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# Health & Human Services Committee

**Tuesday, February 7, 2012  
1:30 PM – 3:30 PM  
404 HOB**

**Dean Cannon  
Speaker**

**Robert C. "Rob" Schenck  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Health & Human Services Committee

**Start Date and Time:** Tuesday, February 07, 2012 01:30 pm  
**End Date and Time:** Tuesday, February 07, 2012 03:30 pm  
**Location:** 404 HOB  
**Duration:** 2.00 hrs

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

CS/CS/HB 227 Prescription Drug Abuse by Justice Appropriations Subcommittee, Health & Human Services Quality Subcommittee, Stargel  
CS/HB 509 Pharmacy by Health & Human Services Quality Subcommittee, Logan  
CS/HB 531 Homelessness by Health & Human Services Access Subcommittee, Reed  
CS/CS/HB 711 Sale or Lease of a County, District, or Municipal Hospital by Community & Military Affairs Subcommittee, Health & Human Services Quality Subcommittee, Hooper  
CS/CS/HB 1077 Service Animals by Civil Justice Subcommittee, Health & Human Services Access Subcommittee, Kriseman  
CS/HB 1227 Certification of 911 Public Safety Telecommunicators by Judiciary Committee, Drake, Passidomo  
CS/HB 1351 Homeless Youth by Civil Justice Subcommittee, Glorioso  
HB 4163 Continuing Education for Athletic Trainers and Massage Therapists by Hudson  
HB 4179 Florida Mental Health Act by Nuñez

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

**NOTICE FINALIZED on 02/03/2012 16:11 by Iseminger.Bobbye**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 227 Prescription Drug Abuse

SPONSOR(S): Justice Appropriations Subcommittee; Health & Human Services Quality Subcommittee; Stargel

TIED BILLS: IDEN./SIM. BILLS: SB 402

| REFERENCE                                       | ACTION           | ANALYST    | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|------------|---------------------------------------|
| 1) Health & Human Services Quality Subcommittee | 11 Y, 0 N, As CS | Poche      | Calamas                               |
| 2) Justice Appropriations Subcommittee          | 12 Y, 0 N, As CS | McAuliffe  | Jones Darity                          |
| 3) Health & Human Services Committee            |                  | Poche (mw) | Gormley (GJ)                          |

SUMMARY ANALYSIS

House Bill 227 establishes the Statewide Task Force on Prescription Drug Abuse and Newborns to study the breadth and depth of Neonatal Withdrawal Syndrome in the state. Neonatal Withdrawal Syndrome is the complex group of physiological and behavioral symptoms and problems suffered by newborn children as a result of withdrawal from exposure to narcotics in the womb. Due to the prescription drug abuse problem in Florida, health care providers and facilities are experiencing a sharp increase in the number of babies born with Neonatal Withdrawal Syndrome.

The bill requires the Task Force to collect and analyze data, examine ways to increase public awareness, and explore possible solutions to the problem. The bill also specifies membership and other duties of the Task Force. The Task Force is required to submit an interim report and a final report to the Speaker of the House of Representatives and the President of the Senate containing policy recommendations to address the problem.

The bill has an insignificant fiscal impact on the Department of Legal Affairs which can be absorbed with existing resources.

The bill provides an effective date of immediately upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Prescription Drug Abuse

Prescription drug abuse is the fastest growing drug problem in the United States, constituting an epidemic, according to the Centers for Disease Control and Prevention.<sup>1</sup> Certain prescription drugs – opioid substances, central nervous system depressants, and stimulants – when abused can alter the brain's activity and lead to dependence and possible addiction. According to research by the National Institute on Drug Abuse, the three most abused classes of prescription drugs are:

- Opioids, used to treat pain. Examples include codeine (Schedules II, III, V), oxycodone (OxyContin, Percocet – Schedule II), and morphine (Kadian, Avinza -Schedule II);
- Central nervous system depressants, used to treat anxiety and sleep disorders. Examples include barbiturates (Mebaral, Nembutal) and benzodiazepines (Valium, Xanax) (all in Schedule IV); and
- Stimulants, used to treat ADHD, narcolepsy, and obesity. Examples include dextroamphetamine (Dexedrine, Adderall) and methylphenidate (Ritalin, Concerta) (all in Schedule II).<sup>2</sup>

The Substance Abuse and Mental Health Services Administration (SAMHSA) sponsors an annual national survey on drug use and health. The most recent survey indicates there are seven million persons aged 12 or older who used prescription-type psychotherapeutic drugs non-medically within the past month in 2010.<sup>3</sup> Of those seven million persons, 5.1 million used pain relievers non-medically within the past month in 2010.<sup>4</sup> It is estimated that 1.9 million people in the United States meet abuse or dependence criteria for prescription opioids.<sup>5</sup> Deaths from prescription painkiller overdoses have more than tripled in the past decade.<sup>6</sup>

The prescription drug abuse problem in Florida is particularly acute. The abuse of prescription drugs is becoming more prevalent and more deadly than the abuse of illicit drugs, such as heroin, cocaine, and methamphetamine.<sup>7</sup> The Florida Medical Examiners Commission reports annually on drug-related deaths in Florida, and specifically tracks deaths caused by the abuse of prescription drugs. According to the Commission, prescription drugs are found in deceased persons in lethal amounts more often than illicit drugs.<sup>8</sup> The most recent report found 5,647 deaths caused by one or more prescription drugs.<sup>9</sup> The rate of deaths caused by prescription drugs during 2010 averaged more than 15 fatalities per day.<sup>10</sup>

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<sup>1</sup> Centers for Disease Control and Prevention, Vital Signs, *Prescription Painkiller Overdoses in the U.S.*, November 1, 2011, available at [www.cdc.gov/vitalsigns/PainkillerOverdoses/](http://www.cdc.gov/vitalsigns/PainkillerOverdoses/) (last viewed on January 11, 2012).

<sup>2</sup> National Institutes of Health, National Institute on Drug Abuse, *Prescription Medications*, available at [www.drugabuse.gov/drugs-abuse/prescription-medications](http://www.drugabuse.gov/drugs-abuse/prescription-medications) (last viewed January 12, 2012).

<sup>3</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *2010 National Survey on Drug Use and Health: Summary of National Findings*, [www.samhsa.gov/data/NSDUH/2k10NSDUH/2k10Results.htm](http://www.samhsa.gov/data/NSDUH/2k10NSDUH/2k10Results.htm) (last viewed on January 10, 2012).

<sup>4</sup> *Id.*

<sup>5</sup> National Institutes of Health, National Institute on Drug Abuse, *Topics in Brief: Prescription Drug Abuse*, available at [www.drugabuse.gov/publications/topics-in-brief/prescription-drug-abuse](http://www.drugabuse.gov/publications/topics-in-brief/prescription-drug-abuse) (last viewed on January 12, 2012).

<sup>6</sup> *See supra* at FN 1.

<sup>7</sup> Florida Department of Law Enforcement, Medical Examiners Commission, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2010 Report*, August 2011, page ii.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Florida may experience a downturn in prescription drug abuse due to reduced supply. Data from the Department of Health on controlled substance purchases by Florida physicians and pharmacies indicate a sharp decline in oxycodone purchases.<sup>11</sup> In the first five months of 2010, physicians purchased over 35 million dosage units of oxycodone; in the first five months of 2011, physicians purchased only about 925,000 dosage units of oxycodone.<sup>12</sup> Similarly, in the first five months of 2010, pharmacies purchased over 236 million dosage units of oxycodone; in the first five months of 2011, pharmacies purchased only about 225 million dosage units of oxycodone.<sup>13</sup> These changes may be a result of, or market anticipation of, legislative changes in 2009 and 2011 to address the problem of prescription drug abuse in Florida.<sup>14</sup>

### Neonatal Withdrawal Syndrome

Neonatal Withdrawal Syndrome (NWS), also known to as Neonatal Abstinence Syndrome, is as a complex group of physiological and behavioral signs and symptoms that a newborn exhibits and experiences when withdrawing from exposure to narcotics, including prescription medication, in the womb.<sup>15</sup> It is a multisystem disorder that involves the central nervous system, the gastrointestinal system, and the respiratory system.<sup>16</sup> Most drugs used by the mother are transferred to the fetus by the placenta. The amount and rate of drug transferred depend on the properties of the drug, including its half-life, or the rate at which the drug is processed by the body.

Opiates produce the most dramatic effects on both the mother and the fetus. Because of its short half-life, withdrawal from opiates may start as early as 24 hours after birth in 50 percent to 80 percent of infants born to mothers addicted to opiates.<sup>17</sup> Narcotics are the most frequent cause of NWS, including methadone, morphine, oxycodone, codeine, and buprenorphine.<sup>18</sup> NWS symptoms usually peak at three to four days following birth, but may not appear for ten to fourteen days following birth.<sup>19</sup> Complete withdrawal from opiate addiction in infants may last f four to six months.<sup>20</sup>

NWS presents as neurologic symptoms, dysfunction of the gastrointestinal system, and other conditions. The kind and severity of symptoms depend on the type of drug used by the mother, how much of the drug was taken and for how long during the pregnancy, and whether the baby was born full-term or premature.<sup>21</sup> Neurologic symptoms include:

- Tremors
- Irritability
- Increased wakefulness
- High-pitched crying
- Increased muscle tone
- Seizures
- Increased sweating
- Frequent yawning and sneezing

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<sup>11</sup> Florida Department of Health, Division of Medical Quality Assurance, *Implementation of House Bill 7095 Relating to Prescription Drugs*, PowerPoint presentation to Health and Human Services Committee on September 21, 2011 (on file with committee staff).

<sup>12</sup> *Id.* at slide 11.

<sup>13</sup> *Id.* at slide 12.

<sup>14</sup> Ch. 2009-197, Ch. 2009-198, and Ch. 2011-141, Laws of Fla.

<sup>15</sup> Hamdan, M.D., A., Rosenkrantz, M.D., T., et. al, *Neonatal Abstinence Syndrome*, Medscape Reference, Drugs, Diseases, & Procedures, March 3, 2010, available at <http://emedicine.medscape.com/article/978763-overview> (last viewed on January 10, 2012).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*; see also Lucile Packard Children's Hospital at Stanford University Health Library, *Neonatal Abstinence Syndrome*, available at [www.lpch.org/DiseaseHealthInfo/HealthLibrary/hrnewborn/nas.html](http://www.lpch.org/DiseaseHealthInfo/HealthLibrary/hrnewborn/nas.html) (last viewed January 11, 2012).

<sup>18</sup> Naga, M.D., Osama, *Neonatal Abstinence Syndrome*, PowerPoint presentation, Texas Tech University Health Sciences Center, slide 3, available at [www.ttuhscc.edu/fostersom/pediatrics/neonatology/documents/NAGA-Neonatal\\_Abstinence\\_Syndrome.pdf](http://www.ttuhscc.edu/fostersom/pediatrics/neonatology/documents/NAGA-Neonatal_Abstinence_Syndrome.pdf) (last viewed on January 10, 2012).

<sup>19</sup> *Id.* at slide 4.

<sup>20</sup> *Id.*

<sup>21</sup> National Institutes of Health, National Library of Medicine, Medline Plus Medical Encyclopedia, *Neonatal abstinence syndrome*, available at [www.nlm.nih.gov/medlineplus/ency/article/007313.htm](http://www.nlm.nih.gov/medlineplus/ency/article/007313.htm) (last viewed on January 10, 2012).

Dysfunction of the gastrointestinal system includes:

- Poor feeding
- Uncoordinated and constant sucking
- Vomiting
- Diarrhea
- Dehydration
- Poor weight gain

Other conditions indicative of NWS include:

- Nasal stuffiness
- Fever
- Mottling (discolored patches on the skin)
- Temperature instability<sup>22</sup>

Treatment of infants with NWS includes gentle handling, reduction of noise and light stimuli, swaddling, and demand feeding.<sup>23</sup> Many infants must be “readdicted” to the opiate to which they were exposed in utero, usually through the oral administration of morphine sulfate or buprenorphine, to ease the symptoms of withdrawal, then slowly weaned off of the medication.<sup>24</sup>

### Task Forces in Florida

A task force is defined in Florida statute as, in part, an advisory body created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to the problem.<sup>25</sup> The existence of the task force ends once it completes its appointed task or duty.<sup>26</sup>

### **Effect of Proposed Changes**

House Bill 227 creates the Statewide Task Force on Prescription Drug Abuse and Newborns (Task Force) within the Department of Legal Affairs in the Office of the Attorney General to study NWS as a result of maternal prescription drug abuse during pregnancy. The Task Force is charged with researching the impact of prescription drug use and NWS in the state and evaluating effective strategies for treatment and prevention of NWS. In order to complete these tasks, the bill requires the Task Force to collect and organize data relating to the nature and scope of NWS as a result of prescription drug abuse. Also, the Task Force is to collect information that reflects the costs associated with treating pregnant women and newborns suffering from NWS. The Task Force must identify federal, state, and local programs that provide services to pregnant women addicted to prescription drugs and newborns suffering from NWS. Lastly, the Task Force must evaluate methods to increase public awareness of the dangers associated with prescription drug abuse by pregnant women and the dangers posed to newborns as a result of maternal prescription drug abuse during pregnancy.

The bill specifies 15 members of the Task Force:

- The Attorney General, who will serve as chairperson;
- The State Surgeon General, who will serve as vice chairperson;
- The Secretary of the Department of Children and Family Services;
- The Secretary of the Agency for Health Care Administration;
- The Executive Director of the Department of Law Enforcement;
- One Legislator, appointed by the President of the Senate;
- One Legislator, appointed by the Speaker of the House of Representatives;

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<sup>22</sup> American Academy of Pediatrics, Committee on Drugs, *Neonatal Drug Withdrawal*, Pediatrics, vol. 101, page 1079 (1998).

<sup>23</sup> See *supra* at FN 13, slide 14.

<sup>24</sup> See *supra* at FN 13, slides 16 through 18.

<sup>25</sup> S. 20.03(8), F.S.

<sup>26</sup> *Id.*

- A representative from the Florida Medical Association;
- A representative from the Florida Hospital Association;
- A representative from an addiction and recovery association, appointed by the Attorney General;
- A representative from the Florida Osteopathic Medical Association;
- A representative from the March of Dimes;
- A representative from Healthy Start;
- A resident of the state, appointed by the Attorney General; and
- A representative of the Florida Nurses Association.

The Task Force is directed to submit an interim report to the Speaker of the House of Representatives and the President of the Senate with its initial policy recommendations on or before January 15, 2013. The Task Force is directed to submit a final report, including policy recommendations, by January 15, 2015.

The bill is effective upon becoming a law.

**B. SECTION DIRECTORY:**

**Section 1:** Creates an unnumbered section of law; establishing the Statewide Task Force on Prescription Drug Abuse and Newborns.

**Section 2:** Provides an effective date of immediately upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The Department of Legal Affairs will provide staff to assist the task force in completing its duties. Further, members of the task force will be entitled to per diem payments and travel reimbursement under current law.<sup>27</sup> The Office of the Attorney General estimates a fiscal impact of approximately \$14,500, which includes per diem payments, travel reimbursement, and staff costs.<sup>28</sup> The Department of Legal Affairs has identified settlement funds to offset any task force costs (see FISCAL COMMENTS).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

<sup>27</sup> S. 112.061, F.S. (per diem and travel expenses); Rule 69I-42.006, F.A.C. (per diem and subsistence allowance); Rule 69I-42.007, F.A.C. (transportation by common carrier); Rule 69I-42.008, F.A.C. (transportation by private vehicle); Rule 69I-42.010, F.A.C. (other incidental traveling expenses)

<sup>28</sup> Department of Legal Affairs, *HB 227 Bill Analysis*, page 2 (January 13, 2012).



C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In 2008, the Attorney General, along with the Attorneys General from 27 other states and the District of Columbia, entered into an Assurance of Voluntary Compliance and Discontinuance agreement with Express Scripts, Inc. (ESI), a pharmacy benefits management corporation.<sup>29</sup> The agreement resolved allegations of violations of the states' consumer protection statutes by ESI as a result of the company's advertising, marketing and other business practices.<sup>30</sup> As part of the settlement, ESI paid \$7 million, to be apportioned among the states involved in the matter.<sup>31</sup> Provisions of the agreement grant the Attorney General wide discretion in how the settlement funds are to be used by the state.<sup>32</sup> The Attorney General proposes to use the funds from Florida's portion of the settlement to cover the estimated \$14,500 in costs associated with the operation of the Task Force.

### 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

On January 17, 2012, the Health and Human Services Quality Subcommittee adopted a strike-all amendment for House Bill 227. The strike-all amendment made the following changes to the bill:

- Added four members to the Task Force: a representative of the Florida Osteopathic Medical Association, a representative from the March of Dimes, a representative from Healthy Start, and a resident of the state to be appointed by the Attorney General; and
- Required an interim report containing recommendations to be submitted to the Speaker of the House of Representatives and the President of the Senate by January 15, 2013 and a final report containing policy recommendations to be submitted by January 15, 2015.

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<sup>29</sup> *In the Matter of: Express Scripts, Inc., Assurance of Voluntary Compliance and Discontinuance*, May 23, 2008 (on file with Health and Human Services Quality Subcommittee staff).

<sup>30</sup> *See id.* at pages 2-3.

<sup>31</sup> *See id.* at page 33.

<sup>32</sup> *See id.* at page 34.

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

On January 30, 2012, the Justice Appropriations Subcommittee adopted one amendment to the bill which added a representative of the Florida Nurses Association to the Statewide Task Force on Prescription Drug Abuse and Newborns.

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



29 prevention, and providing policy recommendations to the  
 30 Legislature.

31 (b) The task force shall consist of the following members,  
 32 or the member's designee:

- 33 1. The Attorney General, who shall serve as chair.
- 34 2. The Surgeon General, who shall serve as vice chair.
- 35 3. The Secretary of Children and Family Services.
- 36 4. The Secretary of Health Care Administration.
- 37 5. The executive director of the Department of Law  
 38 Enforcement.
- 39 6. A legislator appointed by the President of the Senate.
- 40 7. A legislator appointed by the Speaker of the House of  
 41 Representatives.
- 42 8. A representative from the Florida Medical Association.
- 43 9. A representative from the Florida Hospital Association.
- 44 10. A representative, appointed by the Attorney General,  
 45 from an addiction and recovery association.
- 46 11. A representative from the Florida Osteopathic Medical  
 47 Association.
- 48 12. A representative from the March of Dimes.
- 49 13. A representative of Healthy Start.
- 50 14. A resident of this state appointed by the Attorney  
 51 General.
- 52 15. A representative from the Florida Nurses Association.

53 (c) Members of the task force are entitled to receive  
 54 reimbursement for per diem and travel expenses pursuant to s.  
 55 112.061, Florida Statutes.

56 (d) The Department of Legal Affairs shall provide the task

57 force with staff necessary to assist the task force in the  
 58 performance of its duties.

59 (3) The task force shall hold its organizational session  
 60 by May 1, 2012. Thereafter, the task force shall meet at least  
 61 four times per year. Additional meetings may be held if the  
 62 chair determines that extraordinary circumstances require an  
 63 additional meeting. A majority of the members of the task force  
 64 constitutes a quorum.

65 (4) The task force shall:

66 (a) Collect and organize data concerning the nature and  
 67 extent of neonatal withdrawal syndrome from prescription drugs  
 68 in this state;

69 (b) Collect and organize data concerning the costs  
 70 associated with treating expectant mothers and newborns  
 71 suffering from withdrawal from prescription drugs;

72 (c) Identify available federal, state, and local programs  
 73 that provide services to mothers who abuse prescription drugs  
 74 and newborns who have neonatal withdrawal syndrome; and

75 (d) Evaluate methods to increase public awareness of the  
 76 dangers associated with prescription drug abuse, particularly to  
 77 women, expectant mothers, and newborns.


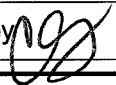
78 (5) The task force shall submit an interim report of its  
 79 recommendations to the President of the Senate and the Speaker  
 80 of the House of Representatives by January 15, 2013, and a final  
 81 report of its recommendations to the President of the Senate and  
 82 the Speaker of the House of Representatives by January 15, 2015.

83 Section 2. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 509 Pharmacy  
SPONSOR(S): Health & Human Services Quality Subcommittee; Logan  
TIED BILLS: IDEN./SIM. BILLS: SB 850

| REFERENCE                                       | ACTION           | ANALYST  | STAFF DIRECTOR or BUDGET/POLICY CHIEF   |
|---|------------------|--|---|
| 1) Health & Human Services Quality Subcommittee | 10 Y, 5 N, As CS | Holt   | Calamas   |
| 2) Health & Human Services Committee            |                  | Holt  | Gormley  |

SUMMARY ANALYSIS

In 2007, pharmacists were granted the authority to administer influenza vaccines (flu shots) to an adult under a written protocol with a supervising physician. A pharmacist who wishes to administer the flu shot must complete a 20-hour influenza immunization certification program (certification program) approved by the Board of Medicine and the Board of Osteopathic Medicine.

The bill expands the authorized vaccines to include the shingles and pneumococcal vaccines. Moreover, the bill also grants authority to administer epinephrine auto-injector system, commonly referred to as an EpiPen, to a person if they have an anaphylaxis reaction.

The bill has an insignificant fiscal impact to the Medical Quality Assurance Trust Fund (See Fiscal Analysis).

The bill will take effect July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Influenza Vaccine Certification Program

In 2007, the Florida Legislature granted pharmacists the authority to administer influenza vaccines (flu shots).<sup>1</sup> Section 465.189, F.S., sets out the terms and conditions under which a pharmacist may administer a flu shot to an adult.<sup>2</sup> Florida is the only state that uses the terminology “adult” instead of specifying a numerical age, such as 18 years or older. Fifteen states and territories limit the administration to 18 years or older.<sup>3</sup> Thirteen states authorize administration to individuals at any age.<sup>4</sup>

A pharmacist who wishes to administer the flu shot must enter into a written protocol with a supervising physician licensed under chapter 458 or chapter 459, F.S.<sup>5</sup> However, the pharmacist may not enter into a protocol while acting as an employee without the written approval of the owner of the pharmacy.<sup>6</sup>

Through the protocol the supervising physician dictates which types and categories of patients to whom the pharmacist may administer the flu shot.<sup>7</sup> The terms, scope, and conditions set forth in the protocol must be appropriate to the pharmacist’s training and certification.<sup>8</sup> The pharmacist is required to provide the Board of Pharmacy a copy of the protocol.<sup>9</sup>

The pharmacist is required to maintain at least \$200,000 of professional liability insurance.<sup>10</sup> The pharmacist is required for 5 years to maintain and make available patient records using the same standards for confidentiality and maintenance required of other healthcare practitioners. The pharmacist must forward all immunization records to the DOH for inclusion in the state immunization registry called, “Florida SHOTS”.<sup>11</sup> Florida SHOTS is a free, statewide, centralized online immunization registry available to physicians, hospitals, pharmacies, schools and licensed child care facilities to help track of immunization records.<sup>12</sup>

Additionally, the pharmacist must successfully complete a certification program, which includes 20 hours of coursework in the form of continuing education hours that require the successful passage of a cognitive examination and proficient demonstration of administration technique.<sup>13</sup> The pharmacist is

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<sup>1</sup> Ch. 2007-152, L.O.F.

<sup>2</sup> Section 465.189, F.S.

<sup>3</sup> The states and territories are: Connecticut, District of Columbia, Hawaii, Iowa, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, South Carolina, Vermont, and West Virginia. *See American Pharmacist Association, Pharmacist Immunization Center, States authorizing pharmacists to administer influenza vaccine & pharmacists trained to administer vaccines*, available at: [http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist\\_Immunization\\_Center1](http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist_Immunization_Center1) (last viewed January 19, 2012).

<sup>4</sup> The states are: Alabama, Alaska, California, Colorado, Michigan, Mississippi, Nebraska, New England, New Mexico, Oklahoma, Tennessee, Texas, Virginia, and Washington. *See American Pharmacist Association, Pharmacist Immunization Center, States authorizing pharmacists to administer influenza vaccine & pharmacists trained to administer vaccines*, available at: [http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist\\_Immunization\\_Center1](http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist_Immunization_Center1) (last viewed January 19, 2012).

<sup>5</sup> Section 465.189(1), F.S.

<sup>6</sup> Section 465.189(4), F.S.

<sup>7</sup> Section 465.189(6), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 465.189(7), F.S.

<sup>10</sup> Section 465.189(2), F.S.

<sup>11</sup> Section 465.189(4), F.S.

<sup>12</sup> Florida Shots, available at: <http://www.flshots.com/what/> (last viewed January 25, 2012)

<sup>13</sup> Chapter 64B16-26.1031, F.A.C.



required to provide the Board of Pharmacy proof of possessing a current certification to administer the flu shot.<sup>14</sup> The coursework must include instruction in the following:<sup>15</sup>

- Mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;
- Immunization schedules;
- Immunization screening questions, provision of risk/benefit information, informed consent, recordkeeping, and electronic reporting into the statewide immunization registry maintained by DOH;
- Vaccine storage and handling;
- Bio-hazardous waste disposal and sterile technique;
- Entering, negotiating, and performing pursuant to physician oversight protocols;
- Community immunization resources and programs;
- Identifying, managing and responding to adverse incidents including but not limited to potential allergic reactions associated with vaccine administration;
- Procedures and policies for reporting adverse incidents to the Vaccine Adverse Event Reporting System;
- Reimbursement procedures and vaccine coverage by federal, state, and local governmental jurisdictions and private third party payors;
- Administration techniques;
- Current influenza immunization guidelines and recommendations of the CDC published in the Morbidity Weekly Report;
- Review of the current law permitting pharmacist to administer influenza vaccine (s. 465.189, F.S.); and
- CPR training.

The certification program is approved by the Board of Medicine and the Board of Osteopathic Medicine, as required by law.<sup>16</sup>

As of June 2009, all states allow pharmacists to immunize patients.<sup>17</sup> However, there is variability by states as to what vaccines pharmacists are authorized to administer. Thirty-seven states and territories<sup>18</sup> allow pharmacists to administer any vaccine, of which, 15 require a prescription.<sup>19</sup> Florida, Maine, and Puerto Rico are more restrictive and only allow pharmacist to administer the flu shot.<sup>20</sup>

In addition to Florida-licensed medical physicians, osteopathic physicians, physician assistants, and nurses, paramedics may administer immunizations. Section 401.272, F.S., authorizes a paramedic to administer immunizations after his or her medical director has verified and documented that the paramedic has received sufficient training and experience to administer immunizations.

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<sup>14</sup> Section 465.189(6), F.S.

<sup>15</sup> Chapter 64B16-26.1031(2), F.A.C.

<sup>16</sup> Section 465.189(7), F.S.

<sup>17</sup> American Pharmacist Association, States Where Pharmacists Can Immunize, *See* map available at:

<http://www.pharmacist.com/AM/TemplateRedirect.cfm?Template=/CM/ContentDisplay.cfm&ContentID=21623> (last viewed January 19, 2012).

<sup>18</sup> Alabama\*, Alaska\*, Arizona\*, Arkansas\*, California, Colorado, District of Columbia\*, Delaware\*, Georgia\*, Hawaii\*, Idaho, Illinois, Indiana\*, Iowa\*, Kansas, Kentucky, Louisiana\*, Michigan\*, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey\*, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina\*, Tennessee, Texas, Vermont, Virginia\*, Washington, and Wisconsin (\*states that require a prescription).

<sup>19</sup> American Pharmacist Association, Pharmacist Immunization Center, States authorizing pharmacists to administer influenza vaccine & pharmacists trained to administer vaccines, *available at*:

[http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist\\_Immunization\\_Center1](http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist_Immunization_Center1) (last viewed January 19, 2012).

<sup>20</sup> *Id.*

## Pneumococcal Disease and Immunization

According to the American Pharmacist Association, Florida is one of three states and Puerto Rico that do not authorize pharmacist to administer the pneumococcal vaccine.<sup>21</sup>

Pneumococcal disease is an infection caused by the bacteria called *Streptococcus pneumoniae*.<sup>22</sup> Pneumococcal disease is the leading cause of serious illness in children and adults throughout the world.<sup>23</sup> Bacteria can invade different organs of the body, causing pneumonia in the lungs, bacteremia in the bloodstream, meningitis in the brain, middle ear infections, and sinusitis.<sup>24</sup> There are more than 90 known pneumococcal types; the ten most common types cause 62 percent of invasive disease worldwide.<sup>25</sup>

Each year in the U.S., there are 175,000 cases of pneumococcal pneumonia, more than 50,000 cases of bacteremia, and between 3,000 and 6,000 cases of meningitis.<sup>26</sup> According to the Centers for Disease Control and Prevention, invasive pneumococcal disease causes 6,000 deaths each year.<sup>27</sup>

Symptoms of pneumococcal infection, depending on the location of the infection, include fever, cough, shortness of breath and chest pain; stiff neck, fever, mental confusion, disorientation and sensitivity to light (meningitis); joint pains and chills (bacteremia); and a painful ear, a red or swollen eardrum, sleeplessness, fever and irritability (middle ear infection).<sup>28</sup> Pneumococcal disease can result in long term damage, such as hearing loss, loss of a limb, and brain damage; pneumococcal disease can also result in death.<sup>29</sup>

The best way to protect against pneumococcal disease is through vaccination. The vaccination is very good at preventing severe pneumococcal disease, but it is not guaranteed to protect against infection and symptoms in all people.<sup>30</sup> Persons aged 65 years or older are considered to be at high risk for pneumococcal disease or its complications. It is recommended that persons 65 years old or older be vaccinated against pneumococcal disease.<sup>31</sup> Currently, there is only one vaccine on the market, called Pneumovax®, which is currently recommended for use in adults who are older than 65 years of age.<sup>32</sup> About half of people who get the vaccine have mild side effects, such as redness or pain where the shot is given and less than 1 percent develop a fever, muscle aches, or more severe local reactions.<sup>33</sup>

## Shingles and Immunization

Shingles, a painful localized skin rash often with blisters, is caused by the reactivation of the varicella zoster virus (virus), which causes chicken pox. Anyone who has had chickenpox can develop shingles years later because the virus remains in the nerve cells of the body after the chickenpox infection clears and virus can reappear years later causing shingles. Shingles most commonly occurs in people 50

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<sup>21</sup> The 3 states are: Florida, Massachusetts, and South Carolina. See, American Pharmacist Association, Pharmacist Immunization Center, States authorizing pharmacists to administer influenza vaccine & pharmacists trained to administer vaccines, available at: [http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist\\_Immunization\\_Center1](http://www.pharmacist.com/AM/Template.cfm?Section=Pharmacist_Immunization_Center1) (last viewed January 19, 2012).

<sup>22</sup> Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, Pneumococcal Disease In-Short, available at: <http://www.cdc.gov/vaccines/vpd-vac/pneumo/in-short-both.htm> (last viewed January 19, 2012).

<sup>23</sup> National Foundation for Infectious Diseases, Pneumococcal Disease, available at: <http://www.nfid.org/factsheets/pneumofacts.shtml> (last viewed January 19, 2012).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Centers for Disease Control and Prevention, Vaccines & Immunizations, Pneumococcal Vaccination, available at: <http://www.cdc.gov/vaccines/vpd-vac/pneumo/default.htm> (last viewed January 25, 2012).

<sup>33</sup> *Id.*

years old or older, people who have medical conditions that keep the immune system from working properly, or people who receive immunosuppressive drugs.<sup>34</sup>

Shingles vaccine is recommended by the Advisory Committee on Immunization Practices (ACIP) to reduce the risk of shingles and its associated pain in anyone 60 years old or older, regardless of whether they recall having had chickenpox or not. Studies show that more than 99% of Americans ages 40 and older have had chickenpox, even if they don't remember getting the disease.<sup>35</sup>

Almost one out of every three people in the U.S. will develop shingles.<sup>36</sup> There are 1 million estimated cases of shingles every year in the U.S., and half of those cases occur in persons over the age of 60.<sup>37</sup> The only way to reduce the risk of developing shingles is to get vaccinated.<sup>38</sup> Currently, there is only one vaccine on the market, called " Zostavax® " that is recommended to prevent the occurrence of shingles.<sup>39</sup> The most common side effects in people who got the vaccine were redness, soreness, swelling or itching at the shot site, and headache.<sup>40</sup>

### Anaphylaxis Epinephrine Auto-Injectors

Currently, a pharmacist who is eligible to administer the flu vaccine is not authorized to administer an epinephrine auto-injector system, commonly referred to as an EpiPen, to a person if they have an anaphylaxis reaction to the vaccine.

Many individuals with severe allergies that have resulted in, or can result in, anaphylaxis carry an EpiPen. The EpiPen consists of a syringe prefilled with an appropriate dose of epinephrine and a retractable needle that is protected by a safety guard to prevent injury or reuse. There are two dosages available for the EpiPen- for children weighing between 33 and 66 pounds, the dosage is .15 mg; for children and adults weighing more than 66 pounds, the dosage is .30 mg.<sup>41</sup> When injected into the top of the thigh, epinephrine eases the symptoms of anaphylaxis until professional medical treatment is obtained.

Anaphylaxis is a severe, whole body allergic reaction to a chemical that has become an allergen.<sup>42</sup> The human body releases chemicals during anaphylaxis that can cause shock, resulting in a sudden drop in blood pressure and the release of histamines, which restrict breathing.<sup>43</sup> Symptoms of anaphylaxis include a rapid, weak pulse, skin rash, nausea and vomiting.<sup>44</sup> Common causes include drug allergies, food allergies, insect bites or stings and exposure to latex.<sup>45</sup> The severely allergic population has increased significantly during that last ten years, with the current incidence rate estimated to be 49.8 per 100,000 person-years.<sup>46</sup>

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<sup>34</sup> Centers for Disease Control and Prevention, Vaccines & Immunizations, Shingles Vaccination: What You Need to Know, *available at*: <http://www.cdc.gov/vaccines/vpd-vac/shingles/vacc-need-know.htm> (last viewed January 25, 2012).

<sup>35</sup> *Id.*

<sup>36</sup> Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, Division of Viral Diseases, Shingles-Overview, *available at*: <http://www.cdc.gov/vaccines/vpd-vac/shingles/default.htm> (last viewed January 20, 2012).

<sup>37</sup> *Id.*

<sup>38</sup> Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, Shingles-Prevention & Treatment, *available at*: <http://www.cdc.gov/shingles/about/prevention-treatment.html> (last viewed January 19, 2012).

<sup>39</sup> Centers for Disease Control and Prevention, Vaccines & Immunizations, Shingles Vaccination: What You Need to Know, *available at*: <http://www.cdc.gov/vaccines/vpd-vac/shingles/vacc-need-know.htm> (last viewed January 25, 2012).

<sup>40</sup> *Id.*

<sup>41</sup> Dey Pharma, L.P., EpiPen Prescribing Information, *available at*: <http://files.epipen.gethifi.com/footer-pdfs/patient-packaging-insert-pdf/Prescribing-Information.pdf>. (last viewed January 20, 2012).

<sup>42</sup> U.S. National Institute of Health, U.S. National Library of Medicine, National Center for Biotechnology Information, Anaphylaxis, *available at*: <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0001847/> (last viewed January 19, 2012).

<sup>43</sup> Mayo Foundation for Medical Education and Research, First Aid: Anaphylaxis, *available at*: <http://www.mayoclinic.com/health/first-aid-anaphylaxis/FA00003> (last viewed January 20, 2012).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Stephanie Guerlain, PhD, et al., *A comparison of 4 epinephrine autoinjector delivery systems: usability and patient preference*, NIH Public Access Author Manuscript, *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892620/>, citing Decker WW,

Anaphylaxis is an emergency situation that requires immediate medical attention. If anaphylaxis is not treated, it will lead to unconsciousness and possible death. Initial treatment of anaphylaxis includes the administration of epinephrine, also known as adrenaline, to improve breathing by relaxing muscles in the airways, stimulate the heart, and tighten the blood vessels to reduce swelling. Epinephrine is classified as a sympathomimetic drug, meaning its effects mimic those of the stimulated sympathetic nervous system, which stimulates the heart and narrows the blood vessels. It is available through a prescription from a physician.

### **Effect of Proposed Changes**

The bill expands the current pharmacist's flu vaccine administration certification program by authorizing a pharmacist to administer:

- Shingles vaccine to adults 60 years of age or older;
- Pneumococcal vaccine to adults 65 years of age or older; and
- Epinephrine using an autoinjector delivery system (EpiPen) to an adult 18 years of age or older who is suffering an anaphylactic reaction.

The bill also clears an ambiguity in current law that provides pharmacist the authority to administer the influenza vaccine to an adult by specifying a numeric age of 18 years or older, but also leaves in the term "adult". It may be advantageous to remove the term "adult" and replace it with "person."

The bill makes conforming changes to the section to incorporate the additional vaccines and epinephrine autoinjector authorized by the bill.

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

**Section 1.** Amends s. 465.189, F.S., relating to administration of vaccines and epinephrine auto injection.

**Section 2.** Amends s. 465.003, F.S., relating to definitions.

**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:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

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

Pharmacies that opt to allow its pharmacists and pharmacy interns to administer the vaccines specified in the bill will realize positive fiscal impact from the revenue generated from offering vaccinations.

**D. FISCAL COMMENTS:**

DOH has promulgated a rule requiring applicants for the influenza immunization certificate program to pay a non-refundable \$55 fee to the Board of Pharmacy.<sup>47</sup> However, s. 465.189, F.S., does not authorize DOH to charge a fee for the certification program.

**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 identified.

**B. RULE-MAKING AUTHORITY:**

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

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

On lines 28-36, uses the term adult and specifies a numeric age. It may be advantageous to remove the term "adult" and replace it with "person."

The bill authorizes a pharmacist to administer an EpiPen in the event of an anaphylactic reaction. This could be construed to mean such a reaction from anything or specifically due to the administration of an authorized vaccine. It may be advantageous to clarify under what circumstances an EpiPen may be administered (i.e. due to the administration of a vaccine).

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the Health & Human Services Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all removes the provision authorizing pharmacy interns to administer vaccines and the EpiPen. Additionally, the strike-all removes the authorization to administer the varicella vaccine and authorizes the administration of the shingles vaccine.

This analysis is drafted to the committee substitute.

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<sup>47</sup> 64B16-26.1001, F.A.C.

1                                   A bill to be entitled  
 2           An act relating to pharmacy; amending s. 465.189,  
 3           F.S.; revising the types of vaccines that pharmacists  
 4           may administer; authorizing pharmacists to administer  
 5           an epinephrine autoinjection under certain  
 6           circumstances; revising protocol requirements for  
 7           vaccine administration and the duties of supervising  
 8           physicians under such protocols; revising requirements  
 9           for training programs, certifications, and patient  
 10          records related to vaccine administration; amending s.  
 11          465.003, F.S.; conforming terminology; providing an  
 12          effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16          Section 1. Section 465.189, Florida Statutes, is amended  
 17          to read:

18          465.189 Administration of vaccines and epinephrine  
 19          autoinjection ~~influenza virus immunizations.~~

20          (1) A pharmacist ~~Pharmacists~~ may administer the following  
 21          ~~influenza virus immunizations to adults~~ within the framework of  
 22          an established protocol under a supervising ~~supervisory~~  
 23          ~~practitioner who is a~~ physician licensed under chapter 458 or  
 24          chapter 459:

25          (a) Influenza vaccine to an adult 18 years of age or  
 26          older.

27          (b) Shingles vaccine to an adult 60 years of age or older.

28          (c) Pneumococcal vaccine to an adult 65 years of age or

29 older.

30 (d) Epinephrine using an autoinjector delivery system to  
 31 an adult 18 years of age or older who is suffering an  
 32 anaphylactic reaction.

33  
 34 The ~~Each~~ protocol must ~~shall~~ contain specific procedures for  
 35 addressing any unforeseen adverse ~~allergic~~ reaction to the  
 36 vaccine or epinephrine autoinjection ~~influenza virus~~  
 37 ~~immunizations.~~

38 (2) A pharmacist may not enter into a protocol unless he  
 39 or she maintains at least \$200,000 of professional liability  
 40 insurance and has completed training on administration of the  
 41 vaccines and epinephrine autoinjection ~~in influenza virus~~  
 42 ~~immunizations~~ as provided in this section.

43 (3) A pharmacist who administers a vaccine or epinephrine  
 44 autoinjection must ~~administering influenza virus immunizations~~  
 45 ~~shall~~ maintain and make available patient records using the same  
 46 standards for confidentiality and maintenance of such records as  
 47 those that are imposed on health care practitioners under s.  
 48 456.057. These records must ~~shall~~ be maintained for a minimum of  
 49 5 years.

50 (4) The decision by a supervising physician ~~supervisory~~  
 51 ~~practitioner~~ to enter into a protocol under this section is a  
 52 professional decision on the part of the physician ~~practitioner~~,  
 53 and a person may not interfere with a supervising physician's  
 54 ~~supervisory practitioner's~~ decision to enter ~~as to entering~~ into  
 55 such a protocol. A pharmacist may not enter into a protocol that  
 56 is to be performed while acting as an employee without the

57 written approval of the owner of the pharmacy. Pharmacists shall  
 58 forward immunization records to the department for inclusion in  
 59 the state registry of immunization information.

60 (5) Any pharmacist seeking to administer a vaccine or  
 61 epinephrine autoinjection ~~influenza virus immunizations to~~  
 62 ~~adults~~ under this section must be certified to administer the  
 63 vaccine or epinephrine autoinjection ~~influenza virus~~  
 64 ~~immunizations~~ pursuant to a certification program approved by  
 65 the Board of Pharmacy in consultation with the Board of Medicine  
 66 and the Board of Osteopathic Medicine. The certification program  
 67 shall, at a minimum, require that the pharmacist attend at least  
 68 20 hours of continuing education classes approved by the board.  
 69 The program shall have a curriculum of instruction concerning  
 70 the safe and effective administration of the vaccines and  
 71 epinephrine autoinjection listed in subsection (1) ~~influenza~~  
 72 ~~virus immunizations~~, including, but not limited to, potential  
 73 adverse allergic reactions to the vaccines or epinephrine  
 74 autoinjection ~~influenza virus immunizations~~.

75 (6) The written protocol between the pharmacist and  
 76 supervising physician must include particular terms and  
 77 conditions imposed by the supervising physician upon the  
 78 pharmacist relating to the administration of a vaccine or  
 79 epinephrine autoinjection ~~influenza virus immunizations~~ by the  
 80 pharmacist. The written protocol must ~~shall~~ include, at a  
 81 minimum, specific categories and conditions among patients for  
 82 whom the supervising physician authorizes the pharmacist to  
 83 administer a vaccine or epinephrine autoinjection ~~influenza~~  
 84 ~~virus immunizations~~. The terms, scope, and conditions set forth



85 in the written protocol between the pharmacist and the  
 86 supervising physician must be appropriate to the pharmacist's  
 87 training and certification for the vaccine or epinephrine  
 88 autoinjection immunization. A pharmacist ~~Pharmacists~~ who is ~~is~~ ~~have~~  
 89 ~~been~~ delegated the authority to administer a vaccine or  
 90 epinephrine autoinjection ~~influenza virus immunizations~~ by the  
 91 supervising physician must ~~shall~~ provide evidence of current  
 92 certification by the Board of Pharmacy to the supervising  
 93 physician. A supervising physician must ~~physicians shall~~ review  
 94 the administration of the vaccine or epinephrine autoinjection  
 95 ~~influenza virus immunizations~~ by the pharmacist ~~pharmacists~~  
 96 under such physician's supervision pursuant to the written  
 97 protocol, and this review shall take place as outlined in the  
 98 written protocol. The process and schedule for the review shall  
 99 be outlined in the written protocol between the pharmacist and  
 100 the supervising physician.

101 (7) The pharmacist shall submit to the Board of Pharmacy a  
 102 copy of his or her protocol or written agreement to administer  
 103 the vaccine or epinephrine autoinjection ~~influenza virus~~  
 104 ~~immunizations~~.

105 Section 2. Subsection (13) of section 465.003, Florida  
 106 Statutes, is amended to read:

107 465.003 Definitions.—As used in this chapter, the term:

108 (13) "Practice of the profession of pharmacy" includes  
 109 compounding, dispensing, and consulting concerning contents,  
 110 therapeutic values, and uses of any medicinal drug; consulting  
 111 concerning therapeutic values and interactions of patent or  
 112 proprietary preparations, whether pursuant to prescriptions or

113 in the absence and entirely independent of such prescriptions or  
 114 orders; and other pharmaceutical services. For purposes of this  
 115 subsection, "other pharmaceutical services" means the monitoring  
 116 of the patient's drug therapy and assisting the patient in the  
 117 management of his or her drug therapy, and includes review of  
 118 the patient's drug therapy and communication with the patient's  
 119 prescribing health care provider as licensed under chapter 458,  
 120 chapter 459, chapter 461, or chapter 466, or similar statutory  
 121 provision in another jurisdiction, or such provider's agent or  
 122 such other persons as specifically authorized by the patient,  
 123 regarding the drug therapy. However, ~~nothing in~~ this subsection  
 124 does not ~~may be interpreted to~~ permit an alteration of a  
 125 prescriber's directions, the diagnosis or treatment of any  
 126 disease, the initiation of any drug therapy, the practice of  
 127 medicine, or the practice of osteopathic medicine, unless  
 128 otherwise permitted by law. The term "practice of the profession  
 129 of pharmacy" ~~also~~ includes any other act, service, operation,  
 130 research, or transaction incidental to, or forming a part of,  
 131 any of the foregoing acts, requiring, involving, or employing  
 132 the science or art of any branch of the pharmaceutical  
 133 profession, study, or training, and shall expressly permit a  
 134 pharmacist to transmit information from persons authorized to  
 135 prescribe medicinal drugs to their patients. The term practice  
 136 ~~of the profession of pharmacy~~ also includes the administration  
 137 of certain vaccines and epinephrine autoinjection influenza  
 138 ~~virus immunizations~~ to adults pursuant to s. 465.189.

139 Section 3. 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 Logan offered the following:

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

6 Remove everything after the enacting clause and insert:  
7 Section 1. Subsections (2) through (7) of section 465.189,  
8 Florida Statutes, are renumbered as subsections (4) through (9),  
9 respectively, and new subsections (1), (2), and (3) are added to  
10 that section to read:

11 465.189 Administration of vaccines and epinephrine  
12 autoinjection influenza virus immunizations.--

13 (1) In accordance with guidelines of the Centers for  
14 Disease Control and Prevention for each recommended immunization  
15 or vaccine, a pharmacist may administer the following vaccines  
16 within the framework of an established protocol under a  
17 supervising physician licensed under chapter 458 or chapter 459:

- 18 (a) Influenza vaccine.
- 19 (b) Pneumococcal vaccine.

Amendment No. 1

20       (2) In accordance with guidelines of the Centers for  
21 Disease Control and Prevention, a pharmacist may administer the  
22 shingles vaccine within the framework of an established protocol  
23 and pursuant to a written or electronic prescription issued to  
24 the patient by a physician licensed under chapter 458 or chapter  
25 459.

26       (3) In order to address any unforeseen allergic reaction,  
27 a pharmacist may administer epinephrine using an autoinjector  
28 delivery system within the framework of an established protocol  
29 under a supervising physician licensed under chapter 458 or  
30 chapter 459.

31       ~~(1) Pharmacists may administer influenza virus~~  
32 ~~immunizations to adults within the framework of an established~~  
33 ~~protocol under a supervisory practitioner who is a physician~~  
34 ~~licensed under chapter 458 or chapter 459. Each protocol shall~~  
35 ~~contain specific procedures for addressing any unforeseen~~  
36 ~~allergic reaction to influenza virus immunizations.~~

37       (4)(2) A pharmacist may not enter into a protocol unless  
38 he or she maintains at least \$200,000 of professional liability  
39 insurance and has completed training in administering vaccines  
40 authorized under influenza virus immunizations as provided in  
41 this section.

42       (5)(3) A pharmacist administering vaccines under this  
43 section influenza virus immunizations shall maintain and make  
44 available patient records using the same standards for  
45 confidentiality and maintenance of such records as those that  
46 are imposed on health care practitioners under s. 456.057. These  
47 records shall be maintained for a minimum of 5 years.

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Amendment No. 1

48        ~~(6)(4)~~ The decision by a supervising physician licensed  
49 under chapter 458 or chapter 459 ~~supervisory practitioner~~ to  
50 enter into a protocol under this section is a professional  
51 decision on the part of the practitioner, and a person may not  
52 interfere with a physician's ~~supervisory practitioner's~~ decision  
53 as to entering into such a protocol. A pharmacist may not enter  
54 into a protocol that is to be performed while acting as an  
55 employee without the written approval of the owner of the  
56 pharmacy. Pharmacists shall forward vaccination ~~immunization~~  
57 records to the department for inclusion in the state registry of  
58 immunization information.

59        ~~(7)(5)~~ Any pharmacist seeking to administer vaccines  
60 ~~influenza virus immunizations~~ to adults under this section must  
61 be certified to administer such vaccines ~~influenza virus~~  
62 ~~immunizations~~ pursuant to a certification program approved by  
63 the Board of Pharmacy in consultation with the Board of Medicine  
64 and the Board of Osteopathic Medicine. The certification program  
65 shall, at a minimum, require that the pharmacist attend at least  
66 20 hours of continuing education classes approved by the board.  
67 The program shall have a curriculum of instruction concerning  
68 the safe and effective administration of such vaccines ~~influenza~~  
69 ~~virus immunizations~~, including, but not limited to, potential  
70 allergic reactions to such vaccines ~~influenza virus~~  
71 ~~immunizations~~.

72        ~~(8)(6)~~ The written protocol between the pharmacist and  
73 supervising physician under this section must include particular  
74 terms and conditions imposed by the supervising physician upon  
75 the pharmacist relating to the administration of vaccines

Amendment No. 1

76 ~~influenza virus immunizations~~ by the pharmacist pursuant to this  
77 section. The written protocol shall include, at a minimum,  
78 specific categories and conditions among patients for whom the  
79 supervising physician authorizes the pharmacist to administer  
80 such vaccines ~~influenza virus immunizations~~. The terms, scope,  
81 and conditions set forth in the written protocol between the  
82 pharmacist and the supervising physician must be appropriate to  
83 the pharmacist's training and certification for administering  
84 such vaccines ~~immunization~~. Pharmacists who have been delegated  
85 the authority to administer vaccines under this section  
86 ~~influenza virus immunizations~~ by the supervising physician under  
87 the protocol shall provide evidence of current certification by  
88 the Board of Pharmacy to the supervising physician. A  
89 supervising physician ~~physicians~~ shall review the administration  
90 of such vaccines ~~influenza virus immunizations~~ by the pharmacist  
91 ~~pharmacists under such physician's supervision~~ pursuant to the  
92 written protocol between them, and this review shall take place  
93 as outlined in the written protocol. The process and schedule  
94 for the review shall be outlined in the written protocol between  
95 the pharmacist and the supervising physician.

96 (9)(7) The pharmacist shall submit to the Board of  
97 Pharmacy a copy of his or her protocol or written agreement to  
98 administer vaccines under this section ~~influenza virus~~  
99 ~~immunizations~~.

100 Section 2. Subsection (13) of section 465.003, Florida  
101 Statutes, is amended to read:

102 465.003 Definitions.—As used in this chapter, the term:

## Amendment No. 1

103 (13) "Practice of the profession of pharmacy" includes  
104 compounding, dispensing, and consulting concerning contents,  
105 therapeutic values, and uses of any medicinal drug; consulting  
106 concerning therapeutic values and interactions of patent or  
107 proprietary preparations, whether pursuant to prescriptions or  
108 in the absence and entirely independent of such prescriptions or  
109 orders; and other pharmaceutical services. For purposes of this  
110 subsection, "other pharmaceutical services" means the monitoring  
111 of the patient's drug therapy and assisting the patient in the  
112 management of his or her drug therapy, and includes review of  
113 the patient's drug therapy and communication with the patient's  
114 prescribing health care provider as licensed under chapter 458,  
115 chapter 459, chapter 461, or chapter 466, or similar statutory  
116 provision in another jurisdiction, or such provider's agent or  
117 such other persons as specifically authorized by the patient,  
118 regarding the drug therapy. However, nothing in this subsection  
119 may be interpreted to permit an alteration of a prescriber's  
120 directions, the diagnosis or treatment of any disease, the  
121 initiation of any drug therapy, the practice of medicine, or the  
122 practice of osteopathic medicine, unless otherwise permitted by  
123 law. "Practice of the profession of pharmacy" also includes any  
124 other act, service, operation, research, or transaction  
125 incidental to, or forming a part of, any of the foregoing acts,  
126 requiring, involving, or employing the science or art of any  
127 branch of the pharmaceutical profession, study, or training, and  
128 shall expressly permit a pharmacist to transmit information from  
129 persons authorized to prescribe medicinal drugs to their  
130 patients. The practice of the profession of pharmacy also

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131 includes the administration of vaccines ~~influenza virus~~  
132 ~~immunizations~~ to adults pursuant to s. 465.189.

133 Section 3. Effective October 1, 2012, subsection (6) is  
134 added to section 465.009, Florida Statutes, to read:

135 465.009 Continuing professional pharmaceutical education.-

136 (6) Notwithstanding subsections (1)-(5):

137 (a) Each pharmacist certified to administer a vaccine or  
138 epinephrine autoinjection under s. 465.189 must complete a 3-  
139 hour continuing education course, which shall be offered by a  
140 statewide professional association of physicians in this state  
141 accredited to provide educational activities designated for the  
142 American Medical Association Physician's Recognition Award (AMA  
143 PRA) Category I credit, on the safe and effective administration  
144 of vaccines and epinephrine autoinjection as part of biennial  
145 relicensure or recertification. This course may be offered in a  
146 distance-learning format and must be included in the 30 hours of  
147 continuing professional pharmaceutical education specified in  
148 subsection (1).

149 (b) Each pharmacist must submit confirmation of having  
150 completed the course specified in paragraph (a) on a form  
151 provided by the board when submitting fees for license renewal.

152 (c) Failure to comply with paragraphs (a) and (b) results  
153 in the revocation of the authorization for a pharmacist to  
154 administer a vaccine or epinephrine autoinjection under s.  
155 465.189. Such authorization may be restored upon completion of  
156 such requirements.

157 Section 4. Except as otherwise specifically provided in  
158 this act, this act shall take effect July 1, 2012.



Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to pharmacy; amending s. 465.189,  
F.S.; revising the types of vaccines that pharmacists  
may administer under certain circumstances;  
authorizing pharmacists to administer a vaccine or  
epinephrine autoinjection within the framework of an  
established protocol; amending s. 465.003, F.S.;  
conforming terminology; amending s. 465.009, F.S.;  
revising continuing professional pharmaceutical  
educational requirements with respect to administering  
such vaccines or autoinjection; providing effective  
dates.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 509 (2012)

Amendment No. a1

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                 | _____ |       |

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1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Committee

3 Representative Wood offered the following:

4  
5 **Amendment to Amendment (738675) by Representative Logan**

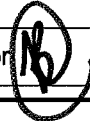
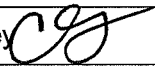
6 Between lines 19 and 20 of the amendment, insert:

7 (c) Meningococcal conjugate vaccine to a person 18 years  
8 of age or older.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 531 Homelessness  
SPONSOR(S): Health & Human Services Access Subcommittee; Reed  
TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

CS/HB 531 creates and revises multiple sections of Florida Statutes relating to homelessness. Specifically the bill makes the following changes:

- Authorizes the collection of voluntary contributions in the amount of \$1 to be added to motor vehicle registration and driver’s license fees, both initial and renewal fees, to aid the homeless.
- Replaces s.414.16, F.S., as it relates to Emergency Financial Assistance Program for Families with s. 414.161, F.S., establishing a homeless prevention grant program to be administered by local homeless continuums of care to provide emergency financial assistance to families facing the loss of their current home due to financial or other crises.
- Limits the amount a lead agency may spend on administrative costs under a Challenge Grant.

The Department of Children and Families estimates a revenue increase of \$20,000 from the collection of voluntary contributions in the amount of \$1.00 to motor vehicle and driver’s license fees (initial and renewals). No additional fiscal impact is anticipated for the state.

The bill provides an effective date of July 1, 2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### *The Council on Homelessness*

The Council on Homelessness (council) and the State Office on Homelessness (office) were created in 2001 within the Department of Children and Family Services (DCF)<sup>1</sup>. The office coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions<sup>2</sup>. The 17-member council is comprised of representatives of state agencies, counties, homeless advocacy organizations, and volunteers<sup>3</sup>. The council's duties include developing policy and advising the office.<sup>4</sup>

The office administers all homelessness grants through lead agencies. The lead agency has the responsibility for continuum of care plans that help communities or regions envision, plan and implement comprehensive and long term solutions to the problem of homelessness in the community.<sup>5</sup> Lead agencies are also authorized applicants for the Challenge Grant and the Homeless Housing Assistance Grant.

###### *Emergency Financial Assistance Program*

This is a state grant program to provide support to families, with at least one minor child, who are currently without shelter or face the loss of shelter because of the following:<sup>6</sup>

- Nonpayment of rent or mortgage resulting in eviction or notice of eviction;
- Household disaster, which renders the home uninhabitable;
- Other emergency situations defined in rule.<sup>7</sup>

Families may receive up to \$400 during 1 period of 30 consecutive days in any 12 consecutive months.<sup>8</sup> DCF serves approximately 2,000 families a year under this program and utilizes OPS staff to assess eligibility and process payments.<sup>9</sup>

###### *Homeless Housing Assistance Grants*

This state grant program provides homeless housing assistance grants up to \$750,000 annually to lead agencies to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.<sup>10</sup> Administrative costs are capped at 5% of the funds awarded.<sup>11</sup>

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<sup>1</sup>Ch. 2001-98, L.O.F

<sup>2</sup>s.420.622(3), F.S.

<sup>3</sup>s.420.622(2), F.S.

<sup>4</sup>*Id*

<sup>5</sup>s. 420.642(2), F.S.

<sup>6</sup>s. 414.16, F.S.

<sup>7</sup>s. 414.16(1), F.S.

<sup>8</sup>65A-33.011, F.A.C.

<sup>9</sup>DCF Staff Analysis HB 531 (2012). On file with committee staff.

<sup>10</sup>s. 420.622(5), F.S.

<sup>11</sup>s. 420.622(5)(f), F.S.

## *Challenge Grant*

The challenge grant is a state program which includes grants of up to \$500,000 to lead agencies who have developed and implemented a local homeless assistance continuum of care plan to provide services including outreach, emergency shelter, support services, and permanent shelter in the area.<sup>12</sup> The state currently has 28 local homeless Continuum of Care planning areas that receive state aid in grant assistance. Currently, state law does not provide for a limit on or use of grant funds for grant administration costs incurred by lead agencies.

## *Voluntary Checkoffs*

Voluntary checkoffs provide the opportunity for citizens to make a voluntary donation by checking a box on a form when registering a vehicle or applying for a driver's license. Current statute provides that an organization must seek authorization from the Department of Highway Safety and Motor Vehicles (DHSMV) prior to establishing a voluntary contribution checkoff. Organizations must submit the request to DHSMV, pay an application fee and submit a marketing strategy prior to seeking Legislative authorization for the creation of a new voluntary contribution fee on motor vehicle registration applications.<sup>13</sup>

Additionally, current statute provides that an organization must seek authorization from the Department of Highway Safety and Motor Vehicles (DHSMV) prior to establishing a voluntary contribution checkoff. Organizations must submit the request to DHSMV, pay an application fee and submit a marketing strategy prior to seeking Legislative authorization for the creation of a new voluntary contribution fee on driver's license applications.<sup>14</sup>

The Department of Highway Safety and Motor Vehicles must discontinue the checkoff if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.<sup>15</sup>

## **Effect of Proposed Changes**

The bill authorizes the collection of voluntary contributions in the amount of \$1.00 to be added to the motor vehicle and driver's license fees - initial and renewal fees - to aid the homeless. The bill does not require the voluntary contributions be subject to the checkoff procedures and limitations of s. 320.023, F.S., and s. 322.081, F.S. Funds will be placed in a grants and donations trust fund for use by the office to supplement Challenge Grants and Homeless Housing Assistance Grants and to provide information on homelessness to the public. The effect of this change is estimated to generate an additional \$20,000 a year.

The bill repeals s. 414.16, F.S., relating to the Emergency Assistance Program and replaces it with a Homelessness Prevention Grant Program under s. 414.161, F.S. The new program will be administered by the Office on Homelessness at DCF, with the concurrence of the Council on Homelessness. The office may provide prevention grants through contracts with local lead agencies for homeless assistance continuums of care. The bill specifies the grant application process and certain preferences for applicants who can leverage additional funds and demonstrate effective programs. Eligibility for the grant program is limited to lead agencies who have implemented a local homeless assistance plan for their area. The grants are capped at \$300,000 and may be used to assist families facing the loss of their current home to pay past due rent and mortgage payments, past due utility bills, and case management. Program administrative costs are capped at 3 percent of the grant award.

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<sup>12</sup> s. 420.622(4), F.S.

<sup>13</sup> s. 320.023, F.S.

<sup>14</sup> s. 322.0581, F.S.

<sup>15</sup> ss. 320.023(4)(a) and 322.081(4)(a), F.S.

The bill caps administrative costs for lead agencies administering Challenge Grants at 8 percent. Challenge Grant awards are up to \$500,000 per lead agency.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 320.02, F.S., relating to registration required; application for registration; forms.

**Section 2:** Amends s. 322.08, F.S., relating to application for license; requirements for license and identification card forms.

**Section 3:** Amends s. 322.18, F.S., relating to original applications, licenses, renewals; expiration of licenses; delinquent licenses.

**Section 4:** Creates s. 414.161, F.S., relating to Homelessness Prevention Grants.

**Section 5:** Amends s. 420.622, F.S., relating to the State Office on Homelessness; Council on Homelessness.

**Section 6:** Amends s. 420.625, F.S., relating to Grant-in-aid program.

**Section 7:** Repeals s. 414.16, F.S., relating to Emergency Assistance program.

**Section 8:** Provides an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to DCF, the voluntary contributions from motor vehicle registrations and renewals, and original or renewal driver's licenses could provide an estimated \$20,000.

#### 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:

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

#### 1. Applicability of Municipality/County Mandates Provision:

None.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Health and Human Services Access Subcommittee adopted an amendment to House Bill 531. The amendment deletes section 7 of the bill and proposed changes to the Housing First Methodology.

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 homelessness; amending ss. 320.02,  
3           322.08, and 322.18, F.S.; requiring the motor vehicle  
4           registration form and registration renewal form, the  
5           driver license application form, and the driver  
6           license application form for renewal issuance or  
7           renewal extension to include an option to make a  
8           voluntary contribution to aid the homeless; providing  
9           for such contributions to be deposited into the Grants  
10          and Donations Trust Fund of the Department of Children  
11          and Family Services and used by the State Office on  
12          Homelessness for certain purposes; providing that  
13          voluntary contributions for the homeless are not  
14          income of a revenue nature for the purpose of applying  
15          certain service charges; creating s. 414.161, F.S.;  
16          establishing a homelessness prevention grant program;  
17          requiring grant applicants to be ranked competitively;  
18          providing preference for certain grant applicants;  
19          providing eligibility requirements; providing grant  
20          limitations and restrictions; requiring lead agencies  
21          for local homeless assistance continuums of care to  
22          track, monitor, and report on assisted families for a  
23          specified period of time; amending s. 420.622, F.S.;  
24          limiting the percentage of funding that lead agencies  
25          may spend on administrative costs; amending s.  
26          420.625, F.S.; deleting a cross-reference to conform;  
27          repealing s. 414.16, F.S., relating to the emergency  
28          assistance program for families with children that

29 have lost shelter or face loss of shelter due to an  
 30 emergency; providing an effective date.

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. Paragraph (o) is added to subsection (15) of  
 35 section 320.02, Florida Statutes, to read:

36 320.02 Registration required; application for  
 37 registration; forms.—

38 (15)

39 (o) Notwithstanding s. 320.023, the application form for  
 40 motor vehicle registration and renewal of registration must  
 41 include language permitting a voluntary contribution of \$1 per  
 42 applicant to aid the homeless. Contributions made pursuant to  
 43 this paragraph shall be deposited into the Grants and Donations  
 44 Trust Fund of the Department of Children and Family Services and  
 45 used by the State Office on Homelessness to supplement grants  
 46 made under s. 420.622(4) and (5), provide information to the  
 47 public about homelessness in the state, and provide literature  
 48 for homeless persons seeking assistance.

49  
 50 For the purpose of applying the service charge provided in s.  
 51 215.20, contributions received under this subsection are not  
 52 income of a revenue nature.

53 Section 2. Subsection (7) of section 322.08, Florida  
 54 Statutes, is amended to read:

55 322.08 Application for license; requirements for license  
 56 and identification card forms.—

57 (7) The application form for an original, renewal, or  
 58 replacement driver's license or identification card shall  
 59 include language permitting the following:

60 (a) A voluntary contribution of \$1 per applicant, which  
 61 contribution shall be deposited into the Health Care Trust Fund  
 62 for organ and tissue donor education and for maintaining the  
 63 organ and tissue donor registry.

64 (b) A voluntary contribution of \$1 per applicant, which  
 65 contribution shall be distributed to the Florida Council of the  
 66 Blind.

67 (c) A voluntary contribution of \$2 per applicant, which  
 68 shall be distributed to the Hearing Research Institute,  
 69 Incorporated.

70 (d) A voluntary contribution of \$1 per applicant, which  
 71 shall be distributed to the Juvenile Diabetes Foundation  
 72 International.

73 (e) A voluntary contribution of \$1 per applicant, which  
 74 shall be distributed to the Children's Hearing Help Fund.

75 (f) A voluntary contribution of \$1 per applicant, which  
 76 shall be distributed to Family First, a nonprofit organization.

77 (g) A voluntary contribution of \$1 per applicant to Stop  
 78 Heart Disease, which shall be distributed to the Florida Heart  
 79 Research Institute, a nonprofit organization.

80 (h) A voluntary contribution of \$1 per applicant to Senior  
 81 Vision Services, which shall be distributed to the Florida  
 82 Association of Agencies Serving the Blind, Inc., a not-for-  
 83 profit organization.

84 (i) A voluntary contribution of \$1 per applicant for

85 services for persons with developmental disabilities, which  
 86 shall be distributed to The Arc of Florida.

87 (j) A voluntary contribution of \$1 to the Ronald McDonald  
 88 House, which shall be distributed each month to Ronald McDonald  
 89 House Charities of Tampa Bay, Inc.

90 (k) Notwithstanding s. 322.081, a voluntary contribution  
 91 of \$1 per applicant, which shall be distributed to the League  
 92 Against Cancer/La Liga Contra el Cancer, a not-for-profit  
 93 organization.

94 (l) A voluntary contribution of \$1 per applicant to  
 95 Prevent Child Sexual Abuse, which shall be distributed to  
 96 Lauren's Kids, Inc., a nonprofit organization.

97 (m) A voluntary contribution of \$1 per applicant, which  
 98 shall be distributed to Prevent Blindness Florida, a not-for-  
 99 profit organization, to prevent blindness and preserve the sight  
 100 of the residents of this state.

101 (n) Notwithstanding s. 322.081, a voluntary contribution  
 102 of \$1 per applicant to the state homes for veterans, to be  
 103 distributed on a quarterly basis by the department to the State  
 104 Homes for Veterans Trust Fund, which is administered by the  
 105 Department of Veterans' Affairs.

106 (o) A voluntary contribution of \$1 per applicant to the  
 107 Disabled American Veterans, Department of Florida, which shall  
 108 be distributed quarterly to Disabled American Veterans,  
 109 Department of Florida, a nonprofit organization.

110 (p) Notwithstanding s. 322.081, a voluntary contribution  
 111 of \$1 per applicant to aid the homeless. Contributions made  
 112 pursuant to this paragraph shall be deposited into the Grants

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113 and Donations Trust Fund of the Department of Children and  
 114 Family Services and used by the State Office on Homelessness to  
 115 supplement grants made under s. 420.622(4) and (5), provide  
 116 information to the public about homelessness in the state, and  
 117 provide literature for homeless persons seeking assistance.

118

119 A statement providing an explanation of the purpose of the trust  
 120 funds shall also be included. For the purpose of applying the  
 121 service charge provided in s. 215.20, contributions received  
 122 under paragraphs (b)-(p) ~~(b)-(e)~~ are not income of a revenue  
 123 nature.

124 Section 3. Subsection (9) is added to section 322.18,  
 125 Florida Statutes, to read:

126 322.18 Original applications, licenses, and renewals;  
 127 expiration of licenses; delinquent licenses.—

128 (9) The application form for a renewal issuance or renewal  
 129 extension shall include language permitting a voluntary  
 130 contribution of \$1 per applicant to aid the homeless.  
 131 Contributions made pursuant to this subsection shall be  
 132 deposited into the Grants and Donations Trust Fund of the  
 133 Department of Children and Family Services and used by the State  
 134 Office on Homelessness to supplement grants made under s.  
 135 420.622(4) and (5), provide information to the public about  
 136 homelessness in the state, and provide literature for homeless  
 137 persons seeking assistance. For the purpose of applying the  
 138 service charge provided in s. 215.20, contributions received  
 139 under this paragraph are not income of a revenue nature.

140 Section 4. Section 414.161, Florida Statutes, is created  
 141 to read:

142 414.161 Homelessness prevention grants.-

143 (1) ESTABLISHMENT OF PROGRAM.-There is created a grant  
 144 program to provide emergency financial assistance to families  
 145 facing the loss of their current home due to a financial or  
 146 other crisis. The State Office on Homelessness, with the  
 147 concurrence of the Council on Homelessness, may accept and  
 148 administer moneys appropriated to the Department of Children and  
 149 Family Services to provide homelessness prevention grants  
 150 annually to lead agencies for local homeless assistance  
 151 continuums of care, as recognized by the State Office on  
 152 Homelessness. These moneys shall consist of any sums that the  
 153 state may appropriate, as well as money received from donations,  
 154 gifts, bequests, or otherwise from any public or private source  
 155 that is intended to assist families to prevent them from  
 156 becoming homeless.

157 (2) GRANT APPLICATIONS.-Grant applicants shall be ranked  
 158 competitively. Preference shall be given to applicants who  
 159 leverage additional private funds and public funds, who  
 160 demonstrate the effectiveness of their homelessness prevention  
 161 programs in keeping families housed, and who demonstrate the  
 162 commitment of other assistance and services to address family  
 163 health, employment, and education needs.

164 (3) ELIGIBILITY.-In order to qualify for a grant, a lead  
 165 agency must develop and implement a local homeless assistance  
 166 continuum of care plan for its designated catchment area. The  
 167 homelessness prevention program must be included in the

168 continuum of care plan.

169 (4) GRANT LIMITS.—The maximum grant amount per lead agency  
 170 may not exceed \$300,000. The grant assistance may be used to pay  
 171 past due rent or mortgage payments, past due utility costs,  
 172 provision of case management services, and program  
 173 administration costs not to exceed 3 percent of the grant award.  
 174 The homelessness prevention program must develop a case plan for  
 175 each family to be assisted setting forth what costs will be  
 176 covered and the maximum level of assistance to be offered.

177 (5) PERFORMANCE.—The lead agency must track, monitor, and  
 178 report on each family assisted for at least 12 months after the  
 179 last assistance provided to the family. The goal for the  
 180 homelessness prevention program is to enable at least 85 percent  
 181 of the families assisted to remain in their homes and avoid  
 182 becoming homeless during the ensuing year.

183 Section 5. Paragraph (d) is added to subsection (4) of  
 184 section 420.622, Florida Statutes, to read:

185 420.622 State Office on Homelessness; Council on  
 186 Homelessness.—

187 (4) Not less than 120 days after the effective date of  
 188 this act, the State Office on Homelessness, with the concurrence  
 189 of the Council on Homelessness, may accept and administer moneys  
 190 appropriated to it to provide "Challenge Grants" annually to  
 191 lead agencies for homeless assistance continuums of care  
 192 designated by the State Office on Homelessness. A lead agency  
 193 may be a local homeless coalition, municipal or county  
 194 government, or other public agency or private, not-for-profit  
 195 corporation. Such grants may be up to \$500,000 per lead agency.

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196           (d) A lead agency may spend a maximum of 8 percent of its  
 197 funding on administrative costs.

198           Section 6. Paragraph (d) of subsection (3) of section  
 199 420.625, Florida Statutes, is amended to read:

200           420.625 Grant-in-aid program.—

201           (3) ESTABLISHMENT.—There is hereby established a grant-in-  
 202 aid program to help local communities in serving the needs of  
 203 the homeless through a variety of supportive services, which may  
 204 include, but are not limited to:

205           (d) Emergency financial assistance for persons who are  
 206 totally without shelter or facing loss of shelter, ~~but who are~~  
 207 ~~not eligible for such assistance under s. 414.16.~~

208           Section 7. Section 414.16, Florida Statutes, is repealed.

209           Section 8. This act shall take effect July 1, 2012.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 711 Sale or Lease of a County, District, or Municipal Hospital

**SPONSOR(S):** Community & Military Affairs Subcommittee; Health & Human Services Quality Subcommittee; Hooper

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 464

| REFERENCE                                       | ACTION           | ANALYST   | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|-----------|---------------------------------------|
| 1) Health & Human Services Quality Subcommittee | 15 Y, 0 N, As CS | Mathieson | Calamas                               |
| 2) Community & Military Affairs Subcommittee    | 15 Y, 0 N, As CS | Duncan    | Hoagland                              |
| 3) Civil Justice Subcommittee                   | 14 Y, 1 N        | Caridad   | Bond                                  |
| 4) Health & Human Services Committee            |                  | Mathieson | Gormley                               |

### SUMMARY ANALYSIS

County, district and municipal hospitals are created pursuant to a special enabling act, rather than a general act. The special act sets out the hospital authority's power to levy taxes to support the maintenance of the hospital, the framework for the governing board and defines the ability to issue bonds.

The process for the sale or lease of a county, district or municipal hospital is established in Florida statute. Currently, the authority to make this decision and to negotiate such a transaction is given to the governing board that is selling the hospital. A hospital can be sold or leased to a for-profit or a not-for-profit Florida corporation, if the transaction is in the best interest of the public.

The bill amends s. 155.40, F.S., to require that the governing board of a county, district or municipal hospital, prior to completing a proposed sale or lease of the hospital, receive approval from a circuit court, or, if provided for in the hospital charter, by a referendum. The bill:

- Requires certain findings by the hospital governing board;
- Requires public notice by the hospital governing board;
- Provides for certain content for petitions to the court;
- Allows interested parties to participate in the court approval process;
- Requires certain findings by the court; and
- Allows for appeal.

A county, district, or municipal hospital that has not received tax support within the last five years is exempt from the circuit court process requirements established in the bill.

The bill has an indeterminate fiscal impact on the courts. Costs associated with the petition are borne by the hospital board, unless a party contests.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Hospital districts are created under the statutory authority provided in s. 189.404, F.S., and a special act. The Agency for Health Care Administration (AHCA) reports that there are 30 hospital districts in the state, 24 of which are independent, and 6 dependent. 16 of these districts have the authority to levy ad valorem property tax.<sup>1</sup> The Department for Economic Opportunity (DEO) maintains a searchable database of special districts that is accessible through the department website. From the DEO website it appears there are 31 hospital districts.<sup>2</sup>

County, district and municipal hospitals are created pursuant to a special enabling act, rather than a general act.<sup>3</sup> The special act sets out the hospital authority's power to levy taxes to support the maintenance of the hospital, the framework for the governing board and defines the ability to issue bonds.

The process for the sale or lease of a county, district or municipal hospital is established by s. 155.40, F.S. Currently, the authority to make this decision and to negotiate such a transaction is given to the governing board that is selling the hospital.<sup>4</sup> A hospital can be sold or leased to a for-profit or a not-for-profit Florida corporation, and must be in the best interest of the public.<sup>5</sup> The board must publically advertise both the meeting at which the proposed sale or lease will be discussed,<sup>6</sup> and the offer to accept proposals from all interested and qualified purchasers.<sup>7</sup> Any lease, contract or agreement must contain the following terms:

- Articles of incorporation of the corporation are subject to approval of the board.
- Qualification under s. 501(c)(3) of the U.S. Internal Revenue Code for a not-for-profit corporation.
- Orderly transition of the operation and management of the facilities must be provided for.
- On termination of the contract, lease or agreement, that the facility returns to the county, district or municipality.
- Continued treatment of indigent patients pursuant to law.<sup>8</sup>

For the sale or lease to be considered a complete sale of the public agency's interest in the hospital, the purchasing entity must:

- Acquire 100 percent ownership of the hospital enterprise;
- Purchase the physical plant of the hospital facility and have complete responsibility for the operation and maintenance thereof, regardless of the underlying ownership of the real property;
- Not receive public funding, other than by contract for the payment of medical services provided to patients for which the public agency has responsibility to pay;
- Take control of decision-making or policy-making for the hospital from the public agency seller;
- Not receive substantial investment or loans from the seller;

<sup>1</sup> See, <http://ahca.myflorida.com/mchq/FCTFH/fctfh.shtml> (site last visited February 2, 2012).

<sup>2</sup> See, <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/report.cfm> (site last visited February 2, 2012). The difference in count could be a result of differences in definitions as to what comprises a hospital district between the two agencies – for example, AHCA included Hamilton County and the Miami-Dade County Public Health Trust, whereas DEO did not.

<sup>3</sup> Section 155.04, F.S., allows a county, upon receipt of a petition signed by at least 5 per cent of resident freeholders, to levy an ad valorem tax or issue bonds to pay for the establishment and maintenance of a hospital. Section 155.05, F.S., gives a county the ability to establish a hospital without raising bonds or an ad valorem tax, utilizing available discretionary funds. However, an ad valorem tax can be levied for the ongoing maintenance of the hospital.

<sup>4</sup> Section 155.40(1), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> In accordance with s. 286.0105, F.S.

<sup>7</sup> In accordance with s. 255.0525, F.S.

<sup>8</sup> Specifically, the Florida Health Care Responsibility Act, ss. 154.301-154.316, F.S., and ch. 87-92, L.O.F. S. 155.40(2), F.S.

- Not be created by the public agency seller; and
- Primarily operate for its interests and not those of the public agency seller.<sup>9</sup>

The State courts currently do not have a role in the sale or lease process of a county, district or municipal hospital, unless the transaction is challenged in litigation. The Office of the Attorney General (OAG) reviews the proposed transaction with regard to any anti-competitive issues.<sup>10</sup> The OAG has charitable trust authority to review transactions that would implicate trusts where the public hospital entity was the beneficiary.<sup>11</sup>

In March 2011, the Governor issued Executive Order 11-63, creating the Commission on Review of Taxpayer Funded Hospital Districts (Commission).<sup>12</sup> This Commission was tasked with assessing and making recommendations as to the role of hospital districts, including what was in the public interest as to hospital operation and an effective access model for the economically disadvantaged.<sup>13</sup> Specifically, the Governor requested the following areas be examined:

- Quality of care;
- Cost of care;
- Access to care for the poor;
- Oversight and accountability;
- Physician employment; and
- Changes in ownership and governance.<sup>14</sup>

From May 23 through December 29, 2011, the Commission met 14 times and heard from 20 different individuals and organizations.<sup>15</sup> In a final report delivered on December 30, 2011, the Commission made the following general recommendations:

- Appointees to hospital boards should be qualified and not have conflicts of interest.
- Board members should include health care stakeholders and community members with financial expertise and experience in operating successful, larger enterprises.
- The boards of the district and the hospital should be separate, and both should be subject to appropriate oversight.
- Hospital board members should not be a part of the hospital administrative or management team.
- There should be a transition from hospital districts to indigent health care districts, which would include decoupling district owned hospitals from the district.
- Hospital boards should have flexibility with ad valorem millage rates, within their maximum allowable rate.<sup>16</sup>

<sup>9</sup> S. 155.40(8)(a), F.S.

<sup>10</sup> The OAG is responsible for enforcing state and federal antitrust laws, and the anti-trust division works to stop violations that harm competition and adversely impact the citizens of Florida. Chapter 542, F.S., provides the OAG with the authority to bring actions against individuals or entities that commit state or federal antitrust violations, including bid-rigging, price-fixing, market or contract allocation, and monopoly-related actions. *See* ch. 542, F.S. However, s. 542.235, F.S., provides additional limitations to suit against local governments, including a limitation on criminal action, and civil and injunctive relief against both the governmental entity and agents when they are acting within the scope of their authority.

<sup>11</sup> The OAG may assert the rights of qualified beneficiaries with respect to charitable trusts pursuant to s. 736.0110(3), F.S., and with respect to the dissolution of not-for-profit corporations pursuant to ss. 617.1420, 617.1430, and 617.2003, F.S. The OAG notes that the review under this authority varies considerably from transaction to transaction and can be very labor intensive. This is especially the case in transactions that involve mergers of competitors within the same market. Email from the OAG on file with House Health & Human Services Quality Subcommittee staff. March 18, 2011.

<sup>12</sup> Fla. Exec. Order No. 11-63 (Mar. 23, 2011). The Executive Order is *available at* <http://www.flgov.com/2011-executive-orders/> (last accessed Jan. 9, 2012).

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

<sup>14</sup> The Commission's report is *available at* <http://ahca.myflorida.com/mchq/FCTFH/fctfh.shtml> (last accessed Jan. 5, 2012).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

## Effect of the Proposed Changes

The bill amends s. 155.40, F.S., detailing the process to determine the approval of a sale or lease. The bill requires the governing board of a county, district or municipal hospital to submit a petition for approval of sale or lease to the circuit court, to be approved, prior to the completion of the proposed sale or lease of a hospital. However, if a hospital's charter provides that a referendum is required to change ownership, the governing board shall hold such a referendum instead of seeking approval from the circuit court.

The bill amends s. 155.40(4), F.S., requiring the hospital governing board to determine that operating the hospital is no longer in the public's interest and to ascertain whether there are any interested and qualified purchasers or lessees. The bill adds that the sale or lease must be for "fair market value," which is defined as the "price that a seller is willing to accept and a buyer is willing to pay on the open market and in an arm's length transaction."<sup>17</sup> If the board determines that a sale or lease is for less than fair market value, it must provide a written explanation as to why this is in the public interest.

The governing board is required to determine, in writing, the basis for choosing a particular proposal. The factors to be considered must include:

- A determination that the proposed transaction represents fair market value, or if not why the transaction is in the best interests of the public;
- A determination of whether there will be a reduction or elimination of ad valorem or other taxes used to support the hospital; and
- A determination that the quality of care will not be affected, especially in relation to the indigent, uninsured and underinsured.

In addition, information and documentation relevant to the board's determination must accompany the findings. Such information includes, but is not limited to the following:

- The details of the facilities and all parties to the transaction;
- A description of the terms of all proposed agreements;
- An estimate of the total value associated with the proposed agreement, including available valuations from the last three years of the hospital's assets;
- Any available financial or economic analysis prepared by experts that the board retained; and
- Copies of all other proposals and bids received.

The bill requires the hospital board to file this information with the court not later than 120 days before the anticipated closing for the proposed transaction. Notice must be published in one or more newspapers of general circulation in the county where the majority of the hospital's assets are located. The notice must provide a mechanism for public comment about the proposed transaction to the board, for up to 20 days after the date of publication. If a statement of opposition is received, the governing board or proposed purchaser or lessee has 10 days to respond in writing.

The bill provides that no sooner than 30 days after the publication of notice, a petition for approval must be filed in the circuit court in which the majority of the hospital's assets are located. The bill directs the court to issue an order that would require all interested parties to appear at a specified date and time and show why the petition should not be granted. The order is to be published at least once a week for two consecutive weeks in one or more major newspapers, not less than 20 days prior to the hearing. Unless the petition is contested, the hospital board bears the expense.

The bill provides that any interested party may become a party to the action. An interested party is defined as a bidder, any taxpayer from the county, district, or municipality in which the majority of the hospital's physical assets are located; or the governing board of the hospital. The circuit court must

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<sup>17</sup> An arm's length transaction is negotiated by unrelated parties, each acting in his or her self interest; the basis for a fair market value determination. It is a transaction in good faith in the ordinary course of business by parties with independent interests. This is the standard under which unrelated parties, each acting in his or her own best interest, would carry out a particular transaction. Black's Law Dictionary (8<sup>th</sup> Ed. 2006).

hold a hearing to determine all questions of law and fact, rendering a final judgment that either approves or denies a proposed transaction.

The bill provides that the court must determine that the transaction:

- Is permitted by law;
- Does not discriminate against a potential purchaser or lessee on the basis of being a for-profit or not-for-profit Florida corporation;
- Complied with the public notice provisions;
- Was made with the exercise of due diligence by the board;
- Disclosed conflicts of interest relating to the members of the governing board and the experts retained by the parties to the transaction;
- Reflects that the seller or lessor will receive fair market value for the assets, including an explanation of why the public interest is served by the proposed transaction;
- Makes an enforceable commitment to the continuation of quality care for all residents, and especially, the indigent, uninsured and underinsured; and
- Will result in a reduction or elimination of ad valorem or other taxes used to support the hospital.

The bill provides that any party to the action has the right to seek judicial review in the appellate district where it was filed, and will be governed by the Florida Rules of Appellate Procedure. Any interested party seeking review must file an appeal within 30 days of the final judgment. The standard of review for the appellate court is that the decision is not arbitrary, capricious, or not in compliance with s. 155.40, F.S.

The bill provides that any sale or lease completed before June 30, 2012, is not subject to the requirements of these provisions. Additionally, any lease that contained, on June 30, 2012, an option to renew or extend that lease upon its expiration date is not subject to these provisions upon any renewal or extension on or after June 30, 2012.

Additionally, a county, district, or municipal hospital that has not received tax support within the last five years is exempt from the circuit court process approval requirements. Tax support is defined as receiving ad valorem or other tax revenues directly from a county, district, or municipal taxing authority to a hospital without a corresponding exchange of goods or services five years prior to the effective date of a proposed lease or sale. However, exempt hospitals are required to comply with the public notice provisions of the bill by publishing the details of the transaction prior to closing and receiving public comment. The following public hospitals are identified by AHCA as hospitals that have not received tax support in the last five years:

- Lee Memorial Hospital (Lee County).
- Bay Medical Center (Bay County).
- Parrish Medical Center (Brevard County).
- Health Central (Orange County).
- Ed Fraser Memorial Hospital (Baker County).
- Jackson County Hospital (Jackson County).
- Doctors Memorial Hospital (Holmes County).
- Munroe Regional (Marion County).<sup>18</sup>

The bill does not alter the OAG's duty in relation to charitable trusts, and the transaction must still be reviewed for anti-competitive issues pursuant to ch. 542, F.S., and s. 736.0110(3), F.S.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 155.40, F.S., relating to sale or lease of county, district or municipal hospitals; effect of sale.

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<sup>18</sup> Agency for Health Care Administration, email to House Community & Military Affairs Subcommittee staff, April 4, 2011, on file with Health and Human Services Quality Subcommittee staff.

- Section 2:** Amends s. 395.3036, F.S., relating to confidentiality of records of meetings of corporations that lease public hospitals or other public health care facilities.
- Section 3:** 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 has an indeterminate fiscal impact on state courts to review proposed transactions for the sale or lease of a county, municipal or district hospital. However, the bill provides for the ability to assess costs to either the hospital board or a contesting party.

### 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 has an indeterminate fiscal impact on the private sector. Prospective purchasers or lessees may be required to pay costs if they oppose the proposed transaction. The sale or lease of a hospital could be delayed by this oversight process.

### 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:

Article 5, s. 2 of the Florida Constitution provides that:

The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review. . .

On Lines 235-238, the bill provides that:

All proceedings shall be instituted by filing a notice of appeal or petition for review in accordance with the Florida Rules of Appellate Procedure within 30 days after the date of final judgment.

While this provision in the bill reflects the current rule of appellate procedure, in the future, the court could change the time in which to file a notice of appeal. As a result, this provision of the bill is superfluous but, in the future, could be found unconstitutional.

**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 223 uses the term "receipt" of fair market value for the hospital, when the board is petitioning the court for approval, which may be premature.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 12, 2012, the Health and Human Services Quality Subcommittee adopted a strike-all amendment to HB 711. The amendment:

- Requires a circuit court review of the transaction or a referendum if the hospital charter requires a referendum for such a transaction.
- Requires the circuit court to determine whether the transaction complies with the law.
- Defines and provides an exemption for non-tax supported public hospitals from the circuit court process, but not from the notice provisions of the bill.
- Requires public benefit be considered by the hospital board in a determination of fair market value.
- Allows taxpayers to petition the court as an interested party.

This bill was reported favorably as a Committee Substitute.

On January 18, 2012, the Community & Military Affairs Subcommittee adopted 2 amendments to CS/HB 711:

- The CS/HB 711 required a fairness evaluation by an independent expert. Amendment 1 deletes this requirement.
- The CS/HB 711 required the court to determine that the transaction reflects that the seller or lessor will receive fair market value for the assets, including an explanation of how the public interest will be served by the proposed transaction. Amendment 2 amends this provision to provide that the court must determine that the transaction reflects that the seller or lessor *documented receipt* of fair market value for the assets, including an explanation of *why* the public interest is served by the proposed transaction.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute as passed by the Community & Military Affairs Subcommittee.





29 providing for a party to seek judicial review;  
 30 requiring the court to enter a final judgment;  
 31 requiring the board to pay costs associated with the  
 32 petition for approval unless a party contests the  
 33 action; providing an exemption for certain sale or  
 34 lease transactions completed before a specified date;  
 35 providing an exemption for county, district, or  
 36 municipal hospitals that receive no tax support;  
 37 defining the term "tax support"; amending s. 395.3036,  
 38 F.S.; conforming cross-references; providing an  
 39 effective date.

40

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

42

43 Section 1. Subsections (1) and (4) of section 155.40,  
 44 Florida Statutes, are amended, present subsections (5) through  
 45 (8) are renumbered as subsections (15) through (18),  
 46 respectively, and new subsections (5) through (14) are added to  
 47 that section, to read:

48 155.40 Sale or lease of county, district, or municipal  
 49 hospital; effect of sale.—

50 (1) In order that citizens and residents of the state may  
 51 receive quality health care, any county, district, or municipal  
 52 hospital organized and existing under the laws of this state,  
 53 acting by and through its governing board, shall have the  
 54 authority to sell or lease such hospital to a for-profit or not-  
 55 for-profit Florida corporation, and enter into leases or other  
 56 contracts with a for-profit or not-for-profit Florida

57 corporation for the purpose of operating and managing such  
 58 hospital and any or all of its facilities of whatsoever kind and  
 59 nature. The term of any such lease, contract, or agreement and  
 60 the conditions, covenants, and agreements to be contained  
 61 therein shall be determined by the governing board of such  
 62 county, district, or municipal hospital. The governing board of  
 63 the hospital must find that the sale, lease, or contract is in  
 64 the best interests of the public and must state the basis of  
 65 such finding. The sale or lease of such hospital is subject to  
 66 approval by a circuit court unless otherwise exempt under  
 67 subsection (14) or, for any such hospital that is required by  
 68 its statutory charter to seek approval by referendum for any  
 69 action that would result in the termination of the direct  
 70 control of the hospital by its governing board, approval by such  
 71 referendum. ~~If the governing board of a county, district, or~~  
 72 ~~municipal hospital decides to lease the hospital, it must give~~  
 73 ~~notice in accordance with paragraph (4) (a) or paragraph (4) (b).~~

74 (4) In the event the governing board of a county,  
 75 district, or municipal hospital determines that it is no longer  
 76 in the public interest to own or operate such hospital and  
 77 elects to consider a sale or lease to a third party, the  
 78 governing board shall first determine whether there are any  
 79 qualified purchasers or lessees. In the process of evaluating  
 80 any potential purchasers or lessees ~~elects to sell or lease the~~  
 81 ~~hospital,~~ the board shall:

82 (a) ~~Negotiate the terms of the sale or lease with a for-~~  
 83 ~~profit or not-for-profit Florida corporation and Publicly~~  
 84 advertise the meeting at which the proposed sale or lease will

85 be considered by the governing board of the hospital in  
 86 accordance with ss. ~~s.~~ 286.0105 and 286.011; or

87 (b) Publicly advertise the offer to accept proposals in  
 88 accordance with s. 255.0525 and receive proposals from all  
 89 interested and qualified purchasers and lessees.

90  
 91 Any sale or lease must be for fair market value, and any sale or  
 92 lease must comply with all applicable state and federal  
 93 antitrust laws. For the purposes of this section, the term "fair  
 94 market value" means the price that a seller is willing to accept  
 95 and a buyer is willing to pay on the open market and in an  
 96 arm's-length transaction, which includes any benefit that the  
 97 public would receive in connection with the sale or lease.

98 (5) A determination by a governing board to accept a  
 99 proposal for sale or lease must state, in writing, the findings  
 100 and basis for supporting the determination.

101 (a) The governing board shall develop findings and bases  
 102 to support the determination of a balanced consideration of  
 103 factors including, but not limited to, the following:

104 1. Whether the proposal represents fair market value,  
 105 which includes an explanation of how the public interest will be  
 106 served by the proposed transaction.

107 2. Whether the proposal will result in a reduction or  
 108 elimination of ad valorem or other tax revenues to support the  
 109 hospital.

110 3. Whether the proposal includes an enforceable commitment  
 111 that existing programs and services and quality health care will  
 112 continue to be provided to all residents of the affected

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113 community, particularly to the indigent, the uninsured, and the  
 114 underinsured.

115 4. Whether the proposal is otherwise in compliance with  
 116 subsections (6) and (7).

117 (b) The findings shall be accompanied by all information  
 118 and documents relevant to the governing board's determination,  
 119 including, but not limited to:

120 1. The name and address of each party to the transaction.

121 2. The location of the hospital and all related  
 122 facilities.

123 3. A description of the terms of all proposed agreements.

124 4. A copy of the proposed sale or lease agreement and any  
 125 related agreements, including, but not limited to, leases,  
 126 management contracts, service contracts, and memoranda of  
 127 understanding.

128 5. The estimated total value associated with the proposed  
 129 agreement and the proposed acquisition price and other  
 130 consideration.

131 6. Any valuations of the hospital's assets prepared in the  
 132 3 years immediately before the proposed transaction date.

133 7. Any financial or economic analysis and report from any  
 134 expert or consultant retained by the governing board.

135 8. Copies of all other proposals and bids the governing  
 136 board may have received or considered in compliance with  
 137 procedures required under subsection (4).

138 (6) Not later than 120 days before the anticipated closing  
 139 date of the proposed transaction, the governing board shall  
 140 publish a notice of the proposed transaction in one or more

141 newspapers of general circulation in the county in which the  
 142 majority of the physical assets of the hospital are located. The  
 143 notice shall include the names of the parties involved, the  
 144 means by which persons may submit written comments about the  
 145 proposed transaction to the governing board, and the means by  
 146 which persons may obtain copies of the findings and documents  
 147 required under subsection (5).

148 (7) Within 20 days after the date of publication of public  
 149 notice, any interested person may submit to the governing board  
 150 a detailed written statement of opposition to the transaction.  
 151 When a written statement of opposition to the transaction has  
 152 been submitted, the governing board or the proposed purchaser or  
 153 lessee may submit a written response to the interested party  
 154 within 10 days after the written statement of opposition due  
 155 date.

156 (8) A governing board of a county, district, or municipal  
 157 hospital may not enter into a sale or lease of a hospital  
 158 facility without first receiving approval from a circuit court  
 159 or, for any such hospital that is required by its statutory  
 160 charter to seek approval by referendum for any action that would  
 161 result in the termination of the direct control of the hospital  
 162 by its governing board, approval by such referendum.

163 (a) The governing board shall file a petition for approval  
 164 in a circuit court seeking approval of the proposed transaction  
 165 not sooner than 30 days after publication of notice of the  
 166 proposed transaction.

167 (b) Any such petition for approval filed by the governing  
 168 board shall include all findings and documents required under

169 subsection (5) and certification by the governing board of  
 170 compliance with all requirements of this section.

171 (c) Circuit courts shall have jurisdiction to approve the  
 172 sale or lease of a county, district, or municipal hospital. A  
 173 petition for approval shall be filed in the circuit in which the  
 174 majority of the physical assets of the hospital are located.

175 (9) Upon the filing of a petition for approval, the court  
 176 shall issue an order requiring all interested parties to appear  
 177 at a designated time and place within the circuit where the  
 178 petition is filed and show why the petition should or should not  
 179 be granted. For purposes of this section, the term "interested  
 180 party" means any party submitting a proposal for sale or lease  
 181 of the county, district, or municipal hospital; any taxpayer  
 182 from the county, district, or municipality in which the majority  
 183 of the physical assets of the hospital are located; or the  
 184 governing board.

185 (a) Before the date set for the hearing, the clerk shall  
 186 publish a copy of the order in one or more newspapers of general  
 187 circulation in the county in which the majority of the physical  
 188 assets of the hospital are located at least once each week for 2  
 189 consecutive weeks, commencing with the first publication, which  
 190 shall not be less than 20 days before the date set for the  
 191 hearing. By this publication, all interested parties are made  
 192 parties defendant to the action and the court has jurisdiction  
 193 of them to the same extent as if they were named as defendants  
 194 in the petition and personally served with process.

195 (b) Any interested party may become a party to the action  
 196 by moving against or pleading to the petition at or before the

197 time set for the hearing. At the hearing, the court shall  
 198 determine all questions of law and fact and make such orders as  
 199 will enable it to properly consider and determine the action and  
 200 render a final judgment with the least possible delay.

201 (10) Upon conclusion of all hearings and proceedings, and  
 202 upon consideration of all evidence presented, the court shall  
 203 render a final judgment as to whether the governing board  
 204 complied with the process provided in this section. In reaching  
 205 its final judgment, the court shall determine whether:

206 (a) The proposed transaction is permitted by law.

207 (b) The governing board reviewed all proposals.

208 (c) The governing board publicly advertised the meeting at  
 209 which the proposed transaction was considered by the board in  
 210 compliance with ss. 286.0105 and 286.011.

211 (d) The governing board publicly advertised the offer to  
 212 accept proposals in compliance with s. 255.0525.

213 (e) The governing board did not act arbitrarily and  
 214 capriciously in making the determination to sell or lease the  
 215 hospital assets, selecting the proposed purchaser or lessee, and  
 216 negotiating the terms of the sale or lease.

217 (f) Any conflict of interest was disclosed, including, but  
 218 not limited to, conflicts of interest relating to members of the  
 219 governing board and experts retained by the parties to the  
 220 transaction.

221 (g) The seller or lessor documented receipt of fair market  
 222 value for the assets, which includes an explanation of why the  
 223 public interest is served by the proposed transaction.



224       (h) The governing board incorporated a provision in the  
 225 sale or lease requiring the acquiring entity to continue to  
 226 provide existing programs and services and quality health care  
 227 to all residents of the affected community, particularly to the  
 228 indigent, the uninsured, and the underinsured.

229       (i) The proposed transaction will result in a reduction or  
 230 elimination of ad valorem or other taxes used to support the  
 231 hospital.

232       (11) Any party to the action has the right to seek  
 233 judicial review in the appellate district where the petition for  
 234 approval was filed.

235       (a) All proceedings shall be instituted by filing a notice  
 236 of appeal or petition for review in accordance with the Florida  
 237 Rules of Appellate Procedure within 30 days after the date of  
 238 final judgment.

239       (b) In such judicial review, the reviewing court shall  
 240 affirm the judgment of the circuit court, unless the decision is  
 241 arbitrary, capricious, or not in compliance with this section.

242       (12) All costs shall be paid by the governing board,  
 243 except when an interested party contests the action, in which  
 244 case the court may assign costs to the parties at its  
 245 discretion.

246       (13) Any sale or lease completed before June 30, 2012, is  
 247 not subject to the requirements of this section. Any lease that  
 248 contained, on June 30, 2012, an option to renew or extend that  
 249 lease upon its expiration is not subject to this section upon  
 250 renewal or extension on or after June 30, 2012.

251       (14) A county, district, or municipal hospital that has  
 252 not received any tax support is exempt from the requirements of  
 253 subsections (8)-(12). For the purposes of this section, the term  
 254 "tax support" means ad valorem or other tax revenues paid  
 255 directly from a county, district, or municipal taxing authority  
 256 to a hospital without a corresponding exchange of goods or  
 257 services within the 5 years before the effective date of a  
 258 proposed lease or sale.

259       Section 2. Section 395.3036, Florida Statutes, is amended  
 260 to read:

261       395.3036 Confidentiality of records and meetings of  
 262 corporations that lease public hospitals or other public health  
 263 care facilities.—The records of a private corporation that  
 264 leases a public hospital or other public health care facility  
 265 are confidential and exempt from ~~the provisions of~~ s. 119.07(1)  
 266 and s. 24(a), Art. I of the State Constitution, and the meetings  
 267 of the governing board of a private corporation are exempt from  
 268 s. 286.011 and s. 24(b), Art. I of the State Constitution when  
 269 the public lessor complies with the public finance  
 270 accountability provisions of s. 155.40(15) ~~155.40(5)~~ with  
 271 respect to the transfer of any public funds to the private  
 272 lessee and when the private lessee meets at least three of the  
 273 five following criteria:

274       (1) The public lessor that owns the public hospital or  
 275 other public health care facility was not the incorporator of  
 276 the private corporation that leases the public hospital or other  
 277 health care facility.

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278           (2) The public lessor and the private lessee do not  
 279 commingle any of their funds in any account maintained by either  
 280 of them, other than the payment of the rent and administrative  
 281 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

282           (3) Except as otherwise provided by law, the private  
 283 lessee is not allowed to participate, except as a member of the  
 284 public, in the decisionmaking process of the public lessor.

285           (4) The lease agreement does not expressly require the  
 286 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and  
 287 286.011.

288           (5) The public lessor is not entitled to receive any  
 289 revenues from the lessee, except for rental or administrative  
 290 fees due under the lease, and the lessor is not responsible for  
 291 the debts or other obligations of the lessee.

292           Section 3. This act shall take effect July 1, 2012.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1077 Service Animals

**SPONSOR(S):** Civil Justice Subcommittee; Health & Human Services Access Subcommittee; Kriseman and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1382

| REFERENCE                                      | ACTION           | ANALYST   | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|------------------|-----------|--|
| 1) Health & Human Services Access Subcommittee | 15 Y, 0 N, As CS | Batchelor | Schoolfield                              |
| 2) Civil Justice Subcommittee                  | 13 Y, 0 N, As CS | Cary      | Bond                                     |
| 3) Health & Human Services Committee           |                  | Batchelor | Gormley                                  |

### SUMMARY ANALYSIS

Current law regarding the rights and benefits of a physical disability to individuals generally does not apply to a psychological or neurological disability. For the purpose of anti-discrimination laws, a disability is generally related to hearing, eyesight, or a physical impairment that substantially limits one or more major life activities. The use of service animals is limited to a person with such a disability.

This bill is the "Dawson and David Caras Act." In addition to extending the use of service animals to a person with a psychological or neurological disability, the bill:

- Creates definitions for "individual requiring assistance", "owner", and "service animal" relating to the use of service animals.
- Provides that if federal law, rule or agency requires a public accommodation to provide care, food, or a special location for an animal to relieve itself, that public accommodation must do so.
- Provides that a person, firm or corporation, may not deny or interfere with the renting, leasing, or purchasing of housing accommodations for an individual requiring assistance or a service animal trainer.
- Provides that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations.
- Provides that a trainer of service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal.
- Creates a new second-degree misdemeanor for any person who knowingly and fraudulently misrepresents himself or herself as a service animal trainer.

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:

##### **Background**

###### *Americans with Disabilities Act (ADA)*

The Americans with Disabilities Act defines an individual with a disability as someone who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. The ADA provides that persons with disabilities may not be discriminated against when applying for a job, and that public services and transportation must accommodate such individuals.<sup>1</sup>

The ADA provides that an individual with a disability is permitted to bring their service animal with them to publicly and privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.<sup>2</sup>

Effective March 15, 2011, the federal Department of Justice (DOJ) offered definitions relating to nondiscrimination on the basis of disability by public accommodations and in commercial facilities. According to DOJ's definitions, a service animal is "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. . ." Other species of animals are specifically excluded from the definition of service animals. Furthermore, according to DOJ, the "provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."<sup>3</sup>

###### *Fair Housing Act*

The Fair Housing Act prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. The Fair Housing Act includes private housing, housing that receives Federal financial assistance, and state and local government housing. It is unlawful to discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that individual, an individual associated with the buyer or renter, or an individual who intends to live in the residence.<sup>4</sup>

The U.S. Department of Housing and Urban Development (HUD) investigates complaints of violations against the Fair Housing Act, including discrimination in housing.<sup>5</sup> If a person is convicted of violating the Fair Housing Act, that person may be required to do the following:

- Compensate the victim for actual damages, including humiliation, pain and suffering;
- Provide injunctive or other equitable relief;
- Pay the Federal Government a civil penalty to vindicate the public interest. The maximum penalties are \$16,000 for a first violation and \$65,000 for a third violation within seven years.
- Pay reasonable attorney's fees and costs.<sup>6</sup>

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<sup>1</sup> 42 U.S.C. 12101, et. seq.

<sup>2</sup> *Id.*

<sup>3</sup> 28 C.F.R. s. 36.104.

<sup>4</sup> 42 U.S.C. s. 3601, et. seq.

<sup>5</sup> U.S. Department of Housing and Urban Development. Housing.

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/enforcement](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement) (last visited January 27, 2012).

<sup>6</sup> *Id.*

The ADA defines service animals as animals that are individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks.<sup>7</sup> Most service animals are dogs,<sup>8</sup> however, monkeys,<sup>9</sup> miniature horses,<sup>10</sup> and other animals are also used for this function. Prior to an animal being used by an individual with a disability, the animal generally goes through a training course with a service animal trainer. The American Behavior College provides courses for people interested in becoming a certified dog trainer; courses include, but are not limited to: a basic study of canines, learning theory, training, obedience and safety.<sup>11</sup> Similar courses are also available for miniature horse trainers<sup>12</sup> and monkey trainers.<sup>13</sup>

### **Effects of the Bill**

The bill creates the "Dawson and David Caras Act". David Caras is a puppy raiser/trainer for Southeastern Guide Dogs. Dawson was the name of the dog he was training when they ran into difficulties related to housing accommodations. They live in St. Petersburg.

The bill amends s. 413.08, F.S., to remove references to service animals. The bill creates s. 413.083, F.S., relating to the use of a service animal.

Section 413.083(1), F.S., provides definitions for "individual requiring assistance", "owner", and "service animal" for use in that that section. The definition of "individual requiring assistance" includes the definitions currently provided in s. 413.08(1)(b), F.S., but also includes a person who has a psychological or neurological disability. The definition of "owner" includes a person who is authorized by the owner to use a service animal. The definition of "service animal" tracks the federal Department of Justice definition, except that the Florida definition includes animals other than dogs.

Section 413.083(2), F.S., specifies that an individual with a disability or a person who trains service animals and is a student at a public or private school in this state has the right to be accompanied by a service animal. The ADA provides that public and privately owned facilities, which include schools, are required to allow an individual with a disability to be accompanied by a service animal.<sup>14</sup>

Current Florida law does not require a public accommodation to provide care, food or a special location for the service animal to relieve itself. Section 413.083(2)(d), F.S., provides that if federal law, rule or agency requires a public accommodation to provide such services, it must do so. Additionally, if a public accommodation has a secured area, a special location shall be designated for the service animal to relieve itself.

Section 413.083(2)(e), F.S., provides that a public accommodation may exclude or remove an animal from the premises if the animal fails to remain under the control of the handler or if the animal's behavior is inappropriate. The bill specifies that inappropriate behavior includes, but is not limited to, growling, excessive barking, or biting.

Section 413.083(3), F.S., provides that any person, firm, corporation, or the agent of any person, firm or corporation, who denies or interferes with the renting, leasing, or purchasing of housing accommodations for an individual with a disability or a trainer of a service animal commits a noncriminal violation, punishable as provided by s. 775.083, F.S., limited to a civil penalty of \$50 plus court costs. A subsequent offense is a misdemeanor of the second degree, punishable as provided in

<sup>7</sup> Americans with Disabilities Brief, Service Animals, April 2002. <http://www.ada.gov/svcanimb.htm> (last visited January 27, 2012).

<sup>8</sup> International Association of Assistance Dog Partners. <http://www.iaadp.org/A-dogWorld.html> (last visited January 27, 2012).

<sup>9</sup> Helping Hands, Monkey Helpers for the Disabled. <http://www.monkeyhelpers.org//index.html> (last visited January 27, 2012).

<sup>10</sup> The Guide Horse Foundation. <http://www.guidehorse.org/> (last visited January 27, 2012).

<sup>11</sup> American Behavior College. <http://www.animalbehaviorcollege.com/curriculum.asp> (last visited January 27, 2012).

<sup>12</sup> The Guide Horse Foundation. <http://www.guidehorse.org/> (last visited January 27, 2012).

<sup>13</sup> Helping Hands, Monkey Helpers for the Disabled. <http://www.monkeyhelpers.org//index.html> (last visited January 27, 2012).

<sup>14</sup> 42 U.S.C. 12101.

ss. 775.082, or s. 775.083, F.S. A second-degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and/or a maximum fine of \$500, plus court costs.

Section 413.083(4), F.S., provides that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations and provides that a trainer of a service animal is also entitled to full and equal advantages, facilities and privileges in all housing accommodations and may not be required to pay extra compensation for the service animal.

Section 413.083(5), F.S., provides that any person who trains a public service animal has the same rights and access to public and housing accommodations as an individual with a disability, as long as the trainer is training the animal.

Section 413.083(6), F.S., provides that any person who knowingly and fraudulently represents himself or herself as a service animal trainer commits a misdemeanor of the second degree, punishable as provided by ss. 775.082 or s. 775.083, F.S., A second-degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and/or a maximum fine of \$500, plus court costs.

The bill amends s. 252.355, F.S., to update a cross-reference.

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

#### B. SECTION DIRECTORY:

Section 1 names the act as the "Dawson and David Caras Act".

Section 2 amends s. 413.08, F.S., relating to rights of an individual with a disability and discrimination in public employment or housing accommodations.

Section 3 creates s. 413.083, F.S., relating to the use of a service animal.

Section 4 amends s. 252.355, F.S., relating to registry of persons with special needs.

Section 5 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 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:

The bill does not provide a definition for "trainer" of a service animal. This could potentially allow anyone to claim to be a trainer entitled to the benefits of this legislation. The lack of a definition for "trainer" may also make it difficult to prosecute a person for knowingly and fraudulently misrepresenting himself or herself as a trainer.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2012, the Health and Human Services Access Subcommittee adopted two amendments to House Bill 1077. The amendments do the following:

- Cite the act as the "Dawson and David Caras Act."
- Amend the definition of "individual with a disability" to include an individual who has a psychological or neurological disability.
- Amend the definition of "physically disabled" to include an individual who has a psychological or neurological disability.
- Retain current law relating to the definition of a "service animal".
- Provide that a public accommodation may remove an animal from the premises if the animal fails to remain under the control of the handler or if the animal's behavior is inappropriate, including, but not limited to, growling, excessive barking or biting.
- Remove provisions that require a trainer to be training an animal from an accredited school.
- Remove provisions that would require a trainer to have available on himself or herself inspection credentials from an accredited school in which they were training an animal for.
- Remove provisions requiring that a service animal is wearing appropriate apparel that identifies the animal with an accredited school for which the service animal is being trained.

On January 31, 2012, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removes the service animal provisions from s. 413.08, F.S., and creates s. 413.083, F.S., relating to the use of a service animal. The amendment eliminates the unintended consequence of expanding the definitions of "individual with a disability" and "physically disabled" to ensure that the bill only affects rights and obligations with respect to service animals. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to service animals; providing a short  
 3           title; amending s. 413.08, F.S.; removing provisions  
 4           related to service animals; creating s. 413.083, F.S.;  
 5           providing definitions; specifying rights of an  
 6           individual accompanied by a service animal; providing  
 7           that documentation that a service animal is trained is  
 8           not a precondition for providing certain services to  
 9           an individual accompanied by a service animal;  
 10          authorizing a public accommodation to make certain  
 11          inquiries regarding the animal; providing restrictions  
 12          for a public accommodation imposing a deposit or  
 13          surcharge; providing for liability of an individual  
 14          accompanied by or the trainer of a service animal  
 15          under certain circumstances; providing responsibility  
 16          for care and supervision of a service animal;  
 17          providing conditions for exclusion or removal of a  
 18          service animal from a public accommodation; providing  
 19          penalties for denying or interfering with admittance  
 20          to or enjoyment of a public accommodation; specifying  
 21          rights to housing accommodations for an individual  
 22          accompanied by a service animal; providing  
 23          limitations; providing rights of housing to the owner  
 24          or trainer of a service animal; providing a penalty  
 25          for misrepresentation as an owner or trainer; amending  
 26          s. 252.355, F.S.; conforming a cross-reference;  
 27          providing an effective date.  
 28

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

30

31 Section 1. This act may be cited as the "Dawson and David  
 32 Caras Act."

33 Section 2. Section 413.08, Florida Statutes, is amended to  
 34 read:

35 413.08 Rights of an individual with a disability; ~~use of a~~  
 36 ~~service animal~~; discrimination in public employment or housing  
 37 accommodations; penalties.—

38 (1) As used in this section ~~and s. 413.081~~, the term:

39 (a) "Housing accommodation" means any real property or  
 40 portion thereof which is used or occupied, or intended,  
 41 arranged, or designed to be used or occupied, as the home,  
 42 residence, or sleeping place of one or more persons, but does  
 43 not include any single-family residence, the occupants of which  
 44 rent, lease, or furnish for compensation not more than one room  
 45 therein.

46 (b) "Individual with a disability" means a person who is  
 47 deaf, hard of hearing, blind, visually impaired, or otherwise  
 48 physically disabled. As used in this paragraph, the term:

49 1. "Hard of hearing" means an individual who has suffered  
 50 a permanent hearing impairment that is severe enough to  
 51 necessitate the use of amplification devices to discriminate  
 52 speech sounds in verbal communication.

53 2. "Physically disabled" means any person who has a  
 54 physical impairment that substantially limits one or more major  
 55 life activities.

56 (c) "Public accommodation" means a common carrier,

57 | airplane, motor vehicle, railroad train, motor bus, streetcar,  
 58 | boat, or other public conveyance or mode of transportation;  
 59 | hotel; lodging place; place of public accommodation, amusement,  
 60 | or resort; and other places to which the general public is  
 61 | invited, subject only to the conditions and limitations  
 62 | established by law and applicable alike to all persons.

63 | ~~(d) "Service animal" means an animal that is trained to~~  
 64 | ~~perform tasks for an individual with a disability. The tasks may~~  
 65 | ~~include, but are not limited to, guiding a person who is~~  
 66 | ~~visually impaired or blind, alerting a person who is deaf or~~  
 67 | ~~hard of hearing, pulling a wheelchair, assisting with mobility~~  
 68 | ~~or balance, alerting and protecting a person who is having a~~  
 69 | ~~seizure, retrieving objects, or performing other special tasks.~~  
 70 | ~~A service animal is not a pet.~~

71 | (2) An individual with a disability is entitled to full  
 72 | and equal accommodations, advantages, facilities, and privileges  
 73 | in all public accommodations. This section does not require any  
 74 | person, firm, business, or corporation, or any agent thereof, to  
 75 | modify or provide any vehicle, premises, facility, or service to  
 76 | a higher degree of accommodation than is required for a person  
 77 | not so disabled.

78 | ~~(3) An individual with a disability has the right to be~~  
 79 | ~~accompanied by a service animal in all areas of a public~~  
 80 | ~~accommodation that the public or customers are normally~~  
 81 | ~~permitted to occupy.~~

82 | ~~(a) Documentation that the service animal is trained is~~  
 83 | ~~not a precondition for providing service to an individual~~  
 84 | ~~accompanied by a service animal. A public accommodation may ask~~

85 ~~if an animal is a service animal or what tasks the animal has~~  
 86 ~~been trained to perform in order to determine the difference~~  
 87 ~~between a service animal and a pet.~~

88 ~~(b) A public accommodation may not impose a deposit or~~  
 89 ~~surcharge on an individual with a disability as a precondition~~  
 90 ~~to permitting a service animal to accompany the individual with~~  
 91 ~~a disability, even if a deposit is routinely required for pets.~~

92 ~~(c) An individual with a disability is liable for damage~~  
 93 ~~caused by a service animal if it is the regular policy and~~  
 94 ~~practice of the public accommodation to charge nondisabled~~  
 95 ~~persons for damages caused by their pets.~~

96 ~~(d) The care or supervision of a service animal is the~~  
 97 ~~responsibility of the individual owner. A public accommodation~~  
 98 ~~is not required to provide care or food or a special location~~  
 99 ~~for the service animal or assistance with removing animal~~  
 100 ~~excrement.~~

101 ~~(e) A public accommodation may exclude or remove any~~  
 102 ~~animal from the premises, including a service animal, if the~~  
 103 ~~animal's behavior poses a direct threat to the health and safety~~  
 104 ~~of others. Allergies and fear of animals are not valid reasons~~  
 105 ~~for denying access or refusing service to an individual with a~~  
 106 ~~service animal. If a service animal is excluded or removed for~~  
 107 ~~being a direct threat to others, the public accommodation must~~  
 108 ~~provide the individual with a disability the option of~~  
 109 ~~continuing access to the public accommodation without having the~~  
 110 ~~service animal on the premises.~~

111 ~~(3)-(4)~~ Any person, firm, or corporation, or the agent of  
 112 any person, firm, or corporation, who denies or interferes with

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113 | admittance to, or enjoyment of, a public accommodation or  
 114 | otherwise interferes with the rights of an individual with a  
 115 | disability ~~or the trainer of a service animal while engaged in~~  
 116 | ~~the training of such an animal pursuant to subsection (8),~~  
 117 | commits a misdemeanor of the second degree, punishable as  
 118 | provided in s. 775.082 or s. 775.083.

119 |     (4)~~(5)~~ It is the policy of this state that an individual  
 120 | with a disability be employed in the service of the state or  
 121 | political subdivisions of the state, in the public schools, and  
 122 | in all other employment supported in whole or in part by public  
 123 | funds, and an employer may not refuse employment to such a  
 124 | person on the basis of the disability alone, unless it is shown  
 125 | that the particular disability prevents the satisfactory  
 126 | performance of the work involved.

127 |     (5)~~(6)~~ An individual with a disability is entitled to  
 128 | rent, lease, or purchase, as other members of the general  
 129 | public, any housing accommodations offered for rent, lease, or  
 130 | other compensation in this state, subject to the conditions and  
 131 | limitations established by law and applicable alike to all  
 132 | persons.

133 |     ~~(a)~~ This section does not require any person renting,  
 134 | leasing, or otherwise providing real property for compensation  
 135 | to modify her or his property in any way or provide a higher  
 136 | degree of care for an individual with a disability than for a  
 137 | person who is not disabled.

138 |     ~~(b)~~ ~~An individual with a disability who has a service~~  
 139 | ~~animal or who obtains a service animal is entitled to full and~~  
 140 | ~~equal access to all housing accommodations provided for in this~~

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141 ~~section, and such a person may not be required to pay extra~~  
 142 ~~compensation for the service animal. However, such a person is~~  
 143 ~~liable for any damage done to the premises or to another person~~  
 144 ~~on the premises by such an animal. A housing accommodation may~~  
 145 ~~request proof of compliance with vaccination requirements.~~

146 (6)~~(7)~~ An employer covered under subsection (4) ~~(5)~~ who  
 147 discriminates against an individual with a disability in  
 148 employment, unless it is shown that the particular disability  
 149 prevents the satisfactory performance of the work involved, or  
 150 any person, firm, or corporation, or the agent of any person,  
 151 firm, or corporation, providing housing accommodations as  
 152 provided in subsection (5) ~~(6)~~ who discriminates against an  
 153 individual with a disability, commits a misdemeanor of the  
 154 second degree, punishable as provided in s. 775.082 or s.  
 155 775.083.

156 ~~(8) Any trainer of a service animal, while engaged in the~~  
 157 ~~training of such an animal, has the same rights and privileges~~  
 158 ~~with respect to access to public facilities and the same~~  
 159 ~~liability for damage as is provided for those persons described~~  
 160 ~~in subsection (3) accompanied by service animals.~~

161 Section 3. Section 413.083, Florida Statutes, is created  
 162 to read:

163 413.083 Use of a service animal; penalties.-

164 (1) As used in this section and s. 413.081, the term:

165 (a) "Individual requiring assistance" means any person who  
 166 is deaf, hard of hearing as defined in s. 413.08(1)(b)1., blind,  
 167 visually impaired, or physically disabled as defined in s.  
 168 413.08(1)(b)2. or who has a psychological or neurological

169 | disability.

170 |       (b) "Owner" means a person who owns a service animal or  
171 | who is authorized by the owner to use a service animal.

172 |       (c) "Service animal" means any domesticated animal that is  
173 | individually trained to do work or perform tasks for the benefit  
174 | of an individual with a disability, including a physical,  
175 | sensory, psychiatric, intellectual, or other mental disability.  
176 | The work or tasks performed by a service animal must be directly  
177 | related to the handler's disability. Examples of work or tasks  
178 | include, but are not limited to, assisting individuals who are  
179 | blind or have low vision with navigation and other tasks,  
180 | alerting individuals who are deaf or hard of hearing to the  
181 | presence of people or sounds, providing nonviolent protection or  
182 | rescue work, pulling a wheelchair, assisting an individual  
183 | during a seizure, alerting individuals to the presence of  
184 | allergens, retrieving items such as medicine or the telephone,  
185 | providing physical support and assistance with balance and  
186 | stability to individuals with mobility disabilities, and helping  
187 | individuals with psychiatric or neurological disabilities by  
188 | preventing or interrupting impulsive or destructive behaviors.  
189 | The crime deterrent effects of an animal's presence and the  
190 | provision of emotional support, well-being, comfort, or  
191 | companionship do not constitute work or tasks for the purposes  
192 | of this paragraph.

193 |       (2) An individual requiring assistance has the right to be  
194 | accompanied by a service animal in all areas of a public  
195 | accommodation that the public or customers are normally  
196 | permitted to occupy. If an individual requiring assistance or an



197 individual who trains service animals is a student at a private  
 198 or public school in the state, that individual has the right to  
 199 be accompanied by a service animal, subject to the conditions  
 200 established under this section.

201 (a) Documentation that the service animal is trained is  
 202 not a precondition for providing service to an individual  
 203 accompanied by a service animal. A public accommodation may ask  
 204 if an animal is a service animal or what tasks the animal has  
 205 been trained to perform in order to determine the difference  
 206 between a service animal and a pet.

207 (b) A public accommodation may not impose a deposit or  
 208 surcharge on an individual requiring assistance as a  
 209 precondition to permitting a service animal to accompany the  
 210 individual requiring assistance, even if a deposit is routinely  
 211 required for pets.

212 (c) An individual with a disability is liable for damage  
 213 caused by a service animal if it is the regular policy and  
 214 practice of the public accommodation to charge nondisabled  
 215 persons for damages caused by their pets.

216 (d) The care or supervision of a service animal is the  
 217 responsibility of the owner. A public accommodation is not  
 218 required to provide care, food, or a special location for the  
 219 service animal or assistance with removing animal excrement  
 220 unless required by any federal agency, federal law, or federal  
 221 regulation. In such an instance, if a public accommodation has a  
 222 secured area, the public accommodation must provide a special  
 223 location for the service animal to relieve itself within that  
 224 secured area.

225 (e) A public accommodation may exclude or remove any  
 226 animal from the premises, including a service animal, if the  
 227 animal fails to remain under the control of the handler or if  
 228 the animal displays inappropriate behavior, including, but not  
 229 limited to, growling, excessive barking, or biting, or poses a  
 230 direct threat to the health and safety of others. Allergies and  
 231 fear of animals are not valid reasons for denying access or  
 232 refusing service to an individual accompanied by a service  
 233 animal. If a service animal is excluded or removed for being a  
 234 direct threat to others, the public accommodation must provide  
 235 the individual requiring assistance the option of continuing  
 236 access to the public accommodation without having the service  
 237 animal on the premises.

238 (3) Any person, firm, or corporation, or the agent of any  
 239 person, firm, or corporation, who denies or interferes with  
 240 admittance to, or enjoyment of, a public accommodation,  
 241 interferes with the renting, leasing, or purchasing of housing  
 242 accommodations, or otherwise interferes with the rights of an  
 243 individual requiring assistance while accompanied by a service  
 244 animal or the trainer of a service animal while engaged in the  
 245 training of such an animal pursuant to subsection (5):

246 (a) For a first offense, commits a noncriminal violation  
 247 punishable as provided in s. 775.083. The offender may contest  
 248 the citation or may, within 30 days after receiving the  
 249 citation, elect to pay a civil penalty of \$50 plus court costs.

250 (b) For a second or subsequent offense, commits a  
 251 misdemeanor of the second degree, punishable as provided in s.  
 252 775.082 or s. 775.083.

253 (4) An individual requiring assistance who is accompanied  
 254 by a service animal is entitled to full and equal advantages,  
 255 facilities, and privileges in all housing accommodations and is  
 256 entitled to rent, lease, or purchase, as are other members of  
 257 the general public, any housing accommodation offered for rent,  
 258 lease, or other compensation in this state, subject to the  
 259 conditions and limitations established by law and applicable  
 260 alike to all persons.

261 (a) This section does not require any person renting,  
 262 leasing, or otherwise providing real property for compensation  
 263 to modify her or his property in any way or provide a higher  
 264 degree of care for an individual requiring assistance than for a  
 265 person who does not have a disability.

266 (b) An individual requiring assistance who has a service  
 267 animal or an individual who is the trainer of a service animal  
 268 is entitled to full and equal access to all housing  
 269 accommodations provided for in this section, and that individual  
 270 is not required to pay extra compensation for the service  
 271 animal. However, the individual is liable for any damage done to  
 272 the premises or to another individual on the premises by the  
 273 service animal. A housing accommodation may request proof of  
 274 compliance with vaccination requirements.

275 (5) Any person who trains a service animal, while engaged  
 276 in the training of such an animal, has the same rights and  
 277 privileges with respect to access to public facilities and  
 278 housing accommodations and the same liability for damage as is  
 279 provided for a person described in subsection (2) who is  
 280 accompanied by a service animal.

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281        (6) A person who knowingly and fraudulently represents  
282 herself or himself, through her or his conduct or verbal or  
283 written notice, as the owner or trainer of a service animal  
284 commits a misdemeanor of the second degree, punishable as  
285 provided in s. 775.082 or s. 775.083.

286        Section 4. Subsection (3) of section 252.355, Florida  
287 Statutes, is amended to read:

288        252.355 Registry of persons with special needs; notice.-

289        (3) A person with special needs must be allowed to bring  
290 his or her service animal into a special needs shelter in  
291 accordance with s. 413.083 ~~413.08~~.

292        Section 5. This act shall take effect July 1, 2012.


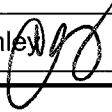


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1227 Certification of 911 Public Safety Telecommunicators

**SPONSOR(S):** Judiciary Committee; Drake and others

**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 514

| REFERENCE                            | ACTION           | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF  |
|--------------------------------------|------------------|--|---|
| 1) Judiciary Committee               | 16 Y, 0 N, As CS | Thomas   | Havlicak  |
| 2) State Affairs Committee           | 14 Y, 0 N        | Thompson   | Hamby   |
| 3) Health & Human Services Committee |                  |  Entress | Gormley  |

### SUMMARY ANALYSIS

The bill provides that the requirement for certification as a 911 public safety telecommunicator is waived for a sworn state-certified law enforcement officer that passes the 911 public safety telecommunicator certification exam, provided that the officer:

- Is selected by the chief executive of her or his agency, and
- Performs as a 911 public safety telecommunicator only on an occasional or limited basis.

The bill waives the \$75.00 fee for law enforcement officers taking the examination. A law enforcement officer who fails the examination must complete the required 911 public safety telecommunication training program before retaking the exam.

The bill will not have a significant fiscal impact on state or local governments.

The bill takes effect July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Legislative History

In 2008, the Legislature established a voluntary certification program for “911 emergency dispatchers.”<sup>1</sup> In 2010, the Legislature amended this program to change it to a mandatory certification program for “911 public safety telecommunicators.”<sup>2</sup>

##### Emergency Telephone Number “911”

Section 365.171, F.S., governs Florida’s public policy on the emergency telephone number “911.” This statute specifies that it is the intent of the Legislature:

[T]o implement and continually update a cohesive statewide emergency communications number “E911” plan for enhanced 911 services which will provide citizens with rapid direct access to public safety agencies by accessing “911” with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.<sup>3</sup>

The Department of Management Services (DMS) directs the statewide 911 system and is authorized to coordinate the activities of the system with state, county, local, and private agencies. The Enhanced 911 (E911) Board receives and distributes fee revenues for the system and provides annual reports to the Governor and the Legislature regarding expenditures and the status of E911 service in Florida.<sup>4</sup>

Currently, all 67 Florida counties report operational E911 systems that provide lifesaving features, including call answering, call back and location determination. Automatic location identification including the caller’s telephone number, address or location of the telephone, and supplementary emergency services information are required at all Public Safety Answering Points.<sup>5</sup> In addition, Florida is continuing Next Generation 911 migration.<sup>6</sup>

The E911 Board’s 2009-2010 fiscal year county funding survey identified 286 Public Safety Answering Points statewide with each county having between one and forty of these facilities.<sup>7</sup> There is no standard procedure defining which local agency operates these call centers, but many are managed by Sheriff’s offices, police departments, fire rescue, or a variety of local administrative agencies.<sup>8</sup> The FY 2009-2010 county survey found that 5,213 call takers received over 13.2 million 911 calls statewide.<sup>9</sup>

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<sup>1</sup> Chapter 2008-51, L.O.F.; codified as s. 401.465, F.S.

<sup>2</sup> Chapter 2010-188, L.O.F.; codified as s. 401.465(2)(a), F.S.

<sup>3</sup> Section 365.171(2), F.S.

<sup>4</sup> Section 365.172 (5)(a), F.S.

<sup>5</sup> See s. 365.175, F.S.

<sup>6</sup> State of Florida E911 Board 2010 Annual Report, *available at*

[http://dms.myflorida.com/suncom/public\\_safety\\_bureau/florida\\_e911/e911\\_board](http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board) (last visited Jan. 25, 2012), provides that NG-911 involves the transition to a managed IP network for routing and delivery of 911 emergency requests from a variety of devices and services to the appropriate Public Safety Answering Point (PSAP). Congress and Federal agencies are increasing efforts to regulate advanced technologies and NG-911 to ensure access to emergency services.

<sup>7</sup> *Id.* See appendix 2.

<sup>8</sup> David Gulliver, Ed., *Florida 911: The State of Emergency*, Gulf Coast Community Foundation of Venice, <http://www.a911.org/sites/default/files/Florida-911-Report.pdf> (last visited Jan. 25, 2012).

<sup>9</sup> *Supra* note 7.

## Public Safety Telecommunicators

Public safety telecommunicators (telecommunicators), also known as 911 operators or emergency dispatchers, are often the initial point of contact for the public when emergency assistance is required. Telecommunicators receive emergency calls requesting police, fire, medical, and other urgent situation services. These personnel determine the nature, location, and priority of the situation and communicate this information to emergency units as necessary and in accordance with established procedures. Telecommunicators answer and process 911 calls, maintain contact with all units on assignment, and coordinate status and location of emergency responders as necessary.

## Public Safety Telecommunication Curriculum Framework and Standards

The Division of Workforce Education at the Department of Education (DOE) publishes curriculum frameworks and standards for both public safety telecommunication and law enforcement.

The Public Safety Telecommunication framework is designed to prepare students for employment as police, fire, and ambulance dispatchers. The intended outcomes for the 232-hour Public Safety Telecommunication course include the ability of the dispatcher to do all of the following:

- Describe and demonstrate professional ethics and the role of telecommunicator.
- Describe Guidelines and Operational Standards of call classification and prioritization.
- Identify and explain communication equipment and resources.
- Demonstrate communication and interpersonal skills.
- Perform operational skills.
- Demonstrate understanding of fire department role and responses as well as hazardous materials awareness.
- Demonstrate understanding of emergency medical services role and responses.
- Demonstrate understanding of law enforcement role and responses.
- Understand the duties of a public safety telecommunicator.
- Comprehend stress management techniques.
- Demonstrate an understanding of Emergency Management practices.
- Demonstrate CPR proficiency.<sup>10</sup>

The Public Safety Telecommunication program curriculum is currently taught at various community colleges and vocational/technical centers across the state. Forty-eight public safety agencies have been certified to teach the curriculum since 2008, including thirty-seven local law enforcement agencies.<sup>11</sup>

## Law Enforcement Officer Curriculum Framework and Standards

The Florida DOE curriculum framework for Law Enforcement Officers includes its own set of intended outcomes in its 770-hour course.<sup>12</sup> Seven of the twelve Public Safety Telecommunication outcomes overlap with Law Enforcement Officer training. The five Public Safety Telecommunication outcomes which are not covered by the Law Enforcement Officer curriculum are the first three, relating to the role of telecommunicator, call classification and prioritization, and E911 equipment; the fifth, relating to operational skills; and the tenth, relating to understanding the duties of a public safety telecommunicator.

## Public Safety Telecommunicator Certification

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<sup>10</sup> Florida Department of Education, *Curriculum Framework, Public Safety Telecommunication* (July 2010) available at [http://www.fldoe.org/workforce/dwdframe/law\\_cluster\\_frame10.asp](http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp) (last visited Jan. 25, 2012).

<sup>11</sup> Florida Department of Health, *911 Public Safety Telecommunicator Program: Overview* (Oct. 4, 2011) available at <http://www.doh.state.fl.us/DEMO/EMS/dispatchers.html> (last visited Jan. 25, 2012).

<sup>12</sup> Florida Department of Education, "Curriculum Framework, Law Enforcement," July 2010, [http://www.fldoe.org/workforce/dwdframe/law\\_cluster\\_frame10.asp](http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp), (last visited Jan. 25, 2012),



In 2010, the Florida Legislature made several changes to the public safety telecommunication certification provisions of s. 401.465, F.S.<sup>13</sup> Among the changes were the replacement of “911 emergency dispatcher” with “public safety telecommunicator”<sup>14</sup> throughout Florida law and the delineation of a public safety telecommunication training program.<sup>15</sup> A training program is certified by the Department of Health (DOH) if it meets the DOE’s curriculum framework and consists of not less than 232 hours of coursework.<sup>16</sup>

Another significant change to this section in 2010 was the transition of certification from a voluntary to a mandatory procedure. Effective October 1, 2012, all public safety telecommunicators must be certified by DOH if they are employed at an “answering point,” defined as a “public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.”<sup>17</sup> To achieve certification, a person must complete an appropriate training program and pass an examination administered by DOH which measures the applicant’s competency and proficiency.<sup>18</sup> A certificate is good for two years and expires automatically if not renewed at the end of the two-year period.<sup>19</sup> Twenty hours of training are required for the biennial renewal certification.<sup>20</sup> The examination fee for a 911 public safety telecommunicator is set by DOH and may not exceed \$75.<sup>21</sup>

The mandatory public safety telecommunicator certification may be temporarily waived by the DOH in a geographic area of Florida where a state of emergency has been declared by the Governor.<sup>22</sup>

#### Existing Public Safety Telecommunicators, Law Enforcement Officers and Firefighters

The certification of existing public safety telecommunicators, as well as existing state-certified law enforcement officers and firefighters is also provided for in current law. Persons who fit these descriptions prior to April 1, 2012, must still pass the examination for certification; however, upon passage of the examination, completion of the training program is waived. Newly employed telecommunicators, law enforcement officers, and firefighters who begin their employment on or after April 1, 2012, will be required to be certified by taking both a training course and passing the exam.<sup>23</sup>

In a 2010 Advisory Legal Opinion, Florida Attorney General Bill McCollum addressed a question posed by the Chief of Police in Springfield, Florida, as to whether the law now required “all law enforcement officers who are likely to work in the city’s dispatch center and serve as a call-taker and dispatcher of 911 calls to be trained and certified?” The Attorney General opined that certification is the only requirement. McCollum stated:

... it is my opinion that pursuant to section 401.465(2)(a), Florida Statutes, any public agency employee whose duties and responsibilities include answering, receiving, transferring, and dispatching functions related to 911 calls or supervising or serving as the command officer to a person or persons having these duties and responsibilities at a public safety answering point is required to be certified by the Department of Health by October 1, 2012. Training requirements are dependent upon personnel’s length of employment as a 911 public safety telecommunicator.<sup>24</sup>

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<sup>13</sup> Section 3, ch. 2010-188, L.O.F.

<sup>14</sup> Section 401.465(1)(a), F.S.

<sup>15</sup> Section 401.465(1)(c), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 365.172(2)(a), F.S.

<sup>18</sup> *See* s. 401.465(2)(d), F.S.

<sup>19</sup> Section 401.465(2)(f), F.S.

<sup>20</sup> Section 401.465(2)(e), F.S.

<sup>21</sup> Section 401.465(3)(b), F.S.

<sup>22</sup> Section 401.465(4), F.S.

<sup>23</sup> Section 401.465(2)(j), F.S.

<sup>24</sup> Op. Atty Gen. Fla. 10-27 (2010).

## Florida Department of Law Enforcement E911 Training Efforts

The Florida Department of Law Enforcement (FDLE) is working to develop a 40-hour training program in E911 Public Safety communication for sworn law enforcement officers for which approval as a specialized course will be sought from the Criminal Justice Standards and Training Commission.<sup>25</sup> The training program will be a combination of hands-on and on-line training. The hands-on training portion could be delivered by public safety agency training departments, and the online segment would be made available by FDLE via its current system for on-line training and delivery at no cost to officers of their agency.<sup>26</sup>

### **Effect of the Bill**

The bill waives the requirement for certification as a 911 public safety telecommunicator for a person employed as a sworn state-certified law enforcement officer, provided the officer:

1. Is selected by the chief executive of her or his agency;
2. Only performs as a 911 public safety telecommunicator on an occasional and limited basis; and
3. Passes the Department of Health approved examination that measures the competency and proficiency of an applicant in the subject material comprising the public safety telecommunications program.

The bill waives the \$75.00 examination fee for law enforcement officers taking the examination under this new provision. A law enforcement officer who fails the examination must take a Department of Health approved public safety telecommunication training program before retaking the exam.

The bill takes effect on July 1, 2012.

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

Section 1 amends s. 401.465, F.S., relating to 911 public safety telecommunicator certification.

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

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill waives examination fees for law enforcement officers, fees that are to be collected by DOH once the certification program becomes effective on October 1, 2012. The fee is set by DOH and is presently set at the statutory cap of \$75. It is unknown at this time how many fees will be waived under this bill.

#### **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.

<sup>25</sup> Florida Criminal Justice Standards and Training Commission, at <http://www.fdle.state.fl.us/Content/getdoc/91a75023-5a74-40ef-814d-8e7e5b622d4d/CJSTC-Home-Page.aspx>, (last visited Jan. 25, 2012).

<sup>26</sup> Florida Department of Law Enforcement Analysis of HB 1227 (2012), at page 3, section IV., last visited Jan. 25, 2012, (on file with the House Government Operations Subcommittee).

2. Expenditures:

The bill will likely reduce costs for local governments by allowing them to occasionally utilize law enforcement officers as 911 public safety telecommunicators if the officers have passed the statutorily-mandated certification exam. In addition, the bill waives examination fees for law enforcement officers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

DOH may need to amend its rules relating to the 911 public safety telecommunicator certification program based on the changes made by the bill. Adequate rulemaking authority exists within s. 401.35, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2012, the Judiciary Committee approved one amendment and reported the bill favorably. The amendment:

- Removes from the bill the exemption for law enforcement officers from the definition of "911 Public Safety Telecommunicator."
- Provides that law enforcement officers selected by their chief executive who pass the required examination and only perform as a 911 public safety telecommunicator on an occasional and limited basis are exempt from certification as a 911 public safety telecommunicator.

This analysis is drafted to the bill as passed by the Judiciary Committee.

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A bill to be entitled  
 An act relating to certification of 911 public safety  
 telecommunicators; amending s. 401.465, F.S.; revising  
 requirements for certification of 911 public safety  
 telecommunicators; providing conditions under which  
 the requirement for certification as a 911 public  
 safety telecommunicator may be waived for certain law  
 enforcement officers; providing for exemption from the  
 examination fee; providing an effective date.

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

Section 1. Paragraphs (d) and (j) of subsection (2) of  
 section 401.465, Florida Statutes, are amended, paragraph (k) of  
 that subsection is redesignated as paragraph (l), and a new  
 paragraph (k) is added to that subsection, to read:

401.465 911 public safety telecommunicator certification.-

(2) PERSONNEL; STANDARDS AND CERTIFICATION.-

(d) The department shall determine whether the applicant  
 meets the requirements specified in this section and in rules of  
 the department and shall issue a certificate to any person who  
 meets such requirements. Such requirements must include the  
 following:

1. Completion of an appropriate 911 public safety  
 telecommunication training program;
2. Certification under oath that the applicant is not  
 addicted to alcohol or any controlled substance;
3. Certification under oath that the applicant is free

29 from any physical or mental defect or disease that might impair  
 30 the applicant's ability to perform his or her duties;

31 4. Submission of the application fee prescribed in  
 32 subsection (3);

33 5. Submission of a completed application to the department  
 34 which indicates compliance with subparagraphs 1., 2., and 3.;  
 35 and

36 6. Effective October 1, 2012, passage of an examination  
 37 approved ~~administered~~ by the department which measures the  
 38 applicant's competency and proficiency in the subject material  
 39 of the public safety telecommunication training program.

40 (j) If a person was employed as a 911 public safety  
 41 telecommunicator, ~~a sworn state-certified law enforcement~~  
 42 ~~officer~~, or a state-certified firefighter before April 1, 2012,  
 43 he or she must pass the examination approved ~~administered~~ by the  
 44 department which measures the competency and proficiency in the  
 45 subject material of the public safety telecommunication program,  
 46 as defined in paragraph (1)(c). Upon passage of the examination,  
 47 the completion of the public safety telecommunication training  
 48 program is ~~shall be~~ waived.

49 (k)1. The requirement for certification as a 911 public  
 50 safety telecommunicator is waived for a person employed as a  
 51 sworn state-certified law enforcement officer, provided the  
 52 officer:

53 a. Is selected by his or her chief executive to perform as  
 54 a 911 public safety telecommunicator;

55 b. Performs as a 911 public safety telecommunicator on an  
 56 occasional or limited basis; and

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57 c. Passes the department-approved examination that  
 58 measures the competency and proficiency of an applicant in the  
 59 subject material comprising the public safety telecommunication  
 60 program.

61 2. A sworn state-certified law enforcement officer who  
 62 fails an examination taken under subparagraph 1. must take a  
 63 department-approved public safety telecommunication training  
 64 program prior to retaking the examination.

65 3. The testing required under this paragraph is exempt  
 66 from the examination fee required under subsection (3).

67 Section 2. 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 Watson offered the following:

**Amendment (with title amendment)**

6 Remove lines 51-52 and insert:

7 sworn state-certified law enforcement officer; state-certified  
8 firefighter; or state-certified emergency medical technician or  
9 state-certified paramedic pursuant to chapter 401,F.S., provided  
10 the individual:

-----  
15 **T I T L E A M E N D M E N T**

16 Remove line 8 and insert:

17 enforcement officers, firefighters, emergency medical  
18 technicians, paramedics; providing for exemption from the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1227 (2012)

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 Watson offered the following:

4  
5 **Amendment**

6 Remove lines 57-64 and insert:

7 c. Completes a minimum 40 hour "bridge" training program  
8 approved by the department.

9 d. Passes the department-approved examination that measures  
10 the competency and proficiency of an applicant in the subject  
11 material comprising the public safety telecommunication program.  
12



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1227 (2012)

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 Watson offered the following:

4  
5 **Amendment**

6 Remove line 61 and insert:

7 2. A person described in paragraph (k)1. who  
8



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1351 Homeless Youth  
**SPONSOR(S):** Civil Justice Subcommittee; Glorioso  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1662

| REFERENCE                                      | ACTION           | ANALYST   | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|-----------|---------------------------------------|
| 1) Health & Human Services Access Subcommittee | 15 Y, 0 N        | Batchelor | Schoolfield                           |
| 2) Civil Justice Subcommittee                  | 15 Y, 0 N, As CS | Caridad   | Bond                                  |
| 3) Health & Human Services Committee           |                  | Batchelor | Gormley                               |

**SUMMARY ANALYSIS**

Federal law defines a "homeless youth" as an individual who lacks a fixed, regular, and adequate nighttime residence. The bill:

- Defines "certified homeless youth" to mean a minor, homeless child or youth as defined under federal law.
- Provides that a certified homeless youth or a minor who has had the disabilities of nonage removed in accordance with statute must be issued a certified copy of his or her birth certificate upon request.
- Creates a provision to provide that an unaccompanied certified homeless youth who is 16 years of age or older may petition the circuit court to have the disabilities of nonage removed. Such youth will have court filing fees waived and the court must expedite the proceedings.

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**

###### *Homelessness in Florida*

Florida has the third largest homeless population in the state, with roughly 60,000 people facing homelessness daily.<sup>1</sup> During the 2009-10 school year, 49,000 school-aged children were identified as homeless in the state.<sup>2</sup>

###### *Homeless Children and Youths*

According to the National Alliance to End Homelessness, the prevalence of youth homelessness is difficult to measure; however, researchers estimate that perhaps 1.6 million youth, aged 13-17, are homeless in the U.S.<sup>3</sup> While the reasons for youth homelessness vary by individual, the primary causes appear to be a family breakdown or a systems failure of mainstream programs like child welfare, juvenile corrections, and mental health programs.<sup>4</sup> Between 20,000 and 25,000 youth ages 16 and older transition from foster care to legal emancipation, or “age out” of the system annually with few resources and multiple challenges.<sup>5</sup> As a result, former foster care children and youth are disproportionately represented in the homeless population. Twenty-five percent of former foster youth nationwide report that they have been homeless at least one night within two-and-a-half to four years after exiting foster care.<sup>6</sup>

Federal law defines “homeless children and youths” as follows:

- (a) [I]ndividuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302 (a)(1) of this title); and
- (b) [I]ncludes—
  - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
  - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(1) of this title);
  - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  - (iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (1) through (iii).<sup>7</sup>

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<sup>1</sup> Council on Homelessness Annual Report 2011. Florida Department of Children and Families.  
<http://www.dcf.state.fl.us/programs/homelessness/council/index.shtml> (last visited Jan. 26, 2012).

<sup>2</sup> *Id.*

<sup>33</sup> The Heterogeneity of Homeless Youth in America. National Alliance to End Homelessness. September 2011.

<sup>4</sup> Fundamental Issues to Prevent and End Youth Homelessness. Youth Homelessness Series, Brief No. 1. National Alliance to End Homelessness. May, 2006.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> 42 U.S.C. §11434a.

The term, “unaccompanied youth,” as defined in federal law means youth not in the physical custody of a parent or guardian.<sup>8</sup>

### *School District Homeless Liaison*

The Florida Department of Education has established a “school district homeless liaison” for each of the 67 counties.<sup>9</sup> The duties of the liaison include:<sup>10</sup>

- Assisting homeless children and youth who do not have immunizations or medical records to obtain necessary immunizations or medical records.
- Helping unaccompanied youth choose and enroll in a school, after considering the youths’ wishes, and provide youth with notice of their right to appeal an enrollment decision that is contrary to their wishes.
- Ensuring that unaccompanied youth are enrolled in school immediately pending the resolution of any dispute that may arise over school enrollment or placement.
- Collaborating and coordinating with State Coordinators for Homeless Education and community and school personnel responsible for the provision of education and related services to children and youth who are homeless.

### *Emergency Shelter Program funded by U.S. Department of Housing and Urban Development*

The Emergency Shelter Program is funded by the Department of Housing and Urban Development and is designed as the first step in the Continuum of Care. The Emergency Shelter Grants Program provides funds for emergency shelters — immediate alternatives to the street — and transitional housing that helps individuals reach independent living. States use grant funds to rehabilitate and operate these facilities, provide essential social services, and prevent homelessness.<sup>11</sup> The providers of service must document that any youth served meets the federal definition of a homeless person.<sup>12</sup>

### *Runway or Homeless Basic Youth Centers and Transitional Living Programs funded by U.S. Health and Human Services*

The Basic Youth Center Program works to establish or strengthen community-based programs that meet the immediate needs of runaway and homeless youth and their families.<sup>13</sup> The programs provide youth up to age 18 with emergency shelter, food, clothing, counseling and referrals for health care.<sup>14</sup> Basic centers seek to reunite young people with their families, whenever possible, or to locate appropriate alternative placements.<sup>15</sup> The providers of service must maintain individual case files on the youth in the program.<sup>16</sup>

The Transitional Living Programs supports projects that provide long-term residential services to homeless youth.<sup>17</sup> The Program accepts youth ages 16-21. The services offered are designed to help

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<sup>8</sup> *Id.*

<sup>9</sup> Florida Department of Education, District Liaison List.

<http://search.fldoe.org/default.asp?cx=012683245092260330905%3Aa041mikgz4&cof=FORID%3A11&q=school+district+homeless+liaison> (last visited Jan. 26, 2012).

<sup>10</sup> *Id.*

<sup>11</sup> U.S. Department of Housing and Homeless Development, Homelessness Resource Exchange.

<http://www.hudhre.info/index.cfm?do=viewEsgProgram> (last visited Jan. 20, 2012).

<sup>12</sup> U.S. Department of Housing and Homeless Development, Emergency Shelter Grant Desk Guide, Program Requirements and Responsibilities. <http://www.hudhre.info/index.cfm?do=viewEsgDeskguideSec4#4-4> (last visited Jan. 20, 2012).

<sup>13</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Fact Sheet Basic Center Program. <http://www.acf.hhs.gov/programs/fysb/content/youthdivision/programs/bcpfactsheet.htm> (last visited Jan. 20, 2012).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Fact Sheet Transitional Program.

<http://www.acf.hhs.gov/programs/fysb/content/youthdivision/programs/bcpfactsheet.htm> (last visited Jan. 20, 2012).

homeless youth make a successful transition to self-sufficient living.<sup>18</sup> Transitional living programs are required to provide youth with stable, safe living accommodations, and services that help them develop the skills necessary to become independent.<sup>19</sup> Living accommodations may include host-family homes, group homes, maternity group homes, or supervised apartments owned by the program or rented in the community.<sup>20</sup> The providers of services must maintain individual case files on the youth in the program.<sup>21</sup> Such documentation constitutes the basis for a certification under the proposed bill.<sup>22</sup>

### *Disabilities of Nonage*

Under current law, minors who meet certain conditions can be granted the same rights as an adult. This process is known in current law as “having the disabilities of nonage removed” and is provided if:

- The minor is married or has been married or subsequently becomes married, including one whose marriage is dissolved, or who is widowed, or widowed,<sup>23</sup> or
- A circuit court removes the disabilities of nonage of a minor, age 16 or older, residing in this state upon a petition filed by the minor’s natural or legal guardian or, if there is none, by a guardian ad litem.<sup>24</sup>

In the case of a minor who has been married or subsequently becomes married, including one whose marriage is dissolved, or who is widowed, or widowed, the minor is permitted to assume management of his or her estate, contract and be contracted with, sue and be sued and perform all the acts an adult can.<sup>25</sup>

In the case of a minor who has had the court remove the disabilities of nonage, a court would authorize the minor to perform all acts that the minor could do if he or she was 18 years of age.<sup>26</sup>

### *Birth Certificates*

The Florida Department of Health, Office of Vital Statistics, maintains all vital records for the state. Under current law, homeless children are not specifically given the ability to obtain their birth certificate. Current law provides that a person must be of legal age to obtain their birth certificate, and if they are not of legal age, the birth certificate can be obtained by a parent, guardian, or other legal representative.<sup>27</sup> Therefore, homeless children not of legal age and without a parent, guardian or other legal representative are unable to obtain their birth certificate.

### **Effect of the Bill**

The bill defines “certified homeless youth” as a minor who is a homeless child or youth, including an unaccompanied youth, as defined in federal law and has been certified as homeless or unaccompanied by:

- A school district homeless liaison;
- The director of an emergency shelter program funded by the United States Department of Housing and Urban Development, or the director’s designee; or

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Section 743.01, F.S.

<sup>24</sup> Section 743.015, F.S.

<sup>25</sup> Section 743.01, F.S.

<sup>26</sup> Section 743.015, F.S.

<sup>27</sup> Section 382.025 (1)(a) 1., F.S.

- The director of a runaway or homeless youth basic center or transitional living program funded by the United States Department of Health and Human Services, or the director's designee.<sup>28</sup>

In addition, the bill expands instances where the department must provide an individual with a copy of an original, new or amended birth certificate or affidavits thereof. The department must provide such to the registrant if he or she is a certified homeless youth, or is a minor who has had the disabilities of nonage removed under ss. 743.01 or 743.015, F.S.

The bill creates s. 743.067 F.S., and provides that an unaccompanied youth as defined in 42 U.S.C. s. 11434a, who is also a certified homeless youth, and is 16 years of age or older may petition the circuit court to have the disabilities of nonage removed under s. 743.015, F.S. The youth shall qualify as a person not required to prepay costs and fees provided in s. 57.081, F.S. The court must advance the cause on the calendar.

#### B. SECTION DIRECTORY:

Section 1 amends s. 382.002, F.S., relating to definitions.

Section 2 amends s. 382.0085, F.S., relating to stillbirth registration.

Section 3 amends s. 382.025, F.S., relating to certified copies of vital records.

Section 4 amends s. 743.067, F.S., relating to unaccompanied youths.

Section 5 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.

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<sup>28</sup> The emergency shelter program and the runaway or homeless youth basic center or transitional living program maintain documentation of homeless status for youth in the respective programs.

### **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:**

None.

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

On January 31, 2012, the Civil Justice Subcommittee adopted a proposed committee substitute for HB 1351. The PCS differs from the bill as filed in that the PCS removed a provision that would have allowed an unaccompanied youth who is also a certified homeless youth and who is 16 years of age or older to have the same rights as a minor who has had the disabilities of nonage removed under Florida statute. The PCS also provides that any unaccompanied youth applying to a court to have the disabilities of nonage removed is exempt from paying court costs and the court must expedite the case.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.



1                                   A bill to be entitled  
 2           An act relating to homeless youth; amending s.  
 3           382.002, F.S.; defining the term "certified homeless  
 4           youth"; conforming a cross-reference; amending s.  
 5           382.0085, F.S.; conforming cross-references; amending  
 6           s. 382.025, F.S.; providing that a minor who is a  
 7           certified homeless youth or who has had the  
 8           disabilities on nonage removed under specified  
 9           provisions may obtain a certified copy of his or her  
 10          birth certificate; creating s. 743.067, F.S.;  
 11          providing that unaccompanied youths who are certified  
 12          homeless youths 16 years of age or older who apply to  
 13          a court to have the disabilities of nonage removed  
 14          shall have court costs waived; requiring a court to  
 15          advance such cases on the calendar; providing an  
 16          effective date.

17  
 18   Be It Enacted by the Legislature of the State of Florida:  
 19

20           Section 1. Subsections (3) through (16) of section  
 21   382.002, Florida Statutes, are renumbered as subsections (4)  
 22   through (17), respectively, a new subsection (3) is added to  
 23   that section, and present subsections (7) and (8) of that  
 24   section are amended, to read:

25           382.002 Definitions.—As used in this chapter, the term:  
 26           (3) "Certified homeless youth" means a minor who is a  
 27           homeless child or youth, including an unaccompanied youth, as  
 28           those terms are defined in 42 U.S.C. s. 11434a, and who has been

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

29 certified as homeless or unaccompanied by:

30 (a) A school district homeless liaison;

31 (b) The director of an emergency shelter program funded by  
 32 the United States Department of Housing and Urban Development,  
 33 or the director's designee; or

34 (c) The director of a runaway or homeless youth basic  
 35 center or transitional living program funded by the United  
 36 States Department of Health and Human Services, or the  
 37 director's designee.

38 ~~(8)~~ ~~(7)~~ "Final disposition" means the burial, interment,  
 39 cremation, removal from the state, or other authorized  
 40 disposition of a dead body or a fetus as described in subsection  
 41 ~~(7)~~ ~~(6)~~. In the case of cremation, dispersion of ashes or  
 42 cremation residue is considered to occur after final  
 43 disposition; the cremation itself is considered final  
 44 disposition.

45 ~~(9)~~ ~~(8)~~ "Funeral director" means a licensed funeral  
 46 director or direct disposer licensed pursuant to chapter 497 or  
 47 other person who first assumes custody of or effects the final  
 48 disposition of a dead body or a fetus as described in subsection  
 49 ~~(7)~~ ~~(6)~~.

50 Section 2. Subsection (9) of section 382.0085, Florida  
 51 Statutes, is amended to read:

52 382.0085 Stillbirth registration.—

53 (9) This section or s. 382.002(15) ~~382.002(14)~~ may not be  
 54 used to establish, bring, or support a civil cause of action  
 55 seeking damages against any person or entity for bodily injury,  
 56 personal injury, or wrongful death for a stillbirth.

57 Section 3. Paragraph (a) of subsection (1) of section  
58 382.025, Florida Statutes, is amended to read:

59 382.025 Certified copies of vital records;  
60 confidentiality; research.—

61 (1) BIRTH RECORDS.—Except for birth records over 100 years  
62 old which are not under seal pursuant to court order, all birth  
63 records of this state shall be confidential and are exempt from  
64 the provisions of s. 119.07(1).

65 (a) Certified copies of the original birth certificate or  
66 a new or amended certificate, or affidavits thereof, are  
67 confidential and exempt from the provisions of s. 119.07(1) and,  
68 upon receipt of a request and payment of the fee prescribed in  
69 s. 382.0255, shall be issued only as authorized by the  
70 department and in the form prescribed by the department, and  
71 only:

72 1. To the registrant, if the registrant is of legal age,  
73 is a certified homeless youth, or is a minor who has had the  
74 disabilities of nonage removed under s. 743.01 or s. 743.015;

75 2. To the registrant's parent or guardian or other legal  
76 representative;

77 3. Upon receipt of the registrant's death certificate, to  
78 the registrant's spouse or to the registrant's child,  
79 grandchild, or sibling, if of legal age, or to the legal  
80 representative of any of such persons;

81 4. To any person if the birth record is over 100 years old  
82 and not under seal pursuant to court order;

83 5. To a law enforcement agency for official purposes;

84 6. To any agency of the state or the United States for

85 | official purposes upon approval of the department; or

86 |         7. Upon order of any court of competent jurisdiction.

87 |         Section 4. Section 743.067, Florida Statutes, is created  
88 | to read:

89 |         743.067 Unaccompanied youths.—An unaccompanied youth, as  
90 | defined in 42 U.S.C. s. 11434a, who is also a certified homeless  
91 | youth, as defined in s. 382.002, and who is 16 years of age or  
92 | older may petition the circuit court to have the disabilities of  
93 | nonage removed under s. 743.015. The youth shall qualify as a  
94 | person not required to prepay costs and fees as provided in s.  
95 | 57.081. The court shall advance the cause on the calendar.

96 |         Section 5. This act shall take effect July 1, 2012.


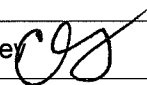
HB 4163

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4163 Continuing Education for Athletic Trainers and Massage Therapists

SPONSOR(S): Hudson

TIED BILLS: IDEN./SIM. BILLS: SB 1258

| REFERENCE                                       | ACTION    | ANALYST   | STAFF DIRECTOR or BUDGET/POLICY CHIEF   |
|---|-----------|---|---|
| 1) Health & Human Services Quality Subcommittee | 14 Y, 0 N | Batchelor   | Calamas   |
| 2) Health & Human Services Committee            |           | Batchelor  | Gormley  |

SUMMARY ANALYSIS

HB 4163 repeals s. 456.034, F.S. relating to requirements for Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) continuing education for Athletic Trainers and Massage Therapists.

Section 468.705, F.S. provides the Board of Athletic Training authority to promulgate rules regarding licensure and continuing education requirements for Athletic Trainers. The Board of Athletic Training has discretion to determine the topics to be included in continuing education courses. Therefore, the Board of Athletic Training has the discretion to include a course in HIV/AIDS training as part of its continuing education requirements.

Section 480.0415, F.S. provides the Board of Massage Therapy authority to promulgate rules regarding continuing education requirements for Massage Therapists. The Board of Massage Therapy has discretion to determine the topics to be included in continuing education courses. Therefore, the Board of Massage Therapy has the discretion to include a course in HIV/AIDS training as part of its continuing education requirements.

The bill does not appear to have a fiscal impact.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### *Athletic Trainers*

Athletic training is the recognition, prevention, and treatment of athletic injuries.<sup>1</sup> An athletic injury is an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.<sup>2</sup> An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.<sup>3</sup>

In 1994, the Legislature began fully regulating and licensing the practice of athletic training to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.<sup>4</sup> Athletic Trainers are regulated by the Florida Department of Health, Division of Medical Quality Assurance and the Board of Athletic Training<sup>5</sup>, pursuant to part XIII of Ch. 468, F.S.

As of June 30, 2011, there were 1,488 active in-state licensed athletic trainers.<sup>6</sup> Between July 1, 2010 and June 30, 2011, the department received 232 applications from individuals seeking initial licensure as an athletic trainer.<sup>7</sup>

Applicants seeking licensure as an athletic trainer must:<sup>8</sup>

- Complete the application form and remit the required fees;
- Be at least 21 years of age;
- Posses a baccalaureate degree from a college or university accredited by the United States Department of Education (U.S. DOE), or the Commission on Recognition of Postsecondary Accreditation (Commission), or from a program approved by the board;
- Complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the U.S. DOE or the Commission, or approved by the board;
- Be certified in cardiovascular pulmonary resuscitation from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the board;
- Submit proof of taking a two-hour course on the prevention of medical errors;
- Submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results.<sup>9</sup>

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<sup>1</sup> S. 468.701(5), F.S.

<sup>2</sup> S. 468.701(3), F.S.

<sup>3</sup> S. 468.701(2), F.S.

<sup>4</sup> Ch. 94-119, L.O.F. and S. 468.70, F.S.

<sup>5</sup> The Board of Athletic Training is composed of nine members who are Governor appointed and confirmed by the Senate. Five of the members must be licensed athletic trainers, one must be a physician, and two are consumer-residents who are not affiliated with the industry or licensed health-care practice. See S. 768.703, F.S.

<sup>6</sup> Florida Department of Health, Division of Medical Quality Assurance: Annual Report July 1, 2010 to June 30, 2011, available at: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed January 13, 2012).

<sup>7</sup> *Id.*

<sup>8</sup> S. 468.707, F.S.

<sup>9</sup> Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements, available at: [http://www.doh.state.fl.us/mqa/athtrain/at\\_lic\\_req.html](http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html) (last viewed January 13, 2012).

Each applicant for licensure is required to complete a continuing education course on HIV/AIDS as part of initial licensure and one hour for biennial licensure renewal.<sup>10</sup>

Additionally, licensed athletic trainers are required to complete 24 hours of continuing education courses biannually. The courses must focus on the prevention of athletic injuries; recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.<sup>11</sup>

### *Massage Therapists*

Massage is the manipulation of the soft tissues of the human body with the hand, foot, arm, elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.<sup>12</sup> Massage Therapists are regulated by the Florida Department of Health, Division of Medical Quality Assurance and the Board of Massage Therapy<sup>13</sup>, pursuant to Ch. 480, F.S. Currently, there are 30,323 individuals who hold an active in-state license as a massage therapist in Florida.<sup>14</sup> All massage therapists are required to renew their licenses on or before August 31 of each biennial year.<sup>15</sup> Currently, an individual is qualified for an active license as a massage therapist in Florida if the individual:<sup>16</sup>

- Completes the application form and remits the required fees;
- Is at least 18 years of age;
- Possess a high school diploma or graduate equivalency degree;
- Completes a course of study at a board approved massage school or completed an apprenticeship program that meets the standards adopted by the board;
- Receives a passing grade on national examination approved by the board;
- Completes the HIV/AIDS course requirement<sup>17</sup>;
- Completes a course relating to the prevention of medical errors<sup>18</sup>.

Each applicant for licensure is required to complete a continuing education course on HIV/AIDS as part of initial licensure and one hour for biennial licensure renewal.<sup>19</sup>

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<sup>10</sup> S. 456.034, F.S., and Rule 64B33-2.002, F.A.C.

<sup>11</sup> Rule 64B33-2.003, F.A.C

<sup>12</sup> S.480.033(3), F.S.

<sup>13</sup> The Board of Massage Therapy is composed of 7 members appointed by the Governor and approved by the Senate. 5 members of the board must be licensed massage therapists and shall have been engaged in massage therapy for at least 5 consecutive years prior to the date of appointment, the other 2 members shall be lay persons. Each member must have a high school diploma or graduate equivalency diploma. –See S.480.035, F.S.

<sup>14</sup> Department of Health, Division of Medical Quality Assurance, Annual Report for July 1, 2010 to June 30, 2011 *available at*: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed January 13, 2012).

<sup>15</sup> Rule 64B7-28.001, F.A.C.

<sup>16</sup> S. 480.041(1), F.S. and Rule 64B7-25.001, F.A.C

<sup>17</sup> Rule 64B7-25.0012, F.A.C.;

<sup>18</sup> S. 456.013(7), F.S.

<sup>19</sup> S. 456.034, F.S. and ch. 64B33-2.003, F.A.C.



Additionally, licensed massage therapists are required to complete one continuing education hour for each month or part of a month that has elapsed since the issuance of the license for which renewal is sought, up to a maximum of 24 hours.<sup>20</sup> The courses must focus on massage therapy techniques, the prevention of medical errors, professional ethics and laws and rules of massage therapy.<sup>21</sup> In addition to the above mentioned courses massage therapists may select from the following courses, as needed to meet their continuing education requirements.<sup>22</sup>

- Communications with clients and other professionals;
- Insurance related to third party payment or reimbursement of services;
- Psychological dynamics of client–therapist relationship;
- Risk management, including charting, documentation and record keeping;
- Infection control (other than the HIV/AIDS course required by s. 456.034, F.S.);
- Adult Cardiopulmonary Resuscitation (CPR).

### **Effect of Proposed Changes**

The bill repeals s. 456.034, F.S., which required each licensed Athletic Trainer and Massage Therapist to complete a continuing education course on HIV/AIDS as part of licensure renewal.

#### *Athletic Trainer*

Section 468.705, F.S. provides the Board of Athletic Training authority to promulgate rules regarding licensure and continuing education requirements for Athletic Trainers. The Board of Athletic Training has discretion to determine the topics to be included in continuing education courses. Therefore, the Board of Athletic Training has the discretion to include a course in HIV/AIDS training as part of its continuing education requirements.

#### *Massage Therapists*

Section 480.0415, F.S. provides the Board of Massage Therapy authority to promulgate rules regarding continuing education requirements for Massage Therapists. The Board of Massage Therapy has discretion to determine the topics to be included in continuing education courses. Therefore, the Board of Massage Therapy has the discretion to include a course in HIV/AIDS training as part of its continuing education requirements.

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

**Section 1:** Repeals s. 456.034, F.S.

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

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<sup>20</sup> Rule 64B7-28.009, F.A.C.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

## 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:

### 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

HB 4163

2012

1                                   A bill to be entitled  
2           An act relating to continuing education for athletic  
3           trainers and massage therapists; repealing s. 456.034,  
4           F.S., relating to the requirement for athletic  
5           trainers and massage therapists to complete continuing  
6           education on the modes of transmission, infection  
7           control procedures, clinical management, and  
8           prevention of human immunodeficiency virus and  
9           acquired immune deficiency syndrome; providing an  
10          effective date.

11  
12   Be It Enacted by the Legislature of the State of Florida:

- 13  
14           Section 1.   Section 456.034, Florida Statutes, is repealed.  
15           Section 2.   This act shall take effect July 1, 2012.

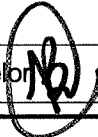



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4179 Florida Mental Health Act

SPONSOR(S): Nuñez

TIED BILLS: IDEN./SIM. BILLS:

| REFERENCE                                      | ACTION    | ANALYST   | STAFF DIRECTOR or BUDGET/POLICY CHIEF   |
|--|-----------|---|---|
| 1) Health & Human Services Access Subcommittee | 13 Y, 0 N | Batchelor   | Schoolfield   |
| 2) Health & Human Services Committee           |           | Batchelor  | Gormley  |

SUMMARY ANALYSIS

HB 4179 repeals s. 394.4674, F.S. relating to a comprehensive plan and report for the deinstitutionalization of patients in a treatment facility who are over the age of 55 and do not meet the criteria for involuntary placement pursuant to s. 349.467, F.S. This law has been in effect since 1980.<sup>1</sup>

The plan and report are no longer needed and the Department of Children and Family Services has not issued the report or plan in recent years. Current law<sup>2</sup> provides for the discharge of involuntary patients and specifies that anytime a patient is found to no longer meet the criteria for involuntary placement the patient shall be discharged unless they are placed on a voluntary or convalescent status.

The bill does not have a fiscal impact.

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

<sup>1</sup> Ch.80-293, § 2, L.O.F.

<sup>2</sup> S. 394.469, F.S.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

The Department of Children and Families (DCF) is designated the "Mental Health Authority" in the state. DCF is responsible for the planning, evaluation, and implementation of a statewide program of mental health, including community services, receiving and treatment facilities, child services, research and training. Additionally, DCF is responsible for establishing standards, providing technical assistance, and exercising supervision of mental health programs, and the treatment of patients at, community facilities, other facilities for persons who have mental illness, and any agency or facility providing services to patients.<sup>3</sup>

Section 394.4674, F.S., directs DCF to develop a comprehensive plan for the deinstitutionalization of patients in a treatment facility<sup>4</sup> who are over age 55 and do not meet the criteria for involuntary placement pursuant to s. 349.467, F.S. This law was enacted in 1980<sup>5</sup>. The plan was required to include, at a minimum, the projected number of patients, the timetables for deinstitutionalization and the specific actions to be taken to accomplish deinstitutionalization. Further, DCF is required to submit a semiannual report to the Legislature until the conditions of the deinstitutionalization plan are met. DCF advises that a report has not been issued in recent years.<sup>6</sup>

Currently, s. 394.469, F.S., provides for the discharge of involuntary patients and specifies that anytime a patient is found to no longer meet the criteria for involuntary placement, the administrator shall:

- Discharge the patient, unless the patient is under a criminal charge, in which case the patient shall be transferred to the custody of the appropriate law enforcement officer;
- Transfer the patient to voluntary status on his or her own authority or at the patient's request, unless the patient is under criminal charge or adjudicated incapacitated; or
- Place an improved patient, except a patient under a criminal charge, on convalescent status in the care of a community facility.

##### **Effect of Proposed Changes**

The bill repeals s. 394.4674, F.S., which in 1980 directed DCF to develop a comprehensive plan for the deinstitutionalization of patients in a treatment facility who are over the age of 55 and who do not meet the criteria for involuntary placement. The repeal also eliminates the requirement for a semiannual report to the Legislature.

The repeal of this report and plan is not anticipated to have an effect on DCF or on the timely discharge of patients as requirement is outdated. Currently, section 394.469, F.S., provides guidelines for the discharge of involuntary placements.

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<sup>3</sup> S. 394.457, F.S.

<sup>4</sup> "Treatment facility" means any state-owned, state-operated, or state-supported hospital, center, or clinic designated by the department for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the department when rendering such services to a person pursuant to the provisions of this part. Patients treated in facilities of the United States Government shall be solely those whose care is the responsibility of the United States Department of Veterans Affairs. s.394.455(32),F.S.

<sup>5</sup> Ch.80-293,§ 2, L.O.F.

<sup>6</sup> Email from Stephenie Colston, January 19, 2012. Department of Children and Families (on file with committee staff).

**B. SECTION DIRECTORY:**

**Section 1:** Repeals s. 394.4674, F.S. relating to Plan and Report.

**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.

**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



HB 4179

2012

1                                    A bill to be entitled  
2            An act relating to the Florida Mental Health Act;  
3            repealing s. 394.4674, F.S., relating to the  
4            Department of Children and Family Services' plan for  
5            the deinstitutionalization of mental health patients  
6            and reports to the Legislature on the status of the  
7            plan; providing an effective date.

8

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

10

11            Section 1.    Section 394.4674, Florida Statutes, is  
12            repealed.

13            Section 2.    This act shall take effect July 1, 2012.