good cause
939 shown, which may include obtaining service of process, in which
940 case the temporary ex parte injunction shall be extended for the
941 continuance period. The hearing may be held sooner if the
942 alleged offender has received reasonable notice ~~Notice shall be~~
943 ~~provided to the parties as set forth in the Florida Rules of~~
944 ~~Juvenile Procedure, unless the child is reported to be in~~
945 ~~imminent danger, in which case the court may issue an injunction~~
946 ~~immediately. A judge may issue an emergency injunction pursuant~~
947 ~~to this section without notice if the court is closed for the~~
948 ~~transaction of judicial business. If an immediate injunction is~~
949 ~~issued, the court must hold a hearing on the next day of~~
950 ~~judicial business to dissolve the injunction or to continue or~~
951 ~~modify it in accordance with this section~~.
952 (3) Before the hearing, the alleged offender must be

953 personally served with a copy of the petition, all other
954 pleadings related to the petition, a notice of hearing, and, if
955 one has been entered, the temporary injunction. Following the
956 hearing, the court may enter a final injunction. The court may
957 grant a continuance of the hearing at any time for good cause
958 shown by any party. If a temporary injunction has been entered,
959 it shall be continued during the continuance.
960 (4) ~~(3)~~ If an injunction is issued under this section, the
961 primary purpose of the injunction must be to protect and promote
962 the best interests of the child, taking the preservation of the
963 child's immediate family into consideration.
964 (a) The injunction applies ~~shall apply~~ to the alleged or
965 actual offender in a case of child abuse or acts of domestic
966 violence. The conditions of the injunction shall be determined
967 by the court, which ~~conditions~~ may include ordering the alleged
968 or actual offender to:
969 1. Refrain from further abuse or acts of domestic
970 violence.
971 2. Participate in a specialized treatment program.
972 3. Limit contact or communication with the child victim,
973 other children in the home, or any other child.
974 4. Refrain from contacting the child at home, school,
975 work, or wherever the child may be found.
976 5. Have limited or supervised visitation with the child.
977 ~~6. Pay temporary support for the child or other family~~
978 ~~members; the costs of medical, psychiatric, and psychological~~
979 ~~treatment for the child incurred as a result of the offenses;~~
980 ~~and similar costs for other family members.~~

981 6.~~7.~~ Vacate the home in which the child resides.
982 (b) Upon proper pleading, the court may award the
983 following relief in a temporary ex parte or final injunction ~~If~~
984 ~~the intent of the injunction is to protect the child from~~
985 ~~domestic violence, the conditions may also include~~:
986 1. ~~Awarding the~~ Exclusive use and possession of the
987 dwelling to the caregiver or exclusion of ~~excluding~~ the alleged
988 or actual offender from the residence of the caregiver.
989 ~~2. Awarding temporary custody of the child to the~~
990 ~~caregiver.~~
991 2.~~3.~~ ~~Establishing~~ Temporary support for the child or other
992 family members.
993 3. The costs of medical, psychiatric, and psychological
994 treatment for the child incurred due to the abuse, and similar
995 costs for other family members.
996
997 This paragraph does not preclude an ~~the~~ adult victim of domestic
998 violence from seeking protection for himself or herself under s.
999 741.30.
1000 (c) The terms of the final injunction shall remain in
1001 effect until modified or dissolved by the court. The petitioner,
1002 respondent, or caregiver may move at any time to modify or
1003 dissolve the injunction. Notice of hearing on the motion to
1004 modify or dissolve the injunction must be provided to all
1005 parties, including the department. The injunction is valid and
1006 enforceable in all counties in the state.
1007 (5)~~(4)~~ Service of process on the respondent shall be
1008 carried out pursuant to s. 741.30. The department shall deliver

1009 a copy of any injunction issued pursuant to this section to the
1010 protected party or to a parent, caregiver, or individual acting
1011 in the place of a parent who is not the respondent. Law
1012 enforcement officers may exercise their arrest powers as
1013 provided in s. 901.15(6) to enforce the terms of the injunction.
1014 (6) ~~(5)~~ Any person who fails to comply with an injunction
1015 issued pursuant to this section commits a misdemeanor of the
1016 first degree, punishable as provided in s. 775.082 or s.
1017 775.083.
1018 (7) The person against whom an injunction is entered under
1019 this section does not automatically become a party to a
1020 subsequent dependency action concerning the same child.
1021 Section 10. Paragraph (r) of subsection (2) of section
1022 39.521, Florida Statutes, is amended to read:
1023 39.521 Disposition hearings; powers of disposition.—
1024 (2) The predisposition study must provide the court with
1025 the following documented information:
1026 (r) If the child has been removed from the home and will
1027 be remaining with a relative, parent, or other adult approved by
1028 the court, a home study report concerning the proposed placement
1029 shall be included in the predisposition report. Before ~~Prior to~~
1030 recommending to the court any out-of-home placement for a child
1031 other than placement in a licensed shelter or foster home, the
1032 department shall conduct a study of the home of the proposed
1033 legal custodians, which must include, at a minimum:
1034 1. An interview with the proposed legal custodians to
1035 assess their ongoing commitment and ability to care for the
1036 child.

1037 2. Records checks through the State Automated Child
1038 Welfare Information System (SACWIS) ~~Florida Abuse Hotline~~
1039 ~~Information System (FAHIS)~~, and local and statewide criminal and
1040 juvenile records checks through the Department of Law
1041 Enforcement, on all household members 12 years of age or older.
1042 In addition, the fingerprints of any household members who are
1043 18 years of age or older may be submitted to the Department of
1044 Law Enforcement for processing and forwarding to the Federal
1045 Bureau of Investigation for state and national criminal history
1046 information. The department has the discretion to request State
1047 Automated Child Welfare Information System (SACWIS) and local,
1048 statewide, and national criminal history checks and
1049 fingerprinting of any other visitor to the home who is made
1050 known to the department ~~and any other persons made known to the~~
1051 ~~department who are frequent visitors in the home~~. Out-of-state
1052 criminal records checks must be initiated for any individual
1053 ~~designated above~~ who has resided in a state other than Florida
1054 if ~~provided~~ that state's laws allow the release of these
1055 records. The out-of-state criminal records must be filed with
1056 the court within 5 days after receipt by the department or its
1057 agent.
1058 3. An assessment of the physical environment of the home.
1059 4. A determination of the financial security of the
1060 proposed legal custodians.
1061 5. A determination of suitable child care arrangements if
1062 the proposed legal custodians are employed outside of the home.
1063 6. Documentation of counseling and information provided to
1064 the proposed legal custodians regarding the dependency process

1065 and possible outcomes.
1066 7. Documentation that information regarding support
1067 services available in the community has been provided to the
1068 proposed legal custodians.
1069
1070 The department <u>may</u> ~~shall~~ not place the child or continue the
1071 placement of the child in a home under shelter or
1072 postdisposition placement if the results of the home study are
1073 unfavorable, unless the court finds that this placement is in
1074 the child's best interest.
1075
1076 Any other relevant and material evidence, including other
1077 written or oral reports, may be received by the court in its
1078 effort to determine the action to be taken with regard to the
1079 child and may be relied upon to the extent of its probative
1080 value, even though not competent in an adjudicatory hearing.
1081 Except as otherwise specifically provided, nothing in this
1082 section prohibits the publication of proceedings in a hearing.
1083 Section 11. Subsection (2) and paragraph (b) of subsection
1084 (4) of section 39.6011, Florida Statutes, are amended to read:
1085 39.6011 Case plan development.—
1086 (2) The case plan must be written simply and clearly in
1087 English and, if English is not the principal language of the
1088 child's parent, to the extent possible in the parent's principal
1089 language. Each case plan must contain:
1090 (a) A description of the identified problem being
1091 addressed, including the parent's behavior or acts resulting in
1092 risk to the child and the reason for the intervention by the

1093 department.
1094 (b) The permanency goal.
1095 (c) If concurrent planning is being used, a description of
1096 the permanency goal of reunification with the parent or legal
1097 custodian in addition to a description of one of the remaining
1098 permanency goals described in s. 39.01.
1099 1. If a child has not been removed from a parent, but is
1100 found to be dependent, even if adjudication of dependency is
1101 withheld, the court may leave the child in the current placement
1102 with maintaining and strengthening the placement as a permanency
1103 option.
1104 2. If a child has been removed from a parent and is placed
1105 with a parent from whom the child was not removed, the court may
1106 leave the child in the placement with the parent from whom the
1107 child was not removed with maintaining and strengthening the
1108 placement as a permanency option.
1109 3. If a child has been removed from a parent and is
1110 subsequently reunified with that parent, the court may leave the
1111 child with that parent with maintaining and strengthening the
1112 placement as a permanency option.
1113 (d) The date the compliance period expires. The case plan
1114 must be limited to as short a period as possible for
1115 accomplishing its provisions. The plan's compliance period
1116 expires no later than 12 months after the date the child was
1117 initially removed from the home, the child was adjudicated
1118 dependent, or the date the case plan was accepted by the court,
1119 whichever occurs first ~~sooner~~.
1120 (e) A written notice to the parent that failure of the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1121 parent to substantially comply with the case plan may result in
1122 the termination of parental rights, and that a material breach
1123 of the case plan may result in the filing of a petition for
1124 termination of parental rights sooner than the compliance period
1125 set forth in the case plan.
1126 (4) The case plan must describe:
1127 (b) The responsibility of the case manager to forward a
1128 relative's request to receive notification of all proceedings
1129 and hearings submitted pursuant to s. 39.301(14)(b)
1130 ~~39.301(15)(b)~~ to the attorney for the department;
1131 Section 12. Subsection (1) of section 39.621, Florida
1132 Statutes, is amended to read:
1133 39.621 Permanency determination by the court.—
1134 (1) Time is of the essence for permanency of children in
1135 the dependency system. A permanency hearing must be held no
1136 later than 12 months after the date the child was removed from
1137 the home or within ~~no later than~~ 30 days after a court
1138 determines that reasonable efforts to return a child to either
1139 parent are not required, whichever occurs first. The purpose of
1140 the permanency hearing is to determine when the child will
1141 achieve the permanency goal or whether modifying the current
1142 goal is in the best interest of the child. A permanency hearing
1143 must be held at least every 12 months for any child who
1144 continues to be supervised by ~~receive supervision from~~ the
1145 department or awaits adoption.
1146 Section 13. Paragraph (b) of subsection (3), subsection
1147 (6), and paragraph (e) of subsection (10) of section 39.701,
1148 Florida Statutes, are amended to read:

1149 39.701 Judicial review.—
1150 (3)
1151 (b) If the citizen review panel recommends extending the
1152 goal of reunification for any case plan beyond 12 months from
1153 the date the child was removed from the home, ~~or~~ the case plan
1154 was adopted, or the child was adjudicated dependent, whichever
1155 date came first, the court must schedule a judicial review
1156 hearing to be conducted by the court within 30 days after
1157 receiving the recommendation from the citizen review panel.
1158 (6) The attorney for the department shall notify a
1159 relative who submits a request for notification of all
1160 proceedings and hearings pursuant to s. 39.301(14)(b)
1161 ~~39.301(15)(b)~~. The notice shall include the date, time, and
1162 location of the next judicial review hearing.
1163 (10)
1164 (e) Within ~~No later than~~ 6 months after the date that the
1165 child was placed in shelter care, the court shall conduct a
1166 judicial review hearing to review the child's permanency goal as
1167 identified in the case plan. At the hearing the court shall make
1168 findings regarding the likelihood of the child's reunification
1169 with the parent or legal custodian within 12 months after the
1170 removal of the child from the home. If~~, at this hearing,~~ the
1171 court makes a written finding that it is not likely that the
1172 child will be reunified with the parent or legal custodian
1173 within 12 months after the child was removed from the home, the
1174 department must file with the court, and serve on all parties, a
1175 motion to amend the case plan under s. 39.6013 and declare that
1176 it will use concurrent planning for the case plan. The

1177 department must file the motion within ~~no later than~~ 10 business
1178 days after receiving the written finding of the court. The
1179 department must attach the proposed amended case plan to the
1180 motion. If concurrent planning is already being used, the case
1181 plan must document the efforts the department is taking to
1182 complete the concurrent goal.
1183 Section 14. Paragraph (a) of subsection (1) of section
1184 39.8055, Florida Statutes, is amended to read:
1185 39.8055 Requirement to file a petition to terminate
1186 parental rights; exceptions.—
1187 (1) The department shall file a petition to terminate
1188 parental rights within 60 days after any of the following if:
1189 (a) The ~~At the time of the 12-month judicial review~~
1190 ~~hearing, a~~ child is not returned to the physical custody of the
1191 parents 12 months after the child was sheltered or adjudicated
1192 dependent, whichever occurs first;
1193 Section 15. Paragraphs (e) and (k) of subsection (1) and
1194 subsection (2) of section 39.806, Florida Statutes, are amended
1195 to read:
1196 39.806 Grounds for termination of parental rights.—
1197 (1) Grounds for the termination of parental rights may be
1198 established under any of the following circumstances:
1199 (e) When a child has been adjudicated dependent, a case
1200 plan has been filed with the court, and:
1201 1. The child continues to be abused, neglected, or
1202 abandoned by the parent or parents. The failure of the parent or
1203 parents to substantially comply with the case plan for a period
1204 of 12 ~~9~~ months after an adjudication of the child as a dependent

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1205 child or the child's placement into shelter care, whichever
1206 occurs first, constitutes evidence of continuing abuse, neglect,
1207 or abandonment unless the failure to substantially comply with
1208 the case plan was due to the parent's lack of financial
1209 resources or to the failure of the department to make reasonable
1210 efforts to reunify the parent and child. The <u>12-month</u> ~~9-month~~
1211 period begins to run only after the child's placement into
1212 shelter care or the entry of a disposition order placing the
1213 custody of the child with the department or a person other than
1214 the parent and the court's approval of a case plan having the
1215 goal of reunification with the parent, whichever occurs first;
1216 <u>or</u>
1217 2. The parent or parents have materially breached the case
1218 plan. Time is of the essence for permanency of children in the
1219 dependency system. In order to prove the parent or parents have
1220 materially breached the case plan, the court must find by clear
1221 and convincing evidence that the parent or parents are unlikely
1222 or unable to substantially comply with the case plan before time
1223 to comply with the case plan expires.
1224 (k) A test administered at birth that indicated that the
1225 child's blood, urine, or meconium contained any amount of
1226 alcohol or a controlled substance or metabolites of such
1227 substances, the presence of which was not the result of medical
1228 treatment administered to the mother or the newborn infant, and
1229 the biological mother of the child is the biological mother of
1230 at least one other child who was adjudicated dependent after a
1231 finding of harm to the child's health or welfare due to exposure
1232 to a controlled substance or alcohol as defined in s.

1233 39.01~~(32)(g)~~, after which the biological mother had the
1234 opportunity to participate in substance abuse treatment.
1235 (2) Reasonable efforts to preserve and reunify families
1236 are not required if a court of competent jurisdiction has
1237 determined that any of the events described in paragraphs
1238 (1)(b)-(d) or (f)-(l) ~~(1)(e)-(l)~~ have occurred.
1239 Section 16. Subsections (1) and (19) of section 39.502,
1240 Florida Statutes, are amended to read:
1241 39.502 Notice, process, and service.—
1242 (1) Unless parental rights have been terminated, all
1243 parents must be notified of all proceedings or hearings
1244 involving the child. Notice in cases involving shelter hearings
1245 and hearings resulting from medical emergencies must be that
1246 most likely to result in actual notice to the parents. In all
1247 other dependency proceedings, notice must be provided in
1248 accordance with subsections (4)-(9), except when a relative
1249 requests notification pursuant to s. 39.301(14)(b)
1250 ~~39.301(15)(b)~~, in which case notice shall be provided pursuant
1251 to subsection (19).
1252 (19) In all proceedings and hearings under this chapter,
1253 the attorney for the department shall notify, orally or in
1254 writing, a relative requesting notification pursuant to s.
1255 39.301(14)(b) ~~39.301(15)(b)~~ of the date, time, and location of
1256 such proceedings and hearings, and notify the relative that he
1257 or she has the right to attend all subsequent proceedings and
1258 hearings, to submit reports to the court, and to speak to the
1259 court regarding the child, if the relative so desires. The court
1260 has the discretion to release the attorney for the department

1261 from notifying a relative who requested notification pursuant to
1262 s. 39.301(14)(b) ~~39.301(15)(b)~~ if the relative's involvement is
1263 determined to be impeding the dependency process or detrimental
1264 to the child's well-being.
1265 Section 17. Section 39.823, Florida Statutes, is amended
1266 to read:
1267 39.823 Guardian advocates for drug dependent newborns.—The
1268 Legislature finds that increasing numbers of drug dependent
1269 children are born in this state. Because of the parents'
1270 continued dependence upon drugs, the parents may temporarily
1271 leave their child with a relative or other adult or may have
1272 agreed to voluntary family services under s. 39.301(14)
1273 ~~39.301(15)~~. The relative or other adult may be left with a child
1274 who is likely to require medical treatment but for whom they are
1275 unable to obtain medical treatment. The purpose of this section
1276 is to provide an expeditious method for such relatives or other
1277 responsible adults to obtain a court order which allows them to
1278 provide consent for medical treatment and otherwise advocate for
1279 the needs of the child and to provide court review of such
1280 authorization.
1281 Section 18. Paragraph (a) of subsection (1) of section
1282 39.828, Florida Statutes, is amended to read:
1283 39.828 Grounds for appointment of a guardian advocate.—
1284 (1) The court shall appoint the person named in the
1285 petition as a guardian advocate with all the powers and duties
1286 specified in s. 39.829 for an initial term of 1 year upon a
1287 finding that:
1288 (a) The child named in the petition is or was a drug

1289 dependent newborn as described in s. 39.01~~(32)(g)~~;

1290 Section 19. This act shall take effect July 1, 2012.

Amendment No.1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Diaz offered the following:
4
5 **Amendment (with title amendment)**
6 Remove lines 114-124 and insert:
7 Section 1. Subsection (1), paragraph (e) of subsection
8 (32), and subsection (33) of section 39.01, Florida Statutes,
9 are amended to read:
10 39.01 Definitions.—When used in this chapter, unless the
11 context otherwise requires:
12 (1) "Abandoned" or "abandonment" means a situation in
13 which the parent or legal custodian of a child or, in the
14 absence of a parent or legal custodian, the caregiver, while
15 being able, has made ~~makes~~ no significant contribution to the
16 child's care and maintenance or ~~provision for the child's~~
17 ~~support and~~ has failed to establish or maintain a substantial
18 and positive relationship with the child, or both. For purposes
19 of this subsection, "establish or maintain a substantial and

20 positive relationship" includes, but is not limited to, frequent
21 and regular contact with the child through frequent and regular
22 visitation or frequent and regular communication to or with the
23 child, and the exercise of parental rights and responsibilities.
24 Marginal efforts and incidental or token visits or
25 communications are not sufficient to establish or maintain a
26 substantial and positive relationship with a child. The term
27 does not include a surrendered newborn infant as described in s.
28 383.50, a "child in need of services" as defined in chapter 984,
29 or a "family in need of services" as defined in chapter 984. The
30 incarceration, repeated incarceration, or extended incarceration
31 of a parent, legal custodian, or caregiver responsible for a
32 child's welfare may support a finding of abandonment.
33 (32) "Harm" to a child's health or welfare can occur when
34 any person:
35 (e) Abandons the child. Within the context of the
36 definition of "harm," the term "abandoned the child" or
37 "abandonment of the child" means a situation in which the parent
38 or legal custodian of a child or, in the absence of a parent or
39 legal custodian, the caregiver, while being able, has made ~~makes~~
40 no significant contribution to the child's care and maintenance
41 or ~~provision for the child's support and~~ has failed to establish
42 or maintain a substantial and positive relationship with the
43 child, or both. For purposes of this paragraph, "establish or
44 maintain a substantial and positive relationship" includes, but
45 is not limited to, frequent and regular contact with the child
46 through frequent and regular visitation or frequent and regular
47 communication to or with the child, and the exercise of parental

48 rights and responsibilities. Marginal efforts and incidental or
49 token visits or communications are not sufficient to establish
50 or maintain a substantial and positive relationship with a
51 child. The term "abandoned" does not include a surrendered
52 newborn infant as described in s. 383.50, a child in need of
53 services as defined in chapter 984, or a family in need of
54 services as defined in chapter 984. The incarceration, repeated
55 incarceration, or extended incarceration of a parent, legal
56 custodian, or caregiver responsible for a child's welfare may
57 support a finding of abandonment.
58 (33) "Institutional child abuse or neglect" means
59 situations of known or suspected child abuse or neglect in which
60 the person allegedly perpetrating the child abuse or neglect is
61 an employee of a private school, public or private day care
62 center, residential home, institution, facility, or agency or
63 any other person at such institution responsible for the child's
64 care as defined in subsection (47).
65
66
67 ---
68 **T I T L E A M E N D M E N T**
69 Remove lines 2-4 and insert:
70 An act relating to child protection; amending s. 39.01, F.S.;
71 revising the definitions of the term "abandoned" or
72 "abandonment," "institutional child abuse or neglect," and
73 "abandons the child within the context of harm"; amending s.
74 39.013, F.S.;
75

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Diaz offered the following:
4
5 **Amendment (with title amendment)**
6 Remove lines 1193-1198 and insert:
7 Section 15. Paragraphs (d), (e), and (k) of subsection (1)
8 and subsection (2) of section 39.806, Florida Statutes, are
9 amended to read:
10 39.806 Grounds for termination of parental rights.—
11 (1) Grounds for the termination of parental rights may be
12 established under any of the following circumstances:
13 (d) When the parent of a child is incarcerated ~~in a state~~
14 ~~or federal correctional institution~~ and either:
15 1. The period of time for which the parent is expected to
16 be incarcerated will constitute a significant ~~substantial~~
17 portion of the child's minority. When determining whether the
18 period of time is significant, the court shall consider the
19 child's age and the child's need for a permanent and stable

20 home. The period of time begins on the date that the parent
21 enters into incarceration ~~period of time before the child will~~
22 ~~attain the age of 18 years~~;
23 2. The incarcerated parent has been determined by the
24 court to be a violent career criminal as defined in s. 775.084,
25 a habitual violent felony offender as defined in s. 775.084, or
26 a sexual predator as defined in s. 775.21; has been convicted of
27 first degree or second degree murder in violation of s. 782.04
28 or a sexual battery that constitutes a capital, life, or first
29 degree felony violation of s. 794.011; or has been convicted of
30 an offense in another jurisdiction which is substantially
31 similar to one of the offenses listed in this paragraph. As used
32 in this section, the term "substantially similar offense" means
33 any offense that is substantially similar in elements and
34 penalties to one of those listed in this subparagraph, and that
35 is in violation of a law of any other jurisdiction, whether that
36 of another state, the District of Columbia, the United States or
37 any possession or territory thereof, or any foreign
38 jurisdiction; or
39 3. The court determines by clear and convincing evidence
40 that continuing the parental relationship with the incarcerated
41 parent would be harmful to the child and, for this reason that
42 termination of the parental rights of the incarcerated parent is
43 in the best interest of the child. When determining harm, the
44 court shall consider the following factors:
45 a. The age of the child;
46 b. The relationship between the child and the parent;

47 c. The nature of the parent's current and past provision
48 for the child's developmental, cognitive, psychological, and
49 physical needs;
50 d. The parent's history of criminal behavior, which may
51 include the frequency of incarceration and the unavailability of
52 the parent to the child due to incarceration; and
53 e. Any other factor the court deems relevant.
54
55
56 ---
57 **T I T L E A M E N D M E N T**
58 Remove line 101 and insert:
59 whichever occurs first; amending s. 39.806, F.S.; providing
60 additional criteria for the court to consider when deciding
61 whether to terminate the parental rights of a parent or legal
62 guardian because the parent or legal guardian is incarcerated;
63

Amendment No.3

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Diaz offered the following:
4
5 **Amendment**
6 Between lines 560 and 561, insert:
7 4. At the close of an investigation the department or the
8 sheriff providing child protective services shall provide to the
9 person who is alleged to have caused the abuse, neglect or
10 abandonment and the parent or legal custodian a summary of
11 findings from the investigation and provide information about
12 their right to access confidential reports in accordance with
13 s.39.202.
14

Amendment No.4

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Diaz offered the following:
4
5 **Amendment**
6 Between lines 581 and 582, insert:
7 3. Know how to explain, to the parent, legal custodian, or
8 person who is alleged to have caused the abuse, neglect, or
9 abandonment, the results of the investigation and to provide
10 information about their right to access confidential reports in
11 accordance with s. 39.202, prior to closing the case.
12

Amendment No. 5

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee
3 Representative Diaz offered the following:
4
5 **Amendment (with title amendment)**
6 Between lines 1289 and 1290, insert:
7 Section 19. Paragraph (c) of subsection (3) of section
8 402.56, Florida Statutes, is amended to read
9 (3) ORGANIZATION.—There is created the Children and Youth
10 Cabinet, which is a coordinating council as defined in s. 20.03.
11 (c) ~~The cabinet shall meet for its organizational session~~
12 ~~no later than October 1, 2007. Thereafter,~~ The cabinet shall
13 meet at least four ~~six~~ times each year, but no more than six
14 times each year, in different regions of the state in order to
15 solicit input from the public and any other individual offering
16 testimony relevant to the issues considered. Each meeting must
17 include a public comment session.
18

19

20

21 ---

22 **T I T L E A M E N D M E N T**

23 Remove lines 109-110 and insert:

24 references to changes made by the act; amending s. 402.56, F.S.;

25 providing that the Children's Cabinet shall meet at least 4

26 times but no more than six times each year; providing an

27 effective date.

28

CS/HB 4005

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 4005 Department of Health
SPONSOR(S): Health & Human Services Quality Subcommittee; Diaz
TIED BILLS: **IDEN./SIM. BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N, As CS	Batchelor	Calamas
2) Health & Human Services Committee		Batchelor	Gormley

SUMMARY ANALYSIS

CS/HB 4005 repeals s. 381.00325 F.S., relating to the Hepatitis A Awareness program.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals one section of law as it relates to the Department of Health (DOH).

Hepatitis A Awareness Program

The bill repeals s. 381.00325, F.S., requiring DOH to develop a Hepatitis A Awareness Program. The purpose of the program is to provide education and information to the public regarding the availability of the Hepatitis A vaccine.

DOH, per s. 381.0011(7), F.S., is to provide information to the public regarding the prevention, control, and cure of diseases and illnesses. Under this authority, the Division of Disease Control, within DOH, currently has a Hepatitis Awareness Program web page that provides necessary information regarding vaccines and educational tools for Hepatitis A, B and C.

B. SECTION DIRECTORY:

Section 1: Repeals s. 381.00325, F.S., related to the Hepatitis A Awareness Program.

Section 2: Provides an effective date.

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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Health and Human Services Quality Subcommittee adopted a strike all amendment to House Bill 4005. The strike all deletes the repeal of s 381.06015, F.S., relating to the establishment of a Public Cord Tissue Bank consortium.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

1 A bill to be entitled
2 An act relating to the Department of Health; repealing
3 s. 381.00325, F.S., relating to department
4 authorization for the development of a Hepatitis A
5 awareness program; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Section 381.00325, Florida Statutes, is
10 repealed.
11 Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4029 Mosquito Control Districts
SPONSOR(S): Albritton
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N	Poche	Calamas
2) Health & Human Services Committee		Poche	Gormley

SUMMARY ANALYSIS

The bill repeals s. 388.191, F.S., which grants the board of commissioners of a mosquito control district the power of eminent domain to condemn any land or easements necessary for the purposes of mosquito control. The section also permits the board to hold, control, and acquire any real or personal property for use by the district. The board is permitted by this section to begin and maintain condemnation proceedings, pursuant to ch. 73, F.S., to obtain real and personal property by eminent domain.

Section 388.191, F.S., was enacted in 1959. Since that time, state and federal case law has greatly expanded the power of eminent domain for governmental entities. A mosquito control district is a political subdivision for purposes of properly exercising eminent domain under existing law. In addition, according to the Department of Agriculture and Consumer Services, the eminent domain power has not been used in recent memory, and would likely be unpopular if it were exerted by a mosquito control district. Recent land issues have been resolved through the purchase of land by the mosquito control district. Also, s. 388.181, F.S., grants to mosquito control districts the authority to do and perform all things necessary to carry out the provisions of mosquito control law in chapter 388, F.S. Therefore, the language in s. 388.191, F.S., is duplicative and unnecessary.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Mosquito Control Districts

Section 388.101, F.S., provides that it is the public policy of the state to control mosquitoes in such a manner as to protect health and safety, improve quality of life, promote economic development, and allow for enjoyment of natural attractions of the state. To that end, the Florida Anti-Mosquito Association, now known as the Florida Mosquito Control Association, was established in 1922.[1] Soon after the creation of the association, special taxing districts for mosquito control were established by statute. The first mosquito control district (MCD) formed was the Indian River Mosquito Control District in 1925.[2] By 1935, five mosquito control districts were created.[3] There are approximately 56 MCDs in Florida.[4]

Chapter 388, F.S., governs and regulates the operation of MCDs in the state. The chapter authorizes the MCDs to take whatever steps are necessary to control all species of mosquito within the confines of applicable state and federal law.[5] Mosquito control is accomplished through a concept known as integrated mosquito management (IMM), which uses multidisciplinary methodologies to implement pest control strategies.[6] IMM includes source reduction, which includes digging ditches and ponds in marsh areas and eliminating standing water that serves as a breeding ground for mosquitoes.[7] IMM also includes the use of mosquito fish in ditches and ponds to eat mosquito larvae.[8] Another method of mosquito control is larviciding, or the application of insecticides to target and eliminate immature mosquitoes in bodies of water harboring larvae and pupae.[9] Florida MCDs use permanent strategies to control mosquitoes, including impounding water, ditching, and draining swampy areas that serve as mosquito breeding grounds. Florida MCDs also use temporary control measures, such as aerosol spraying by ground and aerial equipment to kill adult and larval mosquitoes.[10]

The Department of Agriculture and Consumer Services (DACS) administers and enforces the laws associated with mosquito control in Florida.[11] The Coordinating Council on Mosquito Control was established by statute to assist the DACS in developing and implementing guidelines to resolve disputes associated with mosquito control on public land.[12]

Section 388.191, F.S., permits the board of commissioners of a MCD to hold, control, and acquire any real or personal property for the use of the district. The section also permits the board of commissioners to condemn any land or easements for use by the district. Lastly, the section permits the board of commissioners to exercise the right of eminent domain and begin and continue condemnation proceedings pursuant to the procedure outlined in chapter 73, F.S.

---

[1] Connelly, C.R. and D.B. Carlson (Eds.), 2009. Florida Coordinating Council on Mosquito Control. *Florida Mosquito Control: The state of the mission as defined by mosquito controllers, regulators, and environmental managers.* Vero Beach, FL: University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, at page 22.
[2] *Id.*
[3] *Id.* at page 23.
[4] University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, *Florida Mosquito Control*, available at http://mosquito.ifas.ufl.edu/Florida_Mosquito_Control.htm, last viewed November 15, 2011.
[5] In addition to chapter 388, F.S., chapter 487, F.S., regulates the use of pesticides in controlling mosquitoes. Chapter 5E-2, F.A.C., regulates pesticide registration in Florida. Also, states must comply with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.
[6] American Mosquito Control Association, *Control*, available at http://www.mosquito.org/control, last viewed on November 15, 2011.
[7] Leon County, Florida Mosquito Control Website, *History and Facts About Leon County Mosquito Control*, available at http://www.leoncountyfl.gov/mosquito/Ed%20&%20Info/History_&_Facts.asp, last viewed November 15, 2011.
[8] *See supra* at FN 7.
[9] *Id.*
[10] *Id.*
[11] S. 388.361, F.S.
[12] S. 388.46, F.S.; *see also supra* FN 2, at page 223.

Eminent Domain

Eminent domain is generally defined as the power of the nation or a sovereign state to take, or to authorize the taking of, private property for a public use without the owner's consent, conditioned upon the payment of just compensation.[13] Eminent domain also refers to a legal proceeding in which a governmental entity asserts its authority to condemn property, while inverse condemnation is a shorthand description of the manner in which a landowner recovers just compensation for a taking of his or her property when condemnation proceedings have not been instituted.[14] An inverse condemnation action is initiated by the property owner, rather than the governmental entity.[15]

Eminent domain is subject to constitutional prohibitions found in both the federal and state constitutions.[16] The U.S. Constitution requires that property cannot be taken for public use without just compensation.[17] Section 6, Art. X of the Florida Constitution reads:

> (a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.
> (b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.
> (c) Private property taken by eminent domain pursuant to a petition to initiate condemnation proceedings filed on or after January 2, 2007, may not be conveyed to a natural person or private entity except as provided by general law passed by a three-fifths vote of the membership of each house of the Legislature.

The "full compensation" mandated by the state constitution is restricted to the value of the condemned land,[18] the value of associated appurtenances and improvements, and damages to the remaining land,[19] i.e., severance damages.[20] Florida's law governing eminent domain can be found in chapters 73 and 74 of the Florida Statutes. Except as limited or prohibited by constitutional provisions,[21] there can be no taking of private property for public use against the will of the owner without direct authority from the legislature.[22]

Statutory Eminent Domain Procedures

The statutory eminent domain procedures in ch. 73, F.S., include presuit negotiations between a governmental entity exercising its rights and the land owner,[23] offers of judgment,[24] jury trials,[25] compensation,[26] business damage offers,[27] and costs and attorneys' fees related to the proceeding.[28]

---

[13] *See* 21 Fla. Jur. 2d Eminent Domain § 1, and references therein.
[14] *See* Agins v. City of Tiburon, 447 U.S. 255, 100 S.Ct. 2138, 65 L.Ed. 2d 106 (1980).
[15] *See supra* at FN 1.
[16] *See* U.S. Const. Amend. XIV; Art. I, § 9, Fla. Const.
[17] *See* U.S. Const. Amend. V; *by and through* U.S. Const. Amend. XIV.
[18] *See* United States v. Miller, 317 U.S. 369, 63 S.Ct. 276, 87 L.Ed. 336 (1943)("An owner of lands sought to be condemned is entitled to their 'market value fairly determined'"); *see also* United States ex rel. TVA v. Powelson, 319 U.S. 266, 275, 63 S.Ct. 1047, 87, L. Ed. 1390 (1943)("...the value may be determined in light of the special or higher use of the land.").
[19] *See, e.g.,* State Road Dep't. v. Bramlett, 189 So.2d 481, 484 (Fla. 1966).
[20] *See* Black's Law Dictionary 419 (8th ed. 2004)("*severance damages*. In a condemnation case, damages awarded to a property owner for diminution in the fair market value of land as a result of severance from the land of the property actually condemned; compensation awarded to a landowner for the loss in value of the tract that remains after a partial taking of the land.")
[21] *Id.*
[22] *See* Marvin v. Housing Authority of Jacksonville, 183 So. 145 (Fla. 1938); *see also* City of Ocala v. Nye, 608 So.2d 15 (Fla. 1992)(*citing* Peavy-Wilson Lumber Co. v. Brevard County, 31 So.2d 483 (1947)).
[23] S. 73.015, F.S.
[24] S. 73.032, F.S.
[25] S. 73.071, F.S.
[26] *Id.*
[27] *Id.*
[28] SS. 73.091, F.S. and 73.092, F.S.

Eminent domain actions proceeding to trial require a jury of 12 persons in the circuit court of the county where the property lies.[29] Eminent domain procedures take precedence over all other civil matters.[30]

Supplementary procedures for eminent domain actions in ch. 74, F.S., are commonly referred to as "quick-take" provisions. Under the quick-take provisions, certain entities, including municipalities and public utilities, may take possession of land subject to an eminent domain proceeding in advance of the entry of final judgment.[31] Eminent domain procedures, especially quick-take procedures, offer certain advantages. For the property owner, the only issue in dispute is the amount of compensation for the property taken. Under quick-take, a governmental entity is required to deposit, with the court, an amount not less than the petitioner's estimate of value and, in some circumstances, twice the estimated value of the property, until the amount of compensation is determined by the final judgment.[32]

Effect of Proposed Changes

The bill repeals s. 388.191, F.S., as duplicative and unnecessary. Since 1959, when the statute was enacted, state and federal case law regarding eminent domain powers of the government have significantly evolved. MCD boards are political subdivisions,[33] created by statute, with eminent domain powers. [34]

According to the DACS, the eminent domain power has not been used in recent memory, and would likely be unpopular if it were exerted by a MCD.[35] Recent land issues have been resolved through the purchase of land by the MCD.[36] In addition, s. 388.181, F.S., provides that MCDs are "...fully authorized to do and perform all things necessary to carry out the intent and purposes of this law." This statutory language would include the authority to exercise eminent domain power pursuant to chapter 73, F.S. As a result, s. 388.191, F.S., is duplicative and extraneous.

B. SECTION DIRECTORY:

Section 1: Repeals s. 388.191, F.S., relating to power of eminent domain.
Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

---

[29] *See supra* at FN 7.
[30] S. 73.071(1), F.S.
[31] S. 74.011, F.S.
[32] S. 74.051(2), F.S.
[33] S. 1.01(8), F.S., states "...'political subdivision' include[s] counties, cities, towns, villages, special tax districts, special road and bridge districts, bridge districts, and **all other districts in this state**." (emphasis added).
[34] S. 73.013(1), F.S.
[35] Florida Department of Agriculture and Consumer Services Analysis of PCB 11-07, later HB 7245, dated April 18, 2011, on file with the Health and Human Services Quality Subcommittee.
[36] *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to mosquito control districts;
3 repealing s. 388.191, F.S., relating to certain powers
4 of the board of county commissioners to hold, control,
5 acquire, or purchase real or personal property,
6 condemn land or easements, exercise the right of
7 eminent domain, and institute and maintain
8 condemnation proceedings for a mosquito control
9 district; providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Section 388.191, Florida Statutes, is repealed.
14 Section 2. This act shall take effect July 1, 2012.

HB 4037

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4037 Standards for Compressed Air
SPONSOR(S): Porter
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	15 Y, 0 N	Holt	Schoolfield
2) Health & Human Services Committee		Holt	Gormley

SUMMARY ANALYSIS

The bill repeals section 381.895, F.S., which requires the Department of Health ("DOH") to set standards for compressed air, requires rule-making, requires testing of compressed air by providers, and reporting of test results to DOH. Florida is the only state that has a law governing the regulation of compressed air standards in recreational sport diving.

According to professional dive organizations, repealing this provision in Florida will not have an impact on the quality of compressed air. Currently, dive organizations are required to monitor air quality to maintain certification or membership in recreational dive associations. These private associations also require consumers to have their tanks inspected before receiving compressed air refills.

Repealing this provision will not affect the funding to any existing programs.

The bill appears to have no fiscal impact on state or local government.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 1999, section 381.895, F.S., was enacted and requires the Department of Health ("DOH") to establish by rule the maximum allowable levels for contaminants in compressed air used for recreational sport diving.[1] These standards must take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association.[2]

Moreover, section 381.895(3), F.S., requires any compressed air provider receiving compensation for providing compressed air for recreational sport diving to have the air tested quarterly by specified accredited laboratories.[3] In addition, the compressed air provider must provide DOH a copy of the quarterly test result and DOH is required to maintain a record of all results.[4] The compressed air provider must post a certificate certifying that the compressed air meets the standards for contaminate levels.[5] The certificate must be posted in a conspicuous location where it can readily be seen by any person purchasing air.[6]

It is a second degree misdemeanor[7] if:

- A compressed air provider does not receive a valid certificate that certifies that the compressed air meets the standards for contaminate levels established by DOH; and
- The certificate is not posted in a conspicuous location.[8]

The following entities are exempt from these requirements:

- Individuals who provide compressed air for their own use;
- Any governmental entity that owns its own compressed air source, which is used for work related to the governmental entity; or
- Any foreign registered vessel that uses a compressor to compress air for its own work-related purposes.[9]

Since enactment, the provision has been amended once to delete the January 1, 2000 implementation date.[10] Florida is the only state that has a law governing the regulation of compressed air standards in recreational diving.[11]

Currently, DOH maintains a database that contains thirteen years of test results from approximately 250 compressed air providers located throughout the state.[12] According to DOH, since 1999 none of the submitted reports[13] show any evidence of contamination.[14] Additionally, there have been no reports of injury, illness, or death associated with contaminated compressed air.[15]

---

[1] This includes any compressed air that may be provided as part of a dive package of equipment rental, or dive boat charter.
[2] Section 381.895(1), F.S.
[3] The laboratory must be accredited by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation
[4] Section 381.895(3),(4), F.S.
[5] Section 381.895(3), F.S.
[6] *Id.*
[7] A person who has been convicted of a second degree misdemeanor may be sentenced for a definite term of imprisonment not exceeding 60 days and a fine of up to $500. *See* ss. 775.082(4) and 775.083(1), F.S.
[8] Section 381.895(5), F.S.
[9] Section 381.895(2), F.S.
[10] Chapter 2002-1, L.O.F.
[11] Westlaw search for state statutory provisions requiring compressed air standards for recreational diving.
[12] Per email correspondence with DOH staff on file with the Health & Human Services Access Subcommittee staff (October 21, 2011).
[13] As of November 3, 2011, the DOH has received approximately a total of 3,395 reports.
[14] Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 4037 (October 10, 2011).
[15] *Id.*

DOH recommended repeal of section 381.895, F.S., in its 2008 legislative package. When the provision was enacted, DOH did not receive an appropriation to support the database, enforcement, or rule promulgation.

The dive industry considers it a self-regulating body[16] and has mechanisms in place to ensure customers have quality compressed air.[17] According to professional organizations in the field, repealing this provision in Florida will not have an impact on current business practices. Currently, dive shops are required to monitor air quality to maintain certification or membership in worldwide recreational dive associations. Consumers will still be required to have their tanks inspected by dive shops or instructors, as this is an industry-mandated requirement.[18]

There are three major organizations that engage in recreational diving training and certification: Professional Association of Diving Instructors (PADI), National Association of Underwater Instructors (NAUI), and Scuba Schools International (SSI).[19] According to NAUI, these three organizations represent 90 percent of the recreational diving market for training certification and professional association memberships worldwide. Many recreational dive operations hold certifications and/or memberships with all three organizations. This practice tends to make them more marketable to consumers who are seeking certain types of dive certifications.[20]

According to the Professional Association of Diving Instructors (PADI)[21], members of their organization are required to constantly maintain Compressed Gas Association, Grade "E" Recreational Diving Compressed Air Standards. If a member does not meet these standards their membership is revoked. PADI posts a list of all expelled members online.[22] According to PADI, many dive operations are starting to utilize a constant air quality monitoring devices, which self-monitor compressed air quality and just need to be calibrated every 90 days.[23]

The National Association of Underwater Instructors (NAUI)[24], requires certified businesses to provide medical grade compressed air, which NAUI considers a community standard. Dive operations that receive certification from NAUI are required to have their air checked and tested by an accredited nationally recognized lab every two years and the test results must be posted and available for consumers to view. According to NAUI, they have sales representatives that interact with dive shop owners multiple times a year. When NAUI salesmen are on site they are required to check compliance with NAUI policies. If a dive operator is not in compliance it will lose their NAUI certification. NAUI posts a list of all suspended and revoked certifications online.[25]

Effect of Proposed Changes

The bill repeals section 381.895, F.S., which requires DOH to set standards for compressed air, requires rule-making, requires testing of compressed air by providers, and reporting of test results to DOH. Repealing this provision will not affect funding to any existing programs.

---

[16] "PADI has worked very hard over the years to keep the scuba diving industry as free from legislation as possible." *See* Professional Association of Diving Instructors, History of PADI, available at: http://www.padi.com/scuba/about-padi/PADI-history/default.aspx (last viewed October 21, 2011).
[17] Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 4037 (October 10, 2011); telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (October 21, 2011).
[18] Per telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (October 21, 2011).
[19] *Id.*
[20] *Id.*
[21] PADI represents approximately 125 dive operations located throughout Florida.
[22] Professional Association of Diving Instructors, Quality Management: Consumer Alerts, *available* at: http://www.padi.com/scuba/about-padi/quality-management/consumer-alerts/default.aspx (last viewed October 21, 2011).
[23] Per email correspondence with Professional Association of Diving Instructors staff on file with Health & Human Services Access Subcommittee staff (October 21, 2011).
[24] NAUI represents approximately 120 dive operations located throughout Florida.
[25] National Association of Underwater Instructors Worldwide, Quality and Ethics: Revoked and Suspended Memberships, *available* at: http://www.naui.org/quality_assurance.aspx (last viewed October 21, 2011).

B. SECTION DIRECTORY:

Section 1. Repeals s. 381.895, F.S., relating to standards for compressed air used for recreational diving.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Not applicable.

2. Expenditures:

   Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Not applicable.

2. Expenditures:

   Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Compressed air providers submit quarterly test results to DOH by various methods. Some providers have authorized the lab to send the results directly to DOH while others utilize fax or mail. As a result, compressed air providers may save on the cost of postage for mailing test results to DOH.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No rule-making authority required to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to standards for compressed air;
3 repealing s. 381.895, F.S., relating to standards for
4 compressed air used for recreational diving; providing
5 an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Section 381.895, Florida Statutes, is repealed.
10 Section 2. This act shall take effect July 1, 2012.
11

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4105 Agency for Health Care Administration
SPONSOR(S): Nuñez
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	12 Y, 1 N	Entress	Calamas
2) Health & Human Services Committee		Entress	Gormley

SUMMARY ANALYSIS

The bill repeals the requirement in s. 402.81, F.S., that the Agency for Health Care Administration (AHCA) annually report to the Legislature on the Pharmaceutical Expense Assistance Program.

The bill reduces the workload of AHCA staff and has no fiscal impact on state or local government.

Provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Pharmaceutical Expense Assistance Program

In 2006, Florida established the Pharmaceutical Expense Assistance Program (PEAP) to assist individuals diagnosed with cancer or who have received organ transplants and were medically needy prior to January 1, 2006 with prescription costs.[1] Subject to an appropriation and availability of funds, the program requires the Agency for Health Care Administration (AHCA) to pay the Medicare Part B prescription drug coinsurance and deductibles for the medication required by these individuals.[2] S. 402.81, F.S., provides that PEAP is not an entitlement program and a waiting list may be developed. AHCA is required to report annually to the Legislature regarding the operation of PEAP, including number of individuals served, use rates, and program expenditures.[3] The law does not specify which chairs or presiding officers receive the report, but AHCA has interpreted this to mean the Senate President and the Speaker of the House.[4]

As of January 1, 2006, 652 individuals were eligible for the program.[5] However, during Fiscal Year (FY) 2006-2007 only 61 individuals enrolled in PEAP.[6] Utilization rates have varied in recent years and PEAP has experienced a reduction in utilization each year since FY 2008-2009.[7]

PEAP 2006-2011[8]

Fiscal Year	Expenditures	Recipients
FY 2006-2007	$56,031.33	61
FY 2007-2008	$37,430.03	84
FY 2008-2009	$129,703.73	134
FY 2009-2010	$93,244.58	73
FY 2010-2011	$47,169.60	63

Utilization is expected to continue to decrease, since no additional individuals can become eligible for the program after January 2006.[9] Currently, less than 100 individuals utilize PEAP and the Legislature appropriated $50,000 for the program in FY 2011-2012.[10]

Effects of Proposed Changes

The bill repeals the requirement in s. 402.81, F.S.; that AHCA annually report to the Legislature on PEAP. The repeal of this requirement will not affect current operations of PEAP, nor will it have any

[1] S. 20, ch. 2006-28 L.O.F.; s. 409.9301, F.S. (later renumbered as s. 25, ch. 2011-135, L.O.F.; s. 402.81, F.S.).
[2] S. 402.81, F.S.
[3] *Id.*
[4] AHCA e-mail correspondence, December 7, 2011; on file with Subcommittee Staff.
[5] Agency for Health Care Administration, 2010 Pharmaceutical Expense Assistance Program Report, January 19, 2010.
[6] AHCA e-mail correspondence, November 29, 2011; on file with Subcommittee Staff.
[7] *Id.*
[8] *Id.*
[9] Agency for Health Care Administration, 2012 Bill Analysis and Economic Impact Statement, House Bill 4105 (November 23, 2011).
[10] *Id.*; and *Supra.*, at note 5.

fiscal impact.[11] The changes will eliminate a portion of the workload by AHCA.[12] Although a report will no longer be required, the data in the report can be provided by AHCA upon request.[13]

B. SECTION DIRECTORY:

Section 1. Repeals s. 402.81(4)(b), F.S., relating to annual reports regarding operations of the Pharmaceutical Expense Assistance Program.

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:

The bill reduces the workload required by the AHCA and has no fiscal impact.[14]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Not applicable.

---

[11] *Supra.*, at note 7.
[12] *Id.*
[13] *Id.*
[14] *Supra.*, at note 7.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Agency for Health Care
3 Administration; amending s. 402.81, F.S.; deleting the
4 requirement that the agency submit a report to the
5 Legislature relating to pharmaceutical expense
6 assistance; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (4) of section 402.81, Florida
11 Statutes, is amended to read:
12 402.81 Pharmaceutical expense assistance.—
13 (4) ADMINISTRATION.—The pharmaceutical expense assistance
14 program shall be administered by the agency, in collaboration
15 with the Department of Elderly Affairs and the Department of
16 Children and Family Services.
17 ~~(a)~~ The agency may adopt rules pursuant to ss. 120.536(1)
18 and 120.54 to implement ~~the provisions of~~ this section.
19 ~~(b) By January 1 of each year, the agency shall report to~~
20 ~~the Legislature on the operation of the program. The report~~
21 ~~shall include information on the number of individuals served,~~
22 ~~use rates, and expenditures under the program.~~
23 Section 2. This act shall take effect July 1, 2012.

HB 4139

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4139 Repeal of Health Insurance Provisions
SPONSOR(S): Brodeur
TIED BILLS: **IDEN./SIM. BILLS:** SB 1220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Affairs Committee	14 Y, 0 N	Barnum	Tinker
2) Health & Human Services Committee		Poche	Gormley

SUMMARY ANALYSIS

The bill repeals a reporting requirement associated with the Florida Health Insurance Plan (Plan). In 2004, the Legislature created the Plan as part of the Affordable Health Care for Floridians Act. The Plan was intended to replace the Florida Comprehensive Health Association as the State's high risk insurance pool. The law contains an annual reporting requirement for the Plan. To date, funds have not been appropriated for startup costs and any projected deficits. The Plan has not been implemented.

HB 4139 removes the requirement that the Board of Directors of the Plan submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the operation of the Plan, including certain specified actuarial information.

The bill repeals a reporting requirement associated with the Small Employers Access Program (Program). In 2004, as part of the Affordable Health Care for Floridians Act, the Program was created within the Employee Health Care Access Act, which had been enacted in 1992. The purpose of the Program was to provide additional health insurance options for small businesses consisting of up to 25 employees, plus any municipality, county, school district, or hospital employer located in a rural community, and any nursing home employer. The enacting legislation requires a competitive bid process to select an insurer to provide coverage through the Program within an established geographical area. No responses were received to the Request for Proposals. The Program is not operational.

HB 4139 removes the requirement that the Office of Insurance Regulation submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Small Employers Access Program, including premiums earned and written, losses realized, administrative expenses, and actual program enrollment.

This bill does not have a fiscal impact on state or local government.

The bill provides for an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Health Insurance Plan

In 2004, the Legislature created the Florida Health Insurance Plan (Plan) as part of the Affordable Health Care for Floridians Act, a health care reform package.[1] The Plan was intended to replace the Florida Comprehensive Health Association (FCHA), formerly known as the State Comprehensive Health Association, as the State's high risk insurance pool. A high risk pool is a state-created, nonprofit residual market that is generally subsidized through a tax assessment on all of the health insurers operating within a state, both individual and group plans, through state funds, or through a combination of funding. The concept of a high risk pool is to spread the cost of providing health services to a sicker population across a larger group of insured people, instead of relying on the relatively small individual market to cover the chronically ill. Risk pools, by design, are the safety net for the medically uninsurable individual.

The benefits provided by the Plan are the same as the standard and basic plans for small employers.[2] The Plan must also allow for the purchase of alternative coverage, such as catastrophic coverage which includes a minimum level of primary care coverage, and a high deductible plan that meets all the requirements for a health savings account.[3] Eligibility is limited to individuals who have received two notices of rejection for coverage from health insurers, and individuals who received coverage under FCHA at the time the Plan was created.[4]

The Plan is run by a nine person Board of Directors (Board) and chaired by the Director of the Office of Insurance Regulation (OIR). There are four governor appointees, two Senate appointees, and two House appointees. The majority of the Board must be composed of individuals who are not representatives of insurers or health care providers. The Board may not implement the Plan until funds are appropriated for startup costs and any projected deficits.[5] These funds have not been appropriated and so the Plan is not in operation.

The Board is required to submit a report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report is to include an independent actuarial study evaluating specified elements of the Plan.[6]

Small Employers Access Program

In 1992, the Legislature enacted the Employee Health Care Access Act (EHCAA).[7] The purpose of the EHCAA was to promote the availability of health insurance coverage to small employers.[8] In 2004, as part of the Affordable Health Care for Floridians Act, the Small Employers Access Program (Program) was created within the EHCAA.[9] The purpose of the Program is to provide additional health insurance options for small businesses consisting of up to 25 employees, plus any municipality, county, school

---

[1] Ch. 2004-297, s. 21, L.O.F.
[2] S. 627.6699, F.S.
[3] "Residual Markets- The Florida Health Insurance Plan", *see* http://www.myfloridacfo.com/consumers/InsuranceLibrary/Insurance/Residual_Markets/Residual_Markets_-_The_Florida_Health_Insurance_Plan.htm; *see also* s. 627.64872(16)(a), F.S.
[4] S. 627.64872(9)(a)1. and 2., F.S.
[5] S. 627.64872(6), F.S.
[6] S. 627.64872(6)(a) through (e), F.S.
[7] Ch. 92-33, s. 117, L.O.F.
[8] S. 627.6699(2), F.S.
[9] Ch. 2004-297, s. 24, L.O.F.

district, or hospital employer located in a rural community, and any nursing home employer.[10] The benefits of plans offered under the Program are the same as the coverage required for small employers and specified in the statute.[11]

Enacting legislation requires the OIR to competitively procure and select an insurer to provide coverage through the Program within an established geographical area.[12] A request for proposal (RFP) was issued by the OIR in 2004, but no insurer responded to the RFP.[13] Therefore, the Program is not operational.

The OIR is required to submit a report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Program over the past year, including premiums earned and written, total enrollment in the Program, administrative expenses, and paid and incurred losses.[14] Because the Program is not operational, there is no meaningful information to submit.

Effect of Proposed Changes

The bill deletes the annual reporting requirement of the Plan, due to the fact that the Plan is not in operation. Therefore, the requirement that a report be provided detailing, among other data, the number of people covered by the program and anticipated gains and losses in the next fiscal year is moot.

The bill also eliminates the annual reporting requirement for the Program. The Program would no longer need to submit the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives stating the premiums earned and written over the past year, the administrative expenses incurred, the losses realized over the past year, and total Program enrollment. The Program is not operational. Therefore, the annual reporting requirement is moot.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.64872, F.S., relating to annual reporting requirements regarding the Florida Health Insurance Plan.
Section 2: Amends s. 627.6699, F.S., relating to annual reporting requirements regarding the Employee Health Care Access Act, Small Employers Access Program.
Section 3: Provides an effective date of July 1, 2012.

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.

---

[10] S. 627.6699(15)(d), F.S.
[11] S. 627.6699(12), F.S.
[12] S. 627.6699(15)(e), F.S.
[13] *Id.*
[14] S. 627.6699(15)(l), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the repeal of health insurance
3 provisions; amending s. 627.64872, F.S.; deleting a
4 requirement that the Florida Health Insurance Plan's
5 board of directors annually report to the Governor and
6 the Legislature concerning the Florida Health
7 Insurance Plan; deleting redundant language making the
8 implementation of the plan by the board contingent
9 upon certain appropriations; amending s. 627.6699,
10 F.S.; deleting a requirement that the Office of
11 Insurance Regulation of the Department of Financial
12 Services annually report to the Governor and the
13 Legislature concerning the Small Employers Access
14 Program; providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Subsections (7) through (20) of section
19 627.64872, Florida Statutes, are renumbered as subsections (6)
20 through (19), respectively, and paragraph (b) of subsection (4),
21 present subsection (6), and paragraph (a) of present subsection
22 (20) of that section are amended to read:
23 627.64872 Florida Health Insurance Plan.—
24 (4) PLAN OF OPERATION.—The plan of operation shall:
25 (b) Establish procedures for selecting an administrator in
26 accordance with subsection <u>(10)</u> ~~(11)~~.
27 ~~(6) ANNUAL REPORT.—The board shall annually submit to the~~
28 ~~Governor, the President of the Senate, and the Speaker of the~~

29 ~~House of Representatives a report that includes an independent~~
30 ~~actuarial study to determine, without limitation, the following:~~
31 ~~(a) The effect the creation of the plan has on the small~~
32 ~~group and individual insurance market, specifically on the~~
33 ~~premiums paid by insureds, including an estimate of the total~~
34 ~~anticipated aggregate savings for all small employers in the~~
35 ~~state.~~
36 ~~(b) The actual number of individuals covered at the~~
37 ~~current funding and benefit level, the projected number of~~
38 ~~individuals that may seek coverage in the forthcoming fiscal~~
39 ~~year, and the projected funding needed to cover anticipated~~
40 ~~increase or decrease in plan participation.~~
41 ~~(c) A recommendation as to the best source of funding for~~
42 ~~the anticipated deficits of the pool.~~
43 ~~(d) A summary of the activities of the plan in the~~
44 ~~preceding calendar year, including the net written and earned~~
45 ~~premiums, plan enrollment, the expense of administration, and~~
46 ~~the paid and incurred losses.~~
47 ~~(e) A review of the operation of the plan as to whether~~
48 ~~the plan has met the intent of this section.~~
49
50 ~~The board may not implement the Florida Health Insurance Plan~~
51 ~~until funds are appropriated for startup costs and any projected~~
52 ~~deficits; however, the board may complete the actuarial study~~
53 ~~authorized in this subsection.~~
54 (19) ~~(20)~~ COMBINING MEMBERSHIP OF THE FLORIDA COMPREHENSIVE
55 HEALTH ASSOCIATION; ASSESSMENT.—
56 (a)1. Upon implementation of the Florida Health Insurance

57 Plan, the Florida Comprehensive Health Association, as specified
58 in s. 627.6488, is abolished as a separate nonprofit entity and
59 shall be subsumed under the board of directors of the Florida
60 Health Insurance Plan. All individuals actively enrolled in the
61 Florida Comprehensive Health Association shall be enrolled in
62 the plan subject to its rules and requirements, except as
63 otherwise specified in this section. Maximum lifetime benefits
64 paid to an individual in the plan shall not exceed the amount
65 established under subsection <u>(15)</u> ~~(16)~~, and benefits previously
66 paid for any individual by the Florida Comprehensive Health
67 Association shall be used in the determination of total lifetime
68 benefits paid under the plan.

69 2. All persons enrolled in the Florida Comprehensive
70 Health Association upon implementation of the Florida Health
71 Insurance Plan are only eligible for the benefits authorized
72 under subsection <u>(15)</u> ~~(16)~~. Persons identified by this section
73 shall convert to the benefits authorized under subsection <u>(15)</u>
74 ~~(16)~~ no later than January 1, 2005.

75 3. Except as otherwise provided in this section, the
76 administration of the coverage of persons actively enrolled in
77 the Florida Comprehensive Health Association shall operate under
78 the existing plan of operation without modification until the
79 adoption of the new plan of operation for the Florida Health
80 Insurance Plan.

81 Section 2. Paragraph (l) of subsection (15) of section
82 627.6699, Florida Statutes, is amended to read:

83 627.6699 Employee Health Care Access Act.—

84 (15) SMALL EMPLOYERS ACCESS PROGRAM.—

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

85 ~~(1) Annual reporting.—The office shall make an annual~~
86 ~~report to the Governor, the President of the Senate, and the~~
87 ~~Speaker of the House of Representatives. The report shall~~
88 ~~summarize the activities of the program in the preceding~~
89 ~~calendar year, including the net written and earned premiums,~~
90 ~~program enrollment, the expense of administration, and the paid~~
91 ~~and incurred losses. The report shall be submitted no later than~~
92 ~~March 15 following the close of the prior calendar year.~~
93 Section 3. This act shall take effect July 1, 2012.

PCB HHSC 12-01

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHSC 12-01 Domestic Violence
SPONSOR(S): Health & Human Services Committee; Harrell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee		Mathieson	Gormley

SUMMARY ANALYSIS

The bill makes statutory changes to conform to the General Appropriations Act (GAA) for fiscal year (FY) 2011-2012.

The bill amends the duties of the Department of Children and Families (DCF) relating to domestic violence program by:

- Requiring the department to contract with the Florida Coalition on Domestic Violence (FCADV) to monitor, fund and provide services for the state's domestic violence program;
- Limiting the role of the department in the certification of domestic violence shelters;
- Repealing the certification of batterers' intervention programs, and removing the authority to collect fees for certification; and
- Providing clarifying language for batterers' intervention program requirements.

The bill has no fiscal impact on the state and conforms Florida Statutes to FY 2011-2012 GAA provisions, (see Fiscal Impact).

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Domestic Violence Shelters

Domestic violence centers are community based organizations that provide services to the victims of domestic violence. Pursuant to Florida Statute, the minimum services that a shelter must provide are:

- Temporary emergency shelter for more than 24 hours;
- Information and referrals;
- Safety planning;
- Counseling and case management;
- A 24 hour emergency hotline;
- Educational services for community awareness;
- Assessment and appropriate referral of resident children; and
- Training for law enforcement and other professionals.[1]

DCF is statutorily responsible for the statewide domestic violence program which certifies and monitors domestic violence shelters. DCF also provides supervision, direction, coordination and administration of activities related to prevention and intervention services.[2] The Legislature has delegated rulemaking authority to DCF to implement this responsibility.[3] DCF is directed by statute to monitor certification annually.[4] For a shelter to receive state funding, it must maintain certification pursuant to this chapter.[5] However, certification does not obligate the state to provide funds for a shelter.[6]

In 2004, the Legislature directed DCF to contract with a statewide association for the domestic violence program, specifically providing that the association would:

- Represent and provide technical assistance for certified shelters;
- Receive and approve or reject funding applications for certified shelters;
- Make efforts to reduce duplication of services in a service area, encouraging subcontracting for services amongst existing shelters; and
- Use a DCF approved formula for funding.[7]

To implement this legislative direction, DCF contracted with the Florida Coalition Against Domestic Violence (FCADV). The FCADV is the professional association for the state's 42 certified domestic violence centers.[8] Their mission is to work towards ending violence through public awareness, policy development, and support for Florida's domestic violence centers.[9] Funding sources include federal, state and private funds.

---

[1] S. 39.905(1)(c), F.S.
[2] S. 39.903(3), F.S.
[3] S. 39.903(1)(e), F.S.
[4] S. 39.903(1)(d), F.S.
[5] S. 39.905(6)(a), F.S.
[6] *Id.*
[7] S. 39.903(7), F.S.
[8] www.fcadv.org/about , site last visited December 19, 2011.
[9] *Id.*

Funding Source	FY 2007-2008	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012
General Revenue	195,431	255,431	95,210	3,857,260	4,164,596
Domestic Violence Trust Fund	10,366,004	10,366,004	10,286,224	6,524,174	6,885,617
Federal Grants Trust Fund	8,739,534	8,294,406	13,611,523	9,496,510	10,662,290
Welfare Transition Trust Fund	7,750,000	7,750,000	7,750,000	7,750,000	7,750,000
Operations and Maintenance Trust Fund		90,000			
Federal Grants Trust Fund – ARRA Grant				2,486,729	
Domestic Violence Trust Fund - Unfunded Budget			79,780	79,780	79,780
Federal Grants Trust Fund - Unfunded Budget	539,684	984,812	966,585	282,708	
TOTAL APPROVED OPERATING BUDGET	27,590,653	27,740,653	32,789,322	30,477,161	29,542,283

The preceding table shows both the sources of funding from the state, and the total amount that is appropriated to domestic violence services each year. DCF passes this appropriation through to the FCADV.[10]

In Fiscal Year 2008-2009, DCF received $5,298,980 from the federal government for American Recovery and Reinvestment Act of 2009 (ARRA), and in Fiscal Year 2010-2011, an additional $2,486,729 from ARRA.[11] In Fiscal Year 2011-2012, the administrative budget of $951,851 was transferred to the FCADV from DCF.[12]

Batterer's Intervention Programs

Section 741.32(2), F.S., creates the Office for Certification and Monitoring of Batterer's Intervention Programs within DCF. The department is authorized to certify and monitor programs and personnel that provide direct services to people who have:

- Committed an act of domestic violence;[13]
- Had an injunction for protection against domestic violence entered against them;
- Been referred by DCF; or
- Voluntarily agree to attend.[14]

DCF is directed to promulgate guidelines for batterer's intervention programs in rule.[15] The department promulgated rules for such programs in ch. 65H-2, F.A.C.

Section 741.327, F.S., authorizes DCF to assess and collect fees for the certification of batterer's intervention programs. This section also requires all persons who are court-ordered to attend a DCF-certified program, to pay a $30 fee to DCF. All fees that DCF collects pursuant to this authority are deposited into the Executive Office of the Governor's Domestic Violence Trust Fund, and directed to DCF to fund the cost of certification.

Courts are directed by the Legislature, with certain exceptions, to order someone convicted of a domestic violence offense to a certified batterer's intervention program as a condition of probation, community control, or any other court-ordered community supervision.[16]

[10] Email from DCF on file with Health and Human Services Committee staff, January 25, 2012.
[11] *Id.*
[12] *Id.*
[13] An act of domestic violence is defined in s. 741.32(2), F.S.
[14] S. 741.32(2), F.S.
[15] S. 741.325, F.S.
[16] *See,* s. 948.038, F.S., and s. 741.281, F.S.

Fiscal Year 2011-2012 General Appropriations Act

In the 2011 legislative session, the GAA for FY 2011-2012 eliminated funding for the provision of domestic violence services at DCF, and transferred funding for the provision of domestic violence services to the FCADV. The GAA also eliminated the certification staff at DCF for batterers' intervention programs. The House of Representatives passed HB 5309, which made conforming changes to Florida law. HB 5309 died in Senate messages. Currently, ch. 39, F.S., conflicts with the directives in the FY 2011-2012 GAA.

Effect of Proposed Changes

The bill conforms ch. 39, F.S., to the budget changes made in FY 2011-2012 GAA. The bill requires DCF to contract with the FCADV for the management of the delivery of services for the state's domestic violence program. The contracted entity is assigned the function of representing DCF on the domestic violence fatality review teams.

The bill retains DCF's overall authority to certify domestic violence centers, but delegates monitoring functions to the FCADV. The bill provides that DCF will receive and approve or deny applications for initial certification, and then may renew them based on a favorable monitoring report from the FCADV. DCF's authority to enter and inspect premises is restricted by the bill to initial certification or suspension or revocation of certification. The FCADV is given the authority to enter and inspect in relation to monitoring. In addition, FCADV will distribute DCF funding to the certified shelters.

The bill removes DCF's requirement to enlist the assistance of public and private entities to conduct a domestic violence research program, and to develop an educational program.

The bill directs the FCADV to prepare an annual report, subject to department approval, on the status of domestic violence cases in the state. The report is distributed to the Speaker of the House of Representatives and the President of the Senate.

The bill provides that all certifications for domestic violence centers shall expire on June 30, of each year. DCF is given discretionary authority to temporarily extend a certification beyond this date for 60 days to allow a center to implement a corrective action plan. Currently, certifications expire at different times during the year, depending on when the center initially applied for certification. This will provide for administrative efficiency.

The bill deletes the Office of Certification and Monitoring of Batterers' Intervention Programs from the department and repeals the statutory requirement that batterers' intervention programs be certified by DCF. The bill also removes authority for DCF to promulgate requirements for batterer intervention programs, conforming existing law to the removal of certification for such programs. The bill retains for guidelines for batterers' intervention programs in current law. There is no provision in the bill to enforce these program guidelines.

The bill makes conforming changes to environmental health and food service establishment provisions of Florida Statutes to reflect the removal of the monitoring function of domestic violence centers from DCF. The bill repeals s. 741. 327, F.S., relating to certification fees for batterer's intervention programs, and conforms other provisions of ch. 741, F.S., to the changes in the bill. The bill makes a conforming amendment to s. 938.01(1)(a)3., relating to distribution of the $3 court cost that is assessed for everyone convicted of a violation of state penal or criminal statute, or violation of county or municipal ordinance.

B. SECTION DIRECTORY:

Section 1: Amends s. 39.902, F.S., relating to definitions.
Section 2: Amends s. 39.903, F.S., relating to duties and functions of the department with respect to domestic violence.

Section 3:	Amends s. 39.904, F.S., relating to report to the Legislature on the status of domestic violence cases.
Section 4:	Amends s. 39.905, F.S., relating to domestic violence centers.
Section 5:	Amends s. 381.006, F.S., relating to environmental health.
Section 6:	Amends s. 381.0072, F.S., relating to food service protection.
Section 7:	Amends s. 741.281, F.S., relating to court to order batterers' intervention program attendance.
Section 8:	Amends s. 741.2902, F.S., relating to domestic violence; legislative intent with respect to judiciary's role.
Section 9:	Amends s. 741.30, F.S., relating to domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; statewide verification system; enforcement.
Section 10:	Amends s. 741.316, F.S., relating to domestic violence fatality review teams; definition; membership; duties.
Section 11:	Amends s. 741.32, F.S., relating to batterers' intervention programs.
Section 12:	Repeals s. 741.325, F.S.
Section 13:	Repeals s. 741.327, F.S.
Section 14:	Amends s. 948.038, F.S., relating to batterers' intervention program as a condition of probation, community control, or other court-ordered community supervision.
Section 15:	Amends s. 938.01, F.S., relating to additional court cost clearing trust fund.
Section 16:	Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. The Domestic Violence Trust Fund revenues were reduced by approximately $117,738 in fees associated with cost of certifying and monitoring batterers' intervention programs by the FY 2011-2012 GAA. However, this loss was offset since DCF is no longer required to certify the batterers' intervention programs.

2. Expenditures:

	FTE	FY 2011-12
Domestic Violence Program[17]		
Positions		(9.00)
General Revenue		(307,331)
Trust Funds		(644,520)
Total	**(9.00)**	**(951,851)**
Batterer's Intervention Program		
Positions		(2.00)
General Revenue		(64,741)
Trust Funds		(117,738)
Total	**(2.00)**	**(182,479)**
Total	**(11.00)**	**(1,134,330)**
Transfer to FCADV		
Positions		
General Revenue		307,331
Trust Funds		644,520
Total		**951,851**

[17] Fla. H. R. Comm. on Appropriations, H.B. 5309, (2011), March 21, 2011 (On file with the House Health and Human Services Quality Subcommittee).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rule making authority to DCF to implement its revised duties related to domestic violence.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to domestic violence; amending s.
3 39.902, F.S.; providing a definition; amending s.
4 39.903, F.S.; revising provisions relating to
5 certification of domestic violence centers; providing
6 specified additional duties for and authority of the
7 Florida Coalition Against Domestic Violence; revising
8 the duties of the Department of Children and Family
9 Services; requiring the department to contract with the
10 Florida Coalition Against Domestic Violence for
11 specified purposes; amending s. 39.904, F.S.; requiring
12 the Florida Coalition Against Domestic Violence rather
13 than the department to make a specified annual report;
14 revising the contents of the report; amending s. 39.905,
15 F.S.; requiring the Florida Coalition Against Domestic
16 Violence rather than the department to perform certain
17 duties relating to certification of domestic violence
18 centers; revising provisions relating to certification
19 of domestic violence centers; revising the demonstration
20 of need for certification of a new domestic violence
21 center; revising provisions relating to expiration of a
22 center's annual certificate; amending ss. 381.006,
23 381.0072, 741.281, 741.2902, 741.30, and 741.316, F.S.;
24 conforming provisions to changes made by the act;
25 amending s. 741.32, F.S.; deleting the Office for
26 Certification and Monitoring of Batterers' Intervention
27 Programs; amending s. 741.325, F.S.; revising the
28 guidelines for batters' intervention programs; repealing

29 s. 741.327, F.S., relating to certification and
30 monitoring of batterers' intervention programs; amending
31 ss. 948.038 and 938.01, F.S.; conforming provisions to
32 changes made by the act; providing an effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Section 39.903, Florida Statutes, is amended to
37 read:
38 39.903 Duties and functions of the department with respect
39 to domestic violence.—
40 (1) The department shall:
41 (a) Develop by rule criteria for the approval, suspension
42 or rejection of certification ~~or funding~~ of domestic violence
43 centers.
44 (b) Develop by rule minimum standards for domestic
45 violence centers to ensure the health and safety of the clients
46 in the centers.
47 (c) Receive and approve or reject applications for initial
48 certification of domestic violence centers. Such certification
49 may be renewed annually thereafter by the department upon a
50 favorable monitoring report by the Florida Coalition Against
51 Domestic Violence. If any of the required services are exempted
52 from certification by the department under s. 39.905(1)(c), the
53 center may ~~shall~~ not receive funding from the Florida Coalition
54 Against Domestic Violence for those services.
55 (d) May ~~Evaluate each certified domestic violence center~~
56 ~~annually to ensure compliance with the minimum standards. The~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

57 ~~department has the right to~~ enter and inspect the premises of
58 domestic violence centers applying for an initial certification,
59 or which have received an unfavorable monitoring report.
60 ~~certified domestic violence centers at any reasonable hour in~~
61 ~~order~~ to effectively evaluate the state of compliance with
62 minimum standards. ~~of these centers with this part and rules~~
63 ~~relating to this part.~~ The Florida Coalition Against Domestic
64 Violence may enter and inspect the premises of certified
65 domestic violence centers for monitoring purposes.
66 (e) Adopt rules to implement this part.
67 (f) Promote the involvement of certified domestic violence
68 centers in the coordination, development, and planning of
69 domestic violence programming in the circuits. ~~districts and the~~
70 ~~state.~~
71 ~~(2) The department shall serve as a clearinghouse for~~
72 ~~information relating to domestic violence.~~
73 (2)~~(3)~~ The department shall operate the domestic violence
74 program, and partner with the Florida Coalition Against Domestic
75 Violence in ~~which provides supervision, direction~~, coordination~~,~~
76 and administration of statewide activities related to the
77 prevention of domestic violence.
78 (3)~~(4)~~ The department shall coordinate with state agencies
79 having health, education, or criminal justice responsibilities
80 to raise awareness of domestic violence and promote consistent
81 policy implementation. ~~enlist the assistance of public and~~
82 ~~voluntary health, education, welfare, and rehabilitation~~
83 ~~agencies in a concerted effort to prevent domestic violence and~~
84 ~~to treat persons engaged in or subject to domestic violence.~~

85 With the assistance of these agencies, the department, within
86 existing resources, shall formulate and conduct a research and
87 evaluation program on domestic violence. Efforts on the part of
88 these agencies to obtain relevant grants to fund this research
89 and evaluation program must be supported by the department.
90 (5) The department shall develop and provide educational
91 programs on domestic violence for the benefit of the general
92 public, persons engaged in or subject to domestic violence,
93 professional persons, or others who care for or may be engaged
94 in the care and treatment of persons engaged in or subject to
95 domestic violence.
96 (4)(6) The department shall cooperate with, assist in, and
97 participate in, programs of other properly qualified state
98 agencies, federal agencies, private organizations including any
99 agency of the Federal Government, schools of medicine,
100 hospitals, and clinics, in planning and conducting research on
101 the prevention of domestic violence and provision of services to
102 clients, care, treatment, and rehabilitation of persons engaged
103 in or subject to domestic violence.
104 (5)(7) The department shall contract with the Florida
105 Coalition Against Domestic Violence for the delivery and
106 management of services for the state's domestic violence
107 program. Services under this contract shall include, but are
108 not limited to, administration of contracts and grants
109 associated with the implementation of the state's domestic
110 violence program. As part of its management of the delivery of
111 services for the state's domestic violence program, the a
112 statewide association whose primary purpose is to represent and

113 ~~provide technical assistance to certified domestic violence~~
114 ~~centers. This~~ Florida Coalition Against Domestic Violence
115 ~~association~~ shall implement, administer, and evaluate all
116 services provided by the certified domestic violence centers, ~~.~~
117 ~~The association shall~~ receive and approve or reject applications
118 for funding of certified domestic violence centers, and monitor
119 certified domestic violence centers to determine compliance with
120 minimum certification standards. When approving funding for a
121 newly certified domestic violence center, the Florida Coalition
122 Against Domestic Violence ~~association~~ shall make every effort to
123 minimize any adverse economic impact on existing certified
124 domestic violence centers or services provided within the same
125 service area. In order to minimize duplication of services, the
126 Florida Coalition Against Domestic Violence ~~association~~ shall
127 make every effort to encourage subcontracting relationships with
128 existing certified domestic violence centers within the same
129 service area. In distributing funds allocated by the Legislature
130 for certified domestic violence centers, the Florida Coalition
131 Against Domestic Violence ~~association~~ shall use a formula
132 approved by the department as specified in s. 39.905(7)(a).
133 (6) The department shall consider and award applications
134 from certified domestic violence centers for capital improvement
135 grants pursuant to s. 39.9055.
136 Section 2. Section 39.904, Florida Statutes, is amended to
137 read:
138 39.904 Report to the Legislature on the status of domestic
139 violence cases.—On or before January 1 of each year, the Florida
140 Coalition Against Domestic Violence ~~department~~ shall furnish to

141 the President of the Senate and the Speaker of the House of
142 Representatives a report subject to the approval of the
143 department, on the status of domestic violence in this state,
144 which ~~report~~ shall include, but is not limited to, the
145 following:
146 (1) The incidence of domestic violence in this state.
147 (2) An identification of the areas of the state where
148 domestic violence is of significant proportions, indicating the
149 number of cases of domestic violence officially reported, as
150 well as an assessment of the degree of unreported cases of
151 domestic violence.
152 (3) An identification and description of the types of
153 programs in the state that assist victims of domestic violence
154 or persons who commit domestic violence, including information
155 on funding for the programs.
156 (4) The number of persons who receive services from ~~are~~
157 ~~treated by or assisted by~~ local certified domestic violence
158 programs that receive funding through the Florida Coalition
159 Against Domestic Violence ~~department~~.
160 (5) The incidence of domestic violence homicides in the
161 state, including information and data collected from state and
162 local domestic violence fatality review teams. ~~A statement on~~
163 ~~the effectiveness of such programs in preventing future domestic~~
164 ~~violence.~~
165 ~~(6) An inventory and evaluation of existing prevention~~
166 ~~programs.~~
167 ~~(7) A listing of potential prevention efforts identified~~
168 ~~by the department; the estimated annual cost of providing such~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

169 ~~prevention services, both for a single client and for the~~
170 ~~anticipated target population as a whole; an identification of~~
171 ~~potential sources of funding; and the projected benefits of~~
172 ~~providing such services.~~
173 Section 3. Paragraphs (c), (g) and (i) of subsection (1),
174 subsection (3), paragraph (a) of subsection (6), and paragraph
175 (b) of subsection (7) of section 39.905, Florida Statutes, are
176 amended to read:
177 39.905 Domestic violence centers.—
178 (1) Domestic violence centers certified under this part
179 must:
180 (c) Provide minimum services that ~~which~~ include, but are
181 not limited to, information and referral services, counseling
182 and case management services, temporary emergency shelter for
183 more than 24 hours, a 24-hour hotline, training for law
184 enforcement personnel, assessment and appropriate referral of
185 resident children, and educational services for community
186 awareness relative to the incidence of domestic violence, the
187 prevention of such violence, and the services available ~~care,~~
188 ~~treatment, and rehabilitation~~ for persons engaged in or subject
189 to domestic violence. If a 24-hour hotline, professional
190 training, or community education is already provided by a
191 certified domestic violence center within its designated service
192 area ~~a district~~, the department may exempt such certification
193 requirements for a new center serving the same service area
194 ~~district~~ in order to avoid duplication of services.
195 (g) File with the Florida Coalition Against Domestic
196 Violence ~~department~~ a list of the names of the domestic violence

197 advocates who are employed or who volunteer at the domestic
198 violence center who may claim a privilege under s. 90.5036 to
199 refuse to disclose a confidential communication between a victim
200 of domestic violence and the advocate regarding the domestic
201 violence inflicted upon the victim. The list must include the
202 title of the position held by the advocate whose name is listed
203 and a description of the duties of that position. A domestic
204 violence center must file amendments to this list as necessary.
205 (i) If its center is a new center applying for
206 certification, demonstrate that the services provided address a
207 need identified in the most current statewide needs assessment
208 approved by the department. If the center applying for initial
209 certification proposes providing services in an area where a
210 certified domestic violence center exists, it must demonstrate
211 the unmet need by the existing center and describe any efforts
212 to reduce duplication of services.
213 (3) The annual certificate ~~shall~~ automatically expires on
214 June 30 of each year. The department may temporarily extend a
215 certification for not more than 60 days to allow a domestic
216 violence center to implement a corrective action plan ~~the~~
217 ~~termination date shown on the certificate~~.
218 (6) In order to receive state funds, a center must:
219 (a) Obtain certification pursuant to this part. However,
220 the issuance of a certificate does ~~will~~ not obligate the Florida
221 Coalition Against Domestic Violence ~~department~~ to provide
222 funding.
223 (7)(b) A contract between the Florida Coalition Against
224 Domestic Violence ~~statewide association~~ and a certified domestic

225 violence center shall contain provisions ensuring ~~assuring~~ the
226 availability and geographic accessibility of services throughout
227 the service area ~~district~~. For this purpose, a center may
228 distribute funds through subcontracts or to center satellites,
229 if ~~provided~~ such arrangements and any subcontracts are approved
230 by the Florida Coalition Against Domestic Violence ~~statewide~~
231 ~~association~~.
232 Section 4. Subsection (18) of section 381.006, Florida
233 Statutes, is amended to read:
234 381.006 Environmental health.—The department shall conduct
235 an environmental health program as part of fulfilling the
236 state's public health mission. The purpose of this program is to
237 detect and prevent disease caused by natural and manmade factors
238 in the environment. The environmental health program shall
239 include, but not be limited to:
240 (18) A food service inspection function for domestic
241 violence centers that are certified ~~and monitored~~ by the
242 Department of Children and Family Services under part XII of
243 chapter 39 and group care homes as described in subsection (16),
244 which shall be conducted annually and be limited to the
245 requirements in department rule applicable to community-based
246 residential facilities with five or fewer residents.
247
248 The department may adopt rules to carry out the provisions of
249 this section.
250 Section 5. Paragraph (b) of subsection (1) of section
251 381.0072, Florida Statutes, is amended to read:
252 381.0072 Food service protection.—It shall be the duty of

253 the Department of Health to adopt and enforce sanitation rules
254 consistent with law to ensure the protection of the public from
255 food-borne illness. These rules shall provide the standards and
256 requirements for the storage, preparation, serving, or display
257 of food in food service establishments as defined in this
258 section and which are not permitted or licensed under chapter
259 500 or chapter 509.
260 (1) DEFINITIONS.—As used in this section, the term:
261 (b) "Food service establishment" means detention
262 facilities, public or private schools, migrant labor camps,
263 assisted living facilities, adult family-care homes, adult day
264 care centers, short-term residential treatment centers,
265 residential treatment facilities, homes for special services,
266 transitional living facilities, crisis stabilization units,
267 hospices, prescribed pediatric extended care centers,
268 intermediate care facilities for persons with developmental
269 disabilities, boarding schools, civic or fraternal
270 organizations, bars and lounges, vending machines that dispense
271 potentially hazardous foods at facilities expressly named in
272 this paragraph, and facilities used as temporary food events or
273 mobile food units at any facility expressly named in this
274 paragraph, where food is prepared and intended for individual
275 portion service, including the site at which individual portions
276 are provided, regardless of whether consumption is on or off the
277 premises and regardless of whether there is a charge for the
278 food. The term does not include any entity not expressly named
279 in this paragraph; nor does the term include a domestic violence
280 center certified ~~and monitored~~ by the Department of Children and

281 Family Services under part XII of chapter 39 if the center does
282 not prepare and serve food to its residents and does not
283 advertise food or drink for public consumption.
284 Section 6. Section 741.281, Florida Statutes, is amended
285 to read:
286 741.281 Court to order batterers' intervention program
287 attendance.—If a person is found guilty of, has had adjudication
288 withheld on, or pleads ~~has pled~~ nolo contendere to a crime of
289 domestic violence, as defined in s. 741.28, that person shall be
290 ordered by the court to a minimum term of 1 year's probation and
291 the court shall order that the defendant attend a batterers'
292 intervention program as a condition of probation. The court must
293 impose the condition of the batterers' intervention program for
294 a defendant under this section, but the court, in its
295 discretion, may determine not to impose the condition if it
296 states on the record why a batterers' intervention program might
297 be inappropriate. The court must impose the condition of the
298 batterers' intervention program for a defendant placed on
299 probation unless the court determines that the person does not
300 qualify for the batterers' intervention program pursuant to s.
301 741.325. ~~Effective July 1, 2002, the batterers' intervention~~
302 ~~program must be a certified program under s. 741.32.~~ The
303 imposition of probation under this section does ~~shall~~ not
304 preclude the court from imposing any sentence of imprisonment
305 authorized by s. 775.082.
306 Section 7. Paragraph (g) of subsection (2) of section
307 741.2902, Florida Statutes, is amended to read:
308 741.2902 Domestic violence; legislative intent with

309 respect to judiciary's role.—
310 (2) It is the intent of the Legislature, with respect to
311 injunctions for protection against domestic violence, issued
312 pursuant to s. 741.30, that the court shall:
313 (g) Consider requiring the perpetrator to complete a
314 batterers' intervention program. It is preferred that such
315 program include guidelines described in s. 741.325 ~~be certified~~
316 ~~under s. 741.32~~.
317 Section 8. Paragraphs (a) and (e) of subsection (6) of
318 section 741.30, Florida Statutes, are amended to read:
319 741.30 Domestic violence; injunction; powers and duties of
320 court and clerk; petition; notice and hearing; temporary
321 injunction; issuance of injunction; statewide verification
322 system; enforcement.—
323 (6)(a) Upon notice and hearing, when it appears to the
324 court that the petitioner is either the victim of domestic
325 violence as defined by s. 741.28 or has reasonable cause to
326 believe he or she is in imminent danger of becoming a victim of
327 domestic violence, the court may grant such relief as the court
328 deems proper, including an injunction:
329 1. Restraining the respondent from committing any acts of
330 domestic violence.
331 2. Awarding to the petitioner the exclusive use and
332 possession of the dwelling that the parties share or excluding
333 the respondent from the residence of the petitioner.
334 3. On the same basis as provided in chapter 61, providing
335 the petitioner with 100 percent of the time-sharing in a
336 temporary parenting plan that shall remain in effect until the

337 order expires or an order is entered by a court of competent
338 jurisdiction in a pending or subsequent civil action or
339 proceeding affecting the placement of, access to, parental time
340 with, adoption of, or parental rights and responsibilities for
341 the minor child.
342 4. On the same basis as provided in chapter 61,
343 establishing temporary support for a minor child or children or
344 the petitioner. An order of temporary support remains in effect
345 until the order expires or an order is entered by a court of
346 competent jurisdiction in a pending or subsequent civil action
347 or proceeding affecting child support.
348 5. Ordering the respondent to participate in treatment,
349 intervention, or counseling services to be paid for by the
350 respondent. When the court orders the respondent to participate
351 in a batterers' intervention program, the court, or any entity
352 designated by the court, must provide the respondent with a list
353 of ~~all certified~~ batterers' intervention programs ~~and all~~
354 ~~programs which have submitted an application to the Department~~
355 ~~of Children and Family Services to become certified under s.~~
356 ~~741.32,~~ from which the respondent must choose a program in which
357 to participate. ~~If there are no certified batterers'~~
358 ~~intervention programs in the circuit, the court shall provide a~~
359 ~~list of acceptable programs from which the respondent must~~
360 ~~choose a program in which to participate.~~
361 6. Referring a petitioner to a certified domestic violence
362 center. The court must provide the petitioner with a list of
363 certified domestic violence centers in the circuit which the
364 petitioner may contact.

365 7. Ordering such other relief as the court deems necessary
366 for the protection of a victim of domestic violence, including
367 injunctions or directives to law enforcement agencies, as
368 provided in this section.
369 (e) An injunction for protection against domestic violence
370 entered pursuant to this section, on its face, may order that
371 the respondent attend a batterers' intervention program as a
372 condition of the injunction. Unless the court makes written
373 factual findings in its judgment or order which are based on
374 substantial evidence, stating why batterers' intervention
375 programs would be inappropriate, the court shall order the
376 respondent to attend a batterers' intervention program if:
377 1. It finds that the respondent willfully violated the ex
378 parte injunction;
379 2. The respondent, in this state or any other state, has
380 been convicted of, had adjudication withheld on, or pled nolo
381 contendere to a crime involving violence or a threat of
382 violence; or
383 3. The respondent, in this state or any other state, has
384 had at any time a prior injunction for protection entered
385 against the respondent after a hearing with notice.
386
387 ~~It is mandatory that such programs be certified under s. 741.32.~~
388 Section 9. Subsection (5) of section 741.316, Florida
389 Statutes, is amended to read:
390 741.316 Domestic violence fatality review teams;
391 definition; membership; duties.—
392 (5) The domestic violence fatality review teams are

393 assigned for administrative purposes, to the Florida Coalition
394 Against Domestic Violence.
395 Section 10. Section 741.32, Florida Statutes, is amended
396 to read:
397 741.32 ~~Certification of~~ Batterers' ~~batterers'~~ intervention
398 programs.—
399 (1) The Legislature finds that the incidence of domestic
400 violence in this state ~~Florida~~ is disturbingly high~~,~~ and that,
401 despite the efforts of many to curb this violence, ~~that~~ one
402 person dies at the hands of a spouse, ex-spouse, or cohabitant
403 approximately every 2 ~~3~~ days. Further, a child who witnesses the
404 perpetration of this violence becomes a victim as he or she
405 hears or sees it occurring. This child is at high risk of also
406 being the victim of physical abuse by the parent who is
407 perpetrating the violence and, to a lesser extent, by the parent
408 who is the victim. These children are also at a high risk of
409 perpetrating violent crimes as juveniles and, later, becoming
410 perpetrators of the same violence that they witnessed as
411 children. The Legislature finds that there should be
412 standardized programming available to the justice system to
413 protect victims and their children and to hold the perpetrators
414 of domestic violence accountable for their acts. Finally, the
415 Legislature recognizes that in order for batterers' intervention
416 programs to be successful in protecting victims and their
417 children, all participants in the justice system as well as
418 social service agencies and local and state governments must
419 coordinate their efforts at the community level.
420 (2) ~~There is hereby established in the Department of~~

421 ~~Children and Family Services an Office for Certification and~~
422 ~~Monitoring of Batterers' Intervention Programs. The department~~
423 ~~may certify and monitor both programs and personnel providing~~
424 ~~direct services to those persons who are adjudged to have~~
425 ~~committed an act of domestic violence as defined in s. 741.28,~~
426 ~~those against whom an injunction for protection against domestic~~
427 ~~violence is entered, those referred by the department, and those~~
428 ~~who volunteer to attend such programs. The purpose of~~
429 ~~certification of programs is to uniformly and systematically~~
430 ~~standardize programs to hold those who perpetrate acts of~~
431 ~~domestic violence responsible for those acts and to ensure~~
432 ~~safety for victims of domestic violence. The certification and~~
433 ~~monitoring shall be funded by user fees as provided in s.~~
434 ~~741.327.~~
435 Section 11. Section 741.325, Florida Statutes, is amended
436 to read:
437 741.325 Guidelines for batterers' intervention programs
438 ~~Guideline authority~~.-
439 (1) A batterers' intervention program shall meet the
440 following guidelines ~~The Department of Children and Family~~
441 ~~Services shall promulgate guidelines to govern purpose,~~
442 ~~policies, standards of care, appropriate intervention~~
443 ~~approaches, inappropriate intervention approaches during the~~
444 ~~batterers' program intervention phase (to include couples~~
445 ~~counseling and mediation), conflicts of interest, assessment,~~
446 ~~program content and specifics, qualifications of providers, and~~
447 ~~credentials for facilitators, supervisors, and trainees. The~~
448 ~~department shall, in addition, establish specific procedures~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

449 ~~governing all aspects of program operation, including~~
450 ~~administration, personnel, fiscal matters, victim and batterer~~
451 ~~records, education, evaluation, referral to treatment and other~~
452 ~~matters as needed. In addition, the rules shall establish~~:
453 (a)~~(1) That~~ The primary purpose of the program ~~programs~~
454 shall be victim safety and the safety of the children, if
455 present.
456 (b)~~(2) That~~ The batterer shall be held accountable for
457 acts of domestic violence.
458 (c)~~(3) That~~ The program ~~programs~~ shall be at least 29
459 weeks in length and shall include 24 weekly sessions, plus
460 appropriate intake, assessment, and orientation programming.
461 (d)~~(4) That~~ The program shall be a psychoeducational model
462 that employs a program content based on tactics of power and
463 control by one person over another.
464 ~~(5) That the programs and those who are facilitators,~~
465 ~~supervisors, and trainees be certified to provide these programs~~
466 ~~through initial certification and that the programs and~~
467 ~~personnel be annually monitored to ensure that they are meeting~~
468 ~~specified standards.~~
469 (e)~~(6) The intent that~~ The program shall ~~programs~~ be user-
470 fee funded with fees from the batterers who attend the program
471 as payment, which ~~for programs~~ is important to the batterer
472 taking responsibility for the act of violence~~, and from those~~
473 ~~seeking certification~~. Exception shall be made for those local,
474 state, or federal programs that fund batterers' intervention
475 programs in whole or in part.
476 ~~(7) Standards for rejection and suspension for failure to~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

477 ~~meet certification standards.~~

478 (2) ~~(8)~~ The guidelines of this section ~~That these standards~~

479 ~~shall~~ apply only to programs that address the perpetration of

480 violence between intimate partners, spouses, ex-spouses, or

481 those who share a child in common or who are cohabitants in

482 intimate relationships for the purpose of exercising power and

483 control by one over the other. It will endanger victims if

484 courts and other referral agencies refer family and household

485 members who are not perpetrators of the type of domestic

486 violence encompassed by these guidelines ~~standards~~. Accordingly,

487 the court and others who make referrals should refer

488 perpetrators only to programming that appropriately addresses

489 the violence committed.

490 Section 12. Section 741.327, Florida Statutes, is

491 repealed.

492 Section 13. Section 948.038, Florida Statutes, is amended

493 to read:

494 948.038 Batterers' intervention program as a condition of

495 probation, community control, or other court-ordered community

496 supervision.—As a condition of probation, community control, or

497 any other court-ordered community supervision, the court shall

498 order a person convicted of an offense of domestic violence, as

499 defined in s. 741.28, to attend and successfully complete a

500 batterers' intervention program unless the court determines that

501 the person does not qualify for the batterers' intervention

502 program pursuant to s. 741.325. The ~~batterers' intervention~~

503 ~~program must be a program certified under s. 741.32, and the~~

504 offender must pay the cost of attending the program.

505 Section 14. Paragraph (a) of subsection (1) of section
506 938.01, Florida Statutes, is amended to read:
507 938.01 Additional Court Cost Clearing Trust Fund.—
508 (1) All courts created by Art. V of the State Constitution
509 shall, in addition to any fine or other penalty, require every
510 person convicted for violation of a state penal or criminal
511 statute or convicted for violation of a municipal or county
512 ordinance to pay $3 as a court cost. Any person whose
513 adjudication is withheld pursuant to the provisions of s.
514 318.14(9) or (10) shall also be liable for payment of such cost.
515 In addition, $3 from every bond estreature or forfeited bail
516 bond related to such penal statutes or penal ordinances shall be
517 remitted to the Department of Revenue as described in this
518 subsection. However, no such assessment may be made against any
519 person convicted for violation of any state statute, municipal
520 ordinance, or county ordinance relating to the parking of
521 vehicles.
522 (a) All costs collected by the courts pursuant to this
523 subsection shall be remitted to the Department of Revenue in
524 accordance with administrative rules adopted by the executive
525 director of the Department of Revenue for deposit in the
526 Additional Court Cost Clearing Trust Fund. These funds and the
527 funds deposited in the Additional Court Cost Clearing Trust Fund
528 pursuant to s. 318.21(2)(c) shall be distributed as follows:
529 1. Ninety-two percent to the Department of Law Enforcement
530 Criminal Justice Standards and Training Trust Fund.
531 2. Six and three-tenths percent to the Department of Law
532 Enforcement Operating Trust Fund for the Criminal Justice Grant

533 Program.

534 3. One and seven-tenths percent to the Department of

535 Children and Family Services Domestic Violence Trust Fund for

536 the domestic violence program pursuant to s. 39.903(2) ~~(3)~~.

537 Section 15. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHSC 12-02 State Employee Group Insurance Program
SPONSOR(S): Health & Human Services Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee		Shaw	Gormley

SUMMARY ANALYSIS

The State Group Insurance Program (program) is an optional benefit for employees that includes health, life, dental, vision, disability, and other supplemental insurance benefits. The current program is a defined benefit program in which the state selects the health benefits, sets the premium level for employees, and pays the difference between the premium paid by the employee and the cost of the health plan.

The bill converts the program from defined benefit to defined contribution as of 2014. With a defined contribution plan, the employer contributes a defined amount toward benefits on behalf of the employee and the employee is given a variety of options to purchase. Instead of the employer choosing the benefit package, the employee is given discretion to choose benefits that best suits the employee's individual needs.

The bill sets a minimum amount for the defined contribution. That minimum is based on the current level of the employer contribution and the actuarial value of the current plan. The state's currently pays approximately 90% of the cost of an individual health plan and 85% of the cost of a family health plan. The bill authorizes an enhanced contribution for non-tobacco users. If the employee selects a health plan that costs more than the state's contribution, the employee will have to pay the balance. However, if the employee selects a health plan that costs less than the state's contribution, the employee may use the balance to fund a Flexible Spending Arrangement, to fund a Health Savings Account, or to increase the employee's salary.

The bill also directs DMS to competitively procure an independent benefits consultant (IBC). The IBC will assist DMS with aspects of the administrative management of the state group insurance program. DMS will manage the contract with the IBC and be responsible enrollment activities and the financial management of the program.

The IBC will develop a plan to convert the state program to a defined contribution program. The plan shall include recommendations for timelines, contribution polices, incentives for health lifestyle choices, and program design and structure.

During the 2013 session, the Legislature will review the plan submitted by the IBC. The Legislature may approve or modify the plan. If the plan is approved, the independent benefits consultant will assist DMS to implement the transition in 2014.

The state may experience both costs and savings. See fiscal comments.

The bill has an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State Group Insurance Program

Overview

The State Group Insurance Program (program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS).

The program is an optional benefit for all state employees including all state agencies, state universities, the court system, and the Legislature. The program includes health, life, dental, vision, disability, and other supplemental insurance benefits.

The health insurance benefit for active employees has premium rates for single, spouse, or family coverage regardless of plan selection. The state contributes approximately 90% toward the total annual premium for active employees for a total of $1.40 billion out of total premium of $1.57 billion for FY 2011-12[1]. Approximately 67% of the state's total annual contribution is general revenue. The general revenue contribution was $971.5 million in FY 2010-11. The remaining $478.5 million was from state trust funds.

The program provides several options for employees to choose as their health plans. The preferred provider organization (PPO) plan is the statewide, self-insured health plan administered by Blue Cross Blue Shield of Florida. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions. The standard health maintenance organization (HMO) plan is an insurance arrangement in which the state has contracted with multiple statewide and regional HMOs.

Prior to the 2011 plan year, the participating HMOs were fully insured; in other words, the HMOs assumed all financial risk for the covered benefits. During the 2010 session, the Legislature enacted s. 110.12302, F.S., which directed the Department of Management Services to require costing options for both fully insured and self-insured plan designs as part of the department's solicitation for health maintenance organization contracts for the 2012 plan year and beyond. The department included these costing options in its Invitation to Negotiate[2] to HMOs for contracts for plans years beginning January 1, 2012. The department entered into contracts for the 2012 and 2013 plan years with two HMOs with a fully insured plan design and four with a self-insured plan design.

High Deductable Health Plans (HDHP) with Health Savings Accounts (HAS)

Additionally, the program offers two high-deductable health plans (HDHP) with health savings accounts[3]. To qualify as a high-deductable plan, the annual deductible must be at least $1,200 for single plans and $2,400 for family coverage. The Health Investor PPO Plan is the statewide, high deductable health plan with an integrated health saving account. It is also administered by Blue Cross Blue Shield of Florida. The Health Investor HMO Plan is a high deductable health plan with an integrated health saving account in which the state has contracted with multiple state and regional HMOs. The state makes a $500 per year contribution to the health savings account for single coverage and a $1,000 per year contribution for family coverage. The employee may make additional annual contributions[4] to a limit of $5,950 for single coverage and $11,900 for family coverage. Both the employer and employee contributions are not subject to federal income tax on the employee's income.

[1] Fiscal information provided by DSGI.
[2] ITN NO.: DMS 10/11-011
[3] Sec. 223 I.R.C.
[4] The IRS annually sets the contribution limit as adjusted by inflation.

Unused funds roll over automatically every year. A health savings account is owned by the employee and is portable.

Flexible Spending Accounts

Currently, the state program offers flexible spending accounts (FSA)[5] as an optional benefit for employees. The FSA is funded though pre-tax payroll deductions from the employee's salary[6]. The funds can be used to pay for medical expenses that are not covered by the employees' health plan. Presently, there is no limit on the contribution to a FSA; however, beginning in 2013 the contribution will be limited to $2,500 and subsequently adjusted for inflation. Unlike a HSA, a FSA is a "use it or lose it" arrangement. If the employee does not annually use the contributions to the FSA, the contributions are forfeited.

Cafeteria Plans

A cafeteria plan is a plan that offers flexible benefits under the Internal Revenue Code Section 125. Employees choose from a "menu" of benefits. The plan can provide a number of selections, including medical, accident, disability, vision, dental and group term life insurance. It can reimburse actual medical expenses or pay children's day care expenses.

A cafeteria plan reduces both the employer's and employee's tax burden. Contributions by the employer are not subject to the employer social security contribution. Contributions made by the employee are not subject to federal income or social security taxes.

The employer chooses the range of benefits it wishes to offer in a cafeteria plan. The plan can be a simple premium only plan where the only health insurance is offered. Full flex plans, which offer a wide variety of benefits and choices, are more often offered by large employers and allow for more consumer directed consumption of benefits. In some full flex plans, the employee is offered the choice between receiving additional compensation in lieu of benefits.

The state program qualifies as a cafeteria plan.[7]

Employer and Employee Contributions

The state program is considered employer-sponsored since the state contracts with providers and contributes a substantial amount on behalf of the employee toward the cost of the insurance premium. The state's employer contribution is part of a state employee's overall compensation. The state program is a defined-benefit program. The employee pays a set monthly premium for either a single or family plan. The state pays the reminder of the cost of the premium. In a defined-contribution program, the employer pays a set amount toward the monthly premium and the employee pays the reminder.

---

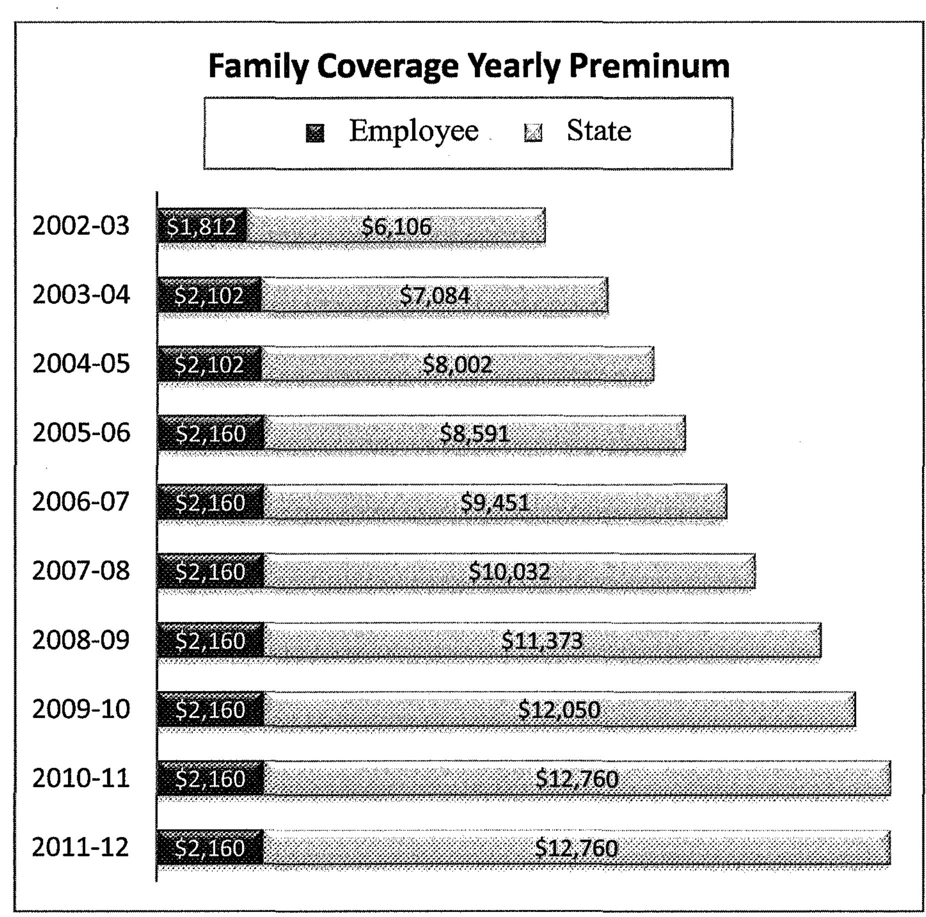
[5] Sec. 125 I.R.C.; see IRS Publication 969 (2011).
[6] Employers are also allowed to contribute to FSAs.
[7] Sec. 125 I.R.C. requires that a cafeteria plan allow its members to choose between two or more benefits "consisting of cash and qualified benefits." The proposed regulations define "cash" to include a "salary reduction arrangement" whereby salary is deducted pre-tax to pay the employee's share of the insurance premium. Since the state program allows a "salary reduction arrangement", the program qualifies as a cafeteria plan. 26 C.F.R. ss. 1.125-1, et seq.

The following chart shows the monthly contributions[8] for the state and the employee to employee health insurance premiums.

		Standard Plan PPO/HMO			Health Investor Health Plan PPO/HMO		
Category	Coverage	Employer	Enrollee	Total	Employer*	Enrollee	Total
Career Service	Single	499.80	50.00	549.80	499.80	15.00	514.80
	Family	1,063.34	180.00	1,243.34	1,063.34	64.30	1,127.64
	Spouse	1,243.32	30.00	1,273.32	1,097.64	30.00	1,127.64
SES/SMS/EOG/ LEG/Lottery	Single	541.46	8.34	549.80	506.46	8.34	514.80
	Family	1,213.34	30.00	1,243.34	1,097.64	30.00	1,127.64

*Includes employer tax-free HSA contribution - $500 per year for single coverage and $1,000 per year for family coverage.

The state program is estimated to spend $1.9 billion in FY 2011-12 in health benefit costs.[9] Spending is projected to increase on average 9.2% per year through FY 2015-16.[10] The state has absorbed most of the cost of the increase and employee contributions have remained relatively flat as illustrated by the following chart.[11]



[8] State Employees' Group Health Self-Insurance Trust Fund, Report on the Financial Outlook, January 4, 2012.
[9] Id.
[10] Id.
[11] Fiscal information provided by DSGI.

Employer-sponsored Insurance Trends

DGIS contracted with Mercer Consulting to prepare the Benchmarking Report[12] (report) for the state group insurance program. The report compares Florida's state group insurance program to the programs of other large employers[13], both in the public and in the private sectors. Specific findings in the report include:

- From 2005 through 2009, cost increases for health benefits per employee averaged 6%.
- In 2010, the average cost increase for health benefits per employee for all employers was 7%, but costs for large employers increased 8.5% with the average premium cost exceeding $10,000 per employee for the first time.
- To hold down costs, employers are continuing to shift costs to employees through higher deductibles, co-insurance, and other cost-sharing provisions.

The report also found that State of Florida contributes a higher percentage of the premium to employee health benefits than other states and private employers. For example, Florida pays 84% of the monthly premium for a family PPO plan, but the average for large national employers is 69%. This results in Florida state employees paying less in monthly premiums than other states' employees and private employees. For example, the monthly premium for a family PPO plan for a Florida state employee is $180 and the average premium for large national employers is $361.

Plan Options

The FY 11-12 General Appropriations Act directed DMS to develop a report of plan alternatives and options for the state program. DMS contracted with Buck Consultants who released its report[14] on September 29, 2011. The report concludes:

> The state's current approach to its health plan is best described as paternalistic, whereby the state serves as the architect/custodian of the plan, providing generous benefits and allowing employees to be passive and perhaps even entitled, with little concern about costs. Historically prevalent among large and governmental employers, this approach is rapidly being replaced by initiatives that focus on increasing and improving consumerism behaviors. In the consumerism approach the employer and employees maintain shared accountability, with the employer providing a supportive environment, partnering with employees and enabling them to make informed decisions, considering costs and outcomes of the health care services they seek and receive.

Employer Sponsored Insurance Exchanges

A health insurance exchange is intended to create organized and competitive market for health insurance by offering a choice of plans, establishing common rules regarding the offering and pricing of insurance, and providing information to help consumers better understand the options available to

---

[12] Mercer Consulting, State of Florida Benchmarking Report (March 24, 2011), available at: http://www.dms.myflorida.com/index.php/content/download/81470/468862/version/1/file/2010+Benchmarking+Report+for+State+of+Florida.pdf

[13] For the purpose of the report, "large employers" had 500 or more employees.

[14] Buck Consultants, Strategic Health Plan Options for the State of Florida (September 29, 2011), available at: http://www.dms.myflorida.com/index.php/content/download/81468/468856/version/1/file/Strategic+Health+Plan+Options+for+the+State+of+Florida+9-30-11+-+Final.pdf

them.[15] An insurance exchange can be either public or private. Currently, there is a growing market in private employer-sponsored exchanges.[16]

A private exchange can be structured to have a variety of insurance products offered by one company or it can be structured to offer a variety of products from multiple insurance companies. The employer provides a defined contribution to the employee to use to purchase insurance through the private exchange. The private exchange allows the employee to have multiple and diverse health insurance options to choose from. Additionally, using a private exchange allows the employer to transfer much of the administration of the health benefit program to a third party.

Effect of the bill:

Defined Contribution

The bill converts the state employee group insurance program from a defined benefit to a defined contribution program. Beginning with the 2014 plan year, subject to appropriations, the state shall make a defined contribution for each employee[17] that is actuarially equivalent to no less than 90 percent of the benefits covered in the 2012 plan year for an individual plan 85 percent for a family plan. Since the state currently pays 90 percent of the employee's premium for an individual plan and 85 percent for a family plan, the defined contribution in 2014 would be approximately the same contribution as current year. For example, the state now pays $12,760 per year for a family plan for a Career Service employee. Accordingly, the states defined contribution for the 2014 plan year would be $12,760[18] for this employee.

The bill also directs that the program have more health plan options[19] either by being a full flex cafeteria plan or by adding an employee-sponsored multi-carrier exchange. Under the state's current program, the employee only has a choice between a standard plan or a high deductible plan. The monthly premium for a Career Service employee with a family plan is either $180 or $64.30 per month respectively. In 2014, the employee will have sustainably more choices of health plans at differing price points to choose from.

When the state moves to the defined compensation plan, employees will have the following options:

- Use the entire employer contribution to pay for health insurance and pay any additional premium if the cost of the plan exceeds the employer contribution.
- Use part of the employer contribution to pay for health insurance and have the balance credited to a Flexible Spending Arrangement.
- Use part of the employer contribution to pay for health insurance and have the balance credited to a Health Savings Account.
- Use part of the employer contribution to pay for health insurance and have the balance used to increase the employees pay[20].

[15] The Kaiser Foundation, What Are Health Insurance Exchanges? (May 2009); available at www.kff.org/healthreform/upload/7908.pdf

[16] American Medical News, Private Insurers Forming Their Own Exchanges (January 4, 2012); available at: http://www.ama-assn.org/amednews/2012/01/02/bisf0104.htm

[17] The state pays differing amounts for employees depending upon their service class (Career Service/SES/Senior Management, etc.) Also the state pays differing amounts for employee only and family plans. Under the bill, the state may continue to pay differing amounts based on these same criteria.

[18] This assumes no changes in the actuarial value of health benefits.

[19] See the discussion of the Independent Benefits Consultant below.

[20] The employee must use part of the employer contribution to purchase health insurance. The employee may not receive pay in lieu of benefits.

The following chart illustrates a hypothetical[21] example for a Career Service employee with a family plan:

Family Coverage	Same Coverage as 2012	80% AV Coverage	70% AV Coverage	60% AV Coverage
State Defined Contribution	$12,760	$12,760	$12,760	$12,760
Plan Cost	$14,920	$11,936	$10,444	$8,953
Employee Contribution	$2,160	$0	$0	$0
Employee Receives	$0	$824	$2,316	$3,807

The bill allows for non-tobacco users to receive an enhanced contribution.

Independent Benefits Consultant

The bill also directs DMS to competitively procure an independent benefits consultant (IBC). DMS may initiate the procurement upon the bill becoming a law. The IBC must not be or have a financial relationship in any HMO or insurer. Additionally, the IBC must have substantial experience in designing and administering benefit plans for large employers and public employers.

The ongoing duties of the IBC include:

- Providing assessments of trends in benefits and employer sponsored insurance that affect the state group insurance program.
- Conducting comprehensive analysis of the state group insurance program including available benefits, coverage options, and claims experience.
- Evaluating designs for the state group insurance program including a full flex cafeteria plan, an employer-sponsored multi-carrier exchange plan, and alternatives to and variations of these designs.
- Identifying and establishing appropriate adjustment procedures necessary to respond to any risk segmentation that may occur when increased choices are offered to employees.
- Submitting recommendations for any modifications to the state group insurance program no later than January 1 of each year.

The IBC will develop a plan to convert the state group insurance program to a defined contribution plan. The plan will be submitted to the Legislature for consideration by January 1, 2013. The plan must include an implementation timeline for conversion of the state group insurance program from a defined benefit to a defined contribution program as of the 2014 plan year. The plan must also include recommendations for employer and employee contribution policies including provisions that reward and incentivize nonsmoking and other healthy lifestyle choices. In order to avoid reducing overall compensation to the employees, the report must recommend steps for maintaining or improving total employee compensation levels when a transition to a defined contribution plan is initiated. The IBC must recommend a new plan design of either an employment-based benefits exchange or a full flex cafeteria plan which provides a variety of plan and benefit options. The Legislature may approve or modify the plan submitted by the IBC. Upon approval by the Legislature, the IBC will begin working with DMS to implement the transition plan.

In the 2013 plan year, the independent benefits consultant will begin assisting DMS with administrative oversight of the state group insurance program. The IBC with assist with the negotiation and supervision of contracts and the monitoring of the funding and reserves of the state self-insured plan. The IBC will develop and help to implement wellness initiatives. Enrollee education and decision support tools, including an online interface, to assist enrollees in choosing benefit plans will be

[21] All examples must be hypothetical since the 2014 benefit structure and plan actuarial values cannot be known at this time.

developed and operated in cooperation with DMS. The IBC will assist DMS in complying with federal and state regulations.

The department will utilize the IBC as a single, consistent source of advice and assistance for management of the state group insurance program. DMS will manage the contract with the independent benefits consultant. Additionally, the department will maintain exclusive responsibility for the following functions: financial management of the program including financial and budget oversight of program operations; management of vendor payments and premium administration; analyzing and forecasting program revenues and expenditures; monitoring of financial compliance of contractors; and auditing. The department will retain responsibility for employee enrollment and premium collection and administration.

Section 110.123, F.S.—State Group Insurance Program

The bill amends s. 110.123, F.S., to make conforming changes to the program related to transitioning aspects of the management of the program from DMS to the independent benefits consultant. The bill also revises the section to improve clarity and repeal obsolete language. Specific changes are described below.

Subsection (2) – Definitions:
- "Plan year" is added to reflect that a plan year is a calendar year.
- "State group health insurance plan", "State contracted HMO", and "State group insurance program" are repealed since the definitions are circular and redundant.
- "TRICARE supplemental insurance plan" is repealed since the program does not offer these supplemental plans.

Subsection (3) – State Group Insurance Program:
- The language creating the Division of State Group Insurance is removed since the division is also created by s. 20.22(2)(h), F.S.
- Obsolete legislative intent language is repealed.
- Redundant duties of the department are repealed and current duties are clarified.
- Obsolete duties for the department are repealed such as contracting with a specialty psychiatric hospital for mental health services.

Subsection (4) – Payment of Premiums; Contribution by States:
- Directs the state to make a defined contribution to employees beginning in 2014.

Subsection (5) – Department Powers and Duties:
- Obsolete duties for the department are repealed and current duties are clarified.

Subsection (13) – Florida State Employee Wellness Council
- The council is repealed since it is inactive.

B. SECTION DIRECTORY:

Section 1: Amends s. 110.123, F.S., relating to the state group insurance program.
Section 2: Creates s. 110.12303, F.S., relating to independent benefits consultant.
Section 3: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may provide additional opportunities for private companies to contract to provide services to the state or to state employees.

D. FISCAL COMMENTS:

The bill has indeterminate fiscal impact as a result of the contract with the independent benefits consultant. DMS will have costs associated with contracting with the independent benefits consultant, but may experience overall saving by contracting with a single consultant for multiple tasks.

Beginning in FY 13-14, employees will be given a choice of benefit packages. Consequently, the state may experience an overall savings. The state may experience savings due to the changes in plan design to the state group insurance program if the changes result in lower overall program costs or a lower rate of cost increase for the program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The Department of Management Services has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the state group insurance program;
3 amending s. 110.123, F.S.; providing application of
4 definitions; revising definitions; deleting legislative
5 intent; revising duties of the Department of Management
6 Services relating to the group insurance program;
7 providing the state contribution toward cost of health
8 insurance plans in the state group insurance program for
9 specified plan years; revising authorized benefits;
10 requiring certain data to be reported to the department by
11 health maintenance organizations under specified
12 circumstances; repealing the Florida State Employee
13 Wellness Council; creating s. 110.12303, F.S.; directing
14 the department to contract with an independent benefits
15 consultant; providing vendor qualifications for the
16 independent benefits consultant; providing duties of the
17 independent benefits consultant; providing contract
18 management duties for the department; providing duties of
19 the department relating to the state group insurance
20 program; providing an effective date.
21
22 Be It Enacted by the Legislature of the State of Florida:
23
24 Section 1. Subsections (1), (2), and (3), (4), (5) and
25 (13) of section 110.123, Florida Statutes, are amended to read:
26 110.123 State group insurance program.—
27 (1) TITLE.—Sections 110.123-110.1239 ~~This section~~ may be
28 cited as the "State Group Insurance Program Law."

29 (2) DEFINITIONS.—As used in ss. 110.123-110.1239 ~~this~~
30 ~~section~~, the term:
31 (a) "Department" means the Department of Management
32 Services.
33 (b) "Enrollee" means all state officers and employees,
34 retired state officers and employees, surviving spouses of
35 deceased state officers and employees, and terminated employees
36 or individuals with continuation coverage who are enrolled in an
37 insurance plan offered by the state group insurance program.
38 "Enrollee" includes all state university officers and employees,
39 retired state university officers and employees, surviving
40 spouses of deceased state university officers and employees, and
41 terminated state university employees or individuals with
42 continuation coverage who are enrolled in an insurance plan
43 offered by the state group insurance program.
44 (c) "Full-time state employees" includes all full-time
45 employees of all branches or agencies of state government
46 holding salaried positions and paid by state warrant or from
47 agency funds, and employees paid from regular salary
48 appropriations for 8 months' employment, including university
49 personnel on academic contracts, but in no case shall "state
50 employee" or "salaried position" include persons paid from
51 other-personal-services (OPS) funds. "Full-time employees"
52 includes all full-time employees of the state universities.
53 (d) "Health maintenance organization" or "HMO" means an
54 entity certified under part I of chapter 641.
55 (e) "Health plan member" means any person participating in
56 a state group health insurance plan~~, a TRICARE supplemental~~

57 ~~insurance plan,~~ or a health maintenance organization plan under
58 the state group insurance program, including enrollees and
59 covered dependents thereof.
60 (f) "Part-time state employee" means any employee of any
61 branch or agency of state government paid by state warrant from
62 salary appropriations or from agency funds, and who is employed
63 for less than the normal full-time workweek established by the
64 department or, if on academic contract or seasonal or other type
65 of employment which is less than year-round, is employed for
66 less than 8 months during any 12-month period, but in no case
67 shall "part-time" employee include a person paid from other-
68 personal-services (OPS) funds. "Part-time state employee"
69 includes any part-time employee of the state universities.
70 <u>(g) "Plan year" means a calendar year.</u>
71 <u>(h)</u>~~(g)~~ "Retired state officer or employee" or "retiree"
72 means any state or state university officer or employee who
73 retires under a state retirement system or a state optional
74 annuity or retirement program or is placed on disability
75 retirement, and who was insured under the state group insurance
76 program at the time of retirement, and who begins receiving
77 retirement benefits immediately after retirement from state or
78 state university office or employment. In addition to these
79 requirements, any state officer or state employee who retires
80 under the Public Employee Optional Retirement Program
81 established under part II of chapter 121 shall be considered a
82 "retired state officer or employee" or "retiree" as used in this
83 section if he or she:
84 1. Meets the age and service requirements to qualify for

85 normal retirement as set forth in s. 121.021(29); or
86 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
87 the Internal Revenue Code and has 6 years of creditable service.
88 (i) ~~(h)~~ "State agency" or "agency" means any branch,
89 department, or agency of state government. "State agency" or
90 "agency" includes any state university for purposes of this
91 section only.
92 ~~(i) "State group health insurance plan or plans" or "state~~
93 ~~plan or plans" mean the state self-insured health insurance plan~~
94 ~~or plans offered to state officers and employees, retired state~~
95 ~~officers and employees, and surviving spouses of deceased state~~
96 ~~officers and employees pursuant to this section.~~
97 ~~(j) "State-contracted HMO" means any health maintenance~~
98 ~~organization under contract with the department to participate~~
99 ~~in the state group insurance program.~~
100 ~~(k) "State group insurance program" or "programs" means~~
101 ~~the package of insurance plans offered to state officers and~~
102 ~~employees, retired state officers and employees, and surviving~~
103 ~~spouses of deceased state officers and employees pursuant to~~
104 ~~this section, including the state group health insurance plan or~~
105 ~~plans, health maintenance organization plans, TRICARE~~
106 ~~supplemental insurance plans, and other plans required or~~
107 ~~authorized by law.~~
108 (j) ~~(l)~~ "State officer" means any constitutional state
109 officer, any elected state officer paid by state warrant, or any
110 appointed state officer who is commissioned by the Governor and
111 who is paid by state warrant.
112 (k) ~~(m)~~ "Surviving spouse" means the widow or widower of a

113 deceased state officer, full-time state employee, part-time
114 state employee, or retiree if such widow or widower was covered
115 as a dependent under the state group health insurance plan~~, a~~
116 ~~TRICARE supplemental insurance plan,~~ or a health maintenance
117 organization plan established pursuant to this section at the
118 time of the death of the deceased officer, employee, or retiree.
119 "Surviving spouse" also means any widow or widower who is
120 receiving or eligible to receive a monthly state warrant from a
121 state retirement system as the beneficiary of a state officer,
122 full-time state employee, or retiree who died prior to July 1,
123 1979. For the purposes of this section, any such widow or
124 widower shall cease to be a surviving spouse upon his or her
125 remarriage.

126 ~~(n) "TRICARE supplemental insurance plan" means the~~
127 ~~Department of Defense Health Insurance Program for eligible~~
128 ~~members of the uniformed services authorized by 10 U.S.C. s.~~
129 ~~1097.~~

130 (3) STATE GROUP INSURANCE PROGRAM.—

131 ~~(a) The Division of State Group Insurance is created~~
132 ~~within the Department of Management Services.~~

133 ~~(b) It is the intent of the Legislature to offer a~~
134 ~~comprehensive package of health insurance and retirement~~
135 ~~benefits and a personnel system for state employees which are~~
136 ~~provided in a cost-efficient and prudent manner, and to allow~~
137 ~~state employees the option to choose benefit plans which best~~
138 ~~suit their individual needs. Therefore,~~

139 (a) The state group insurance program ~~is established which~~
140 may include the state group self-insured health insurance plan

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

141 ~~or plans~~, health maintenance organization plans, group life
142 insurance plans, ~~TRICARE supplemental insurance plans,~~ group
143 accidental death and dismemberment plans, ~~and~~ group disability
144 insurance plans, ~~. Furthermore, the department is additionally~~
145 ~~authorized to establish and provide as part of the state group~~
146 ~~insurance program any~~ other group insurance plans or coverage
147 choices, and other benefits authorized by law. ~~that are~~
148 ~~consistent with the provisions of this section~~.
149 (b)~~(c)~~ ~~Notwithstanding any provision in this section to~~
150 ~~the contrary, it is the intent of the Legislature that~~ The
151 department shall be responsible for specific duties related to
152 the state group insurance program, including the competitive
153 procurement of such contracts as may be necessary to implement
154 the state group insurance program ~~all aspects of the purchase of~~
155 ~~health care for state employees under the state group health~~
156 ~~insurance plan or plans, TRICARE supplemental insurance plans,~~
157 ~~and the health maintenance organization plans~~. ~~Responsibilities~~
158 ~~shall include, but not be limited to, the development of~~
159 ~~requests for proposals or invitations to negotiate for state~~
160 ~~employee health services, the determination of health care~~
161 ~~benefits to be provided, and the negotiation of contracts for~~
162 ~~health care and health care administrative services. Prior to~~
163 ~~the negotiation of contracts for health care services, the~~
164 ~~Legislature intends that the department shall develop, with~~
165 ~~respect to state collective bargaining issues, the health~~
166 ~~benefits and terms to be included in the state group health~~
167 ~~insurance program. The department shall adopt rules necessary to~~
168 ~~perform its responsibilities pursuant to this section. It is the~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

169 ~~intent of the Legislature that~~ The department shall be
170 responsible for ~~the~~ contract management including the contract
171 with the independent benefits consultant described in s.
172 110.12303. ~~and day-to-day management of the state employee~~
173 ~~health insurance program, including, but not limited to~~, The
174 department shall be responsible for employee enrollment and
175 enrollee support services, premium collection and
176 administration, ~~payment to health care providers,~~ and other
177 administrative functions ~~related to the program~~. The department
178 shall provide financial management of the program, including
179 financial and budget oversight of program operations, management
180 of vendor payments, analyzing and forecasting of program
181 revenues and expenditures, monitoring of financial compliance of
182 contractors, and auditing.
183 ~~(d)1. Notwithstanding the provisions of chapter 287 and~~
184 ~~the authority of the department, for the purpose of protecting~~
185 ~~the health of, and providing medical services to, state~~
186 ~~employees participating in the state group insurance program,~~
187 ~~the department may contract to retain the services of~~
188 ~~professional administrators for the state group insurance~~
189 ~~program. The agency shall follow good purchasing practices of~~
190 ~~state procurement to the extent practicable under the~~
191 ~~circumstances.~~
192 (c)1.~~2.~~ Each vendor in a major procurement, and any other
193 vendor if the department deems it necessary to protect the
194 state's financial interests, shall, at the time of executing any
195 contract with the department, post an appropriate bond with the
196 department in an amount determined by the department to be

197 adequate to protect the state's interests but not higher than
198 the full amount estimated to be paid annually to the vendor
199 under the contract.
200 2.~~3.~~ Each major contract entered into by the department
201 pursuant to this section shall contain a provision for payment
202 of liquidated damages to the department for material
203 noncompliance by a vendor with a contract provision. The
204 department may require a liquidated damages provision in any
205 contract if the department deems it necessary to protect the
206 state's financial interests.
207 3.~~4.~~ The provisions of s. 120.57(3) apply to the
208 department's contracting process, except:
209 a. A formal written protest of any decision, intended
210 decision, or other action subject to protest shall be filed
211 within 72 hours after receipt of notice of the decision,
212 intended decision, or other action.
213 b. As an alternative to any provision of s. 120.57(3), the
214 department may proceed with the bid selection or contract award
215 process if the director of the department sets forth, in
216 writing, particular facts and circumstances which demonstrate
217 the necessity of continuing the procurement process or the
218 contract award process in order to avoid a substantial
219 disruption to the provision of any scheduled insurance services.
220 (d)~~(e)~~ The Department of Management Services and the
221 Division of State Group Insurance may not prohibit or limit any
222 properly licensed insurer, health maintenance organization,
223 prepaid limited health services organization, or insurance agent
224 from competing for any insurance product or plan purchased,

225 provided, or endorsed by the department or the division on the
226 basis of the compensation arrangement used by the insurer or
227 organization for its agents.
228 (e)(f) Except as provided for in subparagraph (h)2., the
229 state contribution toward the cost of any plan in the state
230 group insurance program shall be uniform with respect to all
231 state employees in a state collective bargaining unit
232 participating in the same coverage tier in the same plan. This
233 section does not prohibit the development of separate benefit
234 plans for officers and employees exempt from the career service
235 or the development of separate benefit plans for each collective
236 bargaining unit.
237 (f)(g) Participation by individuals in the program is
238 available to all state officers, full-time state employees, and
239 part-time state employees; and such participation in the program
240 or any plan is voluntary. Participation in the program is also
241 available to retired state officers and employees, as defined in
242 paragraph (2)(h)(g), who elect at the time of retirement to
243 continue coverage under the program, but they may elect to
244 continue all or only part of the coverage they had at the time
245 of retirement. A surviving spouse may elect to continue coverage
246 only under a state group health insurance plan, a TRICARE
247 supplemental insurance plan, or a health maintenance
248 organization plan.
249 (g)(h)1. A person eligible to participate in the state
250 group insurance program may be authorized by rules adopted by
251 the department to select any benefits and coverage that may be
252 offered to qualified persons as authorized by the Legislature

CODING: Words stricken are deletions; words underlined are additions.

253 and that are in compliance with applicable federal requirements~~,~~
254 ~~in lieu of participating in the state group health insurance~~
255 ~~plan, to exercise an option to elect membership in a health~~
256 ~~maintenance organization plan which is under contract with the~~
257 ~~state in accordance with criteria established by this section~~
258 ~~and by said rules~~. ~~The offer of optional membership in a health~~
259 ~~maintenance organization plan permitted by this paragraph may be~~
260 ~~limited or conditioned by rule as may be necessary to meet the~~
261 ~~requirements of state and federal laws.~~
262 2. The department shall contract with health maintenance
263 organizations seeking to participate in the state group
264 insurance program through a competitive ~~request for proposal or~~
265 ~~other~~ procurement process~~, as developed by the Department of~~
266 ~~Management Services and determined to be appropriate~~.
267 a. The department shall establish a schedule of minimum
268 benefits for health maintenance organization coverage, and that
269 schedule shall be as authorized by the Legislature and that are
270 in compliance with applicable federal requirements ~~include~~
271 ~~physician services; inpatient and outpatient hospital services;~~
272 ~~emergency medical services, including out-of-area emergency~~
273 ~~coverage; diagnostic laboratory and diagnostic and therapeutic~~
274 ~~radiologic services; mental health, alcohol, and chemical~~
275 ~~dependency treatment services meeting the minimum requirements~~
276 ~~of state and federal law; skilled nursing facilities and~~
277 ~~services; prescription drugs; age-based and gender-based~~
278 ~~wellness benefits; and other benefits as may be required by the~~
279 ~~department~~. ~~Additional services may be provided subject to the~~
280 ~~contract between the department and the HMO. As used in this~~

281 ~~paragraph, the term "age-based and gender-based wellness~~
282 ~~benefits" includes aerobic exercise, education in alcohol and~~
283 ~~substance abuse prevention, blood cholesterol screening, health~~
284 ~~risk appraisals, blood pressure screening and education,~~
285 ~~nutrition education, program planning, safety belt education,~~
286 ~~smoking cessation, stress management, weight management, and~~
287 ~~women's health education.~~
288 b. The department may establish uniform deductibles,
289 copayments, coverage tiers, or coinsurance schedules for all
290 participating HMO plans.
291 c. The department may require detailed information from
292 each health maintenance organization participating in the
293 procurement process, including information pertaining to
294 organizational status, experience in providing prepaid health
295 benefits, accessibility of services, financial stability of the
296 plan, quality of management services, accreditation status,
297 quality of medical services, network access and adequacy,
298 performance measurement, ability to meet the department's
299 reporting requirements, and the actuarial basis of the proposed
300 rates and other data determined by the director to be necessary
301 for the evaluation and selection of health maintenance
302 organization plans and negotiation of appropriate rates for
303 these plans. Upon receipt of proposals by health maintenance
304 organization plans and the evaluation of those proposals, the
305 department may negotiate ~~enter into negotiations~~ with all of the
306 plans or a subset of the plans, as the department determines
307 appropriate. ~~Nothing shall preclude~~ The department may negotiate
308 ~~from negotiating~~ regional or statewide contracts with health

309 maintenance organization plans ~~when this is cost-effective and~~
310 ~~when the department determines that the plan offers high value~~
311 ~~to enrollees~~.
312 d. The department may limit the number of HMOs that it
313 contracts with in each service area based on the nature of the
314 bids the department receives, the number of state employees in
315 the service area, or any unique geographical characteristics of
316 the service area. The department shall establish by rule service
317 areas throughout the state.
318 e. For plan years that begin prior to January 1, 2014, all
319 persons participating in the state group insurance program may
320 be required to contribute towards a total state group health
321 premium that may vary depending upon the plan and coverage tier
322 selected by the enrollee and the level of state contribution
323 authorized by the Legislature.
324 ~~3. The department is authorized to negotiate and to~~
325 ~~contract with specialty psychiatric hospitals for mental health~~
326 ~~benefits, on a regional basis, for alcohol, drug abuse, and~~
327 ~~mental and nervous disorders. The department may establish,~~
328 ~~subject to the approval of the Legislature pursuant to~~
329 ~~subsection (5), any such regional plan upon completion of an~~
330 ~~actuarial study to determine any impact on plan benefits and~~
331 ~~premiums.~~
332 ~~4. In addition to contracting pursuant to subparagraph 2.,~~
333 ~~the department may enter into contract with any HMO to~~
334 ~~participate in the state group insurance program which:~~
335 ~~a. Serves greater than 5,000 recipients on a prepaid basis~~
336 ~~under the Medicaid program;~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

337 ~~b. Does not currently meet the 25-percent non-~~
338 ~~Medicare/non-Medicaid enrollment composition requirement~~
339 ~~established by the Department of Health excluding participants~~
340 ~~enrolled in the state group insurance program;~~
341 ~~c. Meets the minimum benefit package and copayments and~~
342 ~~deductibles contained in sub-subparagraphs 2.a. and b.;~~
343 ~~d. Is willing to participate in the state group insurance~~
344 ~~program at a cost of premiums that is not greater than 95~~
345 ~~percent of the cost of HMO premiums accepted by the department~~
346 ~~in each service area; and~~
347 ~~e. Meets the minimum surplus requirements of s. 641.225.~~
348
349 ~~The department is authorized to contract with HMOs that meet the~~
350 ~~requirements of sub-subparagraphs a.-d. prior to the open~~
351 ~~enrollment period for state employees. The department is not~~
352 ~~required to renew the contract with the HMOs as set forth in~~
353 ~~this paragraph more than twice. Thereafter, the HMOs shall be~~
354 ~~eligible to participate in the state group insurance program~~
355 ~~only through the request for proposal or invitation to negotiate~~
356 ~~process described in subparagraph 2.~~
357 3.~~5.~~ All enrollees in a state group health insurance plan~~,~~
358 ~~a TRICARE supplemental insurance plan,~~ or any health maintenance
359 organization plan have the option of changing to any other
360 health plan that is offered by the state within any open
361 enrollment period designated by the department. Open enrollment
362 shall be held at least once each calendar year.
363 4.~~6.~~ When a contract between a treating provider and the
364 state-contracted health maintenance organization is terminated

365 for any reason other than for cause, each party shall allow any
366 enrollee for whom treatment was active to continue coverage and
367 care when medically necessary, through completion of treatment
368 of a condition for which the enrollee was receiving care at the
369 time of the termination, until the enrollee selects another
370 treating provider, or until the next open enrollment period
371 offered, whichever is longer, but no longer than 6 months after
372 termination of the contract. Each party to the terminated
373 contract shall allow an enrollee who has initiated a course of
374 prenatal care, regardless of the trimester in which care was
375 initiated, to continue care and coverage until completion of
376 postpartum care. This does not prevent a provider from refusing
377 to continue to provide care to an enrollee who is abusive,
378 noncompliant, or in arrears in payments for services provided.
379 For care continued under this subparagraph, the program and the
380 provider shall continue to be bound by the terms of the
381 terminated contract. Changes made within 30 days before
382 termination of a contract are effective only if agreed to by
383 both parties.
384 5.~~7.~~ Any HMO participating in the state group insurance
385 program shall submit health care utilization and cost data to
386 the department, in such form and in such manner as the
387 department shall require, as a condition of participating in the
388 program. For any HMO that participated in the program prior to
389 January 2014 and is selected to participate in the 2014 plan
390 year, health care utilization and cost data for at least the
391 last two contract periods shall be submitted to the department
392 before a contract is entered into for the 2014 plan year. ~~The~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

393 ~~department shall enter into negotiations with its contracting~~
394 ~~HMOs to determine the nature and scope of the data submission~~
395 ~~and the final requirements, format, penalties associated with~~
396 ~~noncompliance, and timetables for submission. These~~
397 ~~determinations shall be adopted by rule.~~
398 6.~~8.~~ The department may establish and direct, with respect
399 to collective bargaining issues, a comprehensive package of
400 insurance benefits that may include supplemental health and life
401 coverage, dental care, long-term care, vision care, and other
402 benefits it determines necessary to enable state employees to
403 select from among benefit options that best suit their
404 individual and family needs.
405 a. Based upon a desired benefit package, the department
406 shall issue a request for proposal or invitation to negotiate
407 for health insurance providers interested in participating in
408 the state group insurance program, and the department shall
409 issue a request for proposal or invitation to negotiate for
410 insurance providers interested in participating in the non-
411 health-related components of the state group insurance program.
412 Upon receipt of all proposals, the department may enter into
413 contract negotiations with insurance providers submitting bids
414 or negotiate a specially designed benefit package. Insurance
415 providers offering or providing supplemental coverage as of May
416 30, 1991, which qualify for pretax benefit treatment pursuant to
417 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
418 state employees currently enrolled may be included by the
419 department in the supplemental insurance benefit plan
420 established by the department without participating in a request

421 for proposal, submitting bids, negotiating contracts, or
422 negotiating a specially designed benefit package. These
423 contracts shall provide state employees with the most cost-
424 effective and comprehensive coverage available; however, ~~no~~
425 state or agency funds <u>may not</u> ~~shall~~ be contributed toward the
426 cost of any part of the premium of such supplemental benefit
427 plans. With respect to dental coverage, the division shall
428 include in any solicitation or contract for any state group
429 dental program made after July 1, 2001, a comprehensive
430 indemnity dental plan option which offers enrollees a completely
431 unrestricted choice of dentists. If a dental plan is endorsed,
432 or in some manner recognized as the preferred product, such plan
433 shall include a comprehensive indemnity dental plan option which
434 provides enrollees with a completely unrestricted choice of
435 dentists.
436 b. Pursuant to the applicable provisions of s. 110.161,
437 and s. 125 of the Internal Revenue Code of 1986, the department
438 shall enroll in the pretax benefit program those state employees
439 who voluntarily elect coverage in any of the supplemental
440 insurance benefit plans as provided by sub-subparagraph a.
441 c. <u>This section may not</u> ~~Nothing herein contained shall~~ be
442 construed to prohibit insurance providers from continuing to
443 provide or offer supplemental benefit coverage to state
444 employees as provided under existing agency plans.
445 <u>(h)</u>~~(i)~~ The benefits of the insurance authorized by this
446 section <u>are</u> ~~shall~~ not ~~be~~ in lieu of any benefits payable under
447 chapter 440, the Workers' Compensation Law<u>, and</u>~~.~~ the insurance
448 authorized by this <u>section does</u> ~~law shall~~ not ~~be deemed to~~

449 constitute insurance to secure workers' compensation benefits as
450 required by chapter 440.
451 (i) ~~(j)~~ Notwithstanding the provisions of paragraph (e) ~~(f)~~
452 requiring uniform contributions, and for the 2012-2013 ~~2011-2013~~
453 fiscal year only, the state contribution toward the cost of any
454 plan in the state group insurance plan shall be the difference
455 between the overall premium and the employee contribution. This
456 subsection expires June 30, 2013 ~~2012~~.
457 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;
458 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—
459 (a) Except as provided in paragraph (e) with respect to
460 law enforcement officers, correctional and correctional
461 probation officers, and firefighters, legislative authorization
462 through the appropriations act is required for payment by a
463 state agency of any part of the premium cost of participation in
464 any group insurance plan. However, the state contribution for
465 full-time employees or part-time permanent employees shall
466 continue in the respective proportions for up to 6 months for
467 any such officer or employee who has been granted an approved
468 parental or medical leave of absence without pay.
469 (b) For the 2014 plan year and thereafter, the state shall
470 make a defined contribution toward the premium cost of
471 participation in state group insurance program in the amounts
472 that are authorized in the General Appropriations Act.
473 Employees who are non-tobacco users may receive an enhanced
474 contribution. Subject to appropriation, the amount of the
475 defined contribution shall be actuarially equivalent to no less
476 than 90 percent of the benefits covered in the 2012 plan year

477 for employees selecting individual coverage and no less than 85
478 percent of benefits covered in the 2012 plan year for employees
479 selecting family coverage. This section does not prohibit the
480 use of different levels of state contributions for positions
481 exempt from career service.
482 1. If the state's contribution is less that than premium
483 cost of the health plan selected by the employee, the employee
484 shall by salary reduction arrangement contribute the remainder
485 of the premium cost.
486 2. If the state's contribution is more that than premium
487 cost of the health plan selected by the employee, subject to any
488 federal limitations, the employee may elect to have the balance:
489 a. credited to the employee's flexible spending account;
490 b. credited to the employee's health savings account;
491 c. used to increase the employee's salary by the
492 difference between the premium cost for the employee's selected
493 health plan and the contribution made by the state.
494 (c) ~~(b)~~ If a state officer or full-time state employee
495 selects membership in a health maintenance organization as
496 authorized by paragraph (3)(g)~~(h)~~, the officer or employee is
497 entitled to a state contribution toward individual and dependent
498 membership as provided by the Legislature through the
499 appropriations act.
500 (d) ~~(c)~~ During each policy or budget year, no state agency
501 shall contribute a greater dollar amount of the premium cost for
502 its officers or employees for any plan option under the state
503 group insurance program than any other agency for similar
504 officers and employees, nor shall any greater dollar amount of

505 premium cost be made for employees in one state collective
506 bargaining unit than for those in any other state collective
507 bargaining unit. Nothing in this section prohibits the use of
508 different levels of state contributions for positions exempt
509 from career service.
510 (e) ~~(d)~~ The state contribution for a part-time permanent
511 state employee who elects to participate in the program shall be
512 prorated so that the amount of the cost contributed for the
513 part-time permanent employee bears that relation to the amount
514 of cost contributed for a similar full-time employee that the
515 part-time employee's normal workday bears to a full-time
516 employee's normal workday.
517 (f) ~~(e)~~ No state contribution for the cost of any part of
518 the premium shall be made for retirees or surviving spouses for
519 any type of coverage under the state group insurance program.
520 However, any state agency that employs a full-time law
521 enforcement officer, correctional officer, or correctional
522 probation officer who is killed or suffers catastrophic injury
523 in the line of duty as provided in s. 112.19, or a full-time
524 firefighter who is killed or suffers catastrophic injury in the
525 line of duty as provided in s. 112.191, shall pay the entire
526 premium of the state group health insurance plan selected for
527 the employee's surviving spouse until remarried, and for each
528 dependent child of the employee, subject to the conditions and
529 limitations set forth in s. 112.19 or s. 112.191, as applicable.
530 (g) ~~(f)~~ Pursuant to the request of each state officer,
531 full-time or part-time state employee, or retiree participating
532 in the state group insurance program, and upon certification of

533 the employing agency approved by the department, the Chief
534 Financial Officer shall deduct from the salary or retirement
535 warrant payable to each participant the amount so certified and
536 shall handle such deductions in accordance with rules
537 established by the department.
538 (h) ~~(g)~~ No administrative or civil proceeding shall be
539 commenced to collect an underpayment or refund an overpayment of
540 premiums collected pursuant to this subsection unless such claim
541 is filed with the department within 2 years after the alleged
542 underpayment or overpayment was made. For purposes of this
543 paragraph, a payroll deduction, salary reduction, or
544 contribution by an agency is deemed to be made on the date the
545 salary warrant is issued.
546 (5) DEPARTMENT POWERS AND DUTIES.—The department is
547 responsible for the administration of the state group insurance
548 program. The department shall initiate and supervise the program
549 as established by this section and shall adopt such rules as are
550 necessary to perform its responsibilities. To implement this
551 program, the department shall, with prior approval by the
552 Legislature:
553 (a) Determine the benefits to be provided and the
554 contributions to be required for the state group insurance
555 program. Such determinations~~, whether for a contracted plan or a~~
556 ~~self-insurance plan pursuant to paragraph (c),~~ do not constitute
557 rules within the meaning of s. 120.52 or final orders within the
558 meaning of s. 120.52. Any physician's fee schedule used in the
559 health and accident plan shall not be available for inspection
560 or copying by medical providers or other persons not involved in

561 the administration of the program. However, in the determination
562 of the design of the program, the department shall consider
563 existing and complementary benefits provided by the Florida
564 Retirement System and the Social Security System.
565 (b) Prepare, in cooperation with the Office of Insurance
566 Regulation of the Financial Services Commission, the
567 specifications necessary to implement the program.
568 (c) Competitively procure a contract ~~on a competitive~~
569 ~~proposal basis~~ with an insurance carrier or carriers, or
570 professional administrator, determined by the Office of
571 Insurance Regulation of the Financial Services Commission to be
572 fully qualified, financially sound, and capable of meeting all
573 servicing requirements. ~~Alternatively, the department may self-~~
574 ~~insure any plan or plans contained in the state group insurance~~
575 ~~program subject to approval based on actuarial soundness by the~~
576 ~~Office of Insurance Regulation. The department may contract with~~
577 ~~an insurance company or professional administrator qualified and~~
578 ~~approved by the Office of Insurance Regulation to administer~~
579 ~~such plan. Before entering into any contract, the department~~
580 ~~shall advertise for competitive proposals, and such contract~~
581 ~~shall be let upon the consideration of the benefits provided in~~
582 ~~relationship to the cost of such benefits.~~ In the selection of a
583 third-party administrator ~~determining which entity to contract~~
584 ~~with~~, the department shall, at a minimum, consider: the entity's
585 previous experience and expertise in administering group
586 insurance programs of the type it proposes to administer; the
587 entity's ability to specifically perform its contractual
588 obligations in this state and other governmental jurisdictions;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

589 the entity's anticipated administrative costs and claims
590 experience; the entity's capability to adequately provide
591 service coverage and sufficient number of experienced and
592 qualified personnel in the areas of claims processing,
593 recordkeeping, and underwriting, as determined by the
594 department; the entity's accessibility to state employees and
595 providers; the financial solvency of the entity, using accepted
596 business sector measures of financial performance. ~~The~~
597 ~~department may contract for medical services which will improve~~
598 ~~the health or reduce medical costs for employees who participate~~
599 ~~in the state group insurance plan.~~
600 (d) With respect to a state group health insurance plan,
601 be authorized to require copayments with respect to all
602 providers under the plan.
603 (e) Have authority to establish a voluntary program for
604 comprehensive health maintenance, which may include health
605 educational components and health appraisals.
606 (f) With respect to any contract with an insurance carrier
607 or carriers or professional administrator entered into by the
608 department, require that the state and the enrollees be held
609 harmless and indemnified for any financial loss caused by the
610 failure of the insurance carrier or professional administrator
611 to comply with the terms of the contract.
612 (g) With respect to any contract with an insurance carrier
613 or carriers, or professional administrator entered into by the
614 department, require that the carrier or professional
615 administrator provide written notice to individual enrollees if
616 any payment due to any health care provider of the enrollee

617 remains unpaid beyond a period of time as specified in the
618 contract.
619 (h) Have authority to establish other voluntary programs
620 to be funded on a pretax contribution basis or on a posttax
621 contribution basis, as the department determines.
622 (i) Contract with a single custodian to provide services
623 necessary to implement and administer the health savings
624 accounts authorized in subsection (12).
625
626 Final decisions concerning enrollment, the existence of
627 coverage, or covered benefits under the state group insurance
628 program may ~~shall~~ not be delegated or deemed to have been
629 delegated by the department.
630 ~~(13) FLORIDA STATE EMPLOYEE WELLNESS COUNCIL.—~~
631 ~~(a) There is created within the department the Florida~~
632 ~~State Employee Wellness Council.~~
633 ~~(b) The council shall be an advisory body to the~~
634 ~~department to provide health education information to employees~~
635 ~~and to assist the department in developing minimum benefits for~~
636 ~~all health care providers when providing age-based and gender-~~
637 ~~based wellness benefits.~~
638 ~~(c) The council shall be composed of nine members~~
639 ~~appointed by the Governor. When making appointments to the~~
640 ~~council, the Governor shall appoint persons who are residents of~~
641 ~~the state and who are highly knowledgeable concerning, active~~
642 ~~in, and recognized leaders in the health and medical field, at~~
643 ~~least one of whom must be an employee of the state. Council~~
644 ~~members shall equitably represent the broadest spectrum of the~~

645 ~~health industry and the geographic areas of the state. Not more~~
646 ~~than one member of the council may be from any one company,~~
647 ~~organization, or association.~~
648 ~~(d)1. Council members shall be appointed to 4-year terms,~~
649 ~~except that the initial terms shall be staggered. The Governor~~
650 ~~shall appoint three members to 2-year terms, three members to 3-~~
651 ~~year terms, and three members to 4-year terms.~~
652 ~~2. A member's absence from three consecutive meetings~~
653 ~~shall result in his or her automatic removal from the council. A~~
654 ~~vacancy on the council shall be filled for the remainder of the~~
655 ~~unexpired term.~~
656 ~~(e) The council shall annually elect from its membership~~
657 ~~one member to serve as chair of the council and one member to~~
658 ~~serve as vice chair.~~
659 ~~(f) The first meeting of the council shall be called by~~
660 ~~the chair not more than 60 days after the council members are~~
661 ~~appointed by the Governor. The council shall thereafter meet at~~
662 ~~least once quarterly and may meet more often as necessary. The~~
663 ~~department shall provide staff assistance to the council which~~
664 ~~shall include, but not be limited to, keeping records of the~~
665 ~~proceedings of the council and serving as custodian of all~~
666 ~~books, documents, and papers filed with the council.~~
667 ~~(g) A majority of the members of the council constitutes a~~
668 ~~quorum.~~
669 ~~(h) Members of the council shall serve without~~
670 ~~compensation, but are entitled to reimbursement for per diem and~~
671 ~~travel expenses as provided in s. 112.061 while performing their~~
672 ~~duties.~~

673 ~~(i) The council shall:~~

674 ~~1. Work to encourage participation in wellness programs by~~
675 ~~state employees. The council may prepare informational programs~~
676 ~~and brochures for state agencies and employees.~~

677 ~~2. In consultation with the department, develop standards~~
678 ~~and criteria for age-based and gender-based wellness programs.~~

679 Section 2. Section 110.12303, Florida Statutes, is created
680 to read:

681 <u>110.12303 Independent benefits consultant.—</u>

682 <u>(1) The department shall competitively procure an</u>
683 <u>independent benefits consultant.</u>

684 <u>(2) The independent benefits consultant may not:</u>

685 <u>(a) Be owned or controlled by any HMO or insurer.</u>

686 <u>(b) Have an ownership interest in any HMO or insurer.</u>

687 <u>(c) Have any direct or indirect financial interest in any</u>
688 <u>HMO or insurer.</u>

689 <u>(3) The independent benefits consultant must have</u>
690 <u>substantial experience in the design and administration of</u>
691 <u>employee benefit programs for large employers and public</u>
692 <u>employers, including experience administering plans that qualify</u>
693 <u>as cafeteria plans pursuant to s. 125 of the Internal Revenue</u>
694 <u>Code.</u>

695 <u>(4) The independent benefits consultant shall:</u>

696 <u>(a) Provide an ongoing assessment of trends in benefits</u>
697 <u>and employer-sponsored insurance that affect the state group</u>
698 <u>insurance program.</u>

699 (b) Conduct comprehensive analysis of the state group
700 insurance program, including available benefits, coverage
701 options, and claims experience.
702 (c) Evaluate designs for the state group insurance
703 program, including a full flex cafeteria plan, an employer-
704 sponsored multicarrier exchange plan, and alternatives to and
705 variations of these designs.
706 (d) Identify and establish appropriate adjustment
707 procedures necessary to respond to any risk segmentation that
708 may occur when increased choices are offered to employees.
709 (e) Submit recommendations for any modifications to the
710 state group insurance program no later than January 1 of each
711 year.
712 (f) Assist the department in establishing a transition
713 plan for assuming the responsibilities described in subsection
714 (5).
715 (g) Develop a plan to convert the state group insurance
716 program to a defined contribution plan. The plan shall be
717 submitted to the Legislature by January 1, 2013, and include
718 recommendations for:
719 1. An implementation timeline for conversion as of the
720 2014 plan year.
721 2. Employer and employee contribution policies, including
722 provisions that reward and incentivize non-tobacco use and other
723 healthy lifestyle choices.
724 3. Steps necessary for maintaining or improving total
725 employee compensation levels when a transition to a defined
726 contribution plan is initiated.

727 4. Establishing an employment-based benefits exchange or
728 for implementing a full flex cafeteria plan to provide a variety
729 of diverse benefit options, including but not limited to,
730 multiple health plans offering a wide variety of benefit levels
731 and benefit options within the state group insurance program.
732 5. Submission of any needed plan revisions for federal
733 review.
734 (h) Subject to approval by the Legislature, direct and
735 implement the plan described in paragraph (g).
736 (5) Notwithstanding s. 110.123 and beginning no later than
737 the 2014 plan year, the independent benefits consultant shall:
738 (a) Assist the department in managing the state group
739 insurance program, including negotiation and supervision of
740 contracts and other administrative functions as may be
741 necessary.
742 (b) If the Legislature authorizes the creation of a state
743 employee benefits exchange, certify health insurance plans,
744 health maintenance organizations, and other providers eligible
745 to participate.
746 (c) If the Legislature authorizes the implementation of a
747 full flex cafeteria plan, assist the department with the
748 procurement process and conducting the contract negotiations
749 with providers that are necessary for their participation in
750 defined service areas.
751 (d) Subject to approval of the Legislature, develop and
752 implement wellness initiatives for enrollees.

753 (e) Provide enrollee education and decision support tools,
754 including an online interface, to assist enrollees in choosing
755 benefit plans that best suit their individual needs.
756 (f) Assist the department in ensuring compliance with
757 applicable federal and state regulations.
758 (g) Prior to the transition to a defined contribution
759 plan, assist the department in monitoring the adequacy of
760 funding and reserves for the state self-insured plan.
761 Section 3. This act shall take effect upon becoming a law.