

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HSAS 11-01 Repeals Obsolete Language relating to Vulnerable Children and Adults

SPONSOR(S): Health & Human Services Access Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Access Subcommittee		Batchelor	Schoolfield

SUMMARY ANALYSIS

PCB HSAS 11-01 repeals the following sections of law, which are outdated, no longer effective, applicable or being implemented:

- s. 39.0015, F.S., relating to child abuse prevention training in the district school system;
- s. 39.305, F.S., relating to the development by the Department of Children and Family Services of a model plan for intervention and treatment in sexual abuse cases;
- ss. 39.311 to 318, F.S., relating to the Family Builders Program;
- s. 39.816, F.S., relating to authorization for pilot and demonstration projects;
- s. 39.817, F.S., relating to a foster care privatization demonstration pilot project;
- s. 383.0115, F.S., relating to the Commission on Marriage and Family Support Initiatives;
- s. 393.22, F.S., relating to financial commitment to community services programs;
- s. 393.503, F.S., relating to respite and family care subsidy expenditures and funding recommendations;
- s. 394.922, F.S., relating to involuntary civil commitments of sexually violent predators;
- s. 402.3045, F.S., relating to a requirement that the Department of Children and Family Services adopt distinguishable definitions of child care programs by rule;
- s. 402.50, F.S., relating to the development of administrative infrastructure standards by the Department of Children and Family Services;
- s. 402.55, F.S., relating to the Management Fellows Program;
- s. 409.1672, F.S., relating to incentives for department employees;
- s. 409.1673, F.S., relating to legislative findings regarding the foster care system and the development of alternate care plans;
- s. 409.1685, F.S., relating to an annual report to the Legislature by the Department of Children and Family Services with respect to children in foster care;
- ss. 409.801 to 803, F.S., relating to the creation of the Family Policy Act;

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

The bill becomes effective on July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals the following sections of statute which either are outdated, no longer effective or no longer being implemented:

Child Abuse Prevention Training in the District School System

Repeals s. 39.0015, F.S., which created the “Child Abuse Prevention Training Act of 1985”. This Act encouraged the Department of Education to implement abuse prevention training for all school teachers, guidance counselors, parents, and children in the district school system. No rules were created relating to this section and the program was never implemented by the Department of Education (DOE).

Intervention and Treatment in Sexual Abuse Cases; Model Plan

Repeals s. 39.305, F.S., which requires the Department of Children and Family Services (DCF) to develop a model plan for community intervention and treatment of intra-family sexual abuse in conjunction with the Department of Law Enforcement, the Department of Health, Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community. The model plan was never developed. However, other sections of law already provide collaborative efforts including but not limited to child protection teams,¹ agreements with local law enforcement regarding investigations² and mandatory notification requirements regarding abuse³.

Family Builders Program

Repeals s. 39.311, F.S., which establishes the “Family Builders Program” (program). Repeals s. 39.312, F.S., which outlines goals for the program. Repeals s. 39.313, F.S., as it relates to contracting of services for the program. Repeals s. 39.314, F.S., establishing eligibility for the program. Repeals s. 39.315, F.S., regarding delivery of services for the program. Repeals s. 39.316, F.S., regarding qualifications of program workers. Repeals s. 39.317, F.S., relating to outcome evaluation of the program. Repeals s. 39.318, F.S., relating to funding of the program. The program was established in the department to provide family preservation services. The department no longer operates the program and recommended repeal of the program and relating sections of statute during the 2009 legislative session.

Authorization for Pilot and Demonstration Projects

Repeals s. 39.816, F.S., which was enacted in 1998 and requires DCF, contingent on a grant from the federal Adoption Safe Families Act (ASFA), to establish one or more pilots for the purpose of furthering the goals of the Act. It also authorizes DCF to establish demonstration projects to identify barriers to adoption, to address parental substance abuse problems that endanger children, and to address kinship care. It is unknown whether the pilots were ever established. As such, the statutory language for pilots is outdated.

Foster Care Privatization Demonstration Pilot Project

Repeals s. 39.817, F.S., which requires the establishment of a pilot project through The Ounce of Prevention Fund of Florida to contract with a private entity for a foster care privatization demonstration project. The statute is outdated and foster care and related services are currently privatized statewide through community based care organizations.

¹ s. 39.303, F.S.

² s. 36.306, F.S.

³ s. 39.301, F.S.

The Commission on Marriage and Family Support Initiatives

Repeals s. 383.0115, F.S., which creates the Commission on Marriage and Family Support Initiatives (Commission), which essentially replaced the Commission of Responsible Fatherhood created in 1996. The Commission is authorized to hire an executive director, a researcher, and an administrative assistant and to also create documents related to marriage and family initiatives. The Commission is also required to develop a community awareness campaign related to marriage promotion. The Commission was funded following its inception in 2003, but has not been funded since 2008. As a result, the Commission is no longer operating.

Financial Commitment to Community Services Program

Repeals s. 393.22, F.S., which provides specific guidelines for transferring funds from the institution budget to the community budget when a developmental disabilities center discharges enough persons to close a residential unit. The section also provides that the funds to support at least 80 percent of the direct cost to serve people in the unit that closes must be shifted to community services. The language is not needed as the use of funds which become available from the closing or downsizing of an institution are handled through the Legislative budgeting process. Legislative findings and intent already cover preference of community services instead of services in a developmental disabilities center.⁴ This section of law is no longer needed.

Respite and Family Care Subsidy Expenditures

Repeals s. 393.503, F.S., which requires the Agency for Persons with Disabilities (APD) to report to the Family Care Councils and others the annual expenditures for respite care and family care subsidies for individuals living at home. The law also requires the Family Care Council to review the information and make recommendations to APD when new funds become available. This section of law is no longer effective since the Family Care Council no longer needs to submit recommendations to plan for funding of respite care and family care subsidies and APD no longer needs to report the information to the Council each year. Under current law, clients of APD are served based on their assessed need within the funds available.⁵ The services are not provided to individuals based on the funding of specific programs such as respite or family care subsidies. Therefore, this section of law is no longer effective and inconsistent with the current Legislative policy.

Constitutional Requirements for Involuntary Civil Commitment

Repeals s. 394.922, which requires the long-term control, care and treatment of a sexually violent predator who is involuntarily civilly committed to conform to constitutional protections. The personal protections afforded to all citizens under the Florida Constitution and the U.S. Constitution are not impeded by involuntary civil commitment. The redundancy of this section is not necessary as the personal protections provided by both Constitutions remain in effect without restating such in statute.

Requirement for distinguishable definitions of child care.

Repeals s. 402.3045, F.S., which requires DCF to adopt by rule a definition for child care. This is redundant language and not needed in statute since the exact same language is contained in s. 402.305(1)(c).

Administrative Infrastructure; legislative intent; establishment of standards

Repeals s. 402.50, which was enacted in 1991 that requires DCF to develop standards for administrative infrastructure funding and staffing to support the department and contract providers. DCF has undergone several reorganizations since this statute was enacted including a restructuring of administration. This section of statute is outdated and no longer necessary.

Management Fellows Program

Repeals s. 402.55, F.S., which established the Management Fellows Program at DCF and the Department of Health (DOH). The program was enacted in 1991 to identify, train designate and promote employees with high levels of administrative and management potential to fill the needs of the departments. One Career Service employee is to be identified each year and placed in the training

⁴ s. 393.062, F.S.

⁵ s. 393.0661, F.S.

program for these purposes. A special pay increase is allowed upon completion of the program. The program is no longer being used by either department.

Incentives for Department Employees

Repeals s. 409.1672, F.S., was enacted in 1994 to authorize DCF to, within existing resources, develop monetary performance incentives such as bonuses, salary increases, and educational enhancements for department employees engaged in positions or activities related to the child welfare system under Chapter 39, relating to dependent children, or Chapter 409, relating to social and economic assistance. It appears this section has never been used due to lack of funds.

Alternative Care Plans; Legislative Findings

Repeals s. 409.1673, F.S., which provides legislative findings related to out-of-home placements for children in the legal custody of the department. It also requires DCF, in collaboration with community service providers, to develop and administer plans for services for dependent children. This section of law was enacted at the early stages of the change to community-based care and it is now outdated as a result of subsequent changes to chapter 39, F.S., and s. 409.1671, F.S.

Annual Report to Legislature relating to Children in Foster Care

Repeals s. 409.1685, F.S., which requires DCF to submit a report each year to the Legislature concerning the status of children in foster care. The report with the specific content referenced in statute is not needed. This section of law is outdated as the information in this report is available from other sources.

Family Policy Act

Repeals s. 409.801, F.S., which creates the "Family Policy Act." Repeals s. 409.802, F.S., which requires the Legislature to seek to provide families certain benefits. Repeals s. 409.803, F.S., which requires DCF to establish a two year pilot program in a rural and an urban county to provide funding and resources for shelters, foster homes, and the children in their care. Provisions regarding these services exist in chapters 39 and 402 and other sections of chapter 409, which more accurately reflect the current philosophy and practice relating to foster children and their parents. This section of statute is outdated.

B. SECTION DIRECTORY:

Section 1: Repeals ss. 39.0015, 39.305, 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, 39.318, 39.816, 39.817, 383.0115, 393.22, 393.503, 394.922, 402.3045, 402.50, 402.55, 409.1672, 409.1673, 409.1685, 409.801, 409.802, 409.803, F.S.

Section 2: Amends s. 39.3031, F.S., relating to rules of implementation for ss. 39.303 and 39.305, F.S.

Section 3: Amends s. 390.01114, F.S., relating to parental notice of abortion act.

Section 4: Amends s. 753.03, F.S., relating to standards for supervised visitation and supervised exchange programs.

Section 5: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES