Health & Human Services Committee

Thursday, February 22, 2024
8:00 AM – 1:00 PM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Randy Fine
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Committee

Start Date and Time: Thursday, February 22, 2024 08:00 am

End Date and Time: Thursday, February 22, 2024 01:00 pm

Location: Morris Hall (17 HOB)

Duration: 5.00 hrs

Consideration of the following bill(s):

CS/HB 165 Sampling of Beach Waters and Public Bathing Spaces by Water Quality, Supply & Treatment Subcommittee, Gossett-Seidman, Cross
CS/CS/HB 185 Dependent Children by Appropriations Committee, Children, Families & Seniors Subcommittee, Trabulsy
CS/HB 499 Congenital Cytomegalovirus Screening by Healthcare Regulation Subcommittee, Melo
CS/HB 515 Protection of Specified Adults by Insurance & Banking Subcommittee, Silvers
HB 547 Dentistry by Altman
CS/HB 581 Swimming Lesson Voucher Program by Healthcare Regulation Subcommittee, Busatta Cabrera
CS/HB 885 Coverage for Biomarker Testing by Select Committee on Health Innovation, Gonzalez Pittman
CS/CS/HB 1061 Community-based Child Welfare Agencies by Health Care Appropriations Subcommittee, Children, Families & Seniors Subcommittee, McFarland
CS/CS/HB 1065 Substance Abuse Treatment by Ways & Means Committee, Children, Families & Seniors Subcommittee, Caruso
CS/CS/HB 1083 Permanency for Children by Appropriations Committee, Children, Families & Seniors Subcommittee, Trabulsy, Abbott
CS/CS/HB 1271 Individuals with Disabilities by Health Care Appropriations Subcommittee, Children, Families & Seniors Subcommittee, Buchanan, Fine
CS/HB 1295 Health Care Practitioner Titles and Abbreviations by Healthcare Regulation Subcommittee, Massullo
CS/HB 1365 Unauthorized Public Camping and Public Sleeping by Judiciary Committee, Garrison
CS/HB 1441 Department of Health by Health Care Appropriations Subcommittee, Anderson
HB 1561 Office Surgeries by Busatta Cabrera
HB 1617 Behavioral Health Teaching Hospitals by Garrison
HB 7023 Pub. Rec. and Meetings/Mental Health and Substance Abuse by Children, Families & Seniors Subcommittee, Maney

Consideration of the following proposed committee bill(s):

PCB HHS 24-02 -- Health Care Expenses
PCB HHS -24-03 -- Cancer Funding
PCB HHS 24-04 -- Sickle Cell Disease

NOTICE FINALIZED on 02/20/2024 3:54PM by Arnold.Sabrina

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Committee

Start Date and Time:	Thursday, February 22, 2024 08:00 am
End Date and Time:	Thursday, February 22, 2024 01:00 pm
Location:	Morris Hall (17 HOB)
Duration:	5.00 hrs

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for CS/HB 975 -- Background Screening and Certifications

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m. Wednesday, February 21, 2024.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, February 21, 2024.

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 02/20/2024 3:54PM by Arnold.Sabrina

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 165 Sampling of Beach Waters and Public Bathing Spaces
SPONSOR(S): Water Quality, Supply & Treatment Subcommittee, Gossett-Seidman, Cross and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Water Quality, Supply & Treatment Subcommittee	17 Y, 0 N, As CS	Curtin	Curtin
2) Appropriations Committee	27 Y, 0 N	Aderibigbe	Pridgeon
3) Health & Human Services Committee		Curry	Calamas

SUMMARY ANALYS

Water-based activities are healthy ways to be physically active. However, if an individual comes into contact with certain bacteria, swallows, or breathes in mists or aerosols from water contaminated with germs, he or she may become ill. A person may also become ill if he or she comes into contact with chemicals that are in the water or that evaporate from the water and turn into gas in the air. Water quality of beaches and bathing places is regulated by the Department of Health (DOH) under chapter 514, Florida Statutes. The Department of Environmental Protection also regulates certain water and wastewater quality standards under chapter 403, Florida Statutes.

The bill requires, rather than authorizes, the DOH to:

- Adopt and enforce rules to protect the health, safety, and welfare of persons using beach waters and public bathing places.
- Issue health advisories if the water quality of beach waters or a public bathing place fails to meet DOH standards.
- Require closure of beach waters and public bathing places that fail to meet water quality standards if it is deemed necessary to protect the health, safety, and welfare of the public.

The bill preempts to the state the issuance of health advisories related to the results of bacteriological sampling of public bathing places. The bill requires:

- Municipalities and counties to, within 24 hours or the next business day, whichever occurs first, notify DOH of any incident that negatively impacts the quality of beach waters or public bathing places within their respective jurisdictions.
- Municipalities and counties to post and maintain health advisory signs around affected beach waters and public bathing places that they own.
- Owners of public boat docks, marinas, and piers to, within 24 hours or the next business day, whichever occurs first, notify the jurisdictional municipality or county of any incident that negatively impacts the quality of beach waters in which the dock, marina, or pier is located.
- The Department of Environmental Protection (DEP) to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state.
- DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with this subsection until the health advisory is no longer in effect

The bill may have an indeterminate, negative fiscal impact on DOH and on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Water-based activities are healthy ways to be physically active.[1] However, if an individual comes into contact with certain bacteria, swallows, or breathes in mists or aerosols from water contaminated with germs, he or she may become ill. A person may also become ill if he or she comes into contact "with chemicals that are in the water or that evaporate from the water and turn into gas in the air."[2]

Bacteria

Water is full of bacteria, some of which are beneficial and others which are not.[3] Fecal coliform are naturally occurring bacteria found in the digestive tracts of most animals and they are shed from the body with excrement.[4] While infections from fecal coliform bacteria are typically not fatal, severe symptoms may lead to death.[5] *Escherichia coli* (*E. coli*), a type of fecal coliform bacteria, are found in the environment, intestines of people and animals, and foods.[6] Some strains of *E. coli* may cause illnesses such as intestinal and urinary tract infections, meningitis[7], and septicemia[8].[9] Enterococci are bacteria that live in the intestinal tracts of humans and warm-blooded animals.[10] These bacteria can sicken swimmers and "[o]ther potential health effects can include diseases of the skin, eyes, ears and respiratory tract."[11]

Sources of fecal indicator bacteria such as enterococci include wastewater treatment plant effluent, leaking septic systems, stormwater runoff, sewage discharged or dumped from recreational boats, domestic animal and wildlife waste, improper land application of manure or sewage, and runoff from manure storage areas, pastures, rangelands, and feedlots. There are also natural, non-fecal sources of fecal indicator bacteria, including plants, sand, soil and sediments, that contribute to a certain background level in ambient waters and vary based on local environmental and meteorological conditions.[12]

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[1] Centers for Disease Control and Prevention (CDC), *Healthy Swimming* (last updated May 1, 2023), https://www.cdc.gov/healthywater/swimming/index.html (last visited Jan. 26, 2024).

[2] CDC, *Swimming-related Illnesses* (last updated July 8, 2022), https://www.cdc.gov/healthywater/swimming/swimmers/rwi.html (last visited Jan. 26, 2024).

[3] United States Geological Survey (USGS), *Bacteria and E. Coli in Water*, https://www.usgs.gov/special-topics/water-science-school/science/bacteria-and-e-coli-water (last visited Jan. 26, 2024).

[4] Jesse Minor, Encyclopedia of Environment and Society - Fecal Coliform Bacteria, https://www.researchgate.net/publication/285400656_Fecal_Coliform_Bacteria , p. 3 (2007).

[5] *Id*.

[6] USGS, *supra* note 3.

[7] Some people with meningitis caused by bacteria "die and death can occur in as little as a few hours. However, most people recover from bacterial meningitis. Those who do recover can have permanent disabilities, such as brain damage, hearing loss, and learning disabilities." CDC, *Bacterial Meningitis* (last updated July 15, 2021), https://www.cdc.gov/meningitis/bacterial.html (last visited Jan. 26, 2024).

[8] "Septicemia is an infection that occurs when bacteria enter the bloodstream and spread. It can lead to sepsis, the body's reaction to the infection, which can cause organ damage and even death." Cleveland Clinic, *Septicemia* (last updated May 17, 2021), https://my.clevelandclinic.org/health/diseases/21539-septicemia (last visited Jan. 26, 2024).

[9] USGS, *supra* note 3.

[10] Environmental Protection Agency (EPA), National Aquatic Resource Surveys, *Indicators: Enterococci, What are enterococci?* (last updated June 9, 2023), https://www.epa.gov/national-aquatic-resource-surveys/indicators-enterococci (last visited Jan. 26, 2024).

[11] *Id*.

[12] *Id*.

Beach Waters and Public Bathing Places

Beach waters are the salt waters and brackish waters along the coastal and intracoastal beaches.[13] A public bathing place is a body of water, including artificial impoundments, waters along the coastal and intracoastal beaches and shores of the state, lakes, streams, and rivers that are used by the public for swimming and recreational bathing.[14]

The Department of Health (DOH) may, but is not required to, adopt and enforce rules to protect the health, safety, and welfare of individuals using beach waters and public bathing places in Florida.[15] If adopted, "[t]he rules must establish health standards and prescribe procedures and timeframes to conduct bacteriological sampling of beach waters and public bathing places."[16] While the issuance of health advisories related to such sampling is preempted to the state, DOH may, but is not required to, issue health advisories when beach waters or a public bathing place fail to meet health standards.[17]

DOH Regulation of Beach Waters and Public Bathing Places

The regulation of bathing places is important to prevent disease and sanitary nuisances which may threaten or impair the health or safety of individuals.[18] DOH has adopted and enforces rules requiring the owners or managers of public bathing places to monitor for water quality, report the results to DOH and the relevant county health department, and provide notice to DOH and the public whenever there are water quality violations of the adopted bacteriological standards for fecal coliform, *E. coli*, or enterococci.[19] The owner or manager of a public bathing place is required to collect and test bacteriological samples each month.[20]

If test results exceed standards established by DOH, then the owner or manager must, within 24 hours of receipt of the results, notify the relevant county health department and re-sample the water.[21] The county health department must also inspect the waters upon receipt of the test results.[22] If the 24-hour samples confirm an exceedance of standards, the owner or manager must immediately post a no swimming advisory;[23] if the owner or manager does not post the advisory, DOH is required to post it.[24] Once re-sampling confirms that the bathing water again meets the standards, the owner or manager may rescind the posted no-swimming advisory.[25]

When DOH issues a health advisory against swimming in beach waters or a public bathing place because elevated levels of fecal coliform, *E. coli*, or enterococci bacteria have been detected in a water sample, it must "concurrently notify the municipality or county in which the affected beach waters are located, whichever has jurisdiction, and the local office of the Department of Environmental Protection (DEP), of the advisory."[26] The local DEP office is required to "promptly investigate" all wastewater treatment facilities located within 1 mile of the affected area(s) to determine whether a facility may have contributed to the contamination.[27] The local DEP office is also required to provide the results of its investigation to the local government with jurisdiction over the affected area.[28]

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[13] S. 514.023(1), F.S.
[14] S. 514.011(4), F.S.
[15] S. 514.023(2), F.S.
[16] *Id*.
[17] S. 514.023(3), F.S.
[18] R. 64E-9.001(1), F.A.C.
[19] R. 64E-9.013(1)-(3), F.A.C.
[20] R. 64E-9.013(2)(a), F.A.C.
[21] R. 64E-9.013(2)(a)1., F.A.C.
[22] R. 64E-9.013(2)(b), F.A.C.
[23] Form DH 4158, Bathing Place Public Health Advisory Sign – Poor Water Quality, 02/13, is incorporated in rule 64E-0.013(a)2., F.A.C. by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-06899.
[24] R. 64E-9.013(2)(a)2., F.A.C.
[25] *Id*.
[26] S. 514.023(4), F.S.
[27] *Id*.
[28] *Id*.

Florida Healthy Beaches Program

The Florida Healthy Beaches Program was created to monitor salt and brackish water beaches[29] for enterococci bacteria and to more accurately determine whether beaches are safe for recreational uses.[30] In 1998, a grant-funded pilot program allowed 5 of Florida's coastal counties to monitor for enterococci bacteria.[31] In 2000, the program was expanded to 30 counties and also provided for sampling of fecal coliform.[32] In 2002, the Environmental Protection Agency (EPA) provided funding which enabled sampling on a weekly basis; however, in 2011 funding levels decreased, which resulted in a return to bi-weekly sampling.[33] "The goal of the Healthy Beaches Program is to prevent waterborne illness by advising Florida residents and visitors against recreating in waters potentially contaminated with human pathogens."[34]

Effect of the Bill

The bill requires, rather than allows, DOH to:

- Adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state.
- Issue health advisories, within 24 hours or the next business day, whichever occurs first, if the water quality of beach waters or a public bathing place fails to meet DOH standards.
- Require closure of beach waters and public bathing places that fail to meet water quality standards if it is deemed that closure is necessary to protect the health, safety, and welfare of the public. Closures must remain in effect until the quality of the beach waters or public bathing place is restored in accordance with DOH's standards and until DOH has removed any related health advisories that it issued.

The bill requires DOH to:

- Concurrently notify the municipality or county, whichever has jurisdiction, the local office of the DEP, and the local affiliates of national television networks in the affected area within 24 hours or the next business day, whichever occurs first, when DOH issues a health advisory against swimming in beach waters or a public bathing place after finding elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in a water sample.
- Adopt by rule a sign that must be used when DOH issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water; require that each sign be no less than 20 inches by 20 inches in diameter; and require that health advisory signs be displayed at beach access points and in conspicuous areas around affected beach waters and public bathing places until subsequent testing of the water demonstrates that the bacteria levels meet the standards established by DOH.

The bill preempts to the state the issuance of health advisories related to the results of bacteriological sampling of public bathing places.

[29] DOH Lee County, *Healthy Beaches* (last updated Feb. 4, 2016), https://lee.floridahealth.gov/programs-and-services/environmental-health/healthy-beaches/index.html (last visited Jan. 26, 2024).
[30] Coastal & Heartland National Estuary Partnership (CHNEP), *Learn More: Healthy Beaches*, https://chnep.wateratlas.usf.edu/library/learn-more/learnmore.aspx?toolsection=lm_healthybeach (last visited Jan. 26, 2024).
[31] DOH, *Florida Healthy Beaches Program* (last updated Feb. 1, 2022), https://www.floridahealth.gov/environmental-health/beach-water-quality/index.html (last visited Jan. 26, 2024).
[32] CHNEP, *supra* note 30.
[33] *Id*.
[34] DOH, *supra* note 31.

The bill requires municipalities and counties to:

- Notify DOH, within 24 hours or the next business day, whichever occurs first, of any incident that negatively impacts the quality of beach waters or public bathing places within their respective jurisdictions.
- Post and maintain health advisory signs around affected beach waters and public bathing places that they own.

The bill requires owners of public boat docks, marinas, and piers to notify the jurisdictional municipality or county, within 24 hours or the next business day, whichever occurs first, of any incident that negatively impacts the quality of beach waters in which the dock, marina, or pier is located.

The bill requires DEP to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state.

The bill requires DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with the signage requirements until the health advisory is no longer in effect.

B. SECTION DIRECTORY:

Section 1. Amends s. 514.023, F.S., relating to sampling of beach waters; and public bathing places; health advisories.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has an indeterminate negative impact on DEP because the bill requires DEP to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state. The bill may also have an indeterminate negative impact on DOH because the bill requires DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with this subsection until the health advisory is no longer in effect.

   There may be an increased workload for DOH to issue health advisories and close beach waters and public bathing places necessary to protect the health, safety, and welfare of the public. There are currently 729 vacant, non-medical positions greater than 180 days within the County Health Departments. Many of these vacancies are in coastal counties around the state. Additionally, there are currently 75 vacant Environmental Specialist positions greater than 180 days. Based on these vacancies, it is estimated that DOH can absorb the additional workload within existing resources.

   Implementation of the program statewide will likely occur over the course of the first year. Once consistent workload can be determined, the DOH can request resources through the Legislative Budget Request process.

   Specific Appropriation 505 in the FY 2023-24 General Appropriations Act (GAA) and Specific Appropriation 499 in the FY 2024-25 proposed GAA includes 50 County Health Department positions for DOH to access should workload dictate they are needed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate negative impact on municipalities and counties associated with requiring local governments to post and maintain health advisory signs around affected beach waters and public bathing places that they own.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires DOH to adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state, which may require DOH to expend funds to promulgate rules. The bill also requires DOH to adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water, which may require DOH to expend funds to promulgate rules.

The impact to DOH for these administrative actions is anticipated to be insignificant and can be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires counties and municipalities to post and maintain DOH-required health advisory signs at affected beach waters and public bathing places they own. However, an exemption may apply if the fiscal impact to counties and municipalities is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to implement the provisions of the bill. The bill requires DOH to adopt rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state.

The bill also requires DOH to adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 29, 2024, the Water Quality, Supply and Treatment Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removes a mandated review of DOH's bacteriological sampling of beach waters and public bathing places.
- Removes a requirement that DOH and DEP submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of bacteriological sampling of beach waters and public bathing places from DOH to DEP.
- Removes a requirement that DOH, by December 31, 2025, effectuate a type two transfer of everything associated with bacteriological sampling of beach waters and public bathing places to DEP.
- Removes revisions to s. 514.021, F.S., which would confer upon DEP the authority to adopt and enforce rules related to the bacteriological sampling of beach waters and public bathing places.
- Removes revisions to s. 514.023, F.S., requiring DEP to monitor certain beach waters and public bathing places to ensure compliance with certain signage requirements, and removes the requirement that DEP establish a public statewide interagency database for the reporting of fecal indicator

bacteria data for beach waters and public bathing places.

- Removes revisions to s. 514.0231, F.S., transferring responsibility for a rulemaking technical advisory committee from DOH to DEP.

This analysis is drafted to the committee substitute as approved by the Water Quality, Supply and Treatment Subcommittee.

A bill to be entitled

An act relating to sampling of beach waters and public bathing spaces; amending s. 514.023, F.S.; requiring, rather than authorizing, the Department of Health to adopt and enforce certain rules; revising requirements for such rules; requiring, rather than authorizing, the Department of Health to issue certain health advisories; directing the department to require closure of beach waters and public bathing places under certain circumstances; requiring that such closures remain in effect for a specified period; requiring the department, municipalities and counties, and owners of public boat docks, marinas, and piers to provide certain notice; preempting the issuance of certain health advisories for public bathing places to the state; requiring the department to adopt by rule a health advisory sign; providing requirements for such sign; providing that municipalities and counties are responsible for posting and maintaining such signs around certain affected beach waters and public bathing places; providing that the Department of Environmental Protection is responsible for posting and maintaining such signs around certain affected beach waters and public bathing places; requiring the Department of Health to coordinate with the Department

of Environmental Protection and the Fish and Wildlife Conservation Commission to implement signage requirements; providing an effective date.

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

Section 1. Section 514.023, Florida Statutes, is amended to read:

514.023 Sampling of beach waters~~;~~ and public bathing places; health advisories; signage.—

(1) As used in this section, the term "beach waters" means the waters along the coastal and intracoastal beaches and shores of this ~~the~~ state~~,~~ and includes salt water and brackish water.

(2) The department shall ~~may~~ adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this ~~the~~ state. The rules must establish health standards and prescribe procedures and timeframes for bacteriological sampling of beach waters and public bathing places. At a minimum, the rules must require owners of beach waters and public bathing places to both notify the department and resample the water within 24 hours after a test result indicates that a sample of the beach waters or public bathing place fails to meet standards established by the department.

(3) The department shall, within 24 hours or the next

business day, whichever occurs first, ~~may~~ issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by the department and shall require closure of beach waters and public bathing places that fail to meet the department's standards if it deems closure is necessary to protect the health, safety, and welfare of the public. Closures must remain in effect until the quality of the beach waters or public bathing place is restored in accordance with the department's standards and until the department has removed any related health advisories that it issued. The issuance of health advisories related to the results of bacteriological sampling of beach waters and public bathing places is preempted to the state.

(4)(a) When the department issues a health advisory against swimming in beach waters or a public bathing place on the basis of finding elevated levels of fecal coliform, *Escherichia coli*, or enterococci bacteria in a water sample, the department shall, within 24 hours or the next business day, whichever occurs first, concurrently notify the municipality or county in which the affected beach waters or public bathing place is ~~are~~ located, whichever has jurisdiction, ~~and~~ the local office of the Department of Environmental Protection, and the local affiliates of national television networks in the affected area of the advisory.

(b) Municipalities and counties shall, within 24 hours or

the next business day, whichever occurs first, notify the department of any incident that negatively impacts the quality of beach waters or public bathing places within their respective jurisdictions. Owners of public boat docks, marinas, and piers shall, within 24 hours or the next business day, whichever occurs first, notify the jurisdictional municipality or county of any incident that negatively impacts the quality of beach waters in which the dock, marina, or pier is located.

(c) The local office of the Department of Environmental Protection shall promptly investigate wastewater treatment facilities within 1 mile of the affected beach waters or public bathing place to determine if a facility experienced an incident that may have contributed to the contamination and provide the results of the investigation in writing or by electronic means to the municipality or county, as applicable.

(d) The department shall adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *Escherichia coli*, or enterococci bacteria in the water. The department shall require that the health advisory sign be no less than 20 inches by 20 inches in diameter and posted at beach access points and in conspicuous areas around affected beach waters and public bathing places until subsequent testing of the water demonstrates that the bacteria levels meet the standards established by the

department.

(e) Municipalities and counties are responsible for posting and maintaining health advisory signs as described in paragraph (d) around affected beach waters and public bathing places owned by them. The Department of Environmental Protection is responsible for posting and maintaining health advisory signs around affected beach waters and public bathing places owned by the state. The department shall coordinate with the Department of Environmental Protection and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of this subsection. Such signage must be posted and maintained in compliance with this subsection until the health advisory is no longer in effect.

Section 2. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Gossett-Seidman offered the following:

Amendment

Remove lines 45-96 and insert:

owners of beach waters and public bathing places to notify the department within 24 hours after a test result indicates that a sample of the beach waters or public bathing place fails to meet standards established by the department.

(3) The department shall, within 24 hours or the next business day, whichever occurs first, ~~may~~ issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by the department and shall require closure of beach waters and public bathing places that fail to meet the department's standards if it deems closure

is necessary to protect the health, safety, and welfare of the public. Closures must remain in effect until the quality of the beach waters or public bathing place is restored in accordance with the department's standards and until the department has removed any related health advisories that it issued. The issuance of health advisories related to the results of bacteriological sampling of beach waters and public bathing places is preempted to the state.

(4)(a) When the department issues a health advisory against swimming in beach waters or a public bathing place on the basis of finding elevated levels of fecal coliform, *Escherichia coli*, or enterococci bacteria in a water sample, the department shall, within 24 hours or the next business day, whichever occurs first, concurrently notify the municipality or county in which the affected beach waters or public bathing place is ~~are~~ located, whichever has jurisdiction, ~~and~~ the local office of the Department of Environmental Protection, and the local affiliates of national television networks in the affected area of the advisory.

(b) Municipalities and counties shall, within 24 hours or the next business day, whichever occurs first, notify the department of any incident that makes the water quality of beach waters or public bathing places within their respective jurisdictions unsafe. Owners of public boat docks, marinas, and piers shall, within 24 hours or the next business day, whichever

occurs first, notify the jurisdictional municipality or county of any incident that makes the water quality of beach waters in which the dock, marina, or pier is located unsafe.

(c) The local office of the Department of Environmental Protection shall promptly investigate wastewater treatment facilities within 1 mile of the affected beach waters or public bathing place to determine if a facility experienced an incident that may have contributed to the contamination and provide the results of the investigation in writing or by electronic means to the municipality or county, as applicable.

(d) The department shall adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *Escherichia coli*, or enterococci bacteria in the water. The department shall require that the health advisory sign be no less than 16.5 inches by 30 in

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 185 Dependent Children
SPONSOR(S): Appropriations Committee, Children, Families & Seniors Subcommittee, Trabulsy and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 4 N, As CS	DesRochers	Brazzell
2) Appropriations Committee	23 Y, 0 N, As CS	Smith	Pridgeon
3) Health & Human Services Committee		DesRochers	Calamas

SUMMARY ANALYSIS

When a child lives in an unsafe home as a victim of abuse, neglect, or abandonment, state officials temporarily transfer the rights of physical custody to that child from the primary caregiver(s) to the Florida Department of Children and Families. This event initiates the dependency court process. Early in the dependency court process, the presiding judge evaluates whether the allegations of wrongdoing are well-founded and decides whether guardian ad litem and attorney ad litem appointments are necessary.

The guardian ad litem serves as the child's fiduciary representative in court to speak for the child's best interests. The "guardian ad litem" is typically a multidisciplinary team involving a lay volunteer, a staff attorney, and a case manager. The court may appoint an attorney ad litem to serve as the child's independent legal representative in court to speak for the child's express wishes.

CS/CS/HB 185 requires the appointment of a Guardian ad litem (GAL) at the earliest possible time to represent a child throughout dependency proceedings, including appeals. The bill allows for representation of the child by GAL in proceedings outside of dependency cases in order to secure services and benefits that provide for the care, safety, and protection of the child.

The bill makes guardian ad litem appointment to a child mandatory. The bill expands the Statewide GAL Office's scope of duties. CS/CS/HB 185 also establishes the Fostering Prosperity grant program to help youth transition from foster care to independent adult living and requires increased GAL involvement in, and court attention to, ensuring a youth aging out of care has a permanent connection to a caring adult.

The bill has no fiscal impact on state and local governments. *See* Fiscal Comments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:[1]

- To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- To ensure secure and safe custody;
- To promote the health and well-being of all children under the state's care; and
- To prevent the occurrence of child abuse, neglect, and abandonment.

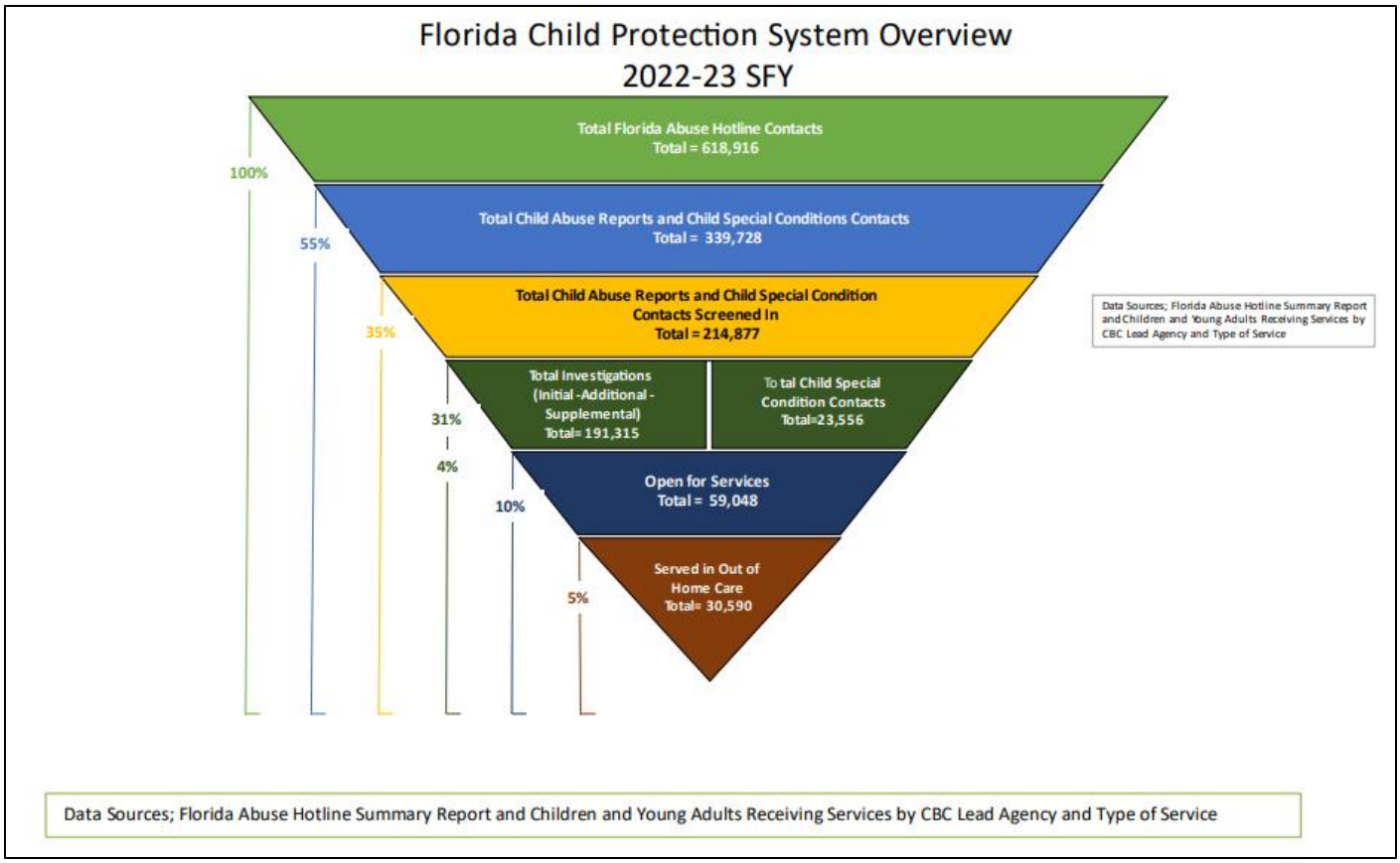
Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.[2] Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.[3]

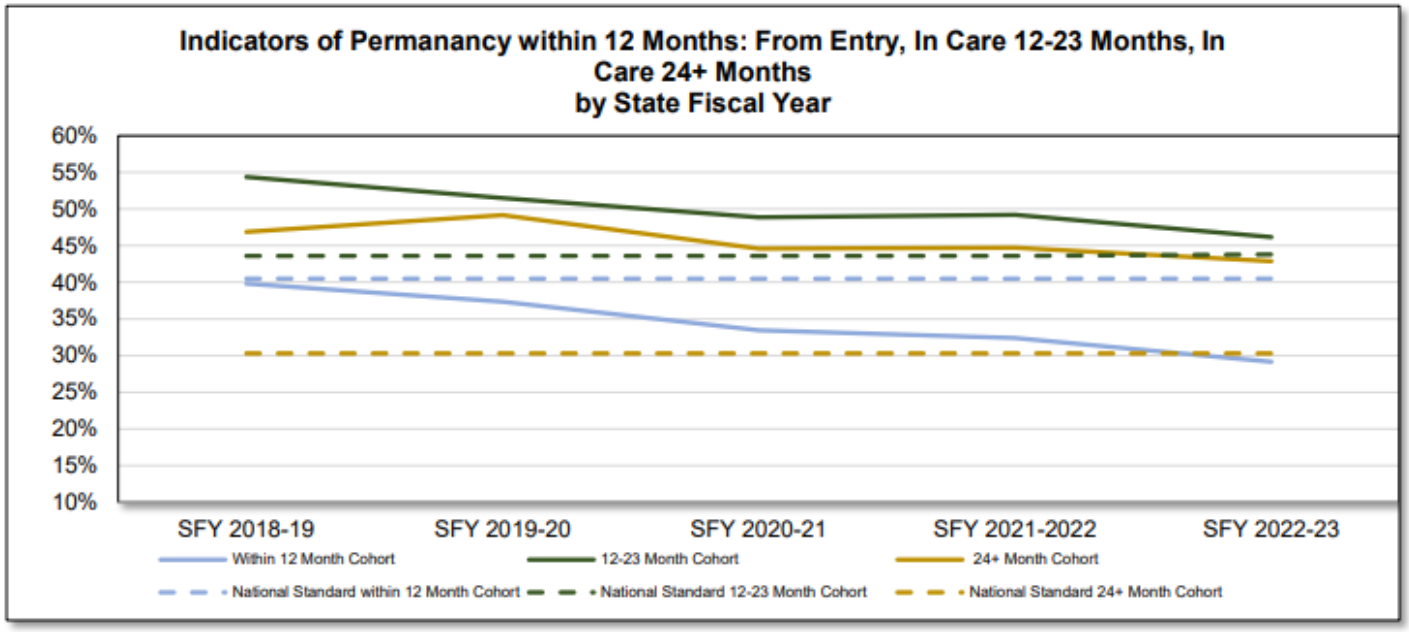
During state fiscal year (SFY) 2022-23, there were a total of 618,916 Florida Abuse Hotline contacts for potential child abuse and neglect, and 35 percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.[4] Ultimately, 10 percent of children who were investigated or assessed were found to be victims of maltreatment.[5]

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.[6]

[1] S. 39.001(1)(a), F.S.
[2] OPPAGA, report 06-50.
[3] *Id*.
[4] Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Feb. 6, 2024).
[5] *Id*.
[6] *Id*.



Also for SFY 2022-23, DCF's permanency report describes Florida's performance for three cohorts of children entering care (children in care within 12 months; children in care 12-23 months; and children in care 24 months of longer).[7] As the below chart illustrates, Florida's performance for each cohort generally declined over the past several years, with the children within the 12 months cohort declining most notably and falling below national standards.[8]



Dependency Case Process

[7] Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf (last visited Feb. 6, 2024).

[8] *Id.*

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care. Steps in the dependency process may include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.[9]

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

The Florida Supreme Court's *Florida Rules of Juvenile Procedure* control procedural matters for ch. 39 dependency proceedings unless otherwise provided by law.[10]

[9] The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.
[10] s. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

Parties to Dependency Cases

The Florida Constitution requires that the courts "be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay."[11] Generally, persons with an interest in the outcome of legal action, and who are necessary or proper to a complete resolution of the case, are parties to the legal action.[12]

In ch. 39 court cases, the terms "party" and "parties" include the petitioner, the child who is the subject of the dependency case, the child's parent(s), DCF, the guardian ad litem, or the representative of the guardian ad litem program (when appointed).[13] Any party to a ch. 39 proceeding who is affected by a court order may appeal to the appropriate appellate court.[14]

Multidisciplinary Teams

The use of a multidisciplinary team (MDT) in child welfare settings is a concept that has been an established practice for over 60 years with hospital-based child protection teams[15] and, more recently, child advocacy centers.[16] Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDTs are used to enhance and improve child protective investigations and responses necessary for children and families to recover and succeed. MDT's are becoming more widely used to involve a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services.

Using an MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is important in engaging children, youth and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs.[17] By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.[18]

MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.[19] As a result, a number of states[20] are using a MDT team model, also known as a "Child and Family Team". This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.[21]

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[11] Art. I, s. 21, Fla. Const.
[12] *See* Fla. R. Civ. P. 1.210(a).
[13] S. 39.01(58), F.S.; Fla. R. Juv. P. 8.210(a).
[14] S. 39.510(1), F.S.; S. 39.815(1), F.S.
[15] The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, http://www.kempe.org/child-protection-team-celebrates-60-years (last visited Feb. 6, 2024).
[16] The National Children's Alliance, *History of NCA*, https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children's,system%20to%20help%20abused%20children (last visited Feb. 6, 2024).
[17] The Kinship Center, *The Importance of the Child and Family Team*, http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html (last visited Feb. 6, 2024).
[18] *Id*.
[19] National Center on Child Abuse and Neglect, U.S. Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf (last visited Feb. 6, 2024).
State of Tennessee Department of Children's Services, *Administrative Policies and Procedures: 31.7*, https://files.dcs.tn.gov/policies/chap31/31.7.pdf (last visited Feb. 6, 2024).
[21] California Department of Social Services, *About Child and Family Teams*, https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about (last visited Feb. 6, 2024).

Currently, Florida law and DCF rules provide for the use of MDT's in a number of circumstances, such as:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- Initial placement decisions for a child who is placed in out-of-home care, changes in physical custody after the child is placed in out-of-home care, changes in a child's educational placement, and any other important, complex decisions in the child's life for which an MDT would be necessary, under s. 39.4022, F.S.; and
- When a child is suspected of being a victim of human trafficking under ss. 39.524 and 409.1754, F.S.

The multidisciplinary team (MDT) approach to representing children is increasingly popular and widely considered a good practice, dramatically improving case outcomes and a child's experience in foster care. Research shows that MDTs led to quicker case resolution and preserved family connections more often.[22] Children served by an MDT had fewer removals after intervention, fewer adjudications of jurisdiction, and fewer petitions to terminate parental rights.[23] When children were removed from the home, and an MDT was assigned to the cases, they were more likely to be placed with relatives and less likely to be placed in foster care.[24]

Well-being of Children in Florida's Child Welfare System

Significant Relationships

The Legislature recognizes the need to focus on creating and preserving family relationships so that young adults have a permanent, lifelong connection with at least one committed adult who provides a safe and stable parenting relationship.[25] Studies indicate children who do well despite serious hardship have had at least one stable and committed relationship with a supportive adult.[26] These relationships buffer children from developmental disruption and help them develop "resilience," or the set of skills needed to respond to adversity and thrive.

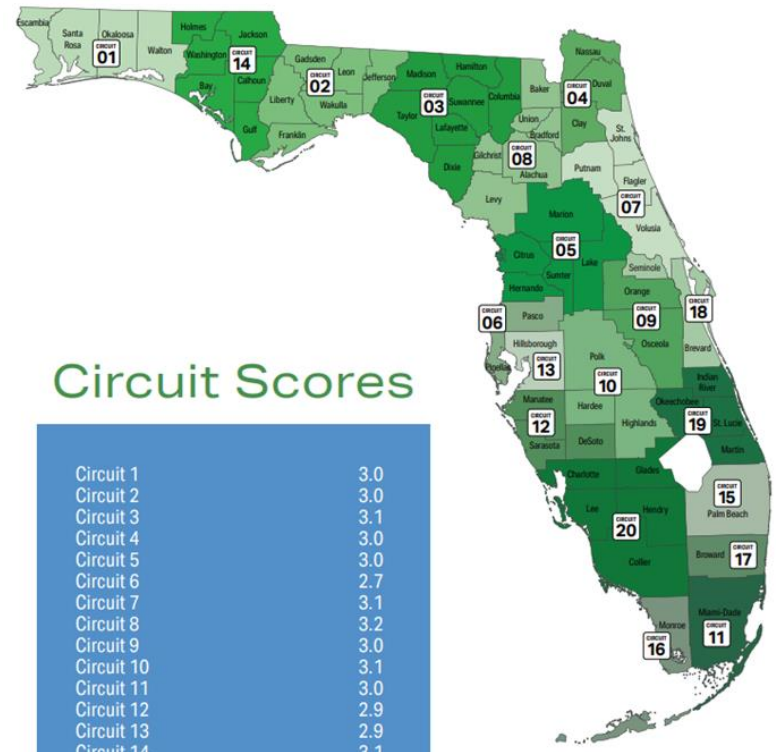
While there are no standardized definitions or measures for well-being, there is general consensus in the literature and among stakeholders regarding common elements, including financial security, obtaining education, securing housing, finding and maintaining stable employment, independence from public assistance, permanent connections and social supports.[27]

Florida Child Welfare System Performance Serving Children

The DCF infographic below scores the health of Florida's child welfare system at the circuit level.[28] DCF identifies areas with the most significant systemic impact on improving permanency and well-being[29] and evaluates progress toward achieving permanency, safety, and well-being for children in the welfare system. The overall score for each of the 20 circuits aggregates individual circuit performance scores on permanency, safety, and well-being. For fiscal year (FY) 2021-22, the overall median score

[22] Duquette, et al., Children's Justice: How to Improve Legal Representation for Children in the Child Welfare System [NACC E-version, 2021], secs. 12.5 and 13.8, available at Children's Justice: How to Improve Legal Representation of Children in the Child Welfare System (umich.edu) (last visited Feb. 6, 2024).
[23] *Id*.
[24] *Id*.
[25] S. 409.1451, F.S.
[26] National Scientific Council on the Developing Child (2015). Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13. https://harvardcenter.wpenginepowered.com/wp-content/uploads/2015/05/The-Science-of-Resilience2.pdf, (last visited Feb. 6, 2024).
[27] Office of Program Policy Analysis and Government Accountability (OPPAGA), Independent Living Services-Presentation to the Senate Committee on Children, Families, and Elder Affairs, January 24, 2023, available at https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation_final.pdf (last visited Feb. 6, 2024).
[28] Florida Department of Children and Families, *Annual Accountability Report on the Health of Florida's Child Welfare System: Fiscal Year 2021-2022,* p. 6 (Dec. 12, 2022) https://www.myflfamilies.com/sites/default/files/2022-12/Accountability_System_Report_2022-revision12DEC22.pdf (last visited Feb. 6, 2024).
[29] *Id*. at p. 3.

is 3.1 out of a possible 5, and 85% of circuits earned a 3.0 or higher.[30] A score over 3.50 indicates the circuit's performance exceeds established standards.[31] A score between 3.00-3.349 indicates the circuit's performance meets established standards.[32] A score of 2.00-2.99 indicated the circuit's performance does not meet established standards.[33] In FY 2021-22, DCF gave 17 of 20 circuits a score of 3.0 or higher, indicating that the circuit's performance exceeds established standards.



Circuit Scores

Circuit 1	3.0
Circuit 2	3.0
Circuit 3	3.1
Circuit 4	3.0
Circuit 5	3.0
Circuit 6	2.7
Circuit 7	3.1
Circuit 8	3.2
Circuit 9	3.0
Circuit 10	3.1
Circuit 11	3.0
Circuit 12	2.9
Circuit 13	2.9
Circuit 14	3.1
Circuit 15	3.2
Circuit 16	3.2
Circuit 17	3.1
Circuit 18	3.0
Circuit 19	3.6
Circuit 20	3.0

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[30] *Id*. at p. 2.
[31] *Id*. at p. 7.
[32] *Id*.
[33] *Id*.
[34] *Id*. at pg. 6.

Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.[35] They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.[36] These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.[37]

In federal fiscal year 2021, the federal Children's Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,[38] with 2,167 teens and young adults entering Florida's foster care system.[39] The Children's Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.[40] To this end, the Children's Bureau's National Youth in Transition Database (NYTD) representation tracks the independent living services each state provides to foster youth in care and assesses each state's performance in providing independent living and transition services.

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida's foster care system beginning on their 17th birthday.[41] In the interim, the most recent Florida NYTD available on DCF's website is the 2018 report.[42] In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:[43]

[35] Gypen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic-Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, http://dx.doi.org/10.1016/j.childyouth.2017.02.035 (last visited Feb. 6, 2024).
[36] *Id*.
[37] *Id*.
[38] Children's Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf (last visited Feb. 6, 2024).
[39] Children's Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida* , U.S. Department of Health and Human Services, p. 1, June 28, 2022, https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf (last visited Feb. 6, 2024).
[40] Children's Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606 (last visited Feb. 6, 2024).
[41] Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf (last visited Feb. 6, 2024).
[42] Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living (last visited Feb. 6, 2024).
[43] Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf (last visited Feb. 6, 2024).

Outcomes of Young Adults who Aged Out of Care	
Area	**Outcome**
Education	• 74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college. • 12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.
Employment	• 15% were employed full-time (35 hours per week or more). • 26% were employed part-time. • 78% had a paid job over the last year. • 22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.
Housing	• The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility). • 41% had to couch surf or move from house to house because they did not have a permanent place to stay. • 27% experienced some type of homelessness in the past year.[44]
Financial & Transportation	• 46% received public food assistance. • 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments). • 83% had a reliable means of transportation to school/work. • 76% had an open bank account.
Health & Well-Being	• 85% were on Medicaid. • 18% had children. • 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed. • 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.
Connections	• 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support. • 67% had a close relationship with biological family members.

Office of Continuing Care

The Office of Continuing Care at DCF helps individuals who have aged out of the child welfare system, until age 26. The office provides ongoing support and care coordination needed for young adults to achieve self-sufficiency. Duties of the office include, but are not limited to:

- Informing young adults who age out of the foster care system of the purpose of the office, the types of support the office provides, and how to contact the office.
- Serving as a direct contact to the young adult in order to provide information on how to access services to support the young adult's self-sufficiency, including but not limited to, food assistance, behavioral health services, housing, Medicaid, and educational services.
- Assisting in accessing services and supports for the young adult to attain self-sufficiency, including, but not limited to, completing documentation required to apply for services.
- Collaborating with CBC's to identify local resources that can provide support to young adults served by the office.
- Developing and administering the Step into Success Workforce Education and Internship Pilot Program for foster youth and former foster youth, as required under s. 409.1455, F.S.[45]

[44] *Id*.

[45] S. 414.56, F.S.

Disability of Non-age and Legal Counsel for Minors

The principal disability of nonage relates to the power of a minor to contract.[46] At common law, unemancipated children generally lack the legal capacity to enter into binding contractual agreements.[47] A minor's agreements generally are voidable rather than void.[48] When the minor attains the age of majority and ratifies a contract made while a minor, the contract will be treated as valid from inception, and the optional right to disaffirm abandoned.[49]

The disability of non-age is expressly recognized in the Florida Constitution and in statute.[50] Due to the disability of non-age, "an adult person of reasonable judgment and integrity" must conduct any litigation for the minor in judicial proceedings."[51] It follows that unemancipated minors cannot engage legal counsel on their own unless there is a constitutional right or legislative act allowing such engagement.[52]

The U.S. Supreme Court has only found a constitutional right to counsel for minors in delinquency proceedings.[53] The Supreme Court held in *In re Gault* that juveniles need counsel in delinquency proceedings because such actions may result in a loss of liberty, which is comparable in seriousness to a felony prosecution for adults.[54]

However, in addition to those proceedings governed by the *In re Gault* decision, Florida law authorizes the appointment of legal counsel for minors in certain other situations:

- If the disability of non-age has been removed under ch. 743, F.S.,[55]
- At the discretion of the judge in domestic relations cases, under s. 61.401, F.S.,
- At the discretion of the judge in a dependency proceeding, under s. 39.4085, F.S.,
- When the child's change of placement from a foster parent is being contested under s. 39.522(3), F.S., or
- If the child is within one of the five categories requiring mandatory appointment in dependency proceedings (discussed further below).[56]

In all other circumstances, "an adult person of reasonable judgment and integrity should conduct the litigation for the minor in judicial proceedings."[57]

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[46] Fla. Jur. 2d Family Law § 252 (Dec. 2023 Update) (Accessed Westlaw Nov. 30, 2023).
[47] *Id*. at § 495.
[48] *Lee v. Thompson*, 124 Fla. 494, 499 (Fla. 1936).
[49] *Id*.
[50] Fla. Const. Art. III, § 11(a)(17); s. 743.01, 07, F.S.
[51] *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).
[52] *Buckner v. Family Services of Central Florida, Inc*., 876 So.2d 1285 (Fla. 5th DCA 2004).
[53] *In re Gault*, 387 U.S. 1, 41 (1967).
[54] *Id*. at p. 36.
[55] A circuit court has jurisdiction to remove the disabilities of nonage of a minor age 16 or older residing in Florida. To do so, the minor's natural guardian, legal guardian, or guardian ad litem must file a petition to remove the child's disability of nonag e. S. 743.015, F.S.
[56] S. 39.01305, F.S., requires an attorney to be appointed for a dependent child who:
- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking as defined in s. 787.06(2)(d), F.S.

[57] *Garner v. I. E. Schilling Co*., 174 So. 837, 839 (Fla. 1937).

Best Interest Considerations in the Child Welfare System

In Florida, the state government collectively pursues a best interest standard in a ch. 39 dependency proceeding to determine what course of action is in the child's best interest.[58] The term "best interests of a child" generally refers to deliberations undertaken by courts in making decisions about the services, actions, and orders that will best serve a child and who is best suited to care for that child.[59]

The best interest standard contemplates many nuanced factors of each child's physical, mental, emotional, and social well-being to determine each child's best permanency outcome. Possible permanency outcomes include family reunification, out-of-home foster care, permanent guardianship, or adoption. The best interest standard prioritizes a safe and sustainable environment for the child's upbringing and development. Variables of consideration include sibling connections, school continuity, extracurricular activities of importance to the child, and consistent access to necessary health care services. If the child is of a sufficient age and capacity to express a preference, then the child's preference will be considered. [60]

Representation of Children in the Child Welfare System

The two primary models of child representation in the child welfare system are best interest and expressed wishes.

There are two types of best interest representation: Attorney or Professional[61] and Lay Volunteer.[62]

Expressed wishes or client-directed[63] representation occurs when an attorney is appointed to represent a child's expressed wishes.

Due to the variety of models of representation used nationally, differing structures of child welfare systems among states, designs of studies, and multiplicity of factors impacting the outcomes of children in the child welfare system, research is inconclusive regarding whether one approach is overall more beneficial.[64]

Florida's child representation system authorizes both types of representation. Current law requires best interest representation through guardians ad litem (GALs), who are to be appointed at the earliest possible time in any abuse and neglect proceedings, though not all children in Florida's dependency

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[58] *See* Ss. 39.01375, F.S., 39.820(1), F.S.

[59] Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, OPPAGA Review of Florida's Guardian ad Litem Program (December 2020), https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf (last visited Feb. 6, 2024).

[60] S. 39.01375, F.S.

[61] Children in states with this representation model always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances. See,
Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program*, Exhibit 3, (December 2020), OPPAGA Review of Florida's Guardian ad Litem Program (floridabar.org) (last visited Feb. 6, 2024)..

[62] Children in states with this representation model always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.

[63] Office of Program Policy Analysis and Government Accountability (OPPAGA) *Research Memorandum, OPPAGA Review of Florida's Guardian ad Litem Program (December 2020), https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf* (last visited Feb. 6, 2024).

[64] *See* generally research cited in OPPAGA research memorandum, *id*., and OPPAGA report 21-07, *Literature Review of Studies on the Effectiveness of Advocacy Models for Children in Dependency,* December 2021, https://oppaga.fl.gov/Documents/Reports/21-07.pdf (last visited Feb. 6, 2024). For example, in at least one state, only attorneys are Guardians ad Litem; in other state systems, children may be assigned representation because of their more challenged situation, which makes a study design involving comparisons to children without representation inappropriate. However, OPPAGA reported, "A consistent theme in studies and documents regardless of the advocacy model deployed is the benefits of having strong advocates with in-depth knowledge of social and legal systems." p. ii, *Literature Review.*

system have GALs.[65] As described previously, certain children in Florida's child welfare system are required to have attorneys, or may be appointed one at the discretion of the court.[66]

Guardians ad Litem

In such actions which involve an allegation of child abuse, abandonment, or neglect as defined in section 39.01, F.S., which allegation is verified and determined by the court to be well-founded, the court must appoint a guardian ad litem for the child, unless the court determines representation to be unnecessary.[67] The guardian ad litem is a party to any judicial proceeding from the date of the appointment until the date of discharge. The guardian ad litem appointment is for the limited purpose of a particular child welfare case. While the guardian ad litem generally does not represent the child in any other legal matters, they are not precluded from choosing to represent the child in other matters. Once appointed, the guardian ad litem serves as the child's fiduciary[68] representative in court to speak for the child's best interest.

During their appointment, the guardian ad litem must fulfill three primary responsibilities:[69]

- To investigate the case and file a written report with the court that summarizes the GAL's findings, a statement of child's wishes, and the GAL's recommendations;
- To be present at all court hearings unless excused by the court; and
- To represent the interests of the child until the jurisdiction of the court over the child terminates, or until excused by the court.

Florida law outlines requirements to serve as a GAL.[70] A person appointed as GAL must be:

- Certified by the GAL Program pursuant to s. 39.821, F.S.;
- Certified by a not-for-profit legal aid organization as defined in s. 68.096, F.S.; or
- An attorney who is a member in good standing of The Florida Bar.

Florida's Statewide GAL Office

The Statewide GAL Office manages a network of volunteer advocates and professional staff representing the best interest of abused, abandoned, and neglected children. The Statewide GAL Office within the Justice Administrative Commission (JAC) has oversight responsibilities for and provides technical assistance to all guardian ad litem programs located within the judicial circuits.[71]

In Florida, when the court appoints the Statewide GAL Office to represent the best interests of the child, the Office assigns the child a guardian ad litem multidisciplinary team. With this team, the child typically receives the services of a lay volunteer, a staff advocate (case manager), and a staff attorney. This model has evolved over the years from what used to be a volunteer-only approach.[72]

The Statewide GAL Office employs more than 180 staff attorneys and relies on more than 200 pro bono attorneys volunteering their services.[73] In 2021, the GAL served more than 37,000 kids and had more than 13,000 volunteers.[74] Typically, a GAL volunteer represents 1 or 2 children.[75]

[65] S. 39.822(1), F.S.
[66] S. 39.01305, F.S.
[67] S. 39.402(8)(c)1., F.S.
[68] Fiduciary representation contemplates a legally cognizable relationship of trust where an intermediary figure advances the interests of a principal for the primary and direct benefit of the principal's designated beneficiary.
[69] Fla. R. Juv. P. 8.215(c)(1-3).
[70] S. 61.402, F.S.
[71] S. 39.8296(2)(b), F.S.
[72] *Supra* note 51.
[73] Florida Statewide Guardian ad Litem Office, About Us, available at https://guardianadlitem.org/about/ (last visited Feb. 6, 2024).
[74] Id.
[75] Florida Statewide Guardian Ad Litem Office, Agency Analysis of SB 1920 (2020), p. 4 (Mar. 14, 2021).

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.[76] The Child Abuse Prevention and Treatment Act (CAPTA) makes the approval of CAPTA grants contingent on an eligible state plan, which must include provisions and procedures to appoint a GAL in every case.[77] The GAL must be appointed to:

- Obtain first-hand knowledge of the child's situation and needs; and
- Make recommendations to the court regarding the best interest of the child.[78]

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.[79] The FY 23-24 Long Range Program Plan for the GAL details the following statistics regarding FY 2021-22:

- The program represented on average:
  - 24,993 children per month, and 36,948 total children during that fiscal year.[80]
  - 85.2% of children in the dependency system each month.[81]
- 1,671 new volunteers were certified, with a total of 9,342 volunteers active each month on average.[82]

Additionally, the Statewide GAL Program reported representing 93.4% of children at the beginning of FY 2023-24.[83]

In some cases, the GAL may discharge from a case when a child's permanency goal has been established and the child is in a stable placement.[84]

Chapter 39, F.S., defines "guardian ad litem" as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child[85] in a proceeding as provided by law, including ch. 39, F.S., until discharged by the court.[86] The Florida Supreme Court has recognized that a GAL is appointed to serve as the child's representative in court to present what is in the child's best interest.[87] Chapter 39 provisions describe the role of the guardian ad litem as either representing the child, or representing the child's best interest, depending on the specific section.

GAL Program Leadership

A Governor-appointed executive director helms the Statewide GAL Office.[88] The executive director must have knowledge of dependency law and social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned.[89] As a full-time official appointed to a

[76] 42 U.S.C. 67 §5106a.(b)(2)(xiii); S. 39.822(1), F.S.
[77] 42 U.S.C. 67 §5106a.(b)(2)(xiii).
[78] Id.
[79] S. 39.822(1), F.S.
[80] Statewide Guardian ad Litem Office, *Long Range Program Plan*, Fiscal Years 2023-24 through 2027-28; Sept. 30, 2022, pg. 14 http://floridafiscalportal.state.fl.us/Document.aspx?ID=24413&DocType=PDF (last visited Feb. 6, 2024).
[81] Id
[82] Id.
[83] Justice Administration Commission, *Long-Range Program Plan, FY 2024-25,* p. 16 http://floridafiscalportal.state.fl.us/Document.aspx?ID=26899&DocType=PDF (last visited Feb. 6, 2024).
[84] OPPAGA Memo at p. 15
[85] *Supra* note 51 at 3.
[86] S. 39.820(1), F.S.
[87] *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing C.M. v Dep't of Children & Family Servs., 854 So.2d 777, 779 (Fla. 4th DCA 2003).
[88] S. 39.8296(2)(a), F.S.
[89] *Id*.

three-year term, the director has the following eight duties:[90]

- Collect, track, and report reliable and consistent case data.
- Compare and contrast Florida's GAL program with other states.
- Develop statewide performance measures and standards, with local GAL office input.
- Develop head trauma and brain injury recognition and response training for the guardian ad litem program.
- Maximize funding sources and evaluate the services offered in each judicial circuit.
- Exercise awareness and innovation to preserve civil and constitutional rights.
- Promote normalcy and trust between children and the court-appointed volunteer guardian ad litem by allowing the court-appointed volunteer guardian ad litem to transport a child.
- Submit annual reports to the Governor, Senate President, Speaker of the House of Representatives, and Chief Justice of the Supreme Court.

Since the executive director reports to the Governor, the Governor may remove him or her for cause.[91] Any person appointed to serve as the executive director may be permitted to serve more than one term.[92] The Governor appoints an executive director from a shortlist of at least three eligible applicants submitted by the Guardian Ad Litem Qualifications Committee.[93] This five-person committee solicits applications for the executive director position by statewide advertisement.[94] The Governor may appoint an executive director from the shortlist or may reject nominations and request new nominees.[95]

GAL Program Appropriations

For FY 2023-24, the Statewide GAL Office received $58.2 million in general revenue funding plus $5.0 million in trust funds (grants and donations).[96] For FY 2022-23, the Statewide GAL Office represented an average of 24,202 children per month and 35,918 total children for the fiscal year.[97] They certified 1,442 new volunteers and retained an average of 8,857 active volunteers each month.[98]

GAL Program Direct Support Organization

Pursuant to authority in s. 39.8298, F.S., the Statewide GAL Office maintains a direct-support organization (DSO) known as the Florida Guardian ad Litem Foundation.[99] The DSO is a Florida nonprofit corporation and operates to fundraise, manage a portfolio of investments in securities, funds, and assets, and spend for the direct or indirect benefit of the Statewide GAL Office.[100] Established by contract, the DSO must operate consistently with the goals and purposes of the Statewide GAL Office.[101] The DSO's board of directors are appointed by, and serve at the pleasure of, the Statewide GAL Office executive director,[102] who also approves the DSO's articles of incorporation, bylaws, and annual budget.[103] If a DSO ceases to exist or if the contract is terminated by the executive director, all moneys and property held in trust revert to the Statewide GAL Office.[104]

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[90] *Id*.; S. 39.8296(2)(b), F.S.
[91] S. 39.8296(2)(a), F.S.
[92] *Id*.
[93] *Id*.
[94] *Id*.
[95] *Id*.
[96] Ch. 2023-239, Laws of Fla., Specific Appropriations 785-793 "Statewide GAL Office."
[97] Florida Justice Administration Commission, *Agency Long Range Program Plan for Fiscal Year 2024-2025*, Florida Fiscal Portal, p. 15 (Sept. 29, 2023).
[98] *Id*. at 16.
[99] S. 39.8298(1), F.S.; *see* s. 39.8296(2)(b)5.-6., F.S.; Dennis Moore, *RE: Report of Guardian ad Litem Direct-Support Organization, Florida Statewide Guardian ad Litem Office*, August 15, 2023, https://guardianadlitem.org/wp-content/uploads/2023/10/DSO-Report-2023.pdf (last visited Feb. 6, 2024).
[100] S. 39.8298(1)(a)-(b), F.S.
[101] Ss. 39.8298(1)(c) and 39.8298(2), F.S.
[102] S. 39.8298(3), F.S.
[103] S. 39.8298(2)(a)-(c), F.S.
[104] S. 39.8298(2)(c), F.S.

Attorneys ad Litem

An attorney ad litem (AAL) is an attorney appointed to provide legal services to a person such as a parent, a child, or an incapacitated person. The AAL has an attorney-client relationship with the person whom the AAL is appointed to represent and owes that person the duties of her undivided loyalty, confidentiality, and competent representation. The AAL is an advocate for the person whom the AAL is appointed to represent and will express the person's wishes to the court or jury. Like other attorneys, including attorneys employed by the GAL program, AAL's practice is subject to regulation.

The Practice of Law in Florida

The Florida Constitution vests the Florida Supreme Court with exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.[105] The Court performs those official functions through two separate arms: the Florida Board of Bar Examiners, which screens, tests, and certifies candidates for admission to the practice, and The Florida Bar, the investigative and prosecutorial authority in the lawyer regulatory practice.[106]

The Supreme Court exercises inherent supervisory power to prohibit the unauthorized practice of law.[107] The unauthorized practice of law covers both lawyers not licensed by the Supreme Court and non-lawyers who lack court authorization to practice law.[108] An example of non-lawyers who obtain court authorization to practice law is qualified law students authorized to represent clients in legal intern programs.[109] Ultimately, the purpose of regulating the practice of law to protect the public "from incompetent, unethical, or irresponsible representation."[110]

Attorneys are officers of the court.[111] To this end, the Supreme Court – through The Florida Bar – governs the attorney-client relationship by the *Florida Rules of Professional Conduct*.[112]

The client must receive the following services from their attorney:

- *Client-Directed Representation* – the client's attorney must abide by a client's decisions concerning the objectives of representation and to reasonably consult with the client as to the means by which they are to be pursued.[113]
- *Competent Representation* – legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.[114]
- *Confidentiality* – the client's attorney must preserve confidentiality unless the client gives informed consent or a specifically listed mandatory or discretionary exception applies.[115]
- *Diligent Representation* – the client's attorney must act with reasonable diligence and promptness. This rule expects the attorney to keep a controlled workload, to prioritize faithful advocacy, and to carry through to conclusion all matters undertaken for a client.[116]
- *Independence* – the client's attorney cannot permit the person who recommends, employs, or pays the attorney to render legal services for the client to direct or regulate the lawyer's professional judgment in rendering such legal services.[117]

[105] Art. V, s. 15, Fla. Const.
[106] The Florida Bar, "Frequently Asked Questions." https://www.floridabar.org/about/faq/ (last visited Feb. 6, 2024).
[107] *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).
[108] *Id*.
[109] *Id*.
[110] *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).
[111] *Petition of Florida State Bar Ass'n*, 40 So.2d 902, 907 (Fla. 1949).
[112] The Florida Supreme Court, "Rules Regulating the Florida Bar: Chapter 4 – Rules of Professional Conduct." https://www-media.floridabar.org/uploads/2024/01/2024_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf (last visited Feb. 6, 2024).
[113] *Id*. at Rule 4-1.2(a) Objectives and Scope of Representation – Lawyer to Abide by Client's Decisions.
[114] *Id*. at Rule 4-1.1 Competence.
[115] *Id*. at Rule 4-1.6 Confidentiality of Information.
[116] *Id*. at Rule 4-1.3 Diligence, Comments.
[117] *Id*. at Rule 4-5.4 Professional Independence of a Lawyer.

- *Prevent or Overcome Conflicts* – An attorney presumptively cannot represent a new client if there is a substantial risk that representing the new client would materially limit the attorney's responsibilities to a current client.[118] But, even when a conflict of interest exists, it is possible for the attorney overcome this presumption. To do so, four criteria must be met: [119]
  1. The attorney reasonably believes that they can provide competent and diligent representation to each affected client;
  2. The representation is not prohibited by law;
  3. The representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
  4. Each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

Additionally, the Supreme Court specifically addresses those attorney-client relationships where the client is an organization,[120] when the client is not represented by counsel,[121] and when the client suffers diminished capacity. [122] When a client's capacity to make adequately considered decisions in connection with legal representation is diminished because of minority, the attorney must maintain a normal attorney-client relationship with the client as much as possible.[123] For example, comments to the Florida Bar rule suggest children as young as five or six years of age are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. The comments to the rule also state that if a legal representative has already been appointed for an incapacitated or minor client, the lawyer should ordinarily look to any appointed legal representative for decisions on behalf of the client. [124]

Appointment of Attorneys in the Child Welfare System

Section 39.01305, F.S., requires the court to appoint attorneys for children subject to ch. 39 proceedings who have one or more statutorily-defined "special needs". To qualify as a special-needs child, the child must:[125]

- Reside in a skilled nursing facility or be considered for placement in a skilled nursing home;
- Be prescribed a psychotropic medication but decline assent to the psychotropic medication;
- Have a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Be placed in, or being considered for placement in, a residential treatment center; or
- Be a victim of human trafficking.

The Legislature appropriates funds for appointments for dependent children with certain special needs. The FY 2023-24 GAA appropriated $2.1 million in general revenue for attorney representation for children with special needs, plus $1.2 million in trust funds.[126] Operationally, the JAC manages these funds, contracting with appointed attorneys, whose fees are limited to $1,450 per child per year, subject to appropriations and to review by the JAC for reasonableness.[127] However, s. 39.01305, F.S., requires the court to ask the Statewide Guardian Ad Litem Office for a recommendation for an attorney willing to work without additional compensation, or pro bono, prior to the court appointing an attorney on a compensated basis. The pro bono attorney must be available for services within 15 days after the court's request. If, however, the Statewide Guardian Ad Litem Office does not make a recommendation within 15 days after the court's request, the court may appoint a compensated attorney.

[118] The Florida Supreme Court, "Rules Regulating the Florida Bar: Chapter 4 - Rules of Professional Conduct, Rule 4-1.7(a)(2) Conflicts of Interests. https://www-media.floridabar.org/uploads/2024/01/2024_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf (last visited Feb. 6, 2024).
[119] *Id*. at Rule 4-1.7(b)(1)-(4).
[120] *Id*. at Rule 4-1.13(a) Organization as Client – Representation of Organization.
[121] *Id*. at Rule 4-4.3 Dealing with Unrepresented Persons.
[122] *Id*. at Rule 4-1.14 Client with Diminished Capacity.
[123] *Id*.
[124] *Id*. at Comments.
[125] S. 39.01305(3)(a)-(e), F.S.
[126] Ch. 2023-239, Laws of Fla., Specific Appropriation 769 "Legal Representation for Dependent Children with Special Needs."
[127] *Id*.

The attorney representing the child under s. 39.01305, F.S., provides the complete range of legal services from removal from the home or initial appointment through all appellate proceedings. With court permission, the attorney is authorized to arrange for supplemental or separate counsel to handle appellate matters.

The court has discretionary authority to appoint attorneys for other dependent children who do not qualify as having special needs.[128]

Effect of the Bill

Attorneys ad Litem Appointment for Children in the Child Welfare System

The bill changes all references to "attorneys" for children in the dependency system to "attorneys ad litem", which under the bill are lawyers with an attorney-client relationship with the child.

The bill requires the Statewide GAL Office to provide oversight and technical assistance to AALs. The Statewide GAL Office's responsibilities include, but are not limited to:

- Developing an attorney ad litem training program in collaboration with dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge.
- Offering consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.
- Assisting as needed with recruitment and mentoring of AALs.

Guardian ad Litem Role

The bill makes the guardian ad litem appointment mandatory rather than optional for the court. This means courts will have no discretion regarding appointing a guardian ad litem for a child, and will increase the number of children in the child welfare system who have a GAL by approximately 7%.

The bill conforms references to a GAL's role in ch. 39, F.S., to specify that the GAL represents the *child*, rather than the child's *best interest*. This representation is to use a best interest standard.

The bill authorizes a child's GAL to represent a child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child. It authorizes the school district to involve the GAL of a child who has, or is suspected to have, a disability in any transition planning for that child.

The bill requires multidisciplinary teams led by DCF or a CBC to include the GAL.

[128] S. 39.01305(8), F.S.; Fla. R. Juv. P. 8.217(b).

Statewide GAL Office

The bill changes references from the "GAL Program" to the "Statewide GAL Office".

Executive Director

The bill allows the Statewide GAL Office executive director to serve more than one term without convening the Guardian ad Litem Qualification Committee.

Multidisciplinary Teams (MDT)

The bill requires the Statewide GAL Office to assign an attorney to each case. As available resources allow, the Statewide GAL Office is to assign a MDT to represent the child. The bill includes mentors, pro bono attorneys, social workers, and volunteers as part of the MDT.

Training

The bill:

- Gives the Statewide GAL Office unilateral authority to regularly update the GAL training program by eliminating the existing curriculum committee.
- Requires GAL to complete specialized training in the dynamics of child sexual abuse when serving children who have been sexually abused and are subject to proceedings regarding establishing visitation with the child's abuser under s. 39.0139, F.S.

Transition-Age Youth

Case Planning

The bill mandates that any case plan tailored for a transition to independent living must include a written description of age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

Mentors for Older Foster Youth

For youths aged 16 and up who are transitioning out of foster care into independent living, the bill requires the Statewide GAL Office to help those children establish a mentorship with at least one supportive adult. And if the child cannot identify a supportive adult, the bill compels the Statewide GAL Office to work with DCF OCC to find at least one supportive adult. The bill requires documented evidence of a formal agreement in the child's court file.

Fostering Prosperity Grants

The bill establishes the Fostering Prosperity program to administer grants to youth and young adults aging out of foster care for:

- Financial literacy instruction using a curriculum developed by the Department of Financial Services, in consultation with the Department of Education.
- SAT/ACT preparation, including one-on-one support and fee waivers for the examinations.
- Pursuing trade careers or paid apprenticeships.

Even if a youth later reunifies with the youth's parents, the grants remain available for the youth for up to one year.

Other Provisions

The bill also makes numerous conforming changes to give effect to the substantive provisions of the bill.

The bill requests the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to substitute the term "Statewide Guardian ad Litem Office" for the term "Guardian Ad Litem Program" or "Statewide Guardian Ad Litem Program" throughout the Florida Statutes.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amending s. 39.001, F.S., relating to purposes and intent; personnel standards and screening.
Section 2: Amending s. 39.00145, F.S., relating to records concerning children.
Section 3: Amending s. 39.00146, F.S., relating to case record face sheet.
Section 4: Amending s. 39.0016, F.S., relating to education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.
Section 5: Amending s. 39.01, F.S., relating to definitions.
Section 6: Amending s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel; guardian ad litem and attorney ad litem.
Section 7: Amending s. 39.01305, F.S, relating to appointment of an attorney for a dependent child.
Section 8: Amending s. 39.0132, F.S., relating to oaths, records, and confidential information.
Section 9: Amending s. 39.0136, F.S., relating to time limitations; continuances.
Section 10: Amending s. 39.01375, F.S., relating to best interest determination for placement.
Section 11: Amending s. 39.0139, F.S., relating to visitation or other contact; restrictions.
Section 12: Amending s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect; exception.
Section 13: Amending s. 39.402, F.S., relating to placement in a shelter.
Section 14: Amending s. 39.4022, F.S., relating to multidisciplinary teams; staffings; assessments; report.
Section 15: Amending s. 39.4023, F.S., relating to placement and education transitions; transition plans.
Section 16: Amending, s. 39.407, F.S., relating to medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.
Section 17: Amending s. 39.4085. F.S., relating to goals for dependent children; responsibilities; education; Office of the Children's Ombudsman.
Section 18: Amending s. 39.502, F.S., relating to notice, process, and service.
Section 19: Amending s. 39.522, F.S., relating to postdisposition change of custody.
Section 20: Amending s. 39.6012, F.S., relating to case plan tasks; services.
Section 21: Creates s. 39.6036, F.S., relating to supportive adults for children transitioning out of foster care.
Section 22: Amending s. 39.621, F.S., relating to permanency determination by the court.
Section 23: Amending s. 39.6241, F.S., relating to another planned permanent living arrangement.
Section 24: Amending s. 39.701, F.S., relating to judicial review.
Section 25: Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.
Section 26: Amending s. 39.807, F.S., relating to right to counsel; guardian ad litem.
Section 27: Amending s. 39.808, F.S., relating to advisory hearing; pretrial status conference.
Section 28: Amending s. 39.815, F.S., relating to appeals.
Section 29: Repealing s. 39.820, F.S., relating to definitions.
Section 30: Amending s. 39.821, F.S., relating to qualifications of guardians ad litem.
Section 31: Amending s. 39.822, F.S., relating to appointment of guardian ad litem for abused, abandoned, or neglected child.
Section 32: Amending s. 39.827, F.S., relating to hearing for appointment of a guardian advocate.

Section 33: Amending s. 39.8296, F.S., relating to Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.
Section 34: Amending s. 39.8297, F.S., relating to county funding for guardian ad litem employees.
Section 35: Amending s. 414.56, F.S., relating to the Office of Continuing Care of the Department of Children and Families.
Section 36: Amending s. 1009.898, F.S., relating to Fostering Prosperity grants.
Section 37: Amending s. 29.008, F.S., relating to county funding of court-related functions.
Section 38: Amending s. 39.6011, F.S., relating to case plan development.
Section 39: Amending s. 40.24, F.S., relating to compensation and reimbursement policy.
Section 40: Amending s. 43.16, F.S., relating to Justice Administrative Commission; membership, powers, and duties.
Section 41: Amending s. 61.402, F.S., relating to qualifications of guardians ad litem.
Section 42: Amending s. 110.205, F.S., relating to career service; exemptions.
Section 43: Amending s. 320.08058, F.S., relating to specialty license plates.
Section 44: Amending s. 943.053, F.S., relating to dissemination of criminal justice information; fees.
Section 45: Amending s. 985.43, F.S., relating to predisposition reports; other evaluations.
Section 46: Amending s. 985.441, F.S., relating to commitment.
Section 47: Amending s. 985.455, F.S., relating to other dispositional issues.
Section 48: Amending s. 985.461, F.S., relating to transition to adulthood.
Section 49: Amending s. 985.48, F.S., relating to juvenile sexual offender commitment programs; sexual abuse intervention networks.
Section 50: Amending s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.
Section 51: Amending s. 39.521, F.S., relating to disposition of hearings; powers of disposition.
Section 52: Amending s. 61.13, F.S., relating to support of children; parenting and time-sharing; powers of court.
Section 53: Amending s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.
Section 54: Amending s. 322.09, F.S., relating to application of minors; responsibility for negligence or misconduct of minor.
Section 55: Amending s. 394.495, F.S., relating to child and adolescent mental health system of care; programs and services.
Section 56: Amending s. 627.746, F.S., relating to coverage for minors who have a learner's driver license; additional premium prohibited.
Section 57: Amending s. 934.255, F.S., relating to subpoenas in investigations of sexual offenses.
Section 58: Amending s. 960.065, F.S., relating to eligibility for awards.
Section 59: Creating an unnumbered section of law.
Section 60: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Any impacts on the Statewide Guardian ad Litem program regarding the increase in GAL appointments and Fostering Prosperity grant program can be absorbed within existing resources. Additionally, the Statewide Guardian ad Litem Office anticipates the potential for increased revenues due to eligibility for federal Title IV-E matching funds upon the approval of the DCF cost allocation plan by the federal government.[129]

The bill has no impact to due process or workload expenditures for the JAC.[130]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 6, 2023, the Children, Families, and Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- creates a conforming change to s. 414.56, F.S., DCF Office of Continuing Care, in accordance with the bill's creation of s. 39.6036, F.S., supportive adults for children transitioning out of foster care.
- creates a reciprocal responsibility for the Office of Continuing Care to work with the Statewide GAL Office to help children aging out of foster care make a lasting connection with a supportive adult.

[129] *Supra* note 84, at 39.

[130] Email from Abram Dale, Senior Management Analyst, Justice Administrative Commission, RE: CS/SB 1224, As Amended (Feb. 6, 2024).

On February 8, 2024, the Appropriations Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- removed the proposed changes to s. 39.013, F.S., relating to the appointment of an attorney ad litem.
- removed changes to ss. 39.01305 and 39.8298, F.S., related to representation for children with special needs and state direct-support organizations, to maintain current law.
- made technical conforming changes to the name of the Statewide Guardian ad Litem Office.
- renamed the Pathway to Prosperity grant program to "Fostering Prosperity," increases the amount of time that a Fostering Prosperity grant is available to a youth aging out of care from 6 months to 1 year, and provides rulemaking authority to the State Board of Education to implement the program.

This analysis is drafted to the committee substitute as passed by the Appropriations Committee.

A bill to be entitled

An act relating to dependent children; amending s. 39.001, F.S.; revising the purposes of chapter 39; requiring the Statewide Guardian ad Litem Office and circuit guardian ad litem offices to participate in the development of a certain state plan; conforming a provision to changes made by the act; amending s. 39.00145, F.S.; authorizing a child's attorney ad litem to inspect certain records; amending s. 39.00146, F.S.; conforming provisions to changes made by the act; amending s. 39.0016, F.S.; requiring a child's guardian ad litem be included in the coordination of certain educational services; amending s. 39.01, F.S.; providing and revising definitions; amending s. 39.013, F.S.; requiring the court to appoint a guardian ad litem for a child at the earliest possible time; authorizing a guardian ad litem to represent a child in other proceedings to secure certain services and benefits; amending s. 39.01305, F.S.; conforming a provision to changes made by the act; amending s. 39.0132, F.S.; authorizing a child's attorney ad litem to inspect certain records; amending s. 39.0136, F.S.; revising the parties who may request a continuance in a proceeding; amending s. 39.01375, F.S.; conforming provisions to changes made

by the act; amending s. 39.0139, F.S.; conforming provisions to changes made by the act; amending s. 39.202, F.S.; requiring that certain confidential records be released to the guardian ad litem and attorney ad litem; conforming a cross-reference; amending s. 39.402, F.S.; requiring parents to consent to provide certain information to the guardian ad litem and attorney ad litem; conforming provisions to changes made by the act; amending s. 39.4022, F.S.; revising the participants who must be invited to a multidisciplinary team staffing; amending s. 39.4023, F.S.; requiring notice of a multidisciplinary team staffing be provided to a child's guardian ad litem and attorney ad litem; conforming provisions to changes made by the act; amending s. 39.407, F.S.; conforming provisions to changes made by the act; amending s. 39.4085, F.S.; providing a goal of permanency; conforming provisions to changes made by the act; amending ss. 39.502 and 39.522, F.S.; conforming provisions to changes made by the act; amending s. 39.6012, F.S.; requiring a case plan to include written descriptions of certain activities; conforming a cross-reference; creating s. 39.6036, F.S.; providing legislative findings and intent; requiring the Statewide Guardian ad Litem Office to

work with certain children to identify a supportive adult to enter into a specified agreement; requiring such agreement be documented in the child's court file; requiring the office to coordinate with the Office of Continuing Care for a specified purpose; amending s. 39.621, F.S.; conforming provisions to changes made by the act; amending s. 39.6241, F.S.; requiring a guardian ad litem to advise the court regarding certain information and to ensure a certain agreement has been documented in the child's court file; amending s. 39.701, F.S.; requiring certain notice be given to an attorney ad litem; requiring a court to give a guardian ad litem an opportunity to address the court in certain proceedings; requiring the court to inquire and determine if a child has a certain agreement documented in his or her court file at a specified hearing; conforming provisions to changes made by the act; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.807, F.S.; requiring a court to appoint a guardian ad litem to represent a child; revising a guardian ad litem's responsibilities and authorities; deleting provisions relating to bonds and service of pleadings or papers; amending s. 39.808, F.S.; conforming provisions to changes made by the act;

amending s. 39.815, F.S.; conforming provisions to changes made by the act; repealing s. 39.820, F.S., relating to definitions of the terms "guardian ad litem" and "guardian advocate"; amending s. 39.821, F.S.; conforming provisions to changes made by the act; amending s. 39.822, F.S.; providing that a guardian ad litem is a fiduciary and must provide independent representation to a child; revising responsibilities of a guardian ad litem; requiring that guardians ad litem have certain access to the children the guardians ad litem represent; providing actions that a guardian ad litem does or does not have to fulfill; amending s. 39.827, F.S.; authorizing a child's guardian ad litem and attorney ad litem to inspect certain records; amending s. 39.8296, F.S.; revising the duties and appointment of the executive director of the Statewide Guardian ad Litem Office; requiring the training program for guardians ad litem to be updated regularly; requiring the office to provide oversight and technical assistance to attorneys ad litem; specifying certain requirements of the office; amending s. 39.8297, F.S.; conforming provisions to changes made by the act; amending s. 414.56, F.S.; requiring the Office of Continuing Care to work in coordination with the Statewide Guardian ad

Litem Office for a specified purpose; creating s. 1009.898, F.S.; authorizing the Fostering Prosperity program to provide certain grants to youth and young adults who are aging out of foster care; requiring grants to extend for a certain period of time after a recipient is reunited with his or her parents; requiring the State Board of Education to adopt rules; amending ss. 29.008, 39.6011, 40.24, 43.16, 61.402, 110.205, 320.08058, 943.053, 985.43, 985.441, 985.455, 985.461, and 985.48, F.S.; conforming provisions to changes made by the act; amending ss. 39.302, 39.521, 61.13, 119.071, 322.09, 394.495, 627.746, 934.255, and 960.065, F.S.; conforming cross-references; providing a directive to the Division of Law Revision; providing an effective date;

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

Section 1. Paragraph (j) of subsection (1), paragraph (j) of subsection (3), and paragraph (a) of subsection (10) of section 39.001, Florida Statutes, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(j) To ensure that, when reunification or adoption is not

possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship. Permanency for a child who is transitioning from foster care to independent living includes naturally occurring, lifelong, kin-like connections between the child and a supportive adult.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(j) The ability to contact their guardian ad litem and ~~or~~ attorney ad litem, if one is appointed, by having that individual's name entered on all orders of the court.

(10) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children. The Department of Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Statewide Guardian ad Litem Office, and the Agency for Persons with Disabilities shall participate and fully cooperate in the development of the state plan at both the state

and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; circuit guardian ad litem offices ~~programs for children under the circuit court~~; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary Child Protection Teams; child day care centers; law enforcement agencies; and the circuit courts~~,~~ ~~when guardian ad litem programs are not available in the local area~~. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

Section 2. Subsection (2) of section 39.00145, Florida Statutes, is amended to read:

39.00145 Records concerning children.—

(2) Notwithstanding any other provision of this chapter, all records in a child's case record must be made available for inspection, upon request, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed.

(a) A complete and accurate copy of any record in a child's case record must be provided, upon request and at no cost, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed.

(b) The department shall release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released, which may include the release of information in a therapeutic setting, if appropriate. This paragraph does not deny the child access to his or her records.

(c) If a child or the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed, requests access to the child's case record, any person or entity that fails to provide any record in the case record under assertion of a claim of exemption from the public records requirements of chapter 119, or fails to provide access within a reasonable time, is subject to sanctions and penalties under s. 119.10.

(d) For the purposes of this subsection, the term "caregiver" is limited to parents, legal custodians, permanent

guardians, or foster parents; employees of a residential home, institution, facility, or agency at which the child resides; and other individuals legally responsible for a child's welfare in a residential setting.

Section 3. Paragraph (a) of subsection (2) of section 39.00146, Florida Statutes, is amended to read:

39.00146 Case record face sheet.—

(2) The case record of every child under the supervision or in the custody of the department or the department's authorized agents, including community-based care lead agencies and their subcontracted providers, must include a face sheet containing relevant information about the child and his or her case, including at least all of the following:

(a) General case information, including, but not limited to, all of the following:

1. The child's name and date of birth.~~;~~

2. The current county of residence and the county of residence at the time of the referral.~~;~~

3. The reason for the referral and any family safety concerns.~~;~~

4. The personal identifying information of the parents or legal custodians who had custody of the child at the time of the referral, including name, date of birth, and county of residence.~~;~~

5. The date of removal from the home.~~; and~~

6. The name and contact information of the attorney or attorneys assigned to the case in all capacities, including the attorney or attorneys that represent the department and the parents, and the guardian ad litem~~, if one has been appointed~~.

Section 4. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 39.0016, Florida Statutes, are amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(2) AGENCY AGREEMENTS.—

(b) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements must ~~shall~~ include, but are not limited to:

1. A requirement that the department shall:

a. Ensure that children known to the department are enrolled in school or in the best educational setting that meets the needs of the child. The agreement must ~~shall~~ provide for continuing the enrollment of a child known to the department at the school of origin when possible if it is in the best interest of the child, with the goal of minimal disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

d. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district

school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

a. Referral for screening.

b. Sharing of evaluations between the school district and the department where appropriate.

c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.

d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.

e. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies.

f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff and the guardian ad litem of the child, to meet the

requirements of the local school district for educational purposes.

(3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

(b)1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. 1003.01(9), when:

a. After reasonable efforts, no parent can be located; or

b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the child without judicial action.

2. A surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented. Neither the district school superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, the Department of Children and Families, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition

includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process. The surrogate parent may be a court-appointed guardian ad litem or a relative or nonrelative adult who is involved in the child's life regardless of whether that person has physical custody of the child. Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.

3. ~~If a guardian ad litem has been appointed for a child,~~ The district school superintendent must first consider the child's guardian ad litem when appointing a surrogate parent. The district school superintendent must accept the appointment of the court if he or she has not previously appointed a surrogate parent. Similarly, the court must accept a surrogate parent duly appointed by a district school superintendent.

4. A surrogate parent appointed by the district school superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care so that a single surrogate parent can follow the education of the child during his or her entire time

in state custody. Nothing in this paragraph or in rule shall limit or prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

5. For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to appoint a surrogate parent, notice shall be provided as soon as practicable to the child's school. At any time the court determines that it is in the best interests of a child to remove a surrogate parent, the court may appoint a new surrogate parent for educational decisionmaking purposes for that child.

6. The surrogate parent shall continue in the appointed role until one of the following occurs:

a. The child is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested.

b. The child achieves permanency through adoption or legal guardianship and is no longer in the custody of the department.

c. The parent who was previously unknown becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available.

d. The appointed surrogate no longer wishes to represent

the child or is unable to represent the child.

e. The superintendent of the school district in which the child is attending school, the Department of Education contract designee, or the court that appointed the surrogate determines that the appointed surrogate parent no longer adequately represents the child.

f. The child moves to a geographic location that is not reasonably accessible to the appointed surrogate.

7. The appointment and termination of appointment of a surrogate under this paragraph shall be entered as an order of the court with a copy of the order provided to the child's school as soon as practicable.

8. The person appointed as a surrogate parent under this paragraph must:

a. Be acquainted with the child and become knowledgeable about his or her disability and educational needs.

b. Represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child.

c. Represent the interests and safeguard the rights of the child in educational decisions that affect the child.

9. The responsibilities of the person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the

same person is appointed by the court for such other purposes.

10. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability.

11. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.

Section 5. Subsections (8) through (30) and (31) through (87) of section 39.01, Florida Statutes, are renumbered as subsections (9) through (31) and (34) through (90), respectively, present subsections (9), (36), and (58) are amended, and new subsections (8), (32), and (33) are added to that section, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(8) "Attorney ad litem" means an attorney appointed by the court to represent a child in a dependency case who has an attorney-client relationship with the child under the rules regulating The Florida Bar.

(10) ~~(9)~~ "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (57) ~~(54)~~.

(32) "Guardian ad litem" means a person or an entity that is a fiduciary appointed by the court to represent a child in any civil, criminal, or administrative proceeding to which the child is a party, including, but not limited to, under this chapter, which uses a best interest standard for decisionmaking and advocacy. For purposes of this chapter, the term includes, but is not limited to, the Statewide Guardian ad Litem Office, which includes all circuit guardian ad litem offices and the duly certified volunteers, staff, and attorneys assigned by the Statewide Guardian ad Litem Office to represent children; a court-appointed attorney; or a responsible adult who is appointed by the court. A guardian ad litem is a party to the judicial proceeding as a representative of the child and serves until the jurisdiction of the court over the child terminates or until excused by the court.

(33) "Guardian advocate" means a person appointed by the court to act on behalf of a drug-dependent newborn under part XI of this chapter.

(39) ~~(36)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's welfare as defined in subsection (57) ~~(54)~~.

(61) ~~(58)~~ "Party" means the parent or parents of the child, the petitioner, the department, the guardian ad litem ~~or the representative of the guardian ad litem program when the program has been appointed~~, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

Section 6. Subsection (11) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel; guardian ad litem.—

(11) The court shall appoint a guardian ad litem at the earliest possible time to represent a child throughout the proceedings, including any appeals. The guardian ad litem may represent the child in proceedings outside of the dependency case to secure the services and benefits that provide for the care, safety, and protection of the child ~~encourage the Statewide Guardian Ad Litem Office to provide greater representation to those children who are within 1 year of transferring out of foster care~~.

Section 7. Paragraph (b) of subsection (1) of section 39.01305, Florida Statutes, is amended to read:

39.01305 Appointment of an attorney for a dependent child

with certain special needs.—

(1)

(b) The Legislature recognizes the existence of organizations that provide attorney representation to children in certain jurisdictions throughout the state. Further, the Statewide Guardian Ad Litem Office ~~Program~~ provides best interest representation for dependent children in every jurisdiction in accordance with state and federal law. The Legislature, therefore, does not intend that funding provided for representation under this section supplant proven and existing organizations representing children. Instead, the Legislature intends that funding provided for representation under this section be an additional resource for the representation of more children in these jurisdictions, to the extent necessary to meet the requirements of this chapter, with the cooperation of existing local organizations or through the expansion of those organizations. The Legislature encourages the expansion of pro bono representation for children. This section is not intended to limit the ability of a pro bono attorney to appear on behalf of a child.

Section 8. Subsection (3) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court.

All court records required by this chapter may ~~shall~~ not be open to inspection by the public. All records may ~~shall~~ be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to ~~the provisions of~~ s. 63.162, a child, ~~and~~ the parents of the child and their attorneys, the guardian ad litem, criminal conflict and civil regional counsels, law enforcement agencies, ~~and~~ the department and its designees, and the attorney ad litem, if one is appointed, ~~shall~~ always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys ad litem. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

Section 9. Paragraph (a) of subsection (3) of section 39.0136, Florida Statutes, is amended to read:

39.0136 Time limitations; continuances.—

(3) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel, ~~or the child's~~ guardian ad litem, or attorney ad litem, if one is appointed~~, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child~~. The court must consider the best interests of the child when determining periods of delay under this section.

Section 10. Subsection (7) of section 39.01375, Florida Statutes, is amended to read:

39.01375 Best interest determination for placement.—The department, community-based care lead agency, or court shall consider all of the following factors when determining whether a proposed placement under this chapter is in the child's best interest:

(7) The recommendation of the child's guardian ad litem~~, if one has been appointed~~.

Section 11. Paragraphs (a) and (b) of subsection (4) of section 39.0139, Florida Statutes, are amended to read:

39.0139 Visitation or other contact; restrictions.—

(4) HEARINGS.—A person who meets any of the criteria set forth in paragraph (3)(a) who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Before ~~Prior to~~ the hearing, the court shall appoint ~~an attorney ad litem or~~ a guardian ad litem for the child if one

has not already been appointed. The guardian ad litem and ~~Any~~ attorney ad litem, if one is ~~or guardian ad litem~~ appointed, must ~~shall~~ have special training in the dynamics of child sexual abuse.

(b) At the hearing, the court may receive and rely upon any relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the Child Protection Team, the child's therapist, the child's guardian ad litem, or the child's attorney ad litem, if one is appointed, even if these reports, recommendations, and evidence may not be admissible under the rules of evidence.

Section 12. Paragraphs (d) and (t) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect; exception.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which may only ~~shall~~ be released ~~only~~ as provided in subsection (5), may only ~~shall~~ be granted ~~only~~ to the following persons, officials, and agencies:

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected; the child; the child's guardian ad litem; the child's attorney ad litem, if one is appointed; or~~, and the child, and their attorneys,~~

~~including~~ any attorney representing a child in civil or criminal proceedings. This access must ~~shall~~ be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 13. Paragraph (c) of subsection (8), paragraphs (b) and (c) of subsection (11), and paragraph (a) of subsection (14) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best interest of the child~~, unless the court finds that such representation is unnecessary~~;

2. Inform the parents or legal custodians of their right

to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013;

3. Give the parents or legal custodians an opportunity to be heard and to present evidence; and

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall inquire under oath of those present at the shelter hearing whether they have any of the following information:

a. Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

b. Whether the mother was cohabiting with a male at the probable time of conception of the child.

c. Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

d. Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

e. Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the

child has resided or resides.

f. Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(11)

(b) The court shall request that the parents consent to provide access to the child's medical records and provide information to the court, the department or its contract agencies, and the ~~any~~ guardian ad litem and ~~or~~ attorney ad litem, if one is appointed, for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access. The court may also order the parents to provide all known medical information to the department and to any others granted access under this subsection.

(c) The court shall request that the parents consent to provide access to the child's child care records, early education program records, or other educational records and provide information to the court, the department or its contract

agencies, and the ~~any~~ guardian ad litem and ~~or~~ attorney ad litem, if one is appointed, for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's ~~counsel or the child's~~ guardian ad litem or attorney ad litem, if one is ~~has been~~ appointed by the court~~, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child~~.

Section 14. Paragraphs (a) and (b) of subsection (4) of section 39.4022, Florida Statutes, are amended to read:

39.4022 Multidisciplinary teams; staffings; assessments; report.—

(4) PARTICIPANTS.—

(a) Collaboration among diverse individuals who are part of the child's network is necessary to make the most informed decisions possible for the child. A diverse team is preferable to ensure that the necessary combination of technical skills, cultural knowledge, community resources, and personal relationships is developed and maintained for the child and

family. The participants necessary to achieve an appropriately diverse team for a child may vary by child and may include extended family, friends, neighbors, coaches, clergy, coworkers, or others the family identifies as potential sources of support.

1. Each multidisciplinary team staffing must invite the following members:

a. The child, unless he or she is not of an age or capacity to participate in the team, and the child's guardian ad litem;

b. The child's family members and other individuals identified by the family as being important to the child, provided that a parent who has a no contact order or injunction, is alleged to have sexually abused the child, or is subject to a termination of parental rights may not participate;

c. The current caregiver, provided the caregiver is not a parent who meets the criteria of one of the exceptions under sub-subparagraph b.;

d. A representative from the department other than the Children's Legal Services attorney, when the department is directly involved in the goal identified by the staffing;

e. A representative from the community-based care lead agency, when the lead agency is directly involved in the goal identified by the staffing;

f. The case manager for the child, or his or her case manager supervisor; and

g. A representative from the Department of Juvenile Justice, if the child is dually involved with both the department and the Department of Juvenile Justice.

2. The multidisciplinary team must make reasonable efforts to have all mandatory invitees attend. However, the multidisciplinary team staffing may not be delayed if the invitees in subparagraph 1. fail to attend after being provided reasonable opportunities.

(b) Based on the particular goal the multidisciplinary team staffing identifies as the purpose of convening the staffing as provided under subsection (5), the department or lead agency may also invite to the meeting other professionals, including, but not limited to:

1. A representative from Children's Medical Services;

~~2. A guardian ad litem, if one is appointed;~~

2.~~3.~~ A school personnel representative who has direct contact with the child;

3.~~4.~~ A therapist or other behavioral health professional, if applicable;

4.~~5.~~ A mental health professional with expertise in sibling bonding, if the department or lead agency deems such expert is necessary; or

5.~~6.~~ Other community providers of services to the child or stakeholders, when applicable.

Section 15. Paragraph (d) of subsection (3) and paragraph

(c) of subsection (4) of section 39.4023, Florida Statutes, are amended to read:

39.4023 Placement and education transitions; transition plans.—

(3) PLACEMENT TRANSITIONS.—

(d) Transition planning.—

1. If the supportive services provided pursuant to paragraph (c) have not been successful to make the maintenance of the placement suitable or if there are other circumstances that require the child to be moved, the department or the community-based care lead agency must convene a multidisciplinary team staffing as required under s. 39.4022 before the child's placement is changed, or within 72 hours of moving the child in an emergency situation, for the purpose of developing an appropriate transition plan.

2. A placement change may occur immediately in an emergency situation without convening a multidisciplinary team staffing. However, a multidisciplinary team staffing must be held within 72 hours after the emergency situation arises.

3. The department or the community-based care lead agency must provide written notice of the planned move at least 14 days before the move or within 72 hours after an emergency situation, to the greatest extent possible and consistent with the child's needs and preferences. The notice must include the reason a placement change is necessary. A copy of the notice must be

filed with the court and be provided to all of the following:

a. The child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the department or lead agency to provide notice in an age-appropriate and capacity-appropriate alternative manner.~~;~~

b. The child's parents, unless prohibited by court order.~~;~~

c. The child's out-of-home caregiver.~~;~~

d. The guardian ad litem.~~, if one is appointed;~~

e. The attorney ad litem for the child, if one is appointed.~~; and~~

f. The attorney for the department.

4. The transition plan must be developed through cooperation among the persons included in subparagraph 3., and such persons must share any relevant information necessary for its development. Subject to the child's needs and preferences, the transition plan must meet the requirements of s. 409.1415(2)(b)8. and exclude any placement changes that occur between 7 p.m. and 8 a.m.

5. The department or the community-based care lead agency shall file the transition plan with the court within 48 hours after the creation of such plan and provide a copy of the plan to the persons included in subparagraph 3.

(4) EDUCATION TRANSITIONS.—

(c) Minimizing school changes.—

1. Every effort must be made to keep a child in the school

of origin if it is in the child's best interest. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

2. Members of a multidisciplinary team staffing convened for a purpose other than a school change must determine the child's best interest regarding remaining in the school or program of origin if the child's educational options are affected by any other decision being made by the multidisciplinary team.

3. The determination of whether it is in the child's best interest to remain in the school of origin, and if not, of which school the child will attend in the future, must be made in consultation with the following individuals, including, but not limited to, the child; the parents; the caregiver; the child welfare professional; the guardian ad litem~~, if appointed~~; the educational surrogate, if appointed; child care and educational staff, including teachers and guidance counselors; and the school district representative or foster care liaison. A multidisciplinary team member may contact any of these individuals in advance of a multidisciplinary team staffing to obtain his or her recommendation. An individual may remotely attend the multidisciplinary team staffing if one of the identified goals is related to determining an educational placement. The multidisciplinary team may rely on a report from the child's current school or program district and, if

applicable, any other school district being considered for the educational placement if the required school personnel are not available to attend the multidisciplinary team staffing in person or remotely.

4. The multidisciplinary team and the individuals listed in subparagraph 3. must consider, at a minimum, all of the following factors when determining whether remaining in the school or program of origin is in the child's best interest or, if not, when selecting a new school or program:

a. The child's desire to remain in the school or program of origin.

b. The preference of the child's parents or legal guardians.

c. Whether the child has siblings, close friends, or mentors at the school or program of origin.

d. The child's cultural and community connections in the school or program of origin.

e. Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multitiered system of supports.

f. Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973.

g. Whether the child is a student with a disability under

IDEA who is receiving special education and related services or a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin.

h. Whether the child is an English Language Learner student and is receiving language services and, if so, whether those required services are available in a school or program other than the school or program of origin.

i. The impact a change to the school or program of origin would have on academic credits and progress toward promotion.

j. The availability of extracurricular activities important to the child.

k. The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at a school or program other than the school or program of origin.

l. The child's permanency goal and timeframe for achieving permanency.

m. The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally.

n. The length of the commute to the school or program from the child's home or placement and how such commute would impact the child.

o. The length of time the child has attended the school or program of origin.

5. The cost of transportation cannot be a factor in making a best interest determination.

Section 16. Paragraph (f) of subsection (3) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(f)1. The department shall fully inform the court of the child's medical and behavioral status as part of the social services report prepared for each judicial review hearing held for a child for whom psychotropic medication has been prescribed or provided under this subsection. As a part of the information provided to the court, the department shall furnish copies of all pertinent medical records concerning the child which have been generated since the previous hearing. On its own motion or on good cause shown by any party, including the ~~any~~ guardian ad litem~~, attorney,~~ or attorney ad litem, if one is ~~who has been~~ appointed ~~to represent the child or the child's interests~~, the court may review the status more frequently than required in this subsection.

2. The court may, in the best interests of the child, order the department to obtain a medical opinion addressing

whether the continued use of the medication under the circumstances is safe and medically appropriate.

Section 17. Paragraphs (m), (t), and (u) of subsection (1) of section 39.4085, Florida Statutes, are amended to read:

39.4085 Goals for dependent children; responsibilities; education; Office of the Children's Ombudsman.—

(1) The Legislature finds that the design and delivery of child welfare services should be directed by the principle that the health and safety of children, including the freedom from abuse, abandonment, or neglect, is of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(m) To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency. For a child who is transitioning from foster care to independent living, permanency includes establishing naturally occurring, lifelong, kin-like connections between the child and a supportive adult.

(t) To have a guardian ad litem appointed ~~to represent, within reason, their best interests~~ and, if appropriate, an attorney ad litem ~~appointed to represent their legal interests~~; the guardian ad litem and attorney ad litem, if one is appointed, ~~shall~~ have immediate and unlimited access to the children they represent.

(u) To have all their records available for review by

their guardian ad litem and attorney ad litem, if one is appointed, if they deem such review necessary.

This subsection establishes goals and not rights. This subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person does not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. This subsection does not require the expenditure of funds to meet the goals established in this subsection except those funds specifically appropriated for such purpose.

Section 18. Subsection (8) of section 39.502, Florida Statutes, is amended to read:

39.502 Notice, process, and service.—

(8) It is not necessary to the validity of a proceeding covered by this part that the parents be present if their identity or residence is unknown after a diligent search has been made; however, ~~but in this event~~ the petitioner must ~~shall~~ file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court must ~~may~~ appoint a guardian ad litem for the child if a guardian ad litem has not previously been appointed.

Section 19. Paragraph (c) of subsection (3) of section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—

(3)

(c)1. The department or community-based care lead agency must notify a current caregiver who has been in the physical custody placement for at least 9 consecutive months and who meets all the established criteria in paragraph (b) of an intent to change the physical custody of the child, and a multidisciplinary team staffing must be held in accordance with ss. 39.4022 and 39.4023 at least 21 days before the intended date for the child's change in physical custody, unless there is an emergency situation as defined in s. 39.4022(2)(b). If there is not a unanimous consensus decision reached by the multidisciplinary team, the department's official position must be provided to the parties within the designated time period as provided for in s. 39.4022.

2. A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department or community-based care lead agency of his or her objection and the intent to request an evidentiary hearing in writing in accordance with this section within 5 days after receiving notice of the department's official position provided under subparagraph 1. The transition of the child to the new caregiver may not begin before the expiration of the 5-day

period within which the current caregiver may object.

3. Upon the department or community-based care lead agency receiving written notice of the caregiver's objection, the change to the child's physical custody must be placed in abeyance and the child may not be transitioned to a new physical placement without a court order, unless there is an emergency situation as defined in s. 39.4022(2)(b).

4. Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must do all of the following:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this subsection.~~;~~

~~b. Appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;~~

b.~~c.~~ Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing.~~; and~~

c.~~d.~~ Appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

Section 20. Paragraph (c) of subsection (1) and paragraph (c) of subsection (3) of section 39.6012, Florida Statutes, are

amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

(c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living. The written description must include age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

Section 21. Section 39.6036, Florida Statutes, is created to read:

39.6036 Supportive adults for children transitioning out of foster care.—

(1) The Legislature finds that a committed, caring adult provides a lifeline for a child transitioning out of foster care

to live independently. Accordingly, it is the intent of the Legislature that the Statewide Guardian ad Litem Office help children connect with supportive adults with the hope of creating an ongoing relationship that lasts into adulthood.

(2) The Statewide Guardian ad Litem Office shall work with a child who is transitioning out of foster care to identify at least one supportive adult with whom the child can enter into a formal agreement for an ongoing relationship and document such agreement in the child's court file. If the child cannot identify a supportive adult, the Statewide Guardian ad Litem Office shall work in coordination with the Office of Continuing Care to identify at least one supportive adult with whom the child can enter into a formal agreement for an ongoing relationship and document such agreement in the child's court file.

Section 22. Paragraph (c) of subsection (10) of section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.—

(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(c) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a

child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

1. The compliance or noncompliance of the parent with the case plan;

2. The circumstances which caused the child's dependency and whether those circumstances have been resolved;

3. The stability and longevity of the child's placement;

4. The preferences of the child, if the child is of sufficient age and understanding to express a preference;

5. The recommendation of the current custodian; and

6. Any ~~The~~ recommendation of the guardian ad litem~~, if one has been appointed~~.

Section 23. Subsection (2) of section 39.6241, Florida Statutes, is amended to read:

39.6241 Another planned permanent living arrangement.—

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver. The guardian ad litem must also advise the court whether the child has been connected with a supportive adult and, if the child has been connected with a supportive adult,

whether the child has entered into a formal agreement with the adult. If the child has entered into a formal agreement pursuant to s. 39.6036, the guardian ad litem must ensure that the agreement is documented in the child's court file.

Section 24. Paragraphs (b) and (f) of subsection (1), paragraph (c) of subsection (2), subsection (3), and paragraph (e) of subsection (4) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months after ~~following~~ the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem~~,~~ ~~if one has been appointed,~~ and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(f) Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial

review, if any, must be served by the clerk of the court upon all of the following persons, if available to be served, regardless of whether the person was present at the previous hearing at which the date, time, and location of the hearing was announced:

1. The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the movant.

2. The foster parent or legal custodian in whose home the child resides.

3. The parents.

4. The guardian ad litem for the child~~, or the representative of the guardian ad litem program if the program has been appointed~~.

5. The attorney ad litem for the child, if one is appointed.

6. The child, if the child is 13 years of age or older.

7. Any preadoptive parent.

8. Such other persons as the court may direct.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(c) Review determinations.—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the

terms of the case plan; testimony by the social services agency, the parent, the foster parent or caregiver, the guardian ad litem, the ~~or~~ surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed ~~or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed~~.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the

district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interests of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including

maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required.

Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

(3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.—At each review hearing held under this subsection, the court shall give the child and the guardian ad litem the opportunity to address the court and provide any information relevant to the child's best interest, particularly in relation to independent living transition services. The foster parent or~~,~~ legal custodian~~, or guardian ad litem~~ may also provide any information relevant to the child's best interest to the court. In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, and the review and report required under s. 39.822(2)(a)2., the court shall:

(a) Inquire about the life skills the child has acquired and whether those services are age appropriate, at the first judicial review hearing held subsequent to the child's 16th birthday. At the judicial review hearing, the department shall provide the court with a report that includes specific information related to the life skills that the child has acquired since the child's 13th birthday or since the date the child came into foster care, whichever came later. For any child who may meet the requirements for appointment of a guardian advocate under s. 393.12 or a guardian under chapter 744, the

updated case plan must be developed in a face-to-face conference with the child, if appropriate; the child's attorney ad litem, if one is appointed; the child's~~; any court-appointed~~ guardian ad litem; the temporary custodian of the child; and the parent of the child, if the parent's rights have not been terminated.

(b) The court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed under ss. 743.044-743.047 for any disability that the court finds is in the child's best interest to remove. The department shall include in the social study report for the first judicial review that occurs after the child's 17th birthday written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they are being held in trust for the child, a full accounting of

these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program under s. 409.1451, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed family home or group care provider with whom the child was residing at the time the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by the department.

5. An open bank account or the identification necessary to open a bank account and to acquire essential banking and budgeting skills.

6. Information on public assistance and how to apply for public assistance.

7. A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and the educational program or school in which he or she will be enrolled.

8. Information related to the ability of the child to remain in care until he or she reaches 21 years of age under s. 39.013.

9. A letter providing the dates that the child is under

the jurisdiction of the court.

10. A letter stating that the child is in compliance with financial aid documentation requirements.

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing the child's case file.

14. A statement encouraging the child to attend all judicial review hearings.

15. Information on how to obtain a driver license or learner's driver license.

(c) At the first judicial review hearing held subsequent to the child's 17th birthday, if the court determines pursuant to chapter 744 that there is a good faith basis to believe that the child qualifies for appointment of a guardian advocate, limited guardian, or plenary guardian for the child and that no less restrictive decisionmaking assistance will meet the child's needs:

1. The department shall complete a multidisciplinary report which must include, but is not limited to, a psychosocial evaluation and educational report if such a report has not been completed within the previous 2 years.

2. The department shall identify one or more individuals who are willing to serve as the guardian advocate under s. 393.12 or as the plenary or limited guardian under chapter 744. Any other interested parties or participants may make efforts to

identify such a guardian advocate, limited guardian, or plenary guardian. The child's biological or adoptive family members, including the child's parents if the parents' rights have not been terminated, may not be considered for service as the plenary or limited guardian unless the court enters a written order finding that such an appointment is in the child's best interests.

3. Proceedings may be initiated within 180 days after the child's 17th birthday for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744. The Legislature encourages the use of pro bono representation to initiate proceedings under this section.

4. In the event another interested party or participant initiates proceedings for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child, the department shall provide all necessary documentation and information to the petitioner to complete a petition under s. 393.12 or chapter 744 within 45 days after the first judicial review hearing after the child's 17th birthday.

5. Any proceedings seeking appointment of a guardian advocate or a determination of incapacity and the appointment of a guardian must be conducted in a separate proceeding in the court division with jurisdiction over guardianship matters and

pursuant to chapter 744.

(d) If the court finds at the judicial review hearing after the child's 17th birthday that the department has not met its obligations to the child as stated in this part, in the written case plan, or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply. If the department fails to comply within 30 days, the court may hold the department in contempt.

(e) If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of subsection (2), the court shall:

1. Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in s. 39.6251 and determine if the child has entered into a formal agreement for an ongoing relationship with a supportive adult.

2. Ensure that the transition plan includes a supervised living arrangement under s. 39.6251.

3. Ensure the child has been informed of:

a. The right to continued support and services from the department and the community-based care lead agency.

b. The right to request termination of dependency jurisdiction and be discharged from foster care.

c. The opportunity to reenter foster care under s. 39.6251.

4. Ensure that the child, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:

a. Services or benefits for which the child may be eligible based on his or her former placement in foster care, including, but not limited to, the assistance of the Office of Continuing Care under s. 414.56.

b. Services or benefits that may be lost through termination of dependency jurisdiction.

c. Other federal, state, local, or community-based services or supports available to him or her.

(4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually.

(e)1. Notwithstanding the provisions of this subsection, if a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may

not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

a.~~1.~~ Attendance of the young adult at the hearing; or

b.~~2.~~ Findings by the court that:

(I)~~a.~~ The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and

(II)~~b.~~ The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

(III)~~c.~~ The young adult has voluntarily left the program, has not signed the document in sub-subparagraph b., and is unwilling to participate in any further court proceeding.

2.~~3.~~ In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation. The court shall also inquire of the young adult regarding his or her relationship with the

supportive adult with whom the young adult has entered into a formal agreement for an ongoing relationship, if such agreement exists.

Section 25. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights; if applicable, instructions for appearance through audio-video communication technology; and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s.

39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child ~~or the representative of the guardian ad litem program, if the program has been appointed~~.

A party may consent to service or notice by e-mail by providing a primary e-mail address to the clerk of the court. The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF

YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 26. Subsection (2) of section 39.807, Florida Statutes, is amended to read:

39.807 Right to counsel; guardian ad litem.—

(2)(a) The court shall appoint a guardian ad litem to represent the ~~best interest of the~~ child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the ~~following~~ responsibilities and authorities listed in s. 39.822.~~:~~

~~1. To investigate the allegations of the petition and any subsequent matters arising in the case and,~~

(c) Unless excused by the court, the guardian ad litem must ~~to~~ file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 hours before the disposition hearing.

~~2. To be present at all court hearings unless excused by the court.~~

~~3. To represent the best interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.~~

~~(c) A guardian ad litem is not required to post bond but~~

~~shall file an acceptance of the office.~~

~~(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.~~

(d) ~~(e)~~ This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 27. Subsection (2) of section 39.808, Florida Statutes, is amended to read:

39.808 Advisory hearing; pretrial status conference.—

(2) At the hearing the court shall inform the parties of their rights under s. 39.807, ~~shall~~ appoint counsel for the parties in accordance with legal requirements, and ~~shall~~ appoint a guardian ad litem to represent the ~~interests of the~~ child if one has not already been appointed.

Section 28. Subsection (2) of section 39.815, Florida Statutes, is amended to read:

39.815 Appeal.—

(2) An attorney for the department shall represent the state upon appeal. When a notice of appeal is filed in the circuit court, the clerk shall notify the attorney for the department, ~~together with~~ the attorney for the parent, the guardian ad litem, and the ~~any~~ attorney ad litem for the child, if one is appointed.

Section 29. Section 39.820, Florida Statutes, is repealed.

Section 30. Subsections (1) and (3) of section 39.821,

Florida Statutes, are amended to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Statewide Guardian ad Litem Office ~~Program~~ may use any private funds collected by the office ~~program~~, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for information contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition

for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants must undergo a level 2 background screening pursuant to chapter 435 before being certified to serve as a guardian ad litem. In analyzing and evaluating the information obtained in the security background investigation, the office ~~program~~ must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The office ~~program~~ has sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

(3) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for a volunteer position or for paid employment with the Statewide Guardian ad Litem Office ~~Program~~, any material fact used in making a determination as to the applicant's qualifications for such position.

Section 31. Section 39.822, Florida Statutes, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. A guardian ad litem is a fiduciary and must provide independent representation of the child using a best interest standard of decisionmaking and advocacy.

(2)(a) A guardian ad litem must:

1. Be present at all court hearings unless excused by the court.

2. Investigate issues related to the best interest of the child who is the subject of the appointment, review all disposition recommendations and changes in placement, and, unless excused by the court, file written reports and recommendations in accordance with general law.

3. Represent the child until the court's jurisdiction over the child terminates or until excused by the court.

4. Advocate for the child's participation in the proceedings and to report the child's preferences to the court, to the extent the child has the ability and desire to express his or her preferences.

5. Perform other duties that are consistent with the scope of the appointment.

(b) A guardian ad litem shall have immediate and unlimited

access to the children he or she represents.

(c) A guardian ad litem is not required to post bond but must file an acceptance of the appointment.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(3) Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(4) ~~(2)~~ In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem representation ~~services~~. Reimbursement to the individual providing guardian ad litem representation is not ~~services shall not be~~ contingent upon successful collection by the court from the parent or parents.

(5) ~~(3)~~ Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of

the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or an organization, other than an agency under paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

~~(4) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.~~

Section 32. Subsection (4) of section 39.827, Florida Statutes, is amended to read:

39.827 Hearing for appointment of a guardian advocate.—

(4) The hearing under this section must ~~shall~~ remain

confidential and closed to the public. The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part are ~~shall be~~ confidential and exempt from ~~the provisions of~~ s. 119.07(1). ~~All~~ Records may only ~~shall~~ be inspected ~~only~~ upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys, the guardian ad litem, ~~and~~ the department and its designees, and the attorney ad litem, if one is appointed, ~~shall~~ always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, or authorized agent of the department is ~~shall be~~ confidential and exempt from ~~the provisions of~~ s. 119.07(1) and may ~~shall~~ not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 33. Paragraphs (a), (b), and (d) of subsection (1) and subsection (2) of section 39.8296, Florida Statutes, are

amended to read:

39.8296 Statewide Guardian ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that for the past 20 years, the Statewide Guardian Ad Litem Office ~~Program~~ has been the only mechanism for best interest representation for children in Florida who are involved in dependency proceedings.

(b) The Legislature also finds that while the Statewide Guardian Ad Litem Office ~~Program~~ has been supervised by court administration within the circuit courts since the office's ~~program's~~ inception, there is a perceived conflict of interest created by the supervision of program staff by the judges before whom they appear.

(d) It is therefore the intent of the Legislature to place the Statewide Guardian Ad Litem Office ~~Program~~ in an appropriate place and provide a statewide infrastructure to increase functioning and standardization among the local offices ~~programs~~ currently operating in the 20 judicial circuits.

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the

available resources of the commission. The Statewide Guardian ad Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by a Guardian ad Litem Qualifications Committee. The Guardian ad Litem Qualifications Committee shall be composed of five persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian ad Litem Office ~~Association~~. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may reject the nominations and request the submission of new nominees. The executive director must have knowledge in dependency law and knowledge of social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall serve on a full-time basis and shall personally, or through representatives of the office, carry out the purposes and functions of the

Statewide Guardian ad Litem Office in accordance with state and federal law and the state's long-established policy of prioritizing children's best interests. The executive director shall report to the Governor. The executive director shall serve a 3-year term, subject to removal for cause by the Governor. Any person appointed to serve as the executive director may be permitted to serve more than one term without the necessity of convening the Guardian ad Litem Qualifications Committee.

(b) The Statewide Guardian ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem offices ~~programs~~ located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem offices ~~programs~~ in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop and maintain a guardian ad litem training program, which must be updated regularly~~, which shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in~~

~~a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse~~.

5. The office shall review the various methods of funding guardian ad litem offices ~~programs~~, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem offices ~~programs~~.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. The office shall ensure that each child has an attorney assigned to his or her case and, within available resources, is represented using multidisciplinary teams that may include volunteers, pro bono attorneys, social workers, and mentors.

8. The office shall provide oversight and technical

assistance to attorneys ad litem, including, but not limited to, all of the following:

a. Develop an attorney ad litem training program in collaboration with dependency court stakeholders, including, but not limited to, dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge. The training program must be updated regularly with or without convening the stakeholders group.

b. Offer consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.

c. Assist with recruitment, training, and mentoring of attorneys ad litem as needed.

9.~~7.~~ In an effort to promote normalcy and establish trust between a ~~court-appointed volunteer~~ guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem ~~volunteer~~ may not be required by a guardian ad litem circuit office or ordered by ~~or directed by the program or~~ a court to transport a child.

10.~~8.~~ The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting

the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem representation ~~services~~ and related issues.

Section 34. Section 39.8297, Florida Statutes, is amended to read:

39.8297 County funding for guardian ad litem employees.—

(1) A county and the executive director of the Statewide Guardian ad Litem Office may enter into an agreement by which the county agrees to provide funds to the local guardian ad litem office in order to employ persons who will assist in the operation of the guardian ad litem office ~~program~~ in the county.

(2) The agreement, at a minimum, must provide that:

(a) Funding for the persons who are employed will be provided on at least a fiscal-year basis.

(b) The persons who are employed will be hired, supervised, managed, and terminated by the executive director of the Statewide Guardian ad Litem Office. The statewide office is

responsible for compliance with all requirements of federal and state employment laws, and shall fully indemnify the county from any liability under such laws, as authorized by s. 768.28(19), to the extent such liability is the result of the acts or omissions of the Statewide Guardian ad Litem Office or its agents or employees.

(c) The county is the employer for purposes of s. 440.10 and chapter 443.

(d) Employees funded by the county under this section and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986.

(e) Persons employed under this section may be terminated after a substantial breach of the agreement or because funding to the guardian ad litem office ~~program~~ has expired.

(3) Persons employed under this section may not be counted in a formula or similar process used by the Statewide Guardian ad Litem Office to measure personnel needs of a judicial circuit's guardian ad litem office ~~program~~.

(4) Agreements created pursuant to this section do not obligate the state to allocate funds to a county to employ persons in the guardian ad litem office ~~program~~.

Section 35. Subsection (6) is added to section 414.56, Florida Statutes, to read:

414.56 Office of Continuing Care.—The department shall

establish an Office of Continuing Care to ensure young adults who age out of the foster care system between 18 and 21 years of age, or 22 years of age with a documented disability, have a point of contact until the young adult reaches the age of 26 in order to receive ongoing support and care coordination needed to achieve self-sufficiency. Duties of the office include, but are not limited to:

(6) Working in coordination with the Statewide Guardian ad Litem Office to identify supportive adults for children transitioning out of foster care to live independently, in accordance with s. 39.6036.

Section 36. Section 1009.898, Florida Statutes, is created to read:

1009.898 Fostering Prosperity grants.—

(1) The Fostering Prosperity program shall administer the following grants to youth and young adults aging out of foster care:

(a) Grants to provide financial literacy instruction using a curriculum developed by the Department of Financial Services in consultation with the Department of Education.

(b) Grants to provide SAT, ACT, or CLT preparation, including one-on-one support and fee waivers for the examinations.

(c) Grants to youth and young adults planning to pursue trade careers or paid apprenticeships.

(2) If a youth who is aging out of foster care is reunited with his or her parents, the grants remain available for the youth for up to 1 year after reunification.

(3) The State Board of Education shall adopt rules to administer this section.

Section 37. Subsection (1) of section 29.008, Florida Statutes, is amended to read:

29.008 County funding of court-related functions.—

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of this section, the term "circuit and county courts" includes the offices and staffing of the guardian ad litem offices ~~programs~~, and the term "public defenders' offices" includes the offices of criminal conflict and civil regional counsel. The county designated under s. 35.05(1) as the headquarters for each appellate district shall fund these costs for the appellate division of the public defender's office in that county. For purposes of implementing these requirements, the term:

(a) "Facility" means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services, except this requirement applies only to facilities that are leased, or on which construction commences, after June 30, 2003. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services.

1. As of July 1, 2005, equipment and furnishings shall be

limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

(b) "Construction or lease" includes, but is not limited to, all reasonable and necessary costs of the acquisition or lease of facilities for all judicial officers, staff, jurors, volunteers of a tenant agency, and the public for the circuit and county courts, the public defenders' offices, state attorneys' offices, and for performing the court-related functions of the offices of the clerks of the circuit and county courts. This includes expenses related to financing such facilities and the existing and future cost and bonded

indebtedness associated with placing the facilities in use.

(c) "Maintenance" includes, but is not limited to, all reasonable and necessary costs of custodial and groundskeeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

(d) "Utilities" means all electricity services for light, heat, and power; natural or manufactured gas services for light, heat, and power; water and wastewater services and systems, stormwater or runoff services and systems, sewer services and systems, all costs or fees associated with these services and systems, and any costs or fees associated with the mitigation of environmental impacts directly related to the facility.

(e) "Security" includes but is not limited to, all reasonable and necessary costs of services of law enforcement officers or licensed security guards and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility.

This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.

(f) "Communications services" are defined as any reasonable and necessary transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, audio equipment, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, guardians ad litem, criminal conflict and civil regional counsel, and all staff of the state courts system, state attorneys' offices, public defenders' offices, and clerks of the circuit and county courts performing court-related functions. Such system or services shall include, but not be limited to:

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance, and facsimile equipment, wireless communications, cellular telephones, pagers, and video teleconferencing equipment and line charges. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay toll charges for local and long distance service.

2. All computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services including any county-funded support staff located in the offices

of the circuit court, county courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel; training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, the guardian ad litem offices, the offices of criminal conflict and civil regional counsel, and the offices of the clerks of the circuit and county courts; and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by July 1, 2006, and, at a minimum, permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and be able to electronically exchange judicial case background data, sentencing scoresheets, and video evidence information stored in integrated case management systems over secure networks. Once the integrated system becomes operational, counties may reject requests to purchase communications services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to former s. 29.0086.

3. Courier messenger and subpoena services.

4. Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Such auxiliary aids and services include, but are not limited to, sign language interpretation services required under the federal Americans with Disabilities Act other than services required to satisfy due-process requirements and identified as a state funding responsibility pursuant to ss. 29.004-29.007, real-time transcription services for individuals who are hearing impaired, and assistive listening devices and the equipment necessary to implement such accommodations.

(g) "Existing radio systems" includes, but is not limited to, law enforcement radio systems that are used by the circuit and county courts, the offices of the public defenders, the offices of the state attorneys, and for court-related functions of the offices of the clerks of the circuit and county courts. This includes radio systems that were operational or under contract at the time Revision No. 7, 1998, to Art. V of the State Constitution was adopted and any enhancements made thereafter, the maintenance of those systems, and the personnel and supplies necessary for operation.

(h) "Existing multiagency criminal justice information systems" includes, but is not limited to, those components of the multiagency criminal justice information system as defined in s. 943.045, supporting the offices of the circuit or county

courts, the public defenders' offices, the state attorneys' offices, or those portions of the offices of the clerks of the circuit and county courts performing court-related functions that are used to carry out the court-related activities of those entities. This includes upgrades and maintenance of the current equipment, maintenance and upgrades of supporting technology infrastructure and associated staff, and services and expenses to assure continued information sharing and reporting of information to the state. The counties shall also provide additional information technology services, hardware, and software as needed for new judges and staff of the state courts system, state attorneys' offices, public defenders' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

Section 38. Paragraph (a) of subsection (1) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental

rights. The case plan shall be developed subject to the following requirements:

(a) The case plan must be developed in a face-to-face conference with the parent of the child, the ~~any~~ court-appointed guardian ad litem, and, if appropriate, the child and the temporary custodian of the child.

Section 39. Subsection (8) of section 40.24, Florida Statutes, is amended to read:

40.24 Compensation and reimbursement policy.—

(8) In circuits that elect to allow jurors to donate their jury service fee upon conclusion of juror service, each juror may irrevocably donate all of the juror's compensation to the 26 U.S.C. s. 501(c)(3) organization specified by the Statewide Guardian ad Litem Office ~~program~~ or to a domestic violence shelter as specified annually on a rotating basis by the clerk of court in the circuit for the juror's county of residence. The funds collected may not reduce or offset the amount of compensation that the Statewide Guardian ad Litem Office ~~program~~ or domestic violence shelter would otherwise receive from the state. The clerk of court shall ensure that all jurors are given written notice at the conclusion of their service that they have the option to so donate their compensation, and that the applicable program specified by the Statewide Guardian ad Litem Office ~~program~~ or a domestic violence shelter receives all funds donated by the jurors. Any circuit guardian ad litem office

~~program~~ receiving donations of juror compensation must expend such moneys on services for children for whom guardians ad litem have been appointed.

Section 40. Subsections (5), (6), and (7) of section 43.16, Florida Statutes, are amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Statewide Guardian Ad Litem Office ~~Program~~.

(b) Each state attorney, public defender, and criminal conflict and civil regional counsel and the Statewide Guardian Ad Litem Office ~~Program~~ shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward such items to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public

defender, a criminal conflict and civil regional counsel, or the Statewide Guardian Ad Litem Office ~~Program~~, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

(6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Statewide Guardian Ad Litem Office ~~Program~~ shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

(7) ~~The provisions contained in~~ This section is ~~shall be~~ supplemental to ~~those of~~ chapter 27, relating to state attorneys, public defenders, criminal conflict and civil regional counsel, and capital collateral regional counsel; to ~~those of~~ chapter 39, relating to the Statewide Guardian Ad Litem Office ~~Program~~; or to other laws pertaining hereto.

Section 41. Paragraph (a) of subsection (1) and subsection (4) of section 61.402, Florida Statutes, are amended to read:

61.402 Qualifications of guardians ad litem.—

(1) A person appointed as a guardian ad litem pursuant to s. 61.401 must be:

(a) Certified by the Statewide Guardian Ad Litem Office ~~Program~~ pursuant to s. 39.821;

(4) Nothing in this section requires the Statewide Guardian Ad Litem Office ~~Program~~ or a not-for-profit legal aid organization to train or certify guardians ad litem appointed under this chapter.

Section 42. Paragraph (x) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(x) All officers and employees of the Justice Administrative Commission, Office of the State Attorney, Office of the Public Defender, regional offices of capital collateral counsel, offices of criminal conflict and civil regional counsel, and Statewide Guardian Ad Litem Office, including the circuit guardian ad litem offices ~~programs~~.

Section 43. Paragraph (b) of subsection (96) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(96) GUARDIAN AD LITEM LICENSE PLATES.—

(b) The annual use fees from the sale of the plate shall

be distributed to the Florida Guardian Ad Litem Foundation, Inc., a direct-support organization and a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. Up to 10 percent of the proceeds may be used for administrative costs and the marketing of the plate. The remainder of the proceeds must be used in this state to support the mission and efforts of the Statewide Guardian Ad Litem Office ~~Program~~ to represent abused, abandoned, and neglected children and advocate for their best interests; recruit and retain volunteer child advocates; and meet the unique needs of the dependent children the program serves.

Section 44. Paragraph (e) of subsection (3) of section 943.053, Florida Statutes, is amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3)

(e) The fee per record for criminal history information provided pursuant to this subsection and s. 943.0542 is $24 per name submitted, except that the fee for the Statewide Guardian Ad Litem Office ~~program~~ and vendors of the Department of Children and Families, the Department of Juvenile Justice, the Agency for Persons with Disabilities, and the Department of Elderly Affairs is $8 for each name submitted; the fee for a state criminal history provided for application processing as required by law to be performed by the Department of Agriculture

and Consumer Services is $15 for each name submitted; and the fee for requests under s. 943.0542, which implements the National Child Protection Act, is $18 for each volunteer name submitted. An office of the public defender or an office of criminal conflict and civil regional counsel may not be assessed a fee for Florida criminal history information or wanted person information.

Section 45. Subsection (2) of section 985.43, Florida Statutes, is amended to read:

985.43 Predisposition reports; other evaluations.—

(2) The court shall consider the child's entire assessment and predisposition report and shall review the records of earlier judicial proceedings before making a final disposition of the case. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Statewide Guardian Ad Litem Office ~~Program~~ and the child's attorney ad litem, if one is appointed. The court may, by order, require additional evaluations and studies to be performed by the department; the county school system; or any social, psychological, or psychiatric agency of the state. The court shall order the educational needs assessment completed under s. 985.18(2) to be included in the assessment and predisposition report.

Section 46. Subsection (4) of section 985.441, Florida Statutes, is amended to read:

985.441 Commitment.—

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment nonresidential conditional release program, except that the department may not transfer any child adjudicated solely for a misdemeanor to a residential program except as provided in subsection (2). The department shall notify the court that committed the child to the department and any attorney of record for the child, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. If the child is under the jurisdiction of a dependency court, the department shall also provide notice to the dependency court, ~~and~~ the Department of Children and Families, ~~and, if appointed,~~ the Statewide Guardian Ad Litem Office, ~~Program~~ and the child's attorney ad litem, if one is appointed. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 47. Subsection (3) of section 985.455, Florida Statutes, is amended to read:

985.455 Other dispositional issues.—

(3) Any commitment of a delinquent child to the department must be for an indeterminate period of time, which may include periods of temporary release; however, the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense, except that the duration of a minimum-risk nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. The duration of the child's placement in a commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's treatment plan progress and adjustment-related issues shall be reported to the court quarterly, unless the court requests monthly reports. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Statewide Guardian Ad Litem Office ~~Program~~ or the child's attorney ad litem, if one is appointed. The child's length of stay in a commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in the program shall not be extended for purposes of sanction or punishment. Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's

treatment plan progress and adjustment-related issues must be communicated to the court at the time the department requests the court to consider releasing the child from the commitment program. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

Section 48. Paragraph (b) of subsection (4) of section 985.461, Florida Statutes, is amended to read:

985.461 Transition to adulthood.—

(4) As part of the child's treatment plan, the department may provide transition-to-adulthood services to children released from residential commitment. To support participation in transition-to-adulthood services and subject to appropriation, the department may:

(b) Use community reentry teams to assist in the development of a list of age-appropriate activities and responsibilities to be incorporated in the child's written case plan for any youth who is under the custody or supervision of

the department. Community reentry teams may include representatives from school districts, law enforcement, workforce development services, community-based service providers, the Statewide Guardian Ad Litem Office ~~Program~~, and the youth's family. Such community reentry teams must be created within existing resources provided to the department. Activities may include, but are not limited to, life skills training, including training to develop banking and budgeting skills, interviewing and career planning skills, parenting skills, personal health management, and time management or organizational skills; educational support; employment training; and counseling.

Section 49. Paragraph (h) of subsection (11) of section 985.48, Florida Statutes, is amended to read:

985.48 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(11) Membership of a sexual abuse intervention network shall include, but is not limited to, representatives from:

(h) The Statewide Guardian Ad Litem Office ~~program~~;

Section 50. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse,

abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(39) or (57) ~~s. 39.01(36) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 business days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward

a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 51. Paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or

evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or

make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers

ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

Section 52. Paragraph (c) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial and material change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a

rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child. Except when a time-sharing schedule is agreed to by the parties and approved by the court, the court must evaluate all of the factors set forth in subsection (3) and make specific written findings of fact when creating or modifying a time-sharing schedule.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. In determining detriment to the child, the court shall consider:

a. Evidence of domestic violence, as defined in s. 741.28;

b. Whether either parent has or has had reasonable cause to believe that he or she or his or her minor child or children are or have been in imminent danger of becoming victims of an act of domestic violence as defined in s. 741.28 or sexual violence as defined in s. 784.046(1)(c) by the other parent against the parent or against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court;

c. Whether either parent has or has had reasonable cause to believe that his or her minor child or children are or have

been in imminent danger of becoming victims of an act of abuse ~~as defined in s. 39.01(2)~~, abandonment ~~as defined in s. 39.01(1)~~, or neglect, as those terms are defined in s. 39.01, ~~s. 39.01(50)~~ by the other parent against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; and

d. Any other relevant factors.

3. The following evidence creates a rebuttable presumption that shared parental responsibility is detrimental to the child:

a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775;

b. A parent meets the criteria of s. 39.806(1)(d); or

c. A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

(I) The parent was 18 years of age or older.

(II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to

the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

4. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

5. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

6. There is a rebuttable presumption against granting time-sharing with a minor child if a parent has been convicted

of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

a. The parent was 18 years of age or older.

b. The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

A parent may rebut the presumption upon a specific finding in writing by the court that the parent poses no significant risk of harm to the child and that time-sharing is in the best interests of the minor child. If the presumption is rebutted, the court must consider all time-sharing factors in subsection (3) when developing a time-sharing schedule.

7. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

Section 53. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and

personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation

of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges~~,~~ and ~~of~~ current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and ~~of~~ current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s.

119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division

of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.01 ~~s. 39.820~~; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and

day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors

are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former

employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline;

the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a

Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and

places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status

and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information

held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party

can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 54. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an

authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 55. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

Section 56. Section 627.746, Florida Statutes, is amended to read:

627.746 Coverage for minors who have a learner's driver

license; additional premium prohibited.—An insurer that issues an insurance policy on a private passenger motor vehicle to a named insured who is a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~ may not charge an additional premium for coverage of the minor while the minor is operating the insured vehicle, for the period of time that the minor has a learner's driver license, until such time as the minor obtains a driver license.

Section 57. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

(1) As used in this section, the term:

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(80) ~~s. 39.01(77)~~.

Section 58. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

Section 59. The Division of Law Revision is requested to prepare a reviser's bill for the 2025 Regular Session of the Legislature to substitute the term "Statewide Guardian Ad Litem Office" for the term "Guardian Ad Litem Program" or "Statewide

Guardian Ad Litem Program" throughout the Florida Statutes.

Section 60. This act shall take effect July 1, 2024.

CS/HB 499

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 499 Congenital Cytomegalovirus Screenings
SPONSOR(S): Healthcare Regulation Subcommittee, Melo
TIED BILLS: **IDEN./SIM. BILLS:** SB 168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	18 Y, 0 N, As CS	Osborne	McElroy
2) Health Care Appropriations Subcommittee	15 Y, 0 N	Aderibigbe	Clark
3) Health & Human Services Committee		Osborne	Calamas

SUMMARY ANALYSIS

Cytomegalovirus (CMV) is a common virus that infects people of all ages. Over half of adults are infected with CMV by age 40, and approximately one of every 200 babies is born with congenital CMV (CCMV). Some infants with CCMV infection have health problems that are apparent at birth or that develop later during infancy or childhood. About one in five babies with CCMV have long-term health problems, including hearing loss.

Florida's Newborn Screening Program (NSP), operated by the Department of Health (DOH), screens all newborns for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, including hearing loss. In the event that a newborn screen has an abnormal result, the baby's health care provider, or a nurse or specialist from NSP's Follow-up Program provides follow-up services and referrals for the child and his or her family.

Current law requires all newborns be screened for hearing loss at birth, unless such screening is objected to by the newborn's parent or guardian; newborns who fail the hearing screening must also be screened for CCMV. In 2021, 8,500 newborns did not pass their hearing screening, of which, 300 were diagnosed with hearing loss.

CS/HB 499 expands the population which must undergo mandatory CCMV testing beyond the current population of infants who fail the required newborn hearing screening to include infants admitted to a neonatal intensive care unit within 21 days of birth for specified reasons, and newborns who are transferred to another facility for a higher level of care.

The bill also requires that children diagnosed with a congenital cytomegalovirus infection, with or without hearing loss, be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for a baseline evaluation and any medically necessary follow-up reevaluations and monitoring.

The bill has an insignificant fiscal impact on the Department of Health that can be absorbed within existing resources. The bill has no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Newborn Screening Program

The Legislature created the Florida Newborn Screening Program (NSP) within the Department of Health (DOH), to promote the screening of all newborns for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect.[1] The NSP also promotes the identification and screening of all newborns in the state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services.[2]

The NSP involves coordination across several entities, including the Bureau of Public Health Laboratories Newborn Screening Laboratory in Jacksonville (state laboratory), DOH Children's Medical Services (CMS) Newborn Screening Follow-up Program in Tallahassee, and referral centers, birthing centers, and physicians throughout the state.[3] Health care providers in hospitals, birthing centers, perinatal centers, county health departments, and school health programs provide screening as part of the multilevel NSP screening process.[4] This includes a risk assessment for prenatal women, and risk factor analysis and screening for postnatal women and newborns as well as laboratory screening for select disorders in newborns.[5] The NSP attempts to screen all newborns for hearing impairment and to identify, diagnose, and manage newborns at risk for select disorders that, without detection and treatment, can lead to permanent developmental and physical damage or death.[6] The NSP is intended to screen all prenatal women and newborns, however, parents and guardians may choose to decline the screening.[7]

Health care providers perform non-laboratory NSP screening, such as hearing and risk factor analysis, and report the results to the Office of Vital Statistics. If necessary, health care providers refer patients to the appropriate health, education, and social services.[8] Health care providers in hospitals and birthing centers perform specimen collection for laboratory NSP screening by collecting a few drops of blood from the newborn's heel on a standardized specimen collection card.[9] The specimen card is then sent to the state laboratory for testing and the results are released to the newborn's health care provider. In the event that a newborn screen has an abnormal result, the baby's health care provider, or a nurse or specialist from NSP's Follow-up Program provides follow-up services and referrals for the child and his or her family.[10]

To administer the NSP, DOH is authorized to charge and collect a fee not to exceed $15 per live birth occurring in a hospital or birth center.[11] DOH must calculate the annual assessment for each hospital and birth center, and then quarterly generate and mail each hospital and birth center a statement of the

[1] S. 383.14(1), F.S.
[2] *Id*.
[3] S. 383.14, F.S.
[4] *Id.*
[5] *Id*.
[6] Florida Department of Health, *Florida Newborn Screening Guidelines*. Available at https://floridanewbornscreening.com/wp-content/uploads/NBS-Protocols-2022-FINAL.pdf (last visited January 26, 2024).
[7] S. 383.14(4), F.S.; Rule 64C-7.008, F.A.C.; The health care provider must attempt to get a written statement of objection to be placed in the medical record.
[8] *Id*.
[9] Florida Newborn Screening, *What is Newborn Screening?* Available at https://floridanewbornscreening.com/parents/what-is-newborn-screening/ (last visited January 26, 2024). *See also,* Florida Newborn Screening, *Specimen Collection Card*, http://floridanewbornscreening.com/wp-content/uploads/Order-Form.png (last visited January 26, 2024).
[10] *Id*.
[11] S. 383.145(3)(g)1., F.S.

amount due.[12] DOH bills hospitals and birth centers quarterly using vital statistics data to determine the amount to be billed.[13] DOH is authorized to bill third-party payers for the NSP tests and bills insurers directly for the cost of the screening.[14] DOH does not bill families that do not have insurance coverage.[15]

The Legislature established the Florida Genetics and Newborn Screening Advisory Council to advise DOH on disorders to be included in the NSP panel of screened disorders and the procedures for collecting and transmitting specimens.[16] Florida's NSP currently screens for 58 conditions, 55 of which are screened through the collection of blood spots. Screening of the other three conditions—hearing screening, critical congenital heart defect (CCHD) or pulse oximetry, and congenital cytomegalovirus (CCMV) targeted screening—are completed at the birthing facility through point of care (POC) testing.[17]

Congenital Cytomegalovirus

Cytomegalovirus (CMV) is a common virus for people of all ages; however, a healthy person's immune system usually keeps the virus from causing illness.[18] In the United States, nearly one in three children are infected with CMV by age five. Over half of adults have been infected with CMV by age 40. Once CMV is in a person's body, it stays there for life and can reactivate. A person can also be re-infected with a different strain of the virus. Most people with CMV infection have no symptoms and aren't aware that they have been infected.[19]

CMV that is present in a newborn at birth is known as congenital CMV (CCMV). Congenital CMV occurs when the virus is present in a pregnant woman's blood and crosses the placenta to the fetus. This can happen if a woman is infected with CMV for the first time while she is pregnant, or is infected with CMV again during pregnancy.[20] In the most severe cases, a CMV infection can cause a woman to lose her pregnancy.

Some infants with CCMV infection have health problems that are apparent at birth or that develop later during infancy or childhood. CCMV is the most common infectious cause of birth defects in the United States; approximately one in 200 infants are born with CCMV.[21] Infants with CCMV infection may have signs at birth, which include:[22]

- Rash;
- Jaundice (yellowing of the skin or whites of the eyes);
- Microcephaly (small head);
- Low birth weight;
- Hepatosplenomegaly (enlarged liver and spleen);
- Seizures; and
- Retinitis (damaged eye retina).

Infants with signs of CCMV infection at birth may have long-term health problems, such as:[23]

- Hearing loss;

[12] *Id.*
[13] S. 383.145(3)(g), F.S.
[14] S. 383.145(3)(h), F.S.
[15] S. 383.14, F.S.
[16] S. 383.14(5), F.S.
[17] Department of Health, *Agency Analysis of HB 499* (2024). On file with the Health & Human Services Committee.
[18] Centers for Disease Control and Prevention. *About Cytomegalovirus (CMV)*. Available at https://www.cdc.gov/cmv/overview.html (last visited January 26, 2024).
[19] *Id.*
[20] Centers for Disease Control and Prevention. *Babies Born with Congenital Cytomegalovirus (CMV)*. Available at https://www.cdc.gov/cmv/congenital-infection.html, (last visited January 26, 2024).
[21] Centers for Disease Control and Prevention. *CMV Fact Sheet for Healthcare Providers*. Available at https://www.cdc.gov/cmv/fact-sheets/healthcare-providers.html#:~:text=Cytomegalovirus%20(CMV)%20is%20the%20most,Hearing%20loss (last visited January 26, 2024).
[22] *Supra,* note 20.
[23] *Id.*

- Developmental and motor delay;
- Vision loss;
- Microcephaly (small head); and
- Seizures.

One out of five infants with CCMV will have symptoms or long-term health problems, such as hearing loss. Approximately 15% of infants with CCMV will not have signs at birth, but will later develop hearing loss.[24] Infants may have hearing loss that may or may not be detected by newborn hearing test. Hearing loss may be present at birth or may develop later, even in infants who passed the newborn hearing test.[25] Hearing loss may progress from mild to severe during the first two years of life, which is a critical period for language learning. Over time, hearing loss can affect a child's ability to develop communication, language, and social skills.[26]

CCMV infection is diagnosed by detection of CCMV DNA in the urine, saliva (preferred specimens), or blood, within three weeks after birth. Infection cannot be diagnosed using tests that detect antibodies to CCMV. CCMV infection cannot be diagnosed using samples collected more than three weeks after birth because testing after this time cannot distinguish between congenital infection and an infection acquired during or after delivery.[27] Infants who show signs of CCMV disease can be treated with medicines called antivirals. Antivirals may decrease the severity of hearing loss. Infants who get treated with antivirals should be closely monitored by their doctor for possible side effects.[28]

CCMV and the Newborn Screening Program

Section 383.145, F.S., requires a newborn hearing screening for all newborns in hospitals before discharge. Before a newborn is discharged from a hospital or other state-licensed birthing facility, and unless objected to by the parent or legal guardian, the newborn must be screened for the detection of hearing loss to prevent the consequences of unidentified disorders.[29]

In 2022, the Legislature enacted a law which established additional testing requirements for hearing loss in newborns.[30] Under current law, if a newborn fails the hearing screening, the hospital or birthing facility is required to administer an FDA-approved test, or other diagnostically equivalent test, on the newborn to screen for CCMV. The CCMV test must be administered before 21 days of age or before discharge, whichever occurs earlier.[31]

For births occurring in a non-hospital setting, specifically a licensed birth center or private home, the facility or attending health care provider is responsible for providing a referral to an audiologist, a hospital, or other newborn hearing screening provider within 7 days after the birth or discharge from the facility.[32] All screenings must be conducted by a licensed audiologist, a licensed physician, or appropriately supervised individual who has completed documented training specifically for newborn hearing screening.[33] When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration (FDA).[34]

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[24] *Supra*, note 21.
[25] *Id.*
[26] Centers for Disease Control and Prevention. *CMV Fact Sheet for Healthcare Providers*. Available at https://www.cdc.gov/cmv/fact-sheets/healthcare-providers.html#:~:text=Cytomegalovirus%20(CMV)%20is%20the%20most,Hearing%20loss (last visited January 26, 2024).
[27] Centers for Disease Control and Prevention. *About Cytomegalovirus (CMV).* Available at https://www.cdc.gov/cmv/overview.html (last visited January 26, 2024).
[28] Centers for Disease Control and Prevention. *Congenital CMV and Hearing Loss*. Available at https://www.cdc.gov/cmv/hearing-loss.html, (last visited January 26, 2024).
[29] S. 383.145(3), F.S. If the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 21 days after the birth.
[30] Ch. 2022-25, Laws of Fla.
[31] S. 383.145(3)(a), F.S.
[32] S. 383.145(3)(d), F.S.
[33] S. 383.145(3)(f), F.S.
[34] S. 383.145(3)(i), F.S.

If an infant born in a licensed birth center or private home fails the hearing screening, the infant's primary care provider must refer the infant for the administration of an FDA-approved test, or other diagnostically equivalent test, on the newborn to screen for CCMV.[35]

A child who is diagnosed as having a permanent hearing impairment must be referred by the licensee or individual who conducted the screening to the primary care physician for medical management, treatment, and follow-up services.[36] Any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Early Steps Program for further screening and services.[37]

Annually, approximately 8,500 newborns fail the newborn hearing screening and are subsequently tested for CCMV.[38] In 2021, of the 8,500 newborns who did not pass their hearing screenings, 300 were diagnosed with hearing loss.[39]

Florida Early Steps Program

The Children's Medical Services Early Intervention Program, commonly known as Florida's Early Steps Program (Program), provides early intervention services to children ages birth to 36 months with developmental delays and disabilities or who are at-risk for developmental delay based on a medical condition.[40] The Early Steps Program contracts with 15 Local Early Steps Programs to provide the direct services infants, toddlers, and their families.[41]

A CCMV diagnosis is currently included on the Program's list of at-risk conditions. Documentation of an at-risk condition automatically makes a child eligible for at-risk enrollment, which includes the following services: at-risk individualized family support plan support planning, service coordination, developmental surveillance, and family support. If a developmental delay is suspected, an evaluation can be completed to determine if the child's delay meets the eligibility standard for the full scope of Early Steps services. Approximately 120 infants with CCMV are referred to the Program annually.[42]

Effect of the Bill

CS/HB 499 expands the population which must undergo mandatory CCMV testing beyond the current population of infants who fail the required newborn hearing screening to include infants admitted to a neonatal intensive care unit within 21 days of birth for any of the following reasons:

- Premature birth prior to 35 weeks gestation;
- Cardiac care; or
- Medical or postsurgical treatment with an anticipated hospital stay greater than three weeks.

DOH estimates that an additional 31,000 infants will be referred for CCMV testing annually under the provisions of the bill.[43] Of the 31,000 additional infants who are tested for CCMV under the bill, DOH estimates that 2.1 percent, or 651 infants, will test positive for CCMV.[44]

The bill requires that for an infant who is transferred to another facility for a higher level of care, the receiving hospital must initiate the CCMV screening of the infant, unless the screening was already performed by the transferring hospital or birthing facility. Infants who are admitted or transferred for intensive or prolonged care must be screened for CCMV regardless of whether they have failed a hearing screening.

[35] S. 383.145(3)(e), F.S.
[36] S. 383.145(3)(l), F.S.
[37] S. 383.145(3)(l), F.S.
[38] *Supra*, note 17.
[39] Department of Health, *Agency Analysis of HB 435* (2023). On file with the Health & Human Services Committee
[40] S. 391.308, F.S.; *see also*, 34 CFR 303, for the federal Individuals with Disabilities Education Act (IDEA).
[41] *Supra*, note 17.
[42] *Id*.
[43] *Supra*, note 17.
[44] *Id*.

The bill also requires that children diagnosed with a CCMV infection, with or without hearing loss, be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for a baseline evaluation and any medically necessary follow-up reevaluations and monitoring. DOH estimates that this will significantly increase the number referrals and enrollments in the Early Steps Program for CCMV positive infants from approximately 120 to 771 newborns annually.[45]

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 383.145, F.S., relating to newborn and infant hearing screenings.
Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill will negatively affect DOH due to the increase in workload for the NBHS program. DOH anticipates the need to hire one new FTE to support follow-up for the additional CCMV tests which would be necessitated by the provisions of the bill.[46] Based on a review of currently vacant positions within the Children's Medical Services Program, the department can absorb the workload within existing resources.

   DOH anticipates that the Early Steps Program, the Children's Medical Services Early Intervention Program, would require increased Federal Grants trust fund authority of approximately $917,490.[47] The department has the authority to request additional federal trust fund authority up to $1,000,000 pursuant to ss. 216.181(11) and 216.212, F.S., once DOH knows how many additional children will be eligible for evaluation and monitoring.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Medicaid, private insurers, and families would be billed for the CCMV tests. The estimated cost for CCMV testing by urine polymerase chain reaction range from $69 to $346 per test. Hospitals, birthing facilities, and primary care providers could also incur the cost for additional testing supplies and equipment if they are not equipped to test for CCMV.[48]

D. FISCAL COMMENTS:

[45] *Id*.
[46] *Id.*
[47] *Id*.
[48] *Id*.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DOH has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Healthcare Regulation Subcommittee adopted an amendment to HB 499 and reported the bill favorably as a committee substitute. The amendment:

- Revised the conditions under which a newborn must be tested for CCMV; and
- Requires the receiving hospital to initiate CCMV testing for a newborn who has been transferred to another hospital for a higher level of care, unless already initiated by the birthing facility or transferring hospital.

The analysis is drafted to the bill as amended by the Healthcare Regulation Subcommittee.

A bill to be entitled

An act relating to congenital cytomegalovirus screenings; amending s. 383.145, F.S.; requiring certain hospitals to administer congenital cytomegalovirus screenings on newborns admitted to the hospital under specified circumstances; requiring that the screenings be initiated within a specified timeframe; providing construction; providing coverage under the Medicaid program for the screenings and any medically necessary follow-up reevaluations; requiring that newborns diagnosed with congenital cytomegalovirus be referred to a primary care physician for medical management, treatment, and follow-up services; requiring that children diagnosed with a congenital cytomegalovirus infection without hearing loss be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for evaluation and any medically necessary follow-up reevaluations and monitoring under the program; providing an effective date.

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

Section 1. Paragraphs (a), (k), and (l) of subsection (3) of section 383.145, Florida Statutes, are amended to read:

383.145 Newborn and infant hearing screening.—

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a)1. Each hospital or other state-licensed birthing facility that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birthing facility must administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age or before discharge, whichever occurs earlier.

2. Each hospital that provides neonatal intensive care services shall administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test to screen for congenital cytomegalovirus in each newborn admitted to the hospital as a result of a premature birth occurring before 35 weeks' gestation, for cardiac care, or for medical or surgical treatment requiring an anticipated stay of 3 weeks or longer. Such screening must be initiated before the newborn becomes 21 days of age.

3. If a newborn requires transfer to another hospital for a higher level of care, the receiving hospital must initiate the

congenital cytomegalovirus screening if the screening has not already been performed by the transferring hospital or the birthing facility. For newborns transferred or admitted for intensive and prolonged care, the congenital cytomegalovirus screening must be initiated regardless of whether the newborn failed a hearing screening.

(k) The initial procedures ~~procedure~~ for the congenital cytomegalovirus screening and the hearing screening of the newborn or infant and any medically necessary follow-up reevaluations leading to diagnosis are ~~shall be a~~ covered benefits ~~benefit~~ for Medicaid patients covered by a fee-for-service program. For Medicaid patients enrolled in HMOs, providers must ~~shall~~ be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service is ~~may~~ not ~~be~~ considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental policies, must ~~shall~~ compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are eligible to bill Medicaid for the professional and technical component of each procedure code.

(l) A child ~~who is~~ diagnosed as having permanent hearing

loss or a congenital cytomegalovirus infection must be referred to the primary care physician for medical management, treatment, and follow-up services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age ~~who is~~ diagnosed as having hearing loss that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides. A child diagnosed with a congenital cytomegalovirus infection without hearing loss must be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for a baseline evaluation and any medically necessary follow-up reevaluations and monitoring.

Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 515 Protection of Specified Adults
SPONSOR(S): Insurance & Banking Subcommittee, Silvers and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 556

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	18 Y, 0 N, As CS	Fletcher	Lloyd
2) Health & Human Services Committee		Guzzo	Calamas
3) Commerce Committee			

SUMMARY ANALYSIS

Florida has the second highest percentage of senior residents in the nation. In 2022, Florida had an estimated 4.7 million people age 65 and older, approximately 21 percent of the state's population. By 2030, this number is projected to increase to 5.9 million, meaning the elderly will make up approximately one quarter of the state's population and will account for most of the state's growth.

Elder populations are particularly vulnerable to abuse and exploitation due to risk factors associated with aging, such as physical and mental infirmities and social isolation. Common types of elder abuse include neglect, physical abuse, psychological abuse, and financial abuse. Up to 5 million older Americans are abused every year, and the annual loss by victims of financial abuse is estimated to be at least $36.5 billion.

The Adult Protective Services Act, ch. 415, F.S. (Act), codifies Florida's laws relating to the protection of vulnerable adults. The bill amends the Act to increase consumer financial transaction protections.

The bill authorizes a financial institution, which reports suspected financial exploitation of a specified adult, to delay a disbursement or transaction from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner, provided certain conditions are met. When the financial institution takes this action, it must create and maintain for at least five years after the date of the delayed disbursement or transaction a written or electronic record of the delayed disbursement or transaction that includes certain information. The financial institution must also make the required information available for review upon request by the Department of Children and Families (DCF), any law enforcement agency, or any state or federal agency with regulatory authority over the financial institution.

Finally, the bill requires financial institutions to develop certain trainings and policies to educate employees on issues pertaining to financial exploitation of specified adults before placing a delay on any disbursement or transaction.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Elder Population in Florida

As the country's "baby-boom" population reaches retirement age and life expectancy increases, the nation's elder population is projected to increase from 54.1 million in 2019[1] to 80.8 million by 2040.[2] Florida has long been a destination state for senior citizens and has the second highest percentage of senior residents in the nation.[3] In 2022, Florida had an estimated 4.7 million people age 65 and older, approximately 21 percent of the state's population.[4] By 2030, this number is projected to increase to 5.9 million, meaning the elderly will make up approximately one quarter of the state's population and will account for most of the state's growth.[5]

Adult Protective Services Act

The Adult Protective Services Act, ch. 415, F.S. (Act), codifies Florida's laws relating to the protection of vulnerable adults. The Act defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability, or brain damage, or the infirmities of aging.[6] The term implicitly includes elderly persons, but also incorporates disabled adults and other adults whom the Legislature has determined to be at risk of abuse, neglect, and exploitation, and in need of protective services.[7]

The Department of Children and Families (DCF) protects vulnerable adults from abuse, neglect, and exploitation through mandatory reporting and investigation of suspected abuse pursuant to the Act.[8] In 2022, DCF received 30,581 reports of abuse, neglect, or exploitation of persons aged 60 or older.[9]

Financial Abuse in Elder Populations

Elder populations are particularly vulnerable to abuse and exploitation due to risk factors associated with aging, such as physical and mental infirmities and social isolation.[10] Common types of elderly abuse include neglect, physical abuse, psychological abuse, and financial abuse.[11] Up to 5 million older Americans are abused every year, and the annual loss by victims of financial abuse is estimated to be at least $36.5 billion.[12]

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[1] U.S. Census Bureau, *65 and Older Population Grows Rapidly as Baby Boomers Age* (June 25, 2020), Release Number: CB20-99, https://www.census.gov/newsroom/press-releases/2020/65-older-population-grows.html (last visited Jan. 10, 2024).
[2] U.S. Department of Health and Human Services Administration on Aging, *2020 Profile of Older Americans* (May 2021), https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2020ProfileOlderAmericans.Final_.pdf (last visited Jan. 10, 2024)
[3] *Id.*
[4] U.S. Census Bureau, *Quick Facts – Florida,* https://www.census.gov/quickfacts/fact/table/FL# (last visited Jan. 10, 2024).
[5] [5] Florida Office of Economic & Demographic Research, *Florida Population by Age Group.* Available at http://edr.state.fl.us/Content/population-demographics/data/pop_census_day-2020.pdf (last visited Jan. 10, 2024).
[6] S. 415.102(28), F.S.
[7] S. 415.101(2), F.S.
[8] *Id.*
[9] Email from Tarah Yeager, Gubernatorial Fellow, Department of Children and Families, Re: APS Statistics Info Request (March 22, 2023). On file with the Health and Human Services Committee.
[10] U.S. Department of Justice, *About Elder Abuse,* https://www.justice.gov/elderjustice/about-elder-abuse (last visited Jan. 10, 2024)..
[11] U.S. Department of Justice, *Types of Elder Abuse*, https://www.justice.gov/elderjustice/about-elder-abuse (last visited Jan. 10, 2024).
[12] National Council on Aging, *Get the Facts on Elder Abuse*, https://www.ncoa.org/article/get-the-facts-on-elder-abuse (last visited Jan. 10, 2024).

Financial abuse occurs when someone takes or misuses another person's money or property for the benefit of someone other than that person.[13] For example, neighbors, caregivers, professionals, and even family or friends may take money without permission, fail to repay the money they owe, charge too much for services, or not even do what they were paid to do.[14]

FINANCIAL SCAMS

Fraudulent scams that target elderly individuals are on the rise.[15] The most common fraudulent scams targeting these populations include:

- ***Government impersonation scams***, in which scammers call unsuspecting older adults and pretend to be from the Internal Revenue Service, Social Security Administration, or Medicare. They may say the older adult has unpaid taxes and threaten arrest if they do not pay immediately. Alternatively, the scammers may say Social Security or Medicare benefits will be cut off if the older adult does not provide personal identifying information, which can later be used to commit identity theft.[16]
- ***Sweepstakes scams***, in which scammers call an older adult to tell them have won a lottery or prize of some kind. If the older adult wants to claim their winnings, the older adult must send money, cash, or gift cards to cover supposed taxes and processing fees, or the older adult must send their bank account information to receive the alleged winnings.[17]
- ***Computer tech support scams***, which prey on older people's lack of knowledge about computers and cybersecurity. A pop-up message or blank screen usually appears on a computer or phone, telling the user their device is damaged and needs fixing. When the older person calls the support number for help, the scammer may either request remote access to the older person's computer and/or demand they pay a fee to have it repaired.[18]
- ***"Grandparent" scams***, in which a scammer calls a would-be grandparent and says something along the lines of: "Hi, Grandma, do you know who this is?" When the unaware grandparent guesses the name of the grandchild the scammer most sounds like, the scammer is able to instantly secure their trust. The fake grandchild then asks for money to solve some urgent financial problem (such as overdue rent, car repairs, or jail bond).[19]

In 2022, there were 88,262 complaints of fraud from people aged 60 years or older, resulting in $3.1 billion in losses.[20] This was a 82.35 percent increase in losses compared to 2021.[21] Financial scams are devastating to many older adults and can leave them in a vulnerable position, with limited ability to recover their losses.[22]

[13] Consumer Financial Protection Bureau, Reporting Elder Financial Abuse, https://www.consumerfinance.gov/consumer-tools/educator-tools/resources-for-older-adults/reporting-elder-financial-abuse-guide/ (last visited Jan. 10, 2024).
[14] *Id.*
[15] U.S. Department of Justice: Office of Victims of Crime, *National Elder Fraud Hotline*, https://ovc.ojp.gov/program/stop-elder-fraud/providing-help-restoring-hope#financial-scams-and-abuses-that-target-older-people-are-happenin (last visited Jan. 29, 2024).
[16] National Council on Aging, *supra* note 12.
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] Federal Bureau of Investigation Internet Crime Complaint Center, *2022 Internet Crime Report*, https://www.ic3.gov/Media/PDF/AnnualReport/2022_IC3Report.pdf (last visited Jan. 10, 2024). *See also*, National Council on Aging, *supra* note 12.
[21] *Id.*
[22] National Council on Aging, *supra* note 12.

Regulation of Financial Institutions in Florida

The Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission (Commission)[23] relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.[24] OFR has four divisions: the Division of Consumer Finance, the Division of Financial Institutions, the Division of Securities, and the Bureau of Financial Investigations.[25]

Florida law broadly defines the term "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.[26]

Banks and credit unions in the United States are chartered and regulated under a dual banking system.[27] These institutions may elect to have a national charter and a federal primary regulator, or they may choose to be chartered and regulated by the state in which they are headquartered.[28] OFR's Division of Financial Institutions:

- Conducts periodic risk-based examinations and ensures that each state-chartered financial institution meets state and federal requirements for safety and soundness;[29] and
- Administers Florida's financial institutions codes,[30] which apply to all state-authorized and state-chartered financial institutions and to the enforcement of all laws relating to such institutions.[31]

Under Florida law, the books and records of a financial institution are confidential and shall be made available for inspection and examination under certain circumstances, including:

- To OFR or its duly authorized representative;
- To any person duly authorized to act for the financial institution;
- To any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured financial institution;
- With respect to an international banking corporation or international trust entity, to the home-country supervisor of the international banking corporation or international trust entity, provided certain conditions are met;
- As compelled by legislative subpoena as provided by law;
- As compelled by a court of competent jurisdiction, pursuant to a subpoena issued pursuant to certain rules,[32] or pursuant to a subpoena issued in accordance with state or federal law;[33]

[23] OFR is housed within the Financial Services Commission (Commission). The Commission is comprised of four members: the Governor, Attorney General, Chief Financial Officer, and the Commissioner of Agriculture. *See* Office of Financial Regulation, *Financial Services Commission*, https://flofr.gov/sitepages/financialservicescommission.htm (last visited Jan. 26, 2024).
[24] S. 20.121(3)(a)2., F.S.
[25] Office of Financial Regulation, *Our Agency Divisions*, https://flofr.gov/default.htm (last visited Jan. 26, 2024).
[26] S. 655.005(1)(i), F.S.
[27] Office of Financial Regulation, Agency Analysis of 2024 House Bill 515, p. 2 (Jan. 4, 2025).
[28] *Id.*
[29] Office of Financial Regulation, *Division of Financial Institutions: What We Do*, https://flofr.gov/sitePages/DivisionOfFinancialInstitutions.htm (last visited Jan. 26, 2024).
[30] Chs. 655-667, F.S.
[31] Ss. 655.001(1) and 655.012(1), F.S.
[32] Specifically, the Florida Rules of Civil Procedure, the Florida Rules of Criminal Procedure, or the Federal Rules of Civil Procedure. *See* s. 655.059(1)(e), F.S.
[33] Before the production of the books and records of a financial institution under these circumstances, the party seeking production must reimburse the financial institution for the reasonable costs and fees incurred in compliance with the production. If the parties disagree regarding the amount of reimbursement, the party seeking the records may request the court or agency having jurisdiction to set the amount of reimbursement.

- Pursuant to a subpoena, to any federal or state law enforcement or prosecutorial instrumentality authorized to investigate suspected criminal activity;
- As authorized pursuant to the board of directors of the financial institution; and
- As otherwise provided by law.[34]

A person who willfully violates the provisions of Florida law described above relating to unlawful disclosure of confidential information is guilty of a felony of the third degree, punishable as provided by Florida's criminal laws.[35]

Effect of the Bill

The bill amends the Act to create definitions for the following terms:

- "Financial exploitation" means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:
    - Obtain control over the specified adult's money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or
    - Divert the specified adult's money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.
- "Financial institution" means a state financial institution or a federal financial institution as those terms are defined under s. 655.005(1), F.S.[36]
- "Specified adult" means a natural person 70 years of age or older, or a vulnerable adult as defined in s. 415.102, F.S.[37]
- "Trusted contact" means a natural person 18 years of age or older whom the account owner has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about the account.

The bill authorizes a financial institution, which reports suspected financial exploitation of a specified adult, to delay a disbursement or transaction from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner, provided certain conditions are met. When the financial institution takes this action, it must notify in writing all parties authorized to transact business on the account and create and maintain for at least five years after the date of the delayed disbursement or transaction a written or electronic record of the delayed disbursement or transaction that includes certain information. The financial institution must also make the required information available for review upon request by the Department of Children and Families (DCF), any law enforcement agency, or any state or federal agency with regulatory authority over the financial institution. This proposed requirement appears to eliminate the necessity for a subpoena under certain circumstances.[38] While law enforcement is generally required to obtain a subpoena to access books and records,[39] the bill requires financial institutions to make these records available for review by law

[34] S. 655.059(1), F.S. *See* s. 655.059(2) for a list of other persons that are authorized by Florida law to inspect the books and records of a financial institution.
[35] S. 655.059(1)(c), F.S. The specific provisions of Florida's criminal laws under which a person may be punished for a violation includes ss. 755.802, 755.083, and 755.084, F.S.
[36] S. 655.005(1) defines "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. "State financial institution" means a state-chartered or state-organized financial institution, and "federal financial institution" means a federally or nationally chartered or organized financial institution. *See* ss. 655.005(1)(h), (i), and (w), F.S.
[37] S. 415.102, F.S., defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.
[38] Office of Financial Regulation, *supra* note 27, p. 4.
[39] *See* s. 655.059(1)(e), F.S.

enforcement agencies that are engaged in an investigation under s. 417.104, F.S., regardless of whether the law enforcement agency has a subpoena or search warrant.[40]

The bill also requires financial institutions to develop certain trainings and policies to educate employees on issues pertaining to financial exploitation of specified adults before placing a delay on any disbursement or transaction. Specifically, a financial institution must:

- Develop training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of specified adults;
- Conduct training for all employees at least annually and maintain a written record of all trainings conducted; and
- Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

A delay on a disbursement or transaction expires 5 business days after the date on which the delay was first placed. However, the financial institution may extend the delay for up to 7 additional calendar days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. However, a financial institution is not prevented from terminating a delay after communicating with the parties authorized to transact business on the account and any trusted contact on the account.

The bill provides that, absent a reasonable belief of financial exploitation, a financial institution's obligations to parties authorized to transact business on an account or any trusted contact named on such account are not otherwise altered. Further, the bill does not create new rights for or impose new obligations on financial institutions under other applicable laws.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 415.10341, F.S., relating to protection of specified adults.
Section 2: Provides an effective date of July 1, 2024.

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:

[40] Office of Financial Regulation, *supra* note 27, p. 4.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate positive impact on specified adults to the extent the bill allows financial institutions to delay a financial transaction if an employee at the institution reasonably suspects financial abuse of a specified adult. Accordingly, it is foreseeable that fewer specified adults will be able to effectuate a financial transaction procured by improper methods.

The bill has an indeterminate negative impact on financial institutions to the extent that such institutions decide to delay disbursements as provided by the bill. Further, if the financial institution does decide to delay disbursements, the institution must first comply with the conditions provided by the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rule-making or rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 49-77: The language relating to legislative intent may be used unfavorably by courts in statutory interpretation. An amendment could address this possibility by removing the language from the bill.

Lines 98-99: The requirement that a financial institution create and maintain for at least 5 years after the date of a delayed disbursement or transaction a written or electronic record of certain information seemingly creates a future obligation to a condition precedent. An amendment could address this issue by moving the requirement to maintain the records for 5 years to a new subsection of proposed s. 415.10341, F.S.

Lines 110-114: The provisions of the bill authorize a financial institution to make the name and address of a specified adult available to "any law enforcement agency" conducting an investigation under s. 415.104, F.S. The following issues were pointed out by OFR in their formal analysis of these lines of the bill:

- The information required to be made available may be protected by the Right to Financial Privacy Act (RFPA),12 U.S.C. § 3401 et seq.[41] Pursuant to RFPA, a federal government authority generally must seek a subpoena to access such books and records, and may only request financial records pursuant to a formal written request under certain conditions, one of which includes serving a copy of the request upon the customer.[42] As the bill is drafted to

[41] Office of Financial Regulation, *supra* note 27, p. 7.
[42] *See* 12 U.S.C. s. 3408. *See also*, Office of Financial Regulation, *supra* note 27, p. 7.

govern "any law enforcement agency," it may be read to expand the powers of federal law enforcement agencies to the extent they may be involved with such an investigation.[43] Further, state-chartered banks and credit unions are subject to federal regulation from the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA), respectively.[44] The lack of a subpoena requirement in lines 110-114 may conflict with various regulations of FDIC and NCUA governing confidentiality.[45] As such, state-chartered banks and credit unions may be forced to determine whether to comply with federal law or state law upon a request from a law enforcement agency which is unaccompanied by a subpoena.[46]

- It is unclear whether the "request" referenced in these lines of the bill must be in writing and whether, and how, the financial institution should maintain the request as a record.[47] As such, it may be difficult or impossible for an OFR examiner to make a determination about which law should apply to the release of records pertaining to specified adults, and whether the financial institution acted in compliance.[48]

An amendment could address the first issue by removing the requirement that the financial institution make the information available for review by the specified entities. An amendment could address the second issue by clarifying how the referenced request should be made.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment made the following changes:

- Changed the definition of a "specified adult" to mean a natural person 70 years of age or older, rather than 65 years of age or older;
- Provided that a delay on a disbursement or transaction expires 5 business days after date on which the delay was first placed, rather than 15 business days;
- Allowed a financial institution to extend a delay for up to 7 additional calendar days under certain circumstances, rather than 10 additional business days; and
- Removed the proposed grant of administrative and civil immunity to a financial institution based on certain circumstances.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

[43] Office of Financial Regulation, *supra* note 27, p. 7.
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*

A bill to be entitled

An act relating to protection of specified adults; creating s. 415.10341, F.S.; defining terms; providing legislative findings and intent; authorizing financial institutions, under certain circumstances, to delay a disbursement or transaction from an account of a specified adult; requiring the financial institution to make certain information available upon request by certain entities; specifying that a delay on a disbursement or transaction expires on a certain date; authorizing the financial institution to extend the delay under certain circumstances; authorizing a court of competent jurisdiction to shorten or extend the delay; providing construction; requiring financial institutions to take certain actions before placing a delay on a disbursement or transaction; providing construction; providing an effective date.

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

Section 1. Section 415.10341, Florida Statutes, is created to read:

415.10341 Protection of specified adults.—

(1) As used in this section, the term:

(a) "Financial exploitation" means the wrongful or

unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:

1. Obtain control over the specified adult's money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or

2. Divert the specified adult's money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.

(b) "Financial institution" means a state financial institution or a federal financial institution as those terms are defined under s. 655.005(1).

(c) "Specified adult" means a natural person 70 years of age or older, or a vulnerable adult as defined in s. 415.102.

(d) "Trusted contact" means a natural person 18 years of age or older whom the account owner has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about the account.

(2) The Legislature finds that many persons in this state, because of age or disability, are at increased risk of financial exploitation and loss of their assets, funds, investments, and investment accounts. The Legislature further finds that

specified adults in this state are at a statistically higher risk of being targeted for financial exploitation, regardless of diminished capacity or other disability, because of their accumulation of substantial assets and wealth compared to younger age groups. In enacting this section, the Legislature recognizes the freedom of specified adults to manage their assets, make investment choices, and spend their funds, and intends that such rights may not be infringed absent a reasonable belief of financial exploitation as provided in this section. The Legislature therefore intends to provide for the prevention of financial exploitation of such persons. The Legislature intends to encourage the constructive involvement of financial institutions that take action based upon the reasonable belief that specified adults who have accounts with such financial institutions have been or are the subject of financial exploitation. The Legislature intends to balance the rights of specified adults to direct and control their assets, funds, and investments and to exercise their constitutional rights consistent with due process with the need to provide financial institutions the ability to place narrow, time-limited restrictions on these rights in an effort to decrease specified adults' risk of loss due to abuse, neglect, or financial exploitation.

(3) If a financial institution reports suspected financial exploitation of a specified adult pursuant to s. 415.1034, it

may delay a disbursement or transaction from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if all of the following apply:

(a) The financial institution immediately initiates an internal review of the facts and circumstances that caused an employee of the financial institution to report suspected financial exploitation.

(b) Not later than 3 business days after the date on which the delay was first placed, the financial institution:

1. Notifies in writing all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided for the account, with the exception of any party an employee of the financial institution reasonably believes has engaged in, is engaging in, has attempted to engage in, or will attempt to engage in the suspected financial exploitation of the specified adult. The notice, which may be provided electronically, must provide the reason for the delay.

2. Creates and maintains for at least 5 years after the date of the delayed disbursement or transaction a written or electronic record of the delayed disbursement or transaction that includes, at minimum, the following information:

a. The date on which the delay was first placed.

b. The name and address of the specified adult.

c. The business location of the financial institution.

d. The name and title of the employee who reported suspected financial exploitation of the specified adult pursuant to s. 415.1034.

e. The facts and circumstances that caused the employee to report suspected financial exploitation.

(4) The financial institution must make the information required in subparagraph (3)(b)2. available for review upon request by the department, any law enforcement agency conducting an investigation under s. 415.104, or any state or federal agency with regulatory authority over the financial institution.

(5) A delay on a disbursement or transaction under subsection (3) expires 5 business days after the date on which the delay was first placed. However, the financial institution may extend the delay for up to 7 additional calendar days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. This subsection does not prevent a financial institution from terminating a delay after communication with the parties authorized to transact business on the account and any trusted contact on the account.

(6) Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution

must do all of the following:

(a) Develop training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of specified adults.

(b) Conduct training for all employees at least annually and maintain a written record of all trainings conducted.

(c) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

(7) Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

(8) This section does not create new rights for or impose new obligations on a financial institution under other applicable law.

Section 2. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Silvers offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 415.10341, Florida Statutes, is created to read:

415.10341 Protection of specified adults.—

(1) As used in this section, the term:

(a) "Financial exploitation" means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an adult individual; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of an individual, to:

1. Obtain control over the individual's money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or

2. Divert the individual's money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.

(b) "Financial institution" means a state financial institution or a federal financial institution as those terms are defined under s. 655.005(1).

(c) "Trusted contact" means a natural person 18 years of age or older whom the account owner has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about the account.

(2) If a financial institution reports suspected financial exploitation of an individual pursuant to s. 415.1034, it may delay a disbursement or transaction from an account of the individual or an account for which the individual is a beneficiary or beneficial owner if all of the following apply:

(a) The financial institution immediately initiates an internal review of the facts and circumstances that caused an employee of the financial institution to report suspected financial exploitation.

(b) Not later than 3 business days after the date on which the delay was first placed, the financial institution:

1. Notifies in writing all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided for the account, with the exception of any party an employee of the financial institution reasonably believes has engaged in, is engaging in, has attempted to engage in, or will attempt to engage in the suspected financial exploitation of the individual. The notice, which may be provided electronically, must provide the reason for the delay.

2. Creates and maintains a written or electronic record of the delayed disbursement or transaction that includes, at minimum, the following information:

a. The date on which the delay was first placed.

b. The name and address of the individual.

c. The business location of the financial institution.

d. The name and title of the employee who reported suspected financial exploitation of the individual pursuant to s. 415.1034.

e. The facts and circumstances that caused the employee to report suspected financial exploitation.

(3) The financial institution must maintain for at least 5 years after the date of a delayed disbursement or transaction a written or electronic record of the information required by s. 415.10341(2)2.

(4) A delay on a disbursement or transaction under subsection (2) expires 5 business days after the date on which the delay was first placed. However, the financial institution may extend the delay for up to 7 additional calendar days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief that financial exploitation of the individual has occurred, is occurring, has been attempted, or will be attempted. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. This subsection does not prevent a financial institution from terminating a delay after communication with the parties authorized to transact business on the account and any trusted contact on the account.

(5) Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution must do all of the following:

(a) Develop training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of individuals.

(b) Conduct training for all employees at least annually and maintain a written record of all trainings conducted.

(c) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in

which suspected financial exploitation is required to be reported to supervisory personnel.

(6) Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

(7) This section does not create new rights for or impose new obligations on a financial institution under other applicable law.

Section 2. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert: An Act relating to protection of specified adults; creating s. 415.10341, F.S.; defining terms; authorizing financial institutions, under certain circumstances, to delay a disbursement or transaction from an account of an individual; specifying that a delay on a disbursement or transaction expires on a certain date; authorizing the financial institution to extend the delay under certain circumstances; authorizing a court of competent jurisdiction to shorten or extend the delay; providing construction; requiring financial institutions to take certain actions before placing a delay on a disbursement or

transaction; providing construction; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 547 Dentistry
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	16 Y, 0 N	Osborne	McElroy
2) Health Care Appropriations Subcommittee	15 Y, 0 N	Aderibigbe	Clark
3) Health & Human Services Committee		Osborne	Calamas

SUMMARY ANALYSIS

The Board of Dentistry (BOD), within the Department of Health (DOH), regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants licensed under the Dental Practice Act. A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures. There are currently 17,193 dentists with active licenses to practice in Florida.

Prior to October 2011, the dental licensure examination was developed and administered by the Board and the Department of Health. As of October 1, 2011, Florida stopped administering its own practical and clinical dental examinations, and the American Dental License Examination (ADEX), developed by the American Board of Dental Examiners, Inc., replaced the Florida Diagnostic Skills Examination as Florida's dental licensure exam. The ADEX is administered by the CDCA-WREB-CITA© (CDCA).

Current law includes requirements which are now obsolete as Florida no longer develops or administers its own dental licensure exam. Current law also specifies that a passing score on the ADEX is only valid for 365 days after the date that the results were published.

Current law requires all applicants for dental licensure who relocate to Florida and apply for dental licensure with ADEX scores obtained in a different state engage in full-time practice during their first year of licensure within the geographical bounds of Florida.

HB 547 significantly revises the dental licensure requirements relating to the dental licensure exam. The bill deletes language which has been made obsolete through the use of a national licensure exam.

The bill also deletes the provision making ADEX scores valid for only 365 days after the scores were published. The bill revises experience requirements for licensure for dentists who have active, valid licensure in another United States jurisdiction. The bill deletes the requirement that out-of-state licensed dentists engage in full-time practice during their first year of licensure within the geographical bounds of Florida.

The bill has an insignificant, negative fiscal impact on DOH, and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Regulation of Dental Practice in Florida

The Board of Dentistry (BOD), within the Department of Health (DOH), regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants who are licensed under the Dental Practice Act.[1] A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.[2]

There are currently 17,193 dentists with active licenses to practice in Florida. There are 41 out-of-state registered telehealth dentists.[3]

Dental Licensure

Any person wishing to practice dentistry in this state must meet specific education and examination requirements and apply to DOH for licensure. The applicant must submit two recent photographs with their application and verify the accuracy of their application by oath.[4]

To be eligible for dental licensure, an applicant must apply to the DOH to take and pass the following examinations:[5]

- The American Dental License Examination (ADEX); and
- An examination on Florida laws and rules relating to dentistry.

The American Dental License Examination (ADEX)

Prior to October 2011, the dental licensure examination was developed and administered by the Board and the Department of Health. As of October 1, 2011, Florida stopped administering its own practical and clinical dental examinations, and the American Dental License Examination (ADEX), developed by the American Board of Dental Examiners, Inc., replaced the Florida Diagnostic Skills Examination as Florida's dental licensure exam.[6] The ADEX is inclusive of a comprehensive diagnostic skills examination covering the full scope of the practice of dentistry.[7] The ADEX is administered by the CDCA-WREB-CITA© (CDCA).[8]

The ADEX is administered by the CDCA in two formats: the Curriculum Integrated Format (CIF) and the Traditional Format. The CIF is administered throughout the candidate's third and fourth year of dental school. The Traditional Format is administered during the candidate's fourth year. Due to this type of administration, dental students complete the ADEX prior to applying for licensure.[9] The ADEX examination fee is $2,795.00[10] and is paid directly to the CDCA by the applicant.[11] Current law requires

[1] S. 466.004, F.S.
[2] S. 466.003(3), F.S.
[3] *See*, Department of Health, *License Verification* web search. Available at https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders (last visited January 14, 2023).
[4] S. 466.006(1)(b), F.S.
[5] S. 466.006, F.S.
[6] Department of Health, *Agency Bill Analysis for HB 547* (2024). On file with the Health & Human Services Committee.
[7] Rule 64B5-2.013, F.A.C.
[8] *Supra*, note 6.
[9] *Id.*
[10] CDCA, *ADEX Dental: Examination Overview*. Available at https://adextesting.org/adex-dental/ (last visited January 31, 2024).
[11] *Supra*, note 6.

DOH to consult with the BOD in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration on the examination.[12]

To take the ADEX clinical examination for dentists, an applicant must be at least 18 years of age and:

- Be a graduate of a dental school accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) or its successor entity, if any, or any other dental accrediting entity recognized by the US Department of Education;
- Be a dental student in the final year of a program at an ADA-CODA accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. A passing score on the examination is valid for 365 days;[13] and
- Have completed Part I and II of the National Board Dental Examination (NBDE), administered by the Joint Commission on National Dental Examinations (JCNDE);[14] or
- Have an active health access dental license in this state; and
    - The applicant has 5,000 hours within four consecutive years of clinical practice experience providing direct patient care in a health access setting; the applicant is a retired veteran dentist of any branch of the US Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within three consecutive years of clinical practice experience providing direct patient care in a health access setting, or the applicant has provided a portion of his or her salaried time teaching health profession students in any public education setting and has at least 3,000 hours within three consecutive years of clinical practice experience providing direct patient care in a health access setting; and
    - The applicant has not been disciplined by the BOD, except for citation offenses or minor violations;
    - No claim or action for damages for personal injury alleged to have been caused by error, omission, or negligence in the performance of the licensee's professional services has been reported to the Office of Insurance Regulation; and
    - The applicant has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

A person who has graduated from a dental school that is not accredited by the ADA-CODA, a US Department of Education-recognized dental accrediting entity, or otherwise approved by the BOD, may only sit for the ADEX after they submit proof of the following to the BOD:[15]

- At least two consecutive academic years at a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation. This program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the ADA-CODA; and
- Successful completion of Part I and II of the National Board Dental Examination (NBDE), administered by the Joint Commission on National Dental Examinations (JCNDE).

The BOD will then confirm an applicant's eligibility and notify the CDCA.[16]

Current law specifies that a passing score on the ADEX is only valid for 365 days after the date that the results were published.[17] This provision presents issues for some licensure applicants who completed dental school and passed the ADEX in Florida, but choose to pursue residency without first obtaining a

[12] S. 466.006(5), F.S.
[13] S. 466.006(4), F.S.
[14] American Dental Association, Joint Commission on National Dental Examinations, *Upholding Quality Oral Care For All.* Available at https://jcnde.ada.org/ (last visited January 31, 2024).
[15] Florida Board of Dentistry, *Dentist – Process*. Available at https://floridasdentistry.gov/licensing/dentist/#tab-process (last visited January 31, 2024).
[16] *Id*.
[17] S. 466.006(4), F.S.

Florida dental license. A licensure applicant who graduated from an accredited Florida dental school may have passed the ADEX and then leave the state to complete a residency without first obtaining a Florida dental license. Upon returning to Florida, such person's ADEX scores will be invalid due to the length of time that has passed and the person will be required to take and pass the ADEX again to be eligible for licensure in Florida.[18]

The results of the ADEX administered out-of-state are valid for Florida licensure, however, such exam scores are also only valid for 365 days after the date that the results were published. A licensure applicant who passed the ADEX in another state more than 365 days prior is still eligible for licensure, but must meet the following additional requirements:[19]

- Confirmation that the applicant completed the ADEX examination after October 1, 2011.
- Graduation from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. If the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least two consecutive academic years at such accredited institution.
- Verification that the applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory.
- Submission of proof that the applicant has never been reported to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse, unless successfully appealed.
- Submission of proof that the applicant has been consecutively engaged in the full-time[20] practice of dentistry in another state or territory in the five years, or since the date of initial licensure if less than five years, immediately preceding the date of application for licensure.

In Fiscal Year 2022-2023, 175 applicants applied for dental licensure in Florida with ADEX scores issued in another state and older than 365 days. Of the 175 applicants, 127 met the additional requirements to become licensed in Florida.[21]

All applicants for dental licensure who apply for dental licensure with ADEX scores obtained in a different state must engage in full-time practice during their first year of licensure within the geographical bounds of Florida. Full-time practice is defined as 1,200 hours. Thirty days prior to the expiration of license, the BOD is required to notify the licensee of the need to comply with the full-time practice requirement. If the BOD does not receive a response, the licensee must be served with a notice of pending expiration and be given 20 days to submit proof of full-time practice. If no response is received or the licensee if unable to prove full time practice, the BOD will enter an administrative order to expire the license.[22]

Continuing Education

Licensed dentists are required to complete at least 30 hours of continuing education (CE) in dental subjects biennially, as a condition of their licensure renewal. A minimum of two hours of CE must be on

[18] *Supra*, note 6.
[19] S. 466.006(4)(b), F.S.
[20] *See*, S. 466.006(4)(b)2., F.S.; Full-time practice is defined as a minimum of 1,200 hours per year for each year in the consecutive 5-year period or since initial licensure, and must include any combination of the following active clinical practice of dentistry providing direct patient care, full-time practice as a faculty member employed by an accredited dental or dental hygiene school, or full-time practice as a student at an accredited postgraduate dental education program.
[21] *Supra*, note 6.
[22] S. 466.006(6), F.S.

the safe and effective prescribing of controlled substances. The remaining CE courses must contribute directly to the dental education of the dentist and may include attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. The BOD may authorize up to three hours of CE biennially for a practice management course that includes principles of ethical practice management, provides substance abuse, effective communication with patients, time management, and burnout prevention instruction.[23]

Effect of the Bill

HB 547 removes the BOD and DOH from the dental licensure examination administration process. The bill deletes language made obsolete due to the administration of the ADEX by CDCA and codifies the current examination process by eliminating the following requirements:

- Applicants must apply to DOH to sit for the ADEX, and reapply to retake the exam;
- Applicants must submit two photographs to DOH;
- The BOD must set the examination and reexamination fees.
- DOH must consult with the Board of Dentistry in planning all arrangements concerning the administration of the examination; and
- DOH must conduct a mandatory standardization exercise for all examiners.

Under the bill, an applicant who has passed the ADEX will be eligible for dental licensure upon applying to DOH and demonstrating that the applicant is at least 18 years of age and:

- A graduate of an accredited dental school;
- Has successfully completed the examination administered by the JCNDE (the NBDE); and
- Has successfully completed the laws and rules examination.

The bill deletes the provision that ADEX scores are only valid for 365 days.

The bill removes language related to an obsolete licensure pathway for full licensure for a Health Access Dentist which does not include passage of the examination of the NBDE. This language is inconsistent with s. 466.0067(6), F.S., which requires all applicants for a Health Access Dental license to have passed the examination of the NBDE.

The bill revises the requirements for an out-of-state applicant to prove their full-time practice history. The bill removes the requirement that an out of state applicant submit their proof of full-time practice under oath with penalties of perjury and the requirement that someone unrelated to the applicant submit an affidavit relating to the applicant's full-time practice. Under the bill, the applicant would instead be required to prove full-time practice by submitting their annual income tax return filed with the Internal Revenue Service. The bill authorizes the BOD to excuse applicants from the full-time practice requirement in the event of a hardship.

The bill removes the requirement for relocating licensees to engage in full-time practice, defined as a minimum of 1,200 hours, in Florida within one year of receiving such license in order to maintain active, valid licensure in the state.

The bill revises the CE requirements for dentists to allow that the BOD may authorize up to three hours of credit biennially for a practice management course that may include instruction on principles of ethical practice management, provides substance abuse, effective communication with patients, time management, or burnout prevention instruction. This revision clarifies the content of the course and provides than one or more of the listed subjects may be included, as opposed to the current requirement for all of them to be included.

The bill provides an effective date of July 1, 2024.

[23] S. 466.0135, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 466.006, F.S., relating to the examination of dentists.
Section 2: Amends s. 466.009, F.S., relating to reexamination.
Section 3: Amends s. 466.0135, F.S., relating to continuing education; dentists.
Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an insignificant, negative fiscal impact on DOH which current agency resources are adequate to absorb.[24]

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:

Sufficient rule-making authority exists in current law to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[24] Department of Health, *Agency Bill Analysis for HB 547* (2024). On file with the Health & Human Services Committee.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to dentistry; amending s. 466.006, F.S.; deleting the role of the Board of Dentistry in the administration of the licensure examination for dentists; deleting the requirement for the board to establish an examination fee; revising requirements for licensure as a dentist; deleting a time limitation on the validity of certain licensure examination results; conforming provisions to changes made by the act; deleting a requirement that certain applicants for licensure engage in the full-time practice of dentistry inside the geographic boundaries of this state for 1 year after licensure; deleting provisions related to compliance with and enforcement of such requirement; amending s. 466.009, F.S.; conforming a provision to changes made by the act; deleting a board-imposed reexamination fee; amending s. 466.0135, F.S.; revising continuing education requirements for dentists; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1), subsection (2), paragraph (b) of subsection (4), and subsections (5) and (6) of section 466.006, Florida Statutes, are amended to read:

466.006 Examination of dentists.—

(1)

(b) Any person desiring to be licensed as a dentist must ~~shall~~ apply to the department ~~to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs~~. There is ~~shall be~~ an application fee set by the board which may not ~~to~~ exceed $100 and is ~~which shall be~~ nonrefundable. ~~There shall also be an examination fee set by the board, which shall not exceed $425 plus the actual per applicant cost to the department for purchase of some or all of the examination from the American Board of Dental Examiners or its successor entity, if any, provided the board finds the successor entity's clinical examination complies with the provisions of this section. The examination fee may be refundable if the applicant is found ineligible to take the examinations.~~

(2) The department shall license an applicant who the board certifies meets all of the following criteria ~~shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant~~:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting entity recognized by the United States Department of Education;

or

2. Is a dental student ~~in the final year of a program~~ at ~~such~~ an accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the licensure examinations. ~~With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 365 days after the date the examinations were completed.~~ A dental school student who takes the licensure examinations during the student's final year of an approved dental school must graduate ~~have graduated~~ before being certified for licensure pursuant to s. 466.011.

(c)~~1.~~ Has successfully completed the examination administered by the Joint Commission on National Dental Examinations or its successor organization ~~National Board of Dental Examiners dental examination; or~~

~~2. Has an active health access dental license in this state; and~~

~~a. The applicant has at least 5,000 hours within 4 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003; the applicant is a retired veteran dentist of any branch of the United States Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within 3 consecutive years of clinical practice experience~~

~~providing direct patient care in a health access setting as defined in s. 466.003; or the applicant has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003;~~

~~b. The applicant has not been disciplined by the board, except for citation offenses or minor violations;~~

~~c. The applicant has not filed a report pursuant to s. 456.049; and~~

~~d. The applicant has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession~~.

(4) Notwithstanding any other provision of law in chapter 456 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete both of the following:

(b) A practical or clinical examination, which must be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, which ~~that~~ is administered in this state, provided that the board has attained, and continues to maintain thereafter,

representation on the board of directors of the American Board of Dental Examiners, the examination development committee of the American Board of Dental Examiners, and such other committees of the American Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained organizationally. ~~A passing score on the American Dental Licensing Examination administered in this state is valid for 365 days after the date the official examination results are published.~~

1. As an alternative to such practical or clinical examination, an applicant may submit scores from an American Dental Licensing Examination previously administered in a jurisdiction other than this state after October 1, 2011, and such examination results are ~~shall be~~ recognized as valid for the purpose of licensure in this state. A passing score on the American Dental Licensing Examination administered out of state is ~~shall be~~ the same as the passing score for the American Dental Licensing Examination administered in this state. ~~The examination results are valid for 365 days after the date the official examination results are published.~~ The applicant must have completed the examination after October 1, 2011. This subparagraph may not be given retroactive application.

2. If the date of an applicant's passing American Dental Licensing Examination scores from an examination previously administered in a jurisdiction other than this state under

subparagraph 1. is older than 365 days, such scores are nevertheless valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a. The applicant completed the American Dental Licensing Examination after October 1, 2011. This sub-subparagraph may not be given retroactive application.~~;~~

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation. For purposes of this sub-subparagraph, a supplemental general dentistry program does not include an advanced education program in a dental specialty.~~;~~

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has

never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.~~;~~

d. The applicant must disclose to the board during the application process if ~~submits proof that~~ he or she has ~~never~~ been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This sub-subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies.~~;~~

e.(I)(A) The applicant submits proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico in the 5 years immediately preceding the date of application for licensure in this state; or

(B) If the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant submits proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, "full-time practice" is defined as a minimum of 1,200 hours per year for each ~~and every~~

year in the consecutive 5-year period or, when applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(C) Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) ~~Submitted by the applicant under oath with penalties of perjury attached;~~

~~(D)~~ Further documented by an applicant's annual income tax return filed with the Internal Revenue Service for each year in the preceding 5-year period or, if the applicant has been

practicing for less than 5 years, the period since initial licensure ~~affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice~~; and

(D)~~(E)~~ Specifically found by the board to be both credible and admissible.

(IV) The board may excuse applicants from the 1,200-hour requirement in the event of hardship, as defined by the board. ~~An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;~~

f. The applicant submits documentation that he or she has completed, or will complete before he or she is licensed in this state, continuing education equivalent to this state's requirements for the last full reporting biennium.~~;~~

g. The applicant proves that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction.~~;~~

h. The applicant has successfully passed a written

examination on the laws and rules of this state regulating the practice of dentistry and the computer-based diagnostic skills examination.~~; and~~

i. The applicant submits documentation that he or she has successfully completed the applicable examination administered by the Joint Commission on National Dental Examinations or its successor organization.

(5)(a) The practical examination required under subsection (4) is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., or its successor entity, if any, provided the board finds that the successor entity's clinical examination complies with the provisions of this section, and must include, at a minimum, all of the following:

1. A comprehensive diagnostic skills examination covering the full scope of dentistry and an examination on applied clinical diagnosis and treatment planning in dentistry for dental candidates.~~;~~

2. Two restorations on a manikin that has typodont teeth with simulated caries as approved by the Commission on Dental Competency Assessments. The board by rule shall determine the class of such restorations.~~;~~

3. A demonstration of periodontal skills on a manikin that has typodont teeth with simulated calculus as approved by the Commission on Dental Competency Assessments.~~;~~

4. A demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth.~~;~~

5. A demonstration of restorative skills on a manikin which requires the candidate to complete procedures performed in preparation for a cast restoration.~~;~~

6. A demonstration of endodontic skills.~~; and~~

7. A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models pursuant to rules of the board. If an applicant fails to pass the diagnostic skills examination in three attempts, the applicant is not eligible for reexamination unless she or he completes additional educational requirements established by the board.

(b) ~~The department shall consult with the board in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination. The board or a duly designated committee thereof shall approve the final plans for the administration of the examination;~~

~~(c)~~ If the applicant fails to pass the clinical

examination in three attempts, the applicant is ~~shall~~ not ~~be~~ eligible for reexamination unless she or he completes additional educational requirements established by the board.~~; and~~

(c)~~(d)~~ The board may by rule provide for additional procedures that ~~which~~ are to be tested, provided such procedures are ~~shall be~~ common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure and the acceptable variation for examiners. ~~No~~ Such rules may not ~~rule shall~~ apply retroactively.

~~The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise.~~

~~(6)(a) It is the finding of the Legislature that absent a threat to the health, safety, and welfare of the public, the relocation of applicants to practice dentistry within the geographic boundaries of this state, who are lawfully and currently practicing dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, based on their scores from the American Dental Licensing Examination administered in a state other than this state, is substantially related to achieving the important state interest of improving access to dental care for underserved~~

~~citizens of this state and furthering the economic development goals of the state. Therefore, in order to maintain valid active licensure in this state, all applicants for licensure who are relocating to this state based on scores from the American Dental Licensing Examination administered in a state other than this state must actually engage in the full-time practice of dentistry inside the geographic boundaries of this state within 1 year of receiving such licensure in this state. The Legislature finds that, if such applicants do not actually engage in the full-time practice of dentistry within the geographic boundaries of this state within 1 year of receiving such a license in this state, access to dental care for the public will not significantly increase, patients' continuity of care will not be attained, and the economic development goals of the state will not be significantly met.~~

~~(b)1. As used in this section, "full-time practice of dentistry within the geographic boundaries of this state within 1 year" is defined as a minimum of 1,200 hours in the initial year of licensure, which must include any combination of the following:~~

~~a. Active clinical practice of dentistry providing direct patient care within the geographic boundaries of this state.~~

~~b. Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on~~

~~Dental Accreditation and located within the geographic boundaries of this state.~~

~~c. Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.~~

~~2. The board shall develop rules to determine what type of proof of full-time practice of dentistry within the geographic boundaries of this state for 1 year is required in order to maintain active licensure and shall develop rules to recoup the cost to the board of verifying maintenance of such full-time practice under this section. Such proof must, at a minimum:~~

~~a. Be admissible as evidence in an administrative proceeding;~~

~~b. Be submitted in writing;~~

~~c. Be submitted by the applicant under oath with penalties of perjury attached;~~

~~d. Be further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice of dentistry within the geographic boundaries of this state within the last 365 days;~~ ~~and~~

~~e. Include such additional proof as specifically found by~~

~~the board to be both credible and admissible.~~

~~3. An affidavit of only the applicant is not acceptable proof of full-time practice of dentistry within the geographic boundaries of this state within 1 year, unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice within the last 365 days. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath.~~

~~(c) It is the further intent of the Legislature that a license issued pursuant to paragraph (a) shall expire in the event the board finds that it did not receive acceptable proof of full-time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license. The board shall make reasonable attempts within 30 days prior to the expiration of such a license to notify the licensee in writing at his or her last known address of the need for proof of full-time practice in order to continue licensure. If the board has not received a satisfactory response from the licensee within the 30-day period, the licensee must be served with actual or constructive notice of the pending expiration of licensure and be given 20 days in which to submit proof required in order to continue licensure. If the 20-day period expires and the board finds it has not received acceptable proof of full-~~

~~time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license, then the board must issue an administrative order finding that the license has expired. Such an order may be appealed by the former licensee in accordance with the provisions of chapter 120. In the event of expiration, the licensee shall immediately cease and desist from practicing dentistry and shall immediately surrender to the board the wallet-size identification card and wall card. A person who uses or attempts to use a license issued pursuant to this section which has expired commits unlicensed practice of dentistry, a felony of the third degree pursuant to s. 466.026(1)(b), punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 2. Subsection (1) of section 466.009, Florida Statutes, is amended to read:

466.009 Reexamination.—

(1) ~~The department shall permit~~ Any person who fails an examination that ~~which~~ is required under s. 466.006 or s. 466.007 may ~~to~~ retake the examination. ~~If the examination to be retaken is a practical or clinical examination, the applicant shall pay a reexamination fee set by rule of the board in an amount not to exceed the original examination fee.~~

Section 3. Paragraph (c) of subsection (1) of section 466.0135, Florida Statutes, is amended to read:

466.0135 Continuing education; dentists.—

(1) In addition to the other requirements for renewal set out in this chapter, each licensed dentist shall be required to complete biennially not less than 30 hours of continuing professional education in dental subjects, with a minimum of 2 hours of continuing education on the safe and effective prescribing of controlled substances. Programs of continuing education shall be programs of learning that contribute directly to the dental education of the dentist and may include, but shall not be limited to, attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. Programs of continuing education shall be acceptable when adhering to the following general guidelines:

(c) The board may also authorize up to 3 hours of credit biennially for a practice management course that includes instruction on principles of ethical practice management, ~~provides~~ substance abuse, effective communication with patients, time management, or ~~and~~ burnout prevention ~~instruction~~.

Section 4. This act shall take effect July 1, 2024.

CS/HB 581

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 581 Swimming Lesson Voucher Program
SPONSOR(S): Healthcare Regulation Subcommittee, Busatta Cabrera
TIED BILLS: **IDEN./SIM. BILLS:** SB 544

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	16 Y, 0 N, As CS	Curry	McElroy
2) Health Care Appropriations Subcommittee	14 Y, 0 N	Aderibigbe	Clark
3) Health & Human Services Committee		Curry	Calamas

SUMMARY ANALYSIS

In Florida, drowning is the leading cause of accidental death for children under age five. In 2023, 94 children died in Florida from accidental drowning. Florida ranked highest in the country for unintentional drowning death rates for children ages zero to nine and third for children ages zero to 17 years of age. Studies show that swimming lessons can reduce the likelihood of child drownings.

CS/HB 581 creates the Swimming Lesson Voucher Program within the Department of Health (DOH) to increase water safety in Florida and to offer vouchers for swimming lessons, at no cost, to families with children ages four and under. The bill requires DOH to implement the voucher program and contract with swimming lesson vendors to establish a network of providers to participate in the voucher program.

The bill requires DOH to establish a method for the public to apply for vouchers and for determining applicant eligibility criteria. The bill requires vendors offering swimming lessons at a public pool that is owned or maintained by a county or municipality to participate in the program, if requested by DOH.

The bill requires DOH to issue vouchers for the program to eligible applicants, subject to specific appropriation, and authorizes DOH to seek grants or other public or private funding for the program. The bill requires DOH to adopt rules to implement the swimming lesson voucher program.

CS/HB 581 has an insignificant negative fiscal impact on DOH and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Accidental Drownings

On average 3,500 to 4,000 people lose their lives to drowning each year in the United States (U.S.). That is an average of 10 fatal drownings per day.[1] For every fatal drowning, an estimated 5 to 10 individuals receive hospital related care for non-fatal drowning injuries. For children ages one to four, drowning is the leading cause of unintentional injury related death in the U.S.[2]

Drowning is also the leading cause of accidental death in Florida for children ages five and under.[3] In 2023, 94 children died in Florida from accidental drowning.[4] According to the Centers for Disease Control's national injury data, from 2018 to 2020 combined, Florida ranked highest in the country for unintentional drowning death rates for children ages zero to nine and third for children ages zero to 17.[5] According to the Department of Children and Families (DCF), teaching children water safety skills is important in reducing the number child drownings.[6]

Water Safety and Drowning Prevention

Water safety refers to the procedures, precautions, and policies associated with safety in, on and around bodies of water, where there is a risk of injury or drowning.[7] Components of water safety include supervision, creating barriers of protection to prevent access to water, swimming lessons, water safety training to improve water competency, and teaching emergency preparedness, such as training in cardiopulmonary resuscitation (CPR).[8] Water competency is the ability to anticipate, avoid, and survive common drowning situations.[9]

Swimming Lessons

Learning to swim is major component of water safety. It is also a key strategy for reducing accidental drowning deaths. The American Academy of Pediatrics recommends that children ages four and older learn to swim, including through swim lessons that provide instruction on swimming techniques and water survival skills taught by instructors certified through a nationally recognized curriculum.[10] Studies

[1] National Drowning Prevention Alliance (NDPA), *Drowning Quick Facts*, available at https://ndpa.org/drowning-quick-facts/, (last visited January 18, 2024).
[2] *Id*.
[3] Florida Department of Health, Seminole County, *Guide to Drowning Prevention*, available at https://seminole.floridahealth.gov/programs-and-services/environmental-health/drowning-prevention.html, (last visited January 18, 2024).
[4] Florida Department of Children and Families (DCF), *Child Fatality Prevention; Statewide Data*, available at https://www2.myflfamilies.com/childfatality/stateresults.shtml?minage=0&maxage=18&year=2023&cause=Drowning&prior12=&verified=, (last visited January 18, 2024).
[5] Florida Department of Health (DOH), *Drowning Prevention*, available at https://www.floridahealth.gov/programs-and-services/prevention/drowning-prevention/index.html#:~:text=Florida%20had%20the%20highest%20unintentional,(CDC%20national%20injury%20data)., (last visited January 18, 2024).
[6] DCF, *Water Safety for Kids*, available at https://www.myflfamilies.com/services/ child-family/child-and-family-well-being/summer-safety-tips/water-safety/water-safety-kids, (last visited January 18, 2024).
[7] NDPA, *5 Water Safety Facts*, available at https://ndpa.org/5-water-safety-facts/#:~:text=Water%20Safety%20is%20defined%20as,home%20and%20in%20real%20life., (last visited January 18, 2024).
[8] DOH, *Guide to Drowning Prevention*, available at https://seminole.floridahealth.gov/programs-and-services/environmental-health/drowning-prevention.html, and Steve Wallen Swim School, *The Importance of Water Safety and Learning to Swim*, available at https://wallenswim.com/the-importance-of-water-safety-and-learning-to-swim/, (last visited January 18, 2024).
[9] The components of water competency include water-safety awareness, basic swim skills, and the ability to recognize and respond to a swimmer in trouble. See American Academy of Pediatrics, *Prevention of Drowning*, available at https://publications.aap.org/pediatrics/article/143/5/e20190850/37134/Prevention-of-Drowning?autologincheck=redirected, (last visited January 18, 2024).
[10] American Academy of Pediatrics, Swim Lessons: When to Start & What Parents Should Know, https://www.healthychildren.org/English/safety-prevention/at-play/Pages/swim-lessons.aspx, (last visited January 18, 2024).

show that participation in formal swimming lessons reduces the risk of drowning by 88 percent for children ages one to four.[11] Participation in swimming lessons has also been shown to reduce drowning risks among children ages 1 to 19. Evidence suggest that teaching children water competency skills causes no increased risk, particularly if combined with other components of water safety and drowning prevention strategies.[12]

Under current law, any person working as a swimming instructor or lifeguard at a public swimming pool in Florida must be certified by the American Red Cross, the Y.M.C.A., or other nationally recognized aquatic training programs. Swimming instructors and lifeguards must also be certified in first aid and CPR.[13]

Water Safety Initiatives in Florida

In Florida, public schools are required to provide parents initially enrolling their child in school with information on the important role water safety education courses and swimming lessons play in saving lives by helping to prevent drownings.[14] The information provided must include local options for age-appropriate water safety courses and swimming lessons that result in a certificate indicating successful completion. Information on courses and lessons offered for free or at a reduced price must also be included.[15]

The DCF along with several state and local partners, launched the Eyes on the Kids and Water Safety for Kids initiatives to help reduce child drowning fatalities in Florida.[16] The Eyes on the Kids initiative encourages parents to practice the four water safety rules: supervision, barriers, swimming lessons and emergency preparedness. The Water Safety for Kids initiative provides short water safety presentations to elementary schools, book store story times, child care centers, libraries, summer camps, etc. The presentations can include reading water safety books, puppet shows, coloring sheets, costumed characters, and giveaways of small water safety items such as beach balls, stickers, and book marks.[17]

Effect of Bill

CS/HB 581 creates the Swimming Lesson Voucher Program within the Department of Health (DOH) for the purpose of increasing water safety in Florida. The program offers vouchers for swimming lessons, at no cost, to families with children age four or younger. The bill requires DOH to implement the program; in doing so, DOH must contract with swimming lesson vendors to establish a network of vendors who will accept the vouchers offered by the program in exchange for providing swimming lessons. The bill requires DOH to attempt to secure a least one vendor in each county to ensure availability of swimming lessons throughout the state. Any swimming lesson vendor who offers swimming lessons at a public pool that is owned or maintained by a county or municipality must participate in the program, if requested by DOH.

The bill requires DOH to establish a method for members of the public to apply for swimming lesson vouchers and for determining applicant eligibility. The eligibility requirements must include criteria necessary for a family to receive one or more vouchers from the program, including, but not limited to the following:

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[11] National Institute of Health, *Association Between Swimming Lessons and Drowning in Childhood,* Archives Pediatric Medicine, Vol 163 No 3, March 2009, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4151293/pdf/_nihms617357.pdf, (last visited January 19, 2024).
[12] National Library of Medicine, *Learning to Swim: An Exploration of Negative Prior Aquatic Experiences Among Children*, Int J Environ Res Public Health. 2020 May; 17(10): 3557., available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7277817/#:~:text=Participation%20in%20formal%20swimming%20lessons,the%20additional%20drowning%20prevention%20strategies, (last visited January 19, 2024).
[13] S. 514.074, F.S.
[14] S. 1003.225, F.S.
[15] *Id.*
[16] DCF, *Water Safety*¸ available at https://www.myflfamilies.com/services/child-family/child-and-family-well-being/summer-safety-tips/water-safety, (last visited January 18, 2024).
[17] *Id.*

- The age of each child for whom a voucher is being sought, who may be no more than 4 years of age; and
- The family's address of residency in the state.

The bill requires vouchers for the program to be issued to eligible applicants, subject to specific appropriation, and authorizes DOH to seek grants or other public or private funding for the program. The bill requires DOH to adopt rules to implement the swimming lesson voucher program.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 514.073, F.S., relating to the swimming lesson voucher program.
Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has an insignificant negative impact on DOH to establish the swimming lesson voucher program. An analysis of DOH's Medical Quality Assurance Trust Fund indicates that there are sufficient resources available to establish the administrative functions of the program.

   As of January 2024, DOH has 63 vacancies greater than 100 days within the Medical Quality Assurance Services program and has the flexibility to reclassify and transfer positions to meet the demands of the unit.

   The bill creates the framework for the voucher program but does not provide an appropriation for DOH to issue swimming lesson vouchers. The issuance of vouchers to eligible applicants is subject to a specific appropriation. The bill allows DOH to seek grants or other public or private funding for the voucher program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on eligible families seeking swimming lesson vouchers for children through the program.

D. FISCAL COMMENTS:

CS/HB 581 authorizes vouchers for the swimming lesson voucher program be issued subject to specific appropriation. However, the bill does not appropriate funding to DOH for the program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOH to adopt rules to implement the swimming lesson voucher program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 24, 2024, the Healthcare Regulation Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removes the income requirement as an eligibility criterion for participation in the swimming lesson voucher program, making the program available to all eligible families who have children four years of age and younger.

A bill to be entitled

An act relating to the Swimming Lesson Voucher Program; creating s. 514.073, F.S.; creating the program within the Department of Health for a specified purpose; requiring the department to contract with and establish a network of swimming lesson vendors to participate in the program; requiring the department to attempt to secure a vendor in each county; requiring certain vendors to participate in the program if requested by the department; requiring the department to establish an application process; specifying eligibility criteria for the program; providing that the program is subject to specific appropriation; authorizing the department to seek grants or other public and private funding for the program; requiring the department to adopt rules; providing an effective date.

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

Section 1. Section 514.073, Florida Statutes, is created to read:

514.073 Swimming Lesson Voucher Program.—

(1) There is created within the department the Swimming Lesson Voucher Program. The purpose of the program is to

increase water safety in this state by offering vouchers for swimming lessons at no cost to families who have one or more children 4 years of age or younger.

(2) The department shall do all of the following to implement the program:

(a) Contract with and establish a network of swimming lesson vendors that will accept the vouchers offered by the program in exchange for providing swimming lessons. To ensure that the swimming lessons are available throughout this state, the department must attempt to secure at least one such vendor in each county. Any swimming lesson vendor that offers swimming lessons at a public pool that is owned or maintained by a county or municipality must, if requested by the department, participate in the program.

(b) Establish a method for members of the public to apply for swimming lesson vouchers and for determining an applicant's eligibility. The department shall establish eligibility criteria necessary for a family to receive one or more vouchers from the program, including, but not limited to, the following:

1. The age of each child for whom a voucher is being sought, who may be no more than 4 years of age.

2. The family's address of residency in this state.

(c) Subject to specific appropriation, issue vouchers to eligible applicants.

(3) The department may seek grants or other public or

private funding for the program.

(4) The department shall adopt rules to implement the program.

Section 2. This act shall take effect July 1, 2024.

CS/HB 885

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 885 Coverage for Biomarker Testing
SPONSOR(S): Select Committee on Health Innovation, Gonzalez Pittman and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 964

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	15 Y, 0 N, As CS	Lloyd	Calamas
2) Appropriations Committee	27 Y, 0 N	Smith	Pridgeon
3) Health & Human Services Committee		Lloyd	Calamas

SUMMARY ANALYSIS

Biomarker testing is a method of looking for any structure, process, genes, proteins, or other substance in the body that can provide information that can be measured in the body or its products and influence or predict the incidence of outcome or disease. It is a type of personalized or precision medicine where medical care is tailored to a person's specific genes, proteins, and other substances which may be present in a person's body. Biomarker testing is not helpful for all kinds of diseases. With cancer, for example, biomarker testing can help show:

- Whether the cancer is likely to grow or spread;
- Whether certain types of cancer treatments may be more likely or unlikely to be helpful; and
- Whether the cancer treatment is working.

Different types of biomarker tests can be done to help determine the best cancer treatment options or what treatment options are not helpful. Many tests look for gene changes in the cancer cells, while some measure certain proteins or other kinds of markers.

Biomarker testing for other diseases may look at just a single biomarker or check for many biomarkers at the same time (such as patterns of certain genes or proteins). Some tests look at all of the genes inside cancer cells. Biomarker tests may be done on tumor samples removed during a biopsy or surgery, but some biomarker tests can be done on samples of blood or other bodily fluids.

CS/HB 885 would require coverage for biomarker testing in Medicaid and the state group health insurance program. A recipient or insured and health care providers must have access to a clear and convenient process to request authorization for such testing through a readily accessible website of the insurer or plan. Coverage would not be required for biomarker testing for screening purposes.

The bill has an indeterminate, insignificant negative fiscal impact on state government. *See* Fiscal Analysis.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Biomarker Testing

Biomarker testing is a way of looking for genes, proteins, and other substances in the body that can provide information about diseases, such as cancer.[1] In 1988, the International Programme on Chemical Safety, led by the World Health Organization (WHO) and in coordination with the United Nations and the International Labor Organization, defined a biomarker as "any substance, structure, or process that can be measured in the body or its products and influence or predict the incidence of outcome or disease".[2]

An even broader definition of biomarker testing considers not just the incidence and outcome of disease, but also the effects of treatments, interventions, and even unintended environmental exposure, such as to chemicals or nutrients. In its report on the validity of biomarkers in environment risk assessment, the WHO has stated that a true definition of biomarkers includes "almost any measurement reflecting an interaction between a biological system and a potential hazard, which may be chemical, physical, or biological.[3] Biomarker testing is also a type of personalized or precision medicine where medical care is tailored to a person's specific genes, proteins, and other substances which may be present in a person's body.[4]

Biomarker testing is not helpful for every kind of disease, but in the example of biomarker testing for cancer, such testing can help show:

- Whether the cancer is likely to grow or spread.
- Whether certain types of cancer treatments may be more likely or unlikely to be helpful.
- Whether the cancer treatment is working.[5]

Studies indicate that currently only half of patients with cancer in the United States for whom biomarker testing is recommended receive biomarker testing.[6] More than a quarter of patients who did not receive recommended biomarker testing reported that it was because insurance was not covering the test at all and/or they would have incurred high out-of-pocket costs.[7]

Different types of biomarker tests can be done to help determine the best cancer treatment options. Many tests look for gene changes in the cancer cells, while some measure certain proteins or other kinds of markers. Other tests may look at just a single biomarker or check for many biomarkers at the same time (such as patterns of certain genes or proteins). Some tests look at all of the genes inside cancer cells.[8]

Biomarker tests may be done on tumor samples removed during a biopsy or surgery, but some biomarker tests can be done on samples of blood or other bodily fluids without being as invasive.[9] For certain types of cancer, biomarker testing is done routinely to assist with treatment decisions. Some

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[1] National Cancer Institute, *Biomarker Testing for Cancer,* Biomarker Testing for Cancer Treatment - NCI (last visited February 6, 2024).
[2] Kyle Strimbu and Jorge Tavel, M.D., *What are biomarkers?* Curr Opin HIV AIDS. 2010 Nov; 5(6): 463–466, available at doi: 10.1097/COH.0b013e32833ed177 (last visited February 6, 2024).
[3] Id.
[4] American Cancer Society, *Biomarker Tests and Cancer Treatment,* available Biomarker Tests and Cancer Treatment | American Cancer Society (last visited February 6, 2024).
[5] Id.
[6] Chawla A, Peeples M, Li N, Anhorn R, Ryan J, Signorovitch J., *Real-world utilization of molecular diagnostic testing and matched drug therapies in the treatment of metastatic cancers*, *J Med Econ*. 2018; 21:543-552, available at Real-world utilization of molecular diagnostic testing and matched drug therapies in the treatment of metastatic cancers - PubMed (nih.gov) (last visited February 6, 2024).
[7] Improving access to biomarker testing. American Cancer Society Cancer Action Network. Published September 28, 2020, available at Improving Access to Biomarker Testing | American Cancer Society Cancer Action Network (fightcancer.org) (last visited February 6, 2024).
[8] *Supra,* note 4.
[9] Id.

cancer treatments, such as targeted therapies and immunotherapies, may only work for individuals with certain type of cancers.[10] However, biomarker testing may not be appropriate or helpful in all such situations. Using cancer as an example, the most common types of cancer for biomarker testing include cancers where there are changes in designated genes for:

- Non-small cell lung cancer;
- Breast cancer;
- Colorectal cancer; and
- Melanoma skin cancer.[11]

Biomarker testing is conducted using a sample of an individual's cancer cells, where the cells are analyzed to identify the specific biomarkers. The lab's report on the specific biomarkers will also identify the treatments that may be helpful for the cancer or the cancer strains identified. Some biomarker tests also require a testing of healthy cells for comparison of a person's healthy cells to his or her cancer cells for different mutations.[12]

One type of biomarker that can be identified is a driver mutation, which is a change in the DNA of a cancer cell and can cause a cancer cell to overgrow or a normal cell to become a cancer cell. The other type of biomarker is an immunotherapy biomarker, which may be found on the surface of a cancer cell and impacts how the cancer cells interact with the immune system. Knowing the types of biomarkers an individual has aids in the individual's plan of care.[13]

A number of types of biomarker tests for molecularly targeted therapies are in clinical use, ranging from single-gene tests to guide the use of a single class of therapy to a suite of multiple, but separate, tests for single analytes to guide the use of multiple therapy options in a specific clinical context for something like breast cancer treatment.[14] Multiple-gene panels include additional analytes for other clinical or research purposes, including assessing secondary response or resistance to targeted therapies, multiplex panel tests, protein express, and whole exome, whole genome, and whole transcriptome sequencing.[15]

Growth in this area of medicine has grown exponentially. For genome-informed therapy, the number of tests available or eligible for testing since 2018 has increased from 16 percent to 27 percent in 2020.[16] From January 1, 2006, when tracking of such approval began at the federal Food and Drug Administration (FDA), through June 30, 2020, 51 different drugs had been approved for 36 genomic indications covering 18 cancer types.[17]

Results of a biomarker test can help an individual find different options for treatment through the FDA-approved treatment regimens, off-label treatments, or clinical trials. Knowing that a cancer does not have certain biomarkers can also save a patient from undergoing unnecessary treatment or treatment that has not been as successful in a particular diagnosis or not have a long-term result leading to the return of the cancer.[18]

Waiting for results from biomarker tests before determining treatment options can provide patients and their providers more information on which to make decisions. Results from testing can take up to four

[10] *Supra*, note 1.
[11] *Supra*, note 4.
[12] Id.
[13] Genentech, *Understanding Biomarkers,* available at Learn About Biomarkers And Biomarker Testing in Advanced Non-Small Cell Lung Cancer | MyCareRoadMap By Genentech (last visited February 6, 2024).
[14] Laurene A, Graig, et al, *Biomarker Tests for Molecularly Targeted Therapies, Institute of Medicine, The Nat'l Academies of Science, Engineering & Medicine (2016), available at* Biomarker Tests for Molecularly Targeted Therapies. Key to Unlocking Precision Medicine (nih.gov) (last visited February 6, 2024).
[15] Id.
[16] Genomic testing for targeted oncology drugs: hopes against hype, Editorial, *Annals of Oncology*, (Vol. 32, Iss.7, 2021), available at Genomic testing for targeted oncology drugs: hopes against hype (annalsofoncology.org) (last visited February 6, 2024).
[17] A. Haslam, M.S. Kim, & V. Presad, *Updated Estimates of Eligibility for and Responses to Genome Targeted Oncology Drugs Among US Cancer Patients; Annals of Oncoloy* (Vol. 32, Issue 7, July 2021; 926:943), available at Updated estimates of eligibility for and response to genome-targeted oncology drugs among US cancer patients, 2006-2020 - Annals of Oncology (last visited February 6, 2024).
[18] *Supra*, note 4.

weeks or longer to receive.[19] A patient may also have biomarker testing more than once during treatment to determine the efficacy of a treatment or if other options need to be considered.[20]

In 2020, the FDA approved two liquid biopsy tests that help guide treatment therapies for individuals with any solid tumor cancer, but not those with a blood cancer. These two approved tests can check for multiple cancer related mutations and are considered less invasive and quicker than the typical needle biopsy.[21] One test, Guardant360 CDX, checks for changes in more than 60 genes, while the other approved test, FoundationOne Liquid CDx, can identify changes in more than 300 genes.[22] Medicare does provide coverage for two FDA-approved tests, but coverage by private insurance companies for these same tests is not consistent.

Costs of Biomarker Testing

The costs of biomarker testing vary based on the type of testing being conducted and the type of disease being tested. The average allowed unit cost to insurers per biomarker test ranges from $78.71 (Medicaid) to $224.40 (large group self-insured).[23]

One study published in November 2022 found that among those with biomarker tests, the median per-patient total payer lifetime costs of all biomarker testing were $394/$462 (lung/metastatic lung) and $148/$232 (thyroid/metastatic thyroid).[24] In this study, total lifetime biomarker costs for payers ranged from a median of $128 (consumer-driven health plans) to $477 (preferred provider organizations). Median lifetime patient out-of-pocket costs were $0.00 for both tumor types and all payer types except for consumer-driven health plans ($12 for thyroid and $10 for metastatic lung).[25]

Costs vary by type of testing. The FDA has provided marketing approval for the sale of direct to patient biomarker tests. One of these tests, which was approved in 2019, can identify cancer-associated alterations in 324 genes in any type of solid tumor.[26] Different levels of screening tests can be ordered by a patient directly online or by a patient's health care provider for $299 - $350 for the cost of the test – not including the cost of analysis or review by the practitioner.[27]

For new cancer treatments, costs may be covered as part of clinical trials. If an individual participates in a clinical trial, costs of the testing are usually covered as part of participation.[28] Increasingly, clinical trials report the enrollment of individuals based on the specific genetic mutation or alteration and not which organ the cancer originated from.[29]

State Employee Health Plan Coverage

The Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) under the authority of section 110.123, F.S., administers the state group health insurance program (Program) for state employees, retirees, and their families. The Program is a cafeteria plan managed

[19] LUNGevity, *Biomarker testing can help you get the best treatment for your lung cancer,* 353b8753a58e4ebaae940e2d4b95ca49 (d2zd6ny1q7rvh6.cloudfront.net) (last visited February 6, 2024).
[20] Id.
[21] National Cancer Institute, *FDA Approves Cancer Test Which Can Help Guide Cancer Treatment (October 15, 2020)* FDA Approves Blood Tests That Can Help Guide Cancer Treatment - NCI (last visited February 6, 2024).
[22] Id.
[23] Yu TM, Morrison C, Gold EJ, Tradonsky A, Arnold RJG. *Budget Impact of Next-Generation Sequencing for Molecular Assessment of Advanced Non-Small Cell Lung Cancer,* Value Health. 2018 Nov;21(11):1278-1285, available at doi: 10.1016/j.jval.2018.04.1372, Epub 2018 Jun 8. PMID: 30442274. (last visited February 6, 2024).
[24] Lisa M. Hess, et al., *Costs of biomarker testing among patients with metastatic lung or thyroid cancer in the USA: a real-world commercial claims database study,* J Med Econ 2023 Jan-Dec;26(1):43-50., available at Costs of biomarker testing among patients with metastatic lung or thyroid cancer in the USA: a real-world commercial claims database study - PubMed (nih.gov) (last visited February 6, 2024).
[25] Id.
[26] National Cancer Institute, *Genomic Profiling Tests Cleared by FDA Can Help Guide Cancer Treatment, Clinical Trial Enrollment (December 21, 2017)*, https://www.cancer.gov/news-events/cancer-currents-blog/2017/genomic-profiling-tests-cancer, (last visited February 6, 2024).
[28] Id.
[28] *Supra*, note 4.
[29] National Cancer Institute, *Genomic Profiling Tests Cleared by FDA Can Help Guide Cancer Treatment, Clinical Trial Enrollment (December 21, 2017)* available at FDA Approves Two Genomic Profiling Tests for Cancer - NCI (last visited February 6, 2024).

consistent with section 125 of the Internal Revenue Code.[30] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S.

The state group health insurance program delivers benefits through contracts it competitively bids for on regular contract cycles with health insurers, health maintenance organizations, and third party administrators. The current benefits and premium rates for the plan year of January 1, 2024 through December 31, 2024 are established in these contracts and the state's General Appropriations Act. Any additional statutory changes in state employee benefits require a contract amendment to effectuate these benefits.

An online review of the 2024 member benefit handbooks and medical coverage guidelines for the currently contracted state employee insurers indicate that biomarker testing may already be covered within the Program under certain parameters. For some insurers, additional criteria may be applied based on the diagnosis before testing is coverage from a review of the online guidelines of these insurers. All of the contracted plans have a general exclusionary coverage statement testing for any testing considered experimental or investigational, unless the testing falls under an allowable clinical trial.[31]

Medicaid Coverage of Biomarker Testing

Florida Medicaid covers biomarker testing under s. 409.905(7), F.S., as a mandatory Medicaid service under independent laboratory services. Eligible providers are reimbursed for biomarker testing under Rule 59G-4.190, Florida Administrative Code (F.A.C.), the Laboratory Services and Coverages Policy and Rule 59G-4.002, F.A.C., the Independent and Practitioner Laboratory Fee Schedules. The services provided to the eligible recipient must be determined to be medically necessary, not duplicative of another service, and meet the criteria of the policy.

The Medicaid Laboratory Services Policy covers reimbursement for:

- Chemistry;
- Clinical cytogenetics;
- Diagnostic immunology;
- Genetic carrier screening;
- Hematology;
- Histocompatibility;
- Immunohematology;
- Microbiology; and
- Pathology.[32]

Medicaid managed care plans have the flexibility to cover services above and beyond Agency for Health Care Administration (AHCA) coverage policies, but they may not be more restrictive than AHCA policy.[33]

Effects of the Bill

CS/HB 885 would require all policies issued under the state group health insurance program on or after January 1, 2025, to provide coverage of biomarker testing as a covered benefit, for the purposes of

[30] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.
[31] Department of Management Services, *My Benefits – Health Plans in Your Area,* available at Health Plans in Your Area / Health Insurance Plans / Health - MyBenefits / Department of Management Services (myflorida.com) (last viewed January 23, 2024). A scan of Health Insurance Booklets, Benefits Documents,
[32] Rule 59G-4.190, F.A.C., *Laboratory Services and Coverage Policy,* available at 59G-4.190 Coverage Policy Proposed.pdf (last visited February 6, 2024).
[33] Agency for Health Care Administration, *2024 Agency Legislative Bill Analysis – SB 964/HB 885* (January 17, 2024)(on file with the Select Committee on Health Innovation).

diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition if the medical and scientific evidence indicated that the biomarker testing provides clinical utility to the enrollee. Under the bill, such medical and scientific evidence includes, but is not limited to:

- A labeled indication for a test approved or cleared by the FDA;
- An indicated test for a drug approved by the FDA;
- A National Coverage Determination made by the Centers for Medicare and Medicaid Services or a Local Coverage Determination made by the Medicare Administrative Contractor; or
- A nationally recognized clinical practice guideline developed by an independent organization or medical professional society using transparent methodology and reporting structure, and with a conflict of interest policy.

The bill expressly provides that the coverage requirements for biomarker testing services do not include testing for screening purposes.

CS/HB 885 amends s.409.906, F.S., to add biomarker testing services as an optional Medicaid service, if medical and scientific evidence indicate that biomarker testing for the diagnosis, treatment, and appropriate management of a Medicaid recipient's disease provides clinical utility to the Medicaid recipient.

The bill requires Medicaid managed care plans provide coverage for biomarker testing in the same manner and scope as Medicaid provides to other medically necessary treatments. The provision also requires that the recipient and his or her provider have easy access to a clear and convenient authorization process on the managed care plan's website.

The bill further authorizes the agency to seek federal approval, if necessary to implement the coverage requirement.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY

Section 1: Amends s.110.12303, F.S., related to state group health insurance coverage for biomarker testing.
Section 2: Amends s.409.906, F.S., related to optional Medicaid services.
Section 3: Creates s. 409.9745, F.S., related to managed care plan biomarker testing.
Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill would have an indeterminate, insignificant negative fiscal impact on the Department of State Group Insurance, if the requirements of the bill result in a higher employer premium. Based on denied claims for biomarker testing from prior years, and with no reasoning provided for the test order, the potential impact may range from $0 to $1.6 million annually.[34]

   It is unclear the extent to which current contractors in the state group insurance program do or do not currently cover biomarker testing; therefore, the potential fiscal impact to the state of the costs of this coverage decision is unknown.

[34] Department of Management Services, *2024 Agency Legislative Bill Analysis: CS/HB 885* (February 5, 2024), (on file with the House Appropriations Committee).

The bill would have no impact on AHCA, as biomarker testing is already a covered service under Florida Medicaid.[35]

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.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA and the DSGI have sufficient rule-making authority under current law to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 22, 2024, the Select Committee on Health Innovation adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Limits application of the requirement for biomarker testing to the Medicaid program and the State Group Health Insurance Plan effective July 1, 2024.
- Removes provisions requiring private health insurers and HMOs to provide coverage for biomarker testing.

The analysis is drafted to the committee substitute as passed by the Select Committee on Health Innovation.

[35] *Supra*, note 34.

A bill to be entitled

An act relating to coverage for biomarker testing; amending s. 110.12303, F.S.; requiring the Department of Management Services to provide coverage of biomarker testing for specified purposes for state employees' state group health insurance plan policies issued on or after a specified date; specifying circumstances under which such coverage may be provided; providing definitions; requiring a clear, convenient, and readily accessible process for authorization requests for biomarker testing; providing construction; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for biomarker testing under the Medicaid program for specified purposes, subject to specific appropriations; specifying circumstances under which such payments may be made; providing definitions; requiring a clear, convenient, and readily accessible process for authorization requests for biomarker testing; providing construction; authorizing the agency to seek federal approval for biomarker testing payments; creating s. 409.9745, F.S.; requiring managed care plans under contract with the agency in the Medicaid program to provide coverage for biomarker testing for Medicaid recipients in a certain manner;

requiring a clear, convenient, and readily accessible process for authorization requests for biomarker testing; providing construction; providing an effective date.

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

Section 1. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5)(a) For state group health insurance plan policies issued on or after January 1, 2025, the department shall provide coverage of biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition to guide treatment decisions if medical and scientific evidence indicates that the biomarker testing provides clinical utility to the enrollee. Such medical and scientific evidence includes, but is not limited to:

1. A labeled indication for a test approved or cleared by the United States Food and Drug Administration;

2. An indicated test for a drug approved by the United States Food and Drug Administration;

3. A national coverage determination made by the Centers for Medicare and Medicaid Services or a local coverage

determination made by the Medicare Administrative Contractor; or

4. A nationally recognized clinical practice guideline. As used in this subparagraph, the term "nationally recognized clinical practice guideline" means an evidence-based clinical practice guideline developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy. Guidelines developed by such organizations or societies establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

(b) As used in this subsection, the term:

1. "Biomarker" means a defined characteristic that is measured as an indicator of normal biological processes, pathogenic processes, or responses to an exposure or intervention, including therapeutic interventions. The term includes, but is not limited to, molecular, histologic, radiographic, or physiologic characteristics but does not include an assessment of how a patient feels, functions, or survives.

2. "Biomarker testing" means an analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker. The term includes, but is not limited to, single analyte tests, multiplex panel tests, protein expression, and

whole exome, whole genome, and whole transcriptome sequencing performed at a participating in-network laboratory facility that is certified pursuant to the federal Clinical Laboratory Improvement Amendment (CLIA) or that has obtained a CLIA Certificate of Waiver by the United States Food and Drug Administration for the tests.

3. "Clinical utility" means the test result provides information that is used in the formulation of a treatment or monitoring strategy that informs a patient's outcome and impacts the clinical decision.

(c) Each state group health insurance plan shall provide a clear and convenient process for providers to request authorization for biomarker testing. Such process shall be made readily accessible to all enrollees and participating providers online.

(d) This subsection does not require coverage of biomarker testing for screening purposes.

Section 2. Subsection (29) is added to section 409.906, Florida Statutes, to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be

provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(29) BIOMARKER TESTING SERVICES.—

(a) The agency may pay for biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a recipient's disease or condition to guide treatment decisions if medical and scientific evidence indicates that the biomarker testing provides clinical utility to the recipient. Such medical and scientific evidence includes, but is not limited to:

1. A labeled indication for a test approved or cleared by

the Unites States Food and Drug Administration;

2. An indicated test for a drug approved by the United States Food and Drug Administration;

3. A national coverage determination made by the Centers for Medicare and Medicaid Services or a local coverage determination made by the Medicare Administrative Contractor; or

4. A nationally recognized clinical practice guideline. As used in this subparagraph, the term "nationally recognized clinical practice guideline" means an evidence-based clinical practice guideline developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy. Guidelines developed by such organizations or societies establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

(b) As used in this subsection, the term:

1. "Biomarker" means a defined characteristic that is measured as an indicator of normal biological processes, pathogenic processes, or responses to an exposure or intervention, including therapeutic interventions. The term includes, but is not limited to, molecular, histologic, radiographic, or physiologic characteristics but does not include an assessment of how a patient feels, functions, or

survives.

2. "Biomarker testing" means an analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker. The term includes, but is not limited to, single analyte tests, multiplex panel tests, protein expression, and whole exome, whole genome, and whole transcriptome sequencing performed at a participating in-network laboratory facility that is certified pursuant to the federal Clinical Laboratory Improvement Amendment (CLIA) or that has obtained a CLIA Certificate of Waiver by the United States Food and Drug Administration for the tests.

3. "Clinical utility" means the test result provides information that is used in the formulation of a treatment or monitoring strategy that informs a patient's outcome and impacts the clinical decision.

(c) A recipient and participating provider shall have access to a clear and convenient process to request authorization for biomarker testing as provided under this subsection. Such process shall be made readily accessible to all recipients and participating providers online.

(d) This subsection does not require coverage of biomarker testing for screening purposes.

(e) The agency may seek federal approval necessary to implement this subsection.

Section 3. Section 409.9745, Florida Statutes, is created

to read:

409.9745 Managed care plan biomarker testing.—

(1) A managed care plan must provide coverage for biomarker testing for recipients, as authorized under s. 409.906, at the same scope, duration, and frequency as the Medicaid program provides for other medically necessary treatments.

(2) A recipient and health care provider shall have access to a clear and convenient process to request authorization for biomarker testing as provided under this section. Such process shall be made readily accessible on the website of the managed care plan.

(3) This section does not require coverage of biomarker testing for screening purposes.

Section 4. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Gonzalez Pittman offered the following:

Amendment (with title amendment)

Remove line 190 and insert:

Section 4. The provisions of the act amending sections 409.906 and 409.9745 shall take effect October 1, 2024.

Section 5. Except as otherwise provided, this act shall take effect July 1, 2024.

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

Remove lines 28-29 and insert:

testing; providing construction; providing effective dates.

PCS for CS/HB 975

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 975 Background Screening
SPONSOR(S): Health & Human Services Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Florida provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.

Current law requires only specified health care professions to undergo background screening as a requirement for initial licensure, including: allopathic and osteopathic physicians, interns, and fellows; physician assistants; chiropractic physicians and chiropractic physician assistants; orthotists and prosthetists; podiatric physicians and podiatric x-ray assistants; certified nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses; athletic trainers; and massage therapists. In addition to the background screening as a requirement for the initial licensure process, several of the listed professions require subsequent national criminal history checks as a part of the licensure renewal process.

The majority of health care professions licensed by the Department of Health (DOH) do not undergo background screening as a part of their initial licensure requirements.

The State Office on Homelessness within the Department of Children and Families (DCF) was established in 2001 as a central point of contact within state government on issues relating to homelessness. Continuums of Care (CoCs) coordinate local efforts to prevent and end homelessness at the local level. DCF interprets current law as subjecting contractors and subcontractors to background screening as a condition of their contract with the department. As such, DCF requires employees of CoCs and their subcontractors to undergo level 2 background screening. However, individuals with lived experience of homelessness, who can be helpful in delivering homelessness services, may a criminal history that raise difficulties in passing a background screening.

PCS for CS/HB 975 requires **all** health care professions licensed by DOH to undergo background screening as a requirement for initial licensure. The bill also adds background screening to the licensure by endorsement requirements for specified professions, including: occupational therapists, respiratory therapists, dieticians and nutritionists, psychologists, and mental health professions.

The bill requires health care professionals licensed prior to July 1, 2024, to comply with the background screening requirement by July 1, 2025. The bill makes conforming changes.

The bill also establishes a pathway by which a person who has lived experience with homelessness may qualify for a modified background screening process in order to be employed by certain homeless service providers. This will allow homeless service providers to employ qualified individuals who may not otherwise be able to pass the background screening typically required by DCF.

The bill provides an appropriation to implement the provisions of the bill. There is no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Background Screening

Florida provides standard procedures for screening a prospective employee[1] where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.[2] Chapter 435, F.S., establishes procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: level 1 and level 2.

- Level 1: Screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,[3] and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.[4]
- Level 2: Screening includes, at a minimum, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.[5]

Criminal History Checks

Florida law authorizes and outlines specific elements required for Level 1 and Level 2 background screening; however, current law only establishes distinct requirements for determining whether an individual "passes" a screening in regard to an individual's criminal history.

All individuals subject to background screening must be confirmed to have not been arrested for and waiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:[6]

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

[1] S. 435.02, F.S., defines "employee" to mean any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers.
[2] Ch. 435, F.S.
[3] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at www.nsopw.gov (last visited March 15, 2023).
[4] Florida Department of Law Enforcement, State of Florida Criminal History Records Check. Available at http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx (last visited March 15, 2023).
[5] S. 435.04, F.S.
[6] S. 435.04(2), F.S.

- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

Current law requires some positions to be screened for additional criminal offenses due to the nature of the position or the populations being served. For example, some positions under the authority of the Agency for Health Care Administration are screened for additional offenses, such as financial crimes like fraud.[7]

The criminal history check process does not limit disqualification based on when an offense was committed. As such, any history of a listed offense is considered disqualifying regardless of when the offense was committed. Only through the exemption process can some offenses be disregarded dependent on when they were committed.

Exemptions

For otherwise qualified individuals who would be disqualified from employment due to their criminal history, there is a process through which they can be exempt from disqualification. Current law allows the Secretary of the appropriate state agency to exempt applicants from disqualification under certain circumstances:[8]

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or
- The individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to be employed in a profession or workplace where background screening is statutorily required despite the disqualifying offense in that person's past. Certain criminal backgrounds, however, render a person ineligible for an exemption; a person who is considered a sexual predator,[9] career offender,[10] or registered sexual offender[11] is not eligible for exemption.[12]

Exemption Process

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification.[13] The disqualified employee must apply to DCF for an exemption from disqualification. Such application requests information regarding the individual, the facility and role they are applying for, details about their criminal offense, and the status of any court-ordered payments (e.g., fees, fines, costs of prosecution or restitution).[14]

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.[15] Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less

[7] *See*, s. 408.809, F.S.
[8] S. 435.07, F.S.
[9] S. 775.21, F.S.
[10] S. 775.261, F.S.
[11] S. 943.0435, F.S.
[12] S. 435.07(4)(b), F.S.
[13] S. 397.4073(1)(f), F.S.
[14] Department of Children and Families, *Apply for an Exemption from Disqualification.* Available at https://www.myflfamilies.com/services/background-screening/apply-exemption-disqualification (last visited January 25, 2024).
[15] S. 435.07(3)(a), F.S.

than beyond a reasonable doubt.[16] This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. This evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals. Evidence that may support an exemption includes, but is not limited to:[17]

- Personal references;
- Letters from employers or other professionals;
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program;
- Evidence of further education or training;
- Evidence of community involvement;
- Evidence of special awards or recognition;
- Evidence of military service; and
- Parenting or other caregiver experiences.

After the agency head receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.[18]

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor, and after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted. At DCF, the regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency; the criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.[19]

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the agency head to grant or deny the exemption. After an exemption request decision is final, a written response is provided to the applicant as to whether the request is granted or denied.[20]

If the agency head grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail. However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address and a separate letter of denial is sent by regular mail to the facility or employer. If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request. It must also inform the denied applicant of the availability of an administrative review pursuant to ch. 120, F.S.[21]

[16] Department of Children and Families, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification* (2010). Available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_60-18_exemption_from_disqualification.pdf (last visited January 26, 2024).
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*

Current law does not require agencies to adhere to any specified timeline in their response to requests for exemption from disqualification.[22]

Care Provider Background Screening Clearinghouse

Florida has established different programs for the facilitation of background screenings. The Care Provider Background Screening Clearinghouse (Clearinghouse) is used by state agencies for statutorily-required screenings, including screenings required as part of the licensure process for specified health care professionals.

In 2012, the Legislature created the Care Provider Background Screening Clearinghouse (Clearinghouse) to create a single program of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.[23] Current designated agencies participating in the clearinghouse include:[24]

- The Agency for Health Care Administration (AHCA);
- The Department of Health (DOH);
- The Department of Children and Families (DCF);
- The Department of Elder Affairs (DOEA);
- The Agency for Persons with Disabilities (APD);
- The Department of Education (DOE);
- Regional workforce boards providing services as defined in s. 445.002(3), F.S.; and
- Local licensing agencies approved pursuant to s. 402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.

Employers whose employees are screened through an agency participating in the Clearinghouse must maintain the status of individuals being screened and update the Clearinghouse regarding any employment changes within 10 business days of the change.[25]

The Clearinghouse allows for constant review of new criminal history information through the federal Rap Back Service[26] which continually match fingerprints against new arrests or convictions that occur after the individual was originally screened. Once a person's screening record is in the Clearinghouse, that person may avoid the need for any future state screens and related fees for screenings, depending on the screening agencies or organizations.[27]

Last fiscal year, DOH paid $108,414 to access the background screening results for health care professionals through the Clearinghouse.[28]

Background Screening of Health Care Professionals

Under current law, DOH is required to review the criminal history of licensure applicants and current licensees for certain health care professions. A history of certain criminal charges may preclude an

[22] S. 435.07, F.S.
[23] Ch. 2012-73, L.O.F.
[24] S. 435.02(5), F.S. Additional entities were added to the list of designated entities beginning in 2023; these entities include district units, special district units, the Florida School for the Deaf and Blind, the Florida Virtual School, virtual instruction programs, charter schools, hope operators, private schools participating in certain scholarship programs, and alternative schools. *See also*, Ch. 2022-154, L.O.F.
[25] S. 435.12(2)(c), F.S.; Beginning January 1, 2024, employers must report changes in an employee's status within five business days for employees screened after January 1, 2024.
[26] The Rap Back Service is managed by the FBI's Criminal Justice Information Services Division. For more information, see the Federal Bureau of Investigation, Privacy Impact Assessment for the Next Generation Identification (NGI) Rap Back Service. Available at https://www.fbi.gov/file-repository/pia-ngi-rap-back-service.pdf/view (last visited January 15, 2024).
[27] Agency for Health Care Administration, *Clearinghouse Renewals*. Available at https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml (last visited January 14, 2024). Fingerprints are retained for five years. Employers have an option to renew screenings at the end of the five year period through a "Clearinghouse Renewal" process which allows employee's fingerprints to be retained without being re-fingerprinted.
[28] Department of Health, *Agency Analysis for HB 975 (2024)*. On file with the Healthcare Regulation Subcommittee.

applicant from licensure in some professions, or result in disciplinary action by the appropriate regulatory board. Regardless of whether background screening is required for initial licensure, each licensee at renewal must answer criminal history questions that become part of the review and approval of licensure.[29]

The table below lists the health care professions which are required to be background screened by DOH as part of initial licensure:[30]

Health Care Professions – Background Screening	
Screened	**Non-Screened**
Athletic Trainers	Acupuncturists
Allopathic Physicians (Medical Doctor)	Audiologists
Resident Physicians, Interns, Fellows, and House Physicians	Audiology Assistants
Osteopathic Physicians	Clinical Laboratory Personnel
Osteopathic Resident Physicians/Interns/Fellows	Clinical Social Workers, Marriage and Family Therapists, and Mental Health Counselors
Chiropractic Physicians	Clinical Social Work Interns, Marriage and Family Therapy Interns, and Mental Health Counseling Interns
Certified Chiropractic Physician's Assistants	Dentists
Physician Assistants	Dental Hygienists
Anesthesiologist Assistants	Dietitians and Nutritionists
Orthotists, Prosthetists, Pedorthists, Orthotic Fitters, Orthotic Fitter Assistants, O&P Residents	Electrologists
Registered Nurses	Emergency Medical Technicians
Advanced Practice Registered Nurses	Genetic Counselors
License Practical Nurses	Hearing Aid Specialists
Certified Nursing Assistants	Medical Physicists
Massage Therapists	Midwifery
Pharmacy Owners	Nursing Home Administrators
Prescription Department Managers	Occupational Therapists
Podiatric Physicians	Opticians
Certified Podiatric X-Ray Assistants	Optometrists
	Pain Management Clinic
	Paramedics
	Pharmacists
	Registered Pharmacy Interns
	Pharmacy Technicians
	Physical Therapists
	Physical Therapy Assistants
	Psychologists
	Radiological Technicians
	Respiratory Therapists
	School Psychology
	Speech-Language Pathologists
	Speech-Language Pathology Assistants

Additionally, some professions are required to undergo subsequent national criminal history checks as a part of the licensure renewal process, including allopathic and osteopathic physicians, chiropractors,

[29] *Id.*
[30] *Id.*

and podiatrists.[31] In such cases, DOH is directed to request FDLE to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the fingerprints are enrolled in the national retained print arrest notification program.

Current law also requires background screening for applicants seeking licensure by endorsement[32] for specified health care professions. Currently, allopathic physicians, certified nursing assistants, licensed practical nurses, registered nurses, and massage therapists must undergo background screening as part of the licensure by endorsement process.

Some health care professionals who are not screened as a requirement for initial licensure may be statutorily required to undergo screening as a prerequisite to employment based on the type of facility wherein they are employed.[33] Health care professionals in screened professions, or those seeking employment in facilities that are statutorily required to background screen employees, may seek an exemption from disqualification due to criminal history. Such individuals may be granted an exemption from disqualification[34] after DOH reviews their background screening. For the fiscal year 2022-2023, the Background Screening unit received over 432 exemption applications.[35]

The licensure applicants for screened professions are required to pay for the costs of the fingerprinting process and the cost of retaining the fingerprints.[36] Once licensed, the health care practitioner in screened professions pays $43.25 every five years for fingerprint retention.[37] All fingerprints received as part of the initial licensure process as required under s. 456.0135, F.S., are entered into the Care Provider Background Screening Clearinghouse.[38]

Background Screening Process

The regulatory board for each profession which requires a background screening establishes criteria for the evaluation of criminal history. DOH then applies a board-approved matrix to review the background screening results to ensure that licensure qualifications have been met.[39] For applicants in a screened profession, the background screening requirement is often the last requirement completed to become a qualified applicant – meaning all licensure requirements are fulfilled and a license is issued. DOH will notify the licensure applicant if a required background screening was not completed, submitted through the proper channels, or if a criminal history hit on that screening was reviewed by a staff member and needs additional documentation.[40]

When an applicant's background screening includes criminal history, the outcome is dependent upon the nature of the offense. Statute outlines specific offenses which would result in a "failed" screening.[41] The outcome of a screening including a criminal history can be an approval by DOH staff after additional information and review, based on scenarios pre-determined by the regulatory board to be allowable; a requirement to appear at a board meeting for in-person review; or denial. If denied, the applicant has the right to appeal. If an applicant receives a letter to appear before the board, they have

[31] S. 456.039(4), F.S.
[32] Licensure by endorsement is a process of obtaining licensure for health care professionals who have obtained full licensure in another US jurisdiction.
[33] For example, a licensed health care professional employed by a program that provides services to the elderly is required under s. 430.0402, F.S., to undergo background screening if the health care professional is a direct service provider who was not otherwise screened as a prerequisite for licensure. For more information on screening requirements based on facility type, *see,* Florida Agency for Health Care Administration, *Who is Required to be Screened?* Available at https://ahca.myflorida.com/health-care-policy-and-oversight/bureau-of-central-services/background-screening/screening/who-is-required-to-be-screened# (last visited January 15, 2024).
[34] S. 435.07, F.S., establishes the exemption process.
[35] *Supra*, note 28.
[36] S. 456.0135(3), F.S.
[37] *Supra*, note 28.
[38] S. 456.0135(4), F.S.
[39] Supra, note 28.
[40] *Supra*, note 28.
[41] *See*, s. 435.04, F.S., for the full list of disqualifying offenses. *See also*, S. 456.0135(5), F.S., expressly lists criminal violation of s. 784.03, F.S., relating to battery, if the victim is a vulnerable adult as defined in s. 415.102, or a patient or resident of a facility licensed under chs. 395, 400, or 429, F.S

three board meetings at which to attend, or the board may deny the application without the person present.[42]

Background screening reviews have increased more than 40% since 2015 due to an increase in licensure of existing screened professions, as well as the establishment of new licensure pathways requiring screening, such as the multistate licensing compacts. Out of the 17,532 initial applicant files reviewed due to criminal charges in the fiscal year 2022-23, 87.9% were for the Board of Nursing, 4.8% for the Board of Massage, 4.5% for the Board of Medicine, 0.06% for the Board of Chiropractic Medicine, 0.08% Osteopathic Medicine and 2.66% were for the remaining boards.[43]

Background Screening for License Renewal & Monitoring

Once licensed, practitioners in screened professions with ongoing screening requirements have their fingerprints retained with FDLE so new charges are found through rerunning the criminal history checks. Licensees are also required to report any criminal charges when they occur. The process of reviewing new criminal charges may disrupt the licensee's ability to practice.[44]

A licensee who does not pay to retain their prints receives notification from DOH when those prints are expiring that fingerprints must be retained or renewed. DOH employs strategies to ensure compliance by the licensee, such as reminders, email notifications, and letters. Approximately 62,364 licensees, 4.3 percent of all licensees, are required to renew their fingerprints per year. Of those, approximately 28 percent fail to do so; failure to renew fingerprints results in disciplinary cases which may ultimately cause a loss of licensure.

When a case has been open for approximately a year and the licensee has not complied, an investigative report is completed, and the case is sent to Prosecution Services Unit for prosecution as a violation. Since 2019, DOH has opened a total of 39,438 cases for failure to renew fingerprints. Currently, there are 14,069 of these cases still open with the Division of Medical Quality Assurance.[45]

Background checks completed for applicants whose licensure applications were received before January 1, 2013, are stored within FDLE's SHIELD system, outside of the Clearinghouse. DOH runs a background check through FDLE for specific practitioners who have renewed their license in this system. In the 2022-23 fiscal year, DOH paid over $1,229,448, to FDLE for 45,519 background checks to be completed.[46]

Homelessness

Homelessness can be defined in several different ways. Generally, a person is considered to be experiencing homelessness if that person stays in a shelter, lives in transitional housing, or sleeps in a place not meant for human habitation or outdoors.[47] To receive federally funded homelessness services, a person is considered homeless if he or she:[48]

- Is living in a place not meant for human habitation, in emergency shelter, in transitional housing, or exiting an institution where the person temporarily resided;[49]
- Will imminently lose a primary nighttime residence within 14 days and lacks resources or support networks to remain in permanent housing;[50]

[42] *Supra*, note 28.
[43] *Id.*
[44] *Supra*, note 28.
[45] *Id.*
[46] *Id.*
[47] Centers for Disease Control and Prevention, *About Homelessness* (2022). Available at https://www.cdc.gov/orr/science/homelessness/about.html (Last visited January 25, 2024).
[48] 24 C.F.R. 578.3
[49] This includes a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; a supervised publicly or privately operated shelter designed to provide temporary living arrangement; or exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

- Is part of a family with children or an unaccompanied youth who is unstably housed and likely to continue in that state; or
- Is fleeing or attempting to flee from domestic violence, has no other residence, and lacks the resources or support networks to obtain permanent housing.

Annually, the United States Department of Housing and Urban Development (HUD) releases what is known as a point-in-time snapshot (PIT) or a count of the number of individuals who experience homeless on a single night. Based on the 2023 PIT, roughly 653,100 people in America experienced homelessness on a single night. Sixty percent experienced sheltered homelessness (i.e., living in emergency shelter, transitional housing, or a safe haven program) whereas 40 percent were unsheltered. From 2022 to 2023, the number of individuals experiencing homelessness increased by 12 percent, or roughly 70,650 additional individuals. This is the highest PIT count of persons experiencing homelessness since reporting began in 2007.[51]

Experiencing homelessness negatively effects a person's mental and physical health. Rates of mortality, mental illness, communicable diseases, sexually transmitted diseases, and substance abuse are higher among homeless populations.[52] Services and programs at the state and federal level provide support to individuals experiencing homelessness that attempt to address the associated effects of homelessness.[53]

Homelessness in Florida

In a 2023 PIT count of Florida's homeless population, an estimated 30,809 individuals were experiencing homelessness, with 15,706 considered unsheltered homeless (i.e., living outside in a car, park, or another place not meant for human habitation). The 2023 PIT count represents a 34 percent increase from the 11,746 individuals who were experiencing homelessness in 2022.[54]

The State Office on Homelessness (Office) within the Department of Children and Families (DCF) was established in 2001 as a central point of contact within state government on issues relating to homelessness.[55] The Office coordinates resources and programs across all levels of government and with private providers that serve the homeless pursuant to policies set by the Council on Homelessness[56] and available funding.[57]

Continuums of Care

A Continuum of Care (CoC) is an entity coordinating community efforts to prevent and end homelessness in a geographic area designated by the Office.[58] CoCs are responsible for organizing and delivering housing and services to meet the needs of people who are homeless as they move to stable housing and self-sufficiency.[59] CoCs are composed of representatives from local organizations including, but not limited to:[60]

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[50] Provided that the primary nighttime residence will be lost within 14 days of the date of application for homeless assistance; no subsequent residence has been identified; and the individual lacks the resources or support networks.
[51] U.S. Department of Housing and Urban Development, *The 2023 Annual Homelessness Assessment Report* (AHAR) to Congress (2023). Available at https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf (last visited January 25, 2024).
[52] Richards, J. & Kuhn, R., *Unsheltered Homelessness and Health: A Literature Review* (2022). American Journal of Preventative Medicine, 2(1). https://doi.org/10.1016/j.focus.2022.100043
[53] US Department of Health and Human Services, *Homelessness*. Available at https://www.hhs.gov/programs/social-services/homelessness/index.html (last visited January 26, 2024).
[54] Department of Children and Families, *Council on Homelessness Annual Report* (2023). Available at https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf (last visited January 25, 2024).
[55] Ch. 2001-98, L.O.F.
[56] The Council on Homelessness is an inter-agency body which develops statewide policy and advises the State Office on Homelessness on how to reduce homelessness in the state. See, s. 420.622, F.S.
[57] S. 420.622(3), F.S.
[58] The catchment areas designated by the State Office must be consistent with the federally-recognized catchment areas designated by HUD as a condition for receiving federal homeless assistance grant funding. *See*, s. 420.6225, F.S.
[59] *Supra*, note 54.
[60] S. 420.621(1), F.S.

- Nonprofit homeless service providers;
- Victim services providers;
- Faith-based organizations;
- Governments;
- Businesses;
- Advocates;
- Public housing agencies;
- School districts;
- Social service providers;
- Mental health agencies;
- Hospitals;
- Universities;
- Affordable housing developers;
- Law enforcement; and
- Organizations that serve homeless and formerly homeless persons.

CoC lead agencies implement policies and provide direct services within their respective catchment areas. There are currently 27 CoC lead agencies distributed across the state.[61]

Each CoC must create a continuum of care plan to implement an effective and efficient housing crisis response system to prevent and end homelessness in its designated catchment area. A continuum of care plan must include all of the following:[62]

- Outreach to unsheltered individuals and families to link them with appropriate housing interventions;
- A coordinated entry system that is compliant with federal requirements and is designed to coordinate intake, utilize common assessment tools, prioritize households for housing interventions, and refer households to the appropriate housing intervention;
- Emergency shelter, designed to provide safe temporary shelter while the household is in the process of obtaining permanent housing;
- Supportive services, designed to maximize housing stability once the household is in permanent housing;
- Permanent supportive housing, designed to provide long-term affordable housing and support services to persons with disabilities who are moving out of homelessness;
- Rapid ReHousing, as specified in s. 420.6265, F.S.;
- Permanent housing, including links to affordable housing, subsidized housing, long-term rental assistance, housing vouchers, and mainstream private sector housing; and
- An ongoing planning mechanism to end homelessness for all subpopulations of persons experiencing homelessness

CoCs receive state and federal funding through DCF.[63]

Background Screening for Employees of Homeless Service Providers

People with lived experience of homelessness typically have the best understanding of the reality of the work to prevent and end homelessness. From a programmatic perspective, people with lived experience of homelessness bring insight through a personal familiarity with the barriers people face, the gaps in services, and the interventions that are the most effective.[64] On a person-to-person level,

[61] *Supra*, note 54..
[62] S. 420.6225, F.S.
[63] *Id*.
[64] HUD Exchange, *Centering Lived Experience*. Available at https://www.hudexchange.info/programs/coc/centering-lived-experience/ (last visited January 26, 2024).

people with lived experience are often more easily able to meet people where they are and truly understand their struggle.[65]

People who are experiencing homelessness present with complex needs to be addressed by service providers. This population is more likely to be experiencing mental illness, communicable diseases, sexually transmitted diseases, and substance abuse than the general population.[66] Homelessness is increasingly criminalized,[67] and people experiencing homelessness and extreme poverty may be driven to commit crimes as a means of survival. As a result, homeless individuals have frequent interactions with law enforcement, and more than half of people experiencing homelessness in the US have been previously incarcerated.[68] The existence of a criminal record creates barriers to permanent housing and employment once the underlying causes of a person's homelessness have been addressed.[69]

DCF interprets current law as subjecting contractors and subcontractors to background screening as a condition of their contract with the department. As such, DCF requires employees of CoCs and their subcontractors to undergo Level 2 background screening as a prerequisite to employment.[70] This presents a barrier to CoCs hiring people with lived experience of homelessness who may have a criminal history as a result of their lived experience.

Potential employees who are disqualified through background screening are eligible for exemption through the agency as described above.[71] Obtaining an exemption from disqualification is a lengthy and time-consuming process. Individual exemption requests can take upwards of six months to process and receive final approval through the department; a period of time which an individual is not able to work in the role which they have been hired for. This results in qualified individuals with relevant lived experiences to the population they're seeking to serve being screened out and further limiting the pool of eligible employees.[72]

Effect of the Bill

Background Screening for Health Care Professionals

PCS for CS/HB 975 requires **all** health care professions licensed by DOH to undergo background screening as a requirement for initial licensure. The following professions that previously were not required to undergo background screening, but will be required to do so under the bill:

- Acupuncturists;
- Anesthesiologist Assistants;
- Audiologists;
- Audiologist Assistants;
- Clinical Laboratory Personnel;
- Mental Health Professionals;[73]
- Registered Mental Health Profession Interns;[74]
- Dentists;

[65] United States Interagency Council on Homelessness, *The Value of Lived Experience in the Work to End Homelessness* (2018). Available at https://www.usich.gov/news-events/news/value-lived-experience-work-end-homelessness (last visited January 26, 2024).
[66] *Supra*, note **Error! Bookmark not defined.**.
[67] United States Interagency Council on Homelessness. *Collaborate, Don't Criminalize: How Communities Can Effectively and Humanely Address Homelessness* (2022). Available at https://www.usich.gov/news-events/news/collaborate-dont-criminalize-how-communities-can-effectively-and-humanely-address (last visited January 26, 2024).
[68] US Justice Department, Bureau of Justice Assistance, *Responding to Homelessness: Police-Mental Health Collaboration Toolkit*. Available at https://bja.ojp.gov/program/pmhc/responding-homelessness#3-0 (last visited January 26, 2024).
[69] *Id*.
[70] Department of Children and Families, *Agency Bill Analysis for HB 563* (2024). On file with the Children, Families & Seniors Subcommittee.
[71] *See*, s. 435.07, F.S.
[72] Correspondence with Leeanne Sacino, Executive Director of the Florida Coalition to End Homelessness. On file with the Children, Families & Seniors Subcommittee.
[73] Mental health professionals include clinical social workers, mental health counselors, and marriage and family therapists licensed under ch. 491, F.S.
[74] *Id.*

- Dentists seeking a limited health access license;
- Dental Hygienists;
- Dieticians;
- Electrologists;
- Genetic Counselors;
- Hearing Aid Specialists;
- Medical Physicists;
- Nursing Home Administrators;
- Occupational Therapists;
- Opticians;
- Optometrist;
- Pharmacists;
- Registered Pharmacy Interns;
- Pharmacy Technicians;
- Physical Therapists;
- Physical Therapist Assistants;
- Physician Assistants;
- Psychologists and School Psychologists;
- Radiology Technicians;
- Respiratory Therapists;
- Speech-Language Pathologists; and
- Speech-Language Pathology Assistants.

The bill also adds background screening to the licensure by endorsement requirements for select professions, including: occupational therapists, respiratory therapists, dieticians and nutritionists, psychologists, and mental health professions.

The bill requires health care practitioners, as defined in s. 456.001, F.S., and licensed prior to July 1, 2024, to comply with the background screening requirement by July 1, 2025. Under the bill, 699,754 licensees in renewable status would have to complete the fingerprinting process of background screening within the year.[75]

All screenings received would be entered into the Clearinghouse and require criminal history review through DOH. This would impact current non-screened professions and licensees who do not have updated screenings in the Clearinghouse. DOH would no longer have to process background checks through SHIELD and all of those licensees would be required to obtain new screenings to be housed in the Clearinghouse. This would provide continuity for monitoring of new criminal charges through the Clearinghouse.

The bill makes conforming changes to the practice acts of each health care profession effected by the background screening requirement as to state the background screening requirement in the initial licensure requirements of each profession. The bill makes additional conforming changes throughout the practice acts to correct references that are affected by numbering changes due to the new licensure requirements.

Background Screening for Employees of Homeless Service Providers

The bill also establishes a pathway by which a person who has lived experience with homelessness may qualify for a less stringent background screening process in order to be employed by certain homeless service providers. This will allow homeless service providers to employ qualified individuals who may not otherwise be able to pass the criminal background screening typically required by DCF.

To accomplish this, the bill creates a category of "persons with lived experience" who are eligible to apply for employment with the State Office or a CoC (hiring entity) through a modified background

[75] *Supra*, note 28.

screening process. Under the bill, a person who has past or present experience with homelessness pursuant to federal law[76] may qualify as a person with lived experience.

The bill allows the hiring entity to certify that the applicant is a qualified applicant with relevant lived experience if the applicant has received homeless services in the past. The hiring entity must submit documentation to DCF verifying that the applicant has received homeless services when requesting the background check of the applicant.

Under the bill, an applicant who has been certified as a person with lived experience is then subject to a modified background screening. The background screening must ensure that the applicant has not been arrested for and is not awaiting final disposition of, has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has not been adjudicated delinquent and the record has been sealed or expunged for:

- Any felony during the previous three years; or
- Any offense prohibited under any of the following laws of Florida or similar laws of another jurisdiction:
    - Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
    - Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
    - Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
    - Section 415.111, relating to criminal penalties for abuse, neglect, or exploitation of vulnerable adults.
    - Any offense that constitutes domestic violence, as that term is defined in s. 741.28.
    - Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
    - Section 782.04, relating to murder.
    - Section 782.07, relating to manslaughter or aggravated manslaughter of an elderly person, a disabled adult, a child, an officer, a firefighter, an emergency medical technician, or a paramedic.
    - Section 782.071, relating to vehicular homicide.
    - Section 782.09, relating to killing of an unborn child by injury to the mother.
    - Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
    - Section 787.01, relating to kidnapping.
    - Section 787.02, relating to false imprisonment.
    - Section 787.025, relating to luring or enticing a child.
    - Section 787.04(2), relating to leading, taking, enticing, or removing a child beyond the state limits, or concealing the location of a child, with criminal intent pending custody proceedings.
    - Section 787.04(3), relating to leading, taking, or removing a child beyond the state lines, or concealing the location of a child, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a child.
    - Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
    - Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
    - Section 794.011, relating to sexual battery.
    - Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
    - Section 794.05, relating to unlawful sexual activity with certain minors.
    - Section 794.08, relating to female genital mutilation.

[76] A person who has lacked a fixed, regular, and adequate nighttime residence is generally considered homeless. *See*, 24 C.F.R § 578.3, for all of the situations which constitute being "homeless."

- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary.
- Section 810.14, relating to voyeurism, if the offense is a felony.
- Section 810.145, relating to video voyeurism, if the offense is a felony.
- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense is a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense is a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.
- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the first or second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, relating to introduction of contraband into a correctional facility.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to contraband introduced into detention facilities.

The bill allows an applicant that is disqualified through the modified background screening process to apply to DCF for an exemption pursuant to s. 435.07, F.S. The bill requires DCF to accept or reject the exemption within 90 days of receiving the application.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 420.621, F.S., relating to definitions.
Section 2: Creates s. 420.6241, F.S., relating to persons with lived experience.
Section 3: Amends s. 456.0135, F.S., relating to general background screening provisions.
Section 4: Creates an unnumbered section of law, relating to compliance with background screening requirements for health care practitioners.
Section 5: Amends s. 457.105, F.S., relating to licensure qualification and fees.
Section 6: Amends s. 463.006, F.S., relating to licensure and certification by examination.
Section 7: Amends s. 465.007, F.S., relating to licensure by examination.
Section 8: Amends s. 465.0075, F.S., relating to licensure by endorsement; requirements; fee.
Section 9: Amends s. 465.013, F.S., relating to registration of pharmacy interns.
Section 10: Amends s. 465.014, F.S., relating to pharmacy technician.
Section 11: Amends s. 466.006, F.S., relating to examination of dentists.
Section 12: Amends s. 466.0067, F.S., relating to application for health access dental license.
Section 13: Amends s. 466.007, F.S., relating to examination of dental hygienists.
Section 14: Amends s. 467.011, F.S., relating to licensed midwives; qualifications; examination.
Section 15: Amends s. 468.1185, F.S., relating to licensure.
Section 16: Amends s. 468.1215, F.S., relating to speech-language pathology assistant and audiology assistant; certification.
Section 17: Amends s. 468.1695, F.S., relating to licensure by examination.
Section 18: Amends s. 468.209, F.S., relating to requirements for licensure.
Section 19: Amends s. 468.213, F.S., relating to licensure by endorsement.
Section 20: Amends s. 468.355, F.S., relating to licensure requirements.
Section 21: Amends s. 468.358, F.S., relating to licensure by endorsement.
Section 22: Amends s. 468.509, F.S., relating to dietician/nutritionist; requirements for licensure.
Section 23: Amends s. 468.513, F.S., relating to dietician/nutritionist; licensure by endorsement.
Section 24: Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
Section 25: Amends s. 478.45, F.S., relating to requirements for licensure.
Section 26: Amends s. 483.815, F.S., relating to application for clinical laboratory personnel license.
Section 27: Amends s. 483.901, F.S., relating to medical physicists; definitions; licensure.
Section 28: Amends s. 483.914, F.S., relating to licensure requirements.
Section 29: Amends s. 484.007, F.S., relating to licensure of opticians; permitting of optical establishments.
Section 30: Amends s. 484.045, F.S., relating to licensure by examination.
Section 31: Amends s. 486.031, F.S., relating to physical therapist; licensing requirements.
Section 32: Amends s. 486.102, F.S., relating to physical therapist assistant; licensing requirements.
Section 33: Amends s. 490.005, F.S., relating to licensure by examination.
Section 34: Amends s. 490.0051, F.S., relating to provisional licensure.
Section 35: Amends s. 490.006, F.S., relating to licensure by endorsement.
Section 36: Amends s. 491.0045, F.S., relating to intern registration; requirements.
Section 37: Amends s. 491.0046, F.S., relating to provisional license; requirements.
Section 38: Amends s. 491.005, F.S., relating to licensure by examination.
Section 39: Amends s. 491.006, F.S., relating to licensure or certification by endorsement.
Section 40: Amends s. 486.025, F.S., relating to powers and duties of the Board of Physical Therapy Practice.
Section 41: Amends s. 486.0715, F.S., relating to physical therapist; issuance of temporary permit.
Section 42: Amends s. 486.1065, F.S., relating to physical therapist assistant; issuance of temporary permit.
Section 43: Amends s. 491.003, F.S., relating to definitions.

Section 44: Provides an appropriation.
Section 45: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to FDLE, the total fiscal revenue for the state portion of a state and national criminal history record check with five years of fingerprint retention within the Clearinghouse retention is $48 per person. These fees will go into FDLE's Operating Trust Fund.[77]

2. Expenditures:

DOH estimates that 699,754 current licensees would require background screenings by July 1st, 2025. For background screening of initial licensure applicants, DOH estimates that 42,467 additional applicants will need to be screened. This is a 32% increase from the prior year. The percentage of applicants in the screened professions requiring further review due to criminal history found on those screenings was 19% of applicants. Likely, an additional 8,000 applicants would have required additional review by DOH staff or the profession board.

DOH estimates that 21 full-time equivalent (FTE) positions will be required within the Medical Quality Assurance Services program to implement the provisions of the bill. The total estimated annual cost is $4,284,501.

As of January 2024, DOH has 63 vacancies greater than 100 days within the Medical Quality Assurance Services program and has the flexibility to reclassify and transfer positions to meet the demands of the unit; however, it is unlikely that DOH can fully absorb this workload by utilizing vacant positions.

The bill appropriates 9 full-time equivalent (FTE) positions and associated salary rate and the sums of $1,164,134 in recurring and $59,931 in nonrecurring funds from the Medical Quality Assurance Trust Fund to DOH to implement the provisions of the bill.

The provisions of the bill relating to homeless service providers will have an insignificant, indeterminate impact on DCF which can be absorbed by existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health care providers previously not required to undergo a background screening will incur the cost associated with obtaining a background screening. These costs amount to $61.25 per person for applicants screened and retained within the Care Provider Background Screening Clearinghouse. This amount does not include additional servicing fees which may be assessed by the screening service provider.[78]

[77] Florida Department of Law Enforcement, *Legislative Bill Analysis for HB 975* (2024), p. 3. On file with the Healthcare Regulation Subcommittee.
[78] *Supra*, note 77.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The licensure boards and DOH have adequate rule-making authority to implement any rule changes which may be necessitated by the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 6, 2024, the Health Care Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute.

- Appropriated 9 FTE with associated salary rate and $1,164,134 in recurring funds and $59,931 in nonrecurring funds from the Medical Quality Assurance Trust Fund to DOH for the implementation of the bill.

A bill to be entitled

An act relating to background screenings and certifications; amending s. 420.621, F.S.; defining the term "person with lived experience"; creating s. 420.6241, F.S.; providing legislative intent; providing qualifications for a person seeking certification as a person with lived experience; requiring continuum of care lead agencies to submit certain information to the Department of Children and Families for purposes of background screening; providing duties of the department; prescribing screening requirements; specifying disqualifying offenses for a person applying for certification; authorizing a person who does not meet background screening requirements to request from the department an exemption from disqualification; amending s. 456.0135, F.S.; expanding certain background screening requirements to apply to all health care practitioners, rather than specified practitioners; requiring health care practitioners licensed before a specified date to comply with the background screening requirements by a specified date; amending ss. 457.105, 463.006, 465.007, 465.0075, 465.013, 465.014, 466.006, 466.0067, 466.007, 467.011, 468.1185, 468.1215, 468.1695, 468.209, 468.213, 468.355, 468.358, 468.509, 468.513, 468.803, 478.45, 483.815,

483.901, 483.914, 484.007, 484.045, 486.031, 486.102, 490.005, 490.0051, 490.006, 491.0045, 491.0046, 491.005, and 491.006, F.S.; revising licensure, registration, or certification requirements, as applicable, for acupuncturists; optometrists; pharmacists; pharmacist licenses by endorsement; registered pharmacy interns; pharmacy technicians; dentists; health access dental licenses; dental hygienists; midwives; speech-language pathologists and audiologists; speech-language pathology assistants and audiology assistants; nursing home administrators; occupational therapists and occupational therapy assistants; occupational therapist and occupational therapy assistant licenses by endorsement; respiratory therapists; respiratory therapist licenses by endorsement; dietitian/nutritionists; dietitian/nutritionist licenses by endorsement; practitioners of orthotics, prosthetics, or pedorthics; electrologists; clinical laboratory personnel; medical physicists; genetic counselors; opticians; hearing aid specialists; physical therapists; physical therapist assistants; psychologists and school psychologists; provisional licenses for psychologists; psychologist and school psychologist licenses by endorsement; intern registrations for clinical social work, marriage and

family therapy, and mental health counseling; provisional licenses for clinical social workers, marriage and family therapists, and mental health counselors; clinical social workers, marriage and family therapists, and mental health counselors; and clinical social worker, marriage and family therapist, and mental health counselor licenses by endorsement, respectively, to include background screening requirements; making conforming and technical changes; amending ss. 486.025, 486.0715, 486.1065, and 491.003, F.S.; conforming cross-references; providing an appropriation; providing an effective date.

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

Section 1. Subsection (6) of section 420.621, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

420.621 Definitions.—As used in ss. 420.621-420.628, the term:

(6) "Person with lived experience" means any person with current or past experience of homelessness, as defined in 24 C.F.R. s. 578.3, including persons who have accessed or sought homeless services while fleeing domestic violence.

Section 2. Section 420.6241, Florida Statutes, is created to read:

420.6241 Persons with lived experience.—

(1) LEGISLATIVE INTENT.—The Legislature finds that the ability to provide adequate homeless services is limited due to a shortage of professionals and paraprofessionals in the field. Persons with lived experience of homelessness are uniquely qualified to provide effective support services because they share common life experiences with the persons they assist. A person with lived experience may have a criminal history that prevents him or her from meeting background screening requirements.

(2) QUALIFICATIONS.—A person may seek certification as a person with lived experience if he or she has received homeless services. A continuum of care lead agency serving the homeless must include documentation of the homeless services such person received when requesting a background check of the applicant.

(3) DUTIES OF THE DEPARTMENT.—The department shall ensure that an applicant's background screening required to achieve certification is conducted as provided in subsection (4).

(4) BACKGROUND SCREENING.—

(a) The background screening conducted under this subsection must ensure that the qualified applicant has not, during the preceding 3 years, been arrested for and is not awaiting final disposition of, has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has not been adjudicated delinquent and the record has been sealed or expunged for, any felony.

(b) The background screening conducted under this subsection must ensure that the qualified applicant has not been arrested for and is not awaiting final disposition of, has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has not been adjudicated delinquent and the record has been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense is a felony of the first or second degree.

4. Section 415.111, relating to criminal penalties for abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence, as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter

of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing of an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.

12. Section 787.01, relating to kidnapping.

13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.

25. Chapter 800, relating to lewdness and indecent exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense is a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense is a felony.

29. Section 810.145, relating to video voyeurism, if the offense is a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if the offense is a felony of the first degree.

35. Section 817.234, relating to false and fraudulent insurance claims, if the offense is a felony of the first or second degree.

36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense is a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense is a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense is a felony.

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and control, if the offense is a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual

misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate, resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

(5) EXEMPTION REQUESTS.—An applicant who desires to become a certified person with lived experience but is disqualified under subsection (4) may apply to the department for an exemption from disqualification under s. 435.07, as applicable. The department shall accept or reject an application for exemption within 90 days after receiving the application from the applicant.

Section 3. Subsection (1) of section 456.0135, Florida Statutes, is amended to read:

456.0135 General background screening provisions.—

(1) An application for initial licensure received on or after January 1, 2013, under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465 ~~s. 465.022~~, chapter 466, chapter 467, part I, part II, part

III, part V, part X, part XIII, or part XIV of chapter 468, chapter 478, ~~or~~ chapter 480, chapter 483, chapter 484, chapter 486, chapter 490, or chapter 491 must ~~shall~~ include fingerprints pursuant to procedures established by the department through a vendor approved by the Department of Law Enforcement and fees imposed for the initial screening and retention of fingerprints. Fingerprints must be submitted electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Each board, or the department if there is no board, must ~~shall~~ screen the results to determine whether ~~if~~ an applicant meets licensure requirements. For any subsequent renewal of the applicant's license which ~~that~~ requires a national criminal history check, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the fingerprints are enrolled in the national retained print arrest notification program.

Section 4. Health care practitioners as defined in s. 456.001, Florida Statutes, who were licensed before July 1, 2024, must comply with the background screening requirements of s. 456.0135, Florida Statutes, by July 1, 2025.

Section 5. Subsection (2) of section 457.105, Florida Statutes, is amended to read:

457.105 Licensure qualifications and fees.—

(2) A person may become licensed to practice acupuncture if the person applies to the department and meets all of the following criteria:

(a) Is 21 years of age or older, has good moral character, and has the ability to communicate in English, which is demonstrated by having passed the national written examination in English or, if such examination was passed in a foreign language, by also having passed a nationally recognized English proficiency examination.~~;~~

(b) Has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture and oriental medicine, and has completed a 3-year course of study in acupuncture and oriental medicine, and effective July 31, 2001, a 4-year course of study in acupuncture and oriental medicine, which meets standards established by the board by rule, which standards include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, western pathology, western biomedical terminology, first aid, and cardiopulmonary resuscitation (CPR). However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, must have completed only a 2-year course of study which meets standards established by the board by rule, which standards must include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology.~~;~~

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state that has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture and oriental medicine. At the request of any applicant, oriental nomenclature for the points must ~~shall~~ be used in the examination. The examination must ~~shall~~ include a practical examination of the knowledge and skills required to practice modern and traditional acupuncture and oriental medicine, covering diagnostic and treatment techniques and procedures.~~; and~~

(d) Pays the required fees set by the board by rule not to exceed the following amounts:

1. Examination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

2. Application fee: $300.

3. Reexamination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

4. Initial biennial licensure fee: $400, if licensed in the first half of the biennium, and $200, if licensed in the

second half of the biennium.

(e) Submits to background screening in accordance with s. 456.0135.

Section 6. Subsection (1) of section 463.006, Florida Statutes, is amended to read:

463.006 Licensure and certification by examination.—

(1) Any person desiring to be a licensed practitioner under ~~pursuant to~~ this chapter must apply to the department, submit to background screening in accordance with s. 456.0135, and ~~must~~ submit proof to the department that she or he meets all of the following criteria:

(a) Has completed the application forms as required by the board, remitted an application fee for certification not to exceed $250, remitted an examination fee for certification not to exceed $250, and remitted an examination fee for licensure not to exceed $325, all as set by the board.

(b) Is at least 18 years of age.

(c) Has graduated from an accredited school or college of optometry approved by rule of the board.

(d) Is of good moral character.

(e) Has successfully completed at least 110 hours of transcript-quality coursework and clinical training in general and ocular pharmacology as determined by the board, at an institution that:

1. Has facilities for both didactic and clinical instructions in pharmacology; and

2. Is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.

(f) Has completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.

Section 7. Subsection (1) of section 465.007, Florida Statutes, is amended to read:

465.007 Licensure by examination.—

(1) Any person desiring to be licensed as a pharmacist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted an examination fee set by the board not to exceed $100 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Association of Boards of Pharmacy or a similar national organization. The fees authorized under this section shall be established in sufficient amounts to cover administrative costs.

(b) Submitted to background screening in accordance with s. 456.0135.

(c) Submitted satisfactory proof that she or he is not less than 18 years of age and:

1. Is a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education; or

2. Is a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has demonstrated proficiency in English by passing both the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE), has passed the Foreign Pharmacy Graduate Equivalency Examination that is approved by rule of the board, and has completed a minimum of 500 hours in a supervised work activity program within this state under the supervision of a pharmacist licensed by the department, which program is approved by the board.

(d) ~~(c)~~ Submitted satisfactory proof that she or he has completed an internship program approved by the board. No such board-approved program shall exceed 2,080 hours, all of which may be obtained prior to graduation.

Section 8. Subsection (1) of section 465.0075, Florida Statutes, is amended to read:

465.0075 Licensure by endorsement; requirements; fee.—

(1) The department shall issue a license by endorsement to any applicant who applies to the department and remits a nonrefundable fee of not more than $100, as set by the board, and who ~~whom~~ the board certifies has met all of the following criteria:

(a) ~~Has~~ Met the qualifications for licensure in s.

465.007(1)(b), ~~and~~ (c), and (d).~~;~~

(b) ~~Has~~ Obtained a passing score, as established by rule of the board, on the licensure examination of the National Association of Boards of Pharmacy or a similar nationally recognized examination, if the board certifies that the applicant has taken the required examination.~~;~~

(c)1. ~~Has~~ Submitted evidence of the active licensed practice of pharmacy, including practice in community or public health by persons employed by a governmental entity, in another jurisdiction for at least 2 of the immediately preceding 5 years or evidence of successful completion of board-approved postgraduate training or a board-approved clinical competency examination within the year immediately preceding application for licensure; or

2. ~~Has~~ Completed an internship meeting the requirements of s. 465.007(1)(d) ~~s. 465.007(1)(c)~~ within the 2 years immediately preceding application.~~; and~~

(d) ~~Has~~ Obtained a passing score on the pharmacy jurisprudence portions of the licensure examination, as required by board rule.

Section 9. Section 465.013, Florida Statutes, is amended to read:

465.013 Registration of pharmacy interns.—The department shall register as pharmacy interns persons certified by the board as being enrolled in an intern program at an accredited school or college of pharmacy or who are graduates of accredited

schools or colleges of pharmacy and are not yet licensed in the state. Applicants for registration must submit to background screening in accordance with s. 456.0135. The board may refuse to certify to the department or may revoke the registration of any intern for good cause, including grounds enumerated in this chapter for revocation of pharmacists' licenses.

Section 10. Subsection (2) of section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—

(2) Any person who wishes to work as a pharmacy technician in this state must register by filing an application with the board on a form adopted by rule of the board and submit to background screening in accordance with s. 456.0135. The board shall register each applicant who has remitted a registration fee set by the board, not to exceed $50 biennially; has completed the application form and remitted a nonrefundable application fee set by the board, not to exceed $50; has submitted to background screening; is at least 17 years of age; and has completed a pharmacy technician training program approved by the Board of Pharmacy. Notwithstanding any requirements in this subsection, any registered pharmacy technician registered pursuant to this section before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist or received certification as a pharmacy technician by certification program accredited by the National Commission for Certifying

Agencies is exempt from the requirement to complete an initial training program for purposes of registration as required by this subsection.

Section 11. Paragraph (b) of subsection (1) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(1)

(b)1. Any person desiring to be licensed as a dentist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application must ~~shall~~ include two recent photographs. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable and~~. There shall also be~~ an examination fee set by the board~~, which shall~~ not to exceed $425 plus the actual per applicant cost to the department for purchase of some or all of the examination from the American Board of Dental Examiners or its successor entity, if any, provided the board finds the successor entity's clinical examination complies with ~~the provisions of~~ this section. The examination fee may be refunded ~~refundable~~ if the applicant is found ineligible to take the examinations.

2. Applicants for licensure must also submit to background screening in accordance with s. 456.0135.

Section 12. Section 466.0067, Florida Statutes, is amended to read:

466.0067 Application for health access dental license.—The

Legislature finds that there is an important state interest in attracting dentists to practice in underserved health access settings in this state and further, that allowing out-of-state dentists who meet certain criteria to practice in health access settings without the supervision of a dentist licensed in this state is substantially related to achieving this important state interest. Therefore, notwithstanding the requirements of s. 466.006, the board shall grant a health access dental license to practice dentistry in this state in health access settings as defined in s. 466.003 to an applicant who meets all of the following criteria:

(1) Files an appropriate application approved by the board.~~;~~

(2) Pays an application license fee for a health access dental license, laws-and-rule exam fee, and an initial licensure fee. The fees specified in this subsection may not differ from an applicant seeking licensure pursuant to s. 466.006.~~;~~

(3) Has submitted to background screening in accordance with s. 456.0135 and has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.~~;~~

(4) Submits proof of graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.~~;~~

(5) Submits documentation that she or he has completed, or

will obtain before licensure, continuing education equivalent to this state's requirement for dentists licensed under s. 466.006 for the last full reporting biennium before applying for a health access dental license.~~;~~

(6) Submits proof of her or his successful completion of parts I and II of the dental examination by the National Board of Dental Examiners and a state or regional clinical dental licensing examination that the board has determined effectively measures the applicant's ability to practice safely.~~;~~

(7) Currently holds a valid, active dental license in good standing which has not been revoked, suspended, restricted, or otherwise disciplined from another of the United States, the District of Columbia, or a United States territory.~~;~~

(8) Has never had a license revoked from another of the United States, the District of Columbia, or a United States territory.~~;~~

(9) Has never failed the examination specified in s. 466.006, unless the applicant was reexamined pursuant to s. 466.006 and received a license to practice dentistry in this state.~~;~~

(10) Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.~~;~~

(11) Submits proof that he or she has been engaged in the active, clinical practice of dentistry providing direct patient care for 5 years immediately preceding the date of application,

or in instances when the applicant has graduated from an accredited dental school within the preceding 5 years, submits proof of continuous clinical practice providing direct patient care since graduation.~~; and~~

(12) Has passed an examination covering the laws and rules of the practice of dentistry in this state as described in s. 466.006(4)(a).

Section 13. Subsection (1) of section 466.007, Florida Statutes, is amended to read:

466.007 Examination of dental hygienists.—

(1)1. Any person desiring to be licensed as a dental hygienist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application must ~~shall~~ include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the board not to exceed $100 and an examination fee set by the board ~~which shall~~ not to exceed ~~be more than~~ $225. The examination fee may be refunded if the applicant is found ineligible to take the examinations.

2. Applicants for licensure must also submit to background screening in accordance with s. 456.0135.

Section 14. Subsection (5) is added to section 467.011, Florida Statutes, to read:

467.011 Licensed midwives; qualifications; examination.—The department shall issue a license to practice midwifery to an applicant who meets all of the following criteria:

(5) Submits to background screening in accordance with s. 456.0135.

Section 15. Subsections (2) and (3) of section 468.1185, Florida Statutes, are amended to read:

468.1185 Licensure.—

(2) The board shall certify for licensure any applicant who has met all of the following criteria:

(a) Satisfied the education and supervised clinical requirements of s. 468.1155.

(b) Satisfied the professional experience requirement of s. 468.1165.

(c) Passed the licensure examination required by s. 468.1175.

(d) For an applicant for an audiologist license who has obtained a doctoral degree in audiology, has satisfied the education and supervised clinical requirements of paragraph (a) and the professional experience requirements of paragraph (b).

(e) Submitted to background screening in accordance with s. 456.0135.

(3) The board shall certify as qualified for a license by endorsement as a speech-language pathologist or audiologist an applicant who:

(a) Holds a valid license or certificate in another state or territory of the United States to practice the profession for which the application for licensure is made, if the criteria for issuance of such license were substantially equivalent to or

more stringent than the licensure criteria which existed in this state at the time the license was issued; or

(b) Holds a valid certificate of clinical competence of the American Speech-Language and Hearing Association or board certification in audiology from the American Board of Audiology; and

(c) Submits to background screening in accordance with s. 456.0135.

Section 16. Subsections (1) and (2) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(1) The department shall issue a certificate as a speech-language pathology assistant to each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Submitted to background screening in accordance with s. 456.0135.

(c) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Council for Higher Education Accreditation.

(2) The department shall issue a certificate as an

audiology assistant to each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Submitted to background screening in accordance with s. 456.0135.

(c) Earned a high school diploma or its equivalent.

Section 17. Present subsections (2), (3), and (4) of section 468.1695, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, a new subsection (2) is added to that section, and present subsection (2) of that section is amended, to read:

468.1695 Licensure by examination.—

(2) Applicants for licensure must also submit to background screening in accordance with s. 456.0135.

(3) ~~(2)~~ The department shall examine each applicant who the board certifies has completed the application form, submitted to background screening, and remitted an examination fee set by the board not to exceed $250 and who:

(a)1. Holds a baccalaureate degree from an accredited college or university and majored in health care administration, health services administration, or an equivalent major, or has credit for at least 60 semester hours in subjects, as prescribed by rule of the board, which prepare the applicant for total management of a nursing home; and

2. Has fulfilled the requirements of a college-affiliated

or university-affiliated internship in nursing home administration or of a 1,000-hour nursing home administrator-in-training program prescribed by the board; or

(b)1. Holds a baccalaureate degree from an accredited college or university; and

2.a. Has fulfilled the requirements of a 2,000-hour nursing home administrator-in-training program prescribed by the board; or

b. Has 1 year of management experience allowing for the application of executive duties and skills, including the staffing, budgeting, and directing of resident care, dietary, and bookkeeping departments within a skilled nursing facility, hospital, hospice, assisted living facility with a minimum of 60 licensed beds, or geriatric residential treatment program and, if such experience is not in a skilled nursing facility, has fulfilled the requirements of a 1,000-hour nursing home administrator-in-training program prescribed by the board.

Section 18. Subsections (1) and (2) of section 468.209, Florida Statutes, are amended to read:

468.209 Requirements for licensure.—

(1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall apply to the department on forms furnished by the department. The department shall license each applicant who the board certifies meets all of the following criteria:

(a) Has completed the ~~file a written~~ application form and

remitted~~, accompanied by~~ the application for licensure fee prescribed in s. 468.221.

(b) Has submitted to background screening in accordance with s. 456.0135.~~, on forms provided by the department, showing to the satisfaction of the board that she or he:~~

(c)~~(a)~~ Is of good moral character.

(d)~~(b)~~ Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biologic or physical science, psychology, and sociology, and with education in selected manual skills. Such a program shall be accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, or its successor.

(e)~~(c)~~ Has successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution where she or he met the academic requirements. For an occupational therapist, a minimum of 6 months of supervised fieldwork experience is required. For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork experience is required.

(f)~~(d)~~ Has passed an examination conducted or adopted by the board as provided in s. 468.211.

(2) An applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for 4 years and who, before January 24, 1988,

completed a minimum of 24 weeks of supervised occupational-therapist-level fieldwork experience may take the examination to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists made otherwise applicable under paragraph (1)(d) ~~(1)(b)~~.

Section 19. Subsection (3) is added to section 468.213, Florida Statutes, to read:

468.213 Licensure by endorsement.—

(3) Applicants for licensure by endorsement must submit to background screening in accordance with s. 456.0135.

Section 20. Section 468.355, Florida Statutes, is amended to read:

468.355 Licensure requirements.—To be eligible for licensure by the board, an applicant must be an active "certified respiratory therapist" or an active "registered respiratory therapist" as designated by the National Board for Respiratory Care, or its successor, and submit to background screening in accordance with s. 456.0135.

Section 21. Subsection (4) of section 468.358, Florida Statutes, is amended to read:

468.358 Licensure by endorsement.—

(4) Applicants for licensure ~~shall not be granted~~ by endorsement under ~~as provided in~~ this section must submit ~~without the submission of~~ a proper application, remit ~~and the payment of~~ the requisite application fee, and submit to background screening in accordance with s. 456.0135 ~~fees~~

~~therefor~~.

Section 22. Present subsections (2), (3), and (4) of section 468.509, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, a new subsection (2) is added to that section, and present subsection (2) of that section is amended, to read:

468.509 Dietitian/nutritionist; requirements for licensure.—

(2) Applicants for licensure must also submit to background screening in accordance with s. 456.0135.

(3)~~(2)~~ The department shall examine any applicant who the board certifies has completed the application form, submitted to background screening, and remitted the application and examination fees specified in s. 468.508 and who:

(a)1. Possesses a baccalaureate or postbaccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management, or an equivalent major course of study, from a school or program accredited, at the time of the applicant's graduation, by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation and the United States Department of Education; and

2. Has completed a preprofessional experience component of not less than 900 hours or has education or experience determined to be equivalent by the board; or

(b)1. Has an academic degree, from a foreign country, that

has been validated by an accrediting agency approved by the United States Department of Education as equivalent to the baccalaureate or postbaccalaureate degree conferred by a regionally accredited college or university in the United States;

2. Has completed a major course of study in human nutrition, food and nutrition, dietetics, or food management; and

3. Has completed a preprofessional experience component of not less than 900 hours or has education or experience determined to be equivalent by the board.

Section 23. Subsection (1) of section 468.513, Florida Statutes, is amended to read:

468.513 Dietitian/nutritionist; licensure by endorsement.—

(1) The department shall issue a license to practice dietetics and nutrition by endorsement to any applicant who submits to background screening in accordance with s. 456.0135 and the board certifies as qualified, upon receipt of a completed application and the fee specified in s. 468.508.

Section 24. Subsection (2) of section 468.803, Florida Statutes, is amended to read:

468.803 License, registration, and examination requirements.—

(2) An applicant for registration, examination, or licensure must apply to the department on a form prescribed by the board for consideration of board approval. Each initial

applicant shall submit fingerprints to the department in accordance with s. 456.0135 and any other procedures specified by the department for state and national criminal history checks of the applicant. The board shall screen the results to determine if an applicant meets licensure requirements. The board shall consider for examination, registration, or licensure each applicant whom the board verifies meets all of the following criteria:

(a) Has submitted the completed application and completed the fingerprinting requirements and has paid the applicable application fee, not to exceed $500. The application fee is nonrefundable.~~;~~

(b) Is of good moral character.~~;~~

(c) Is 18 years of age or older.~~; and~~

(d) Has completed the appropriate educational preparation.

Section 25. Subsection (1) of section 478.45, Florida Statutes, is amended to read:

478.45 Requirements for licensure.—

(1) An applicant applying for licensure as an electrologist shall apply to the department on forms furnished by the department. The department shall license each applicant who the board certifies meets all of the following criteria:

(a) Has completed the ~~file a written~~ application form and remitted~~, accompanied by~~ the application for licensure fee prescribed in s. 478.55.

(b) Has submitted to background screening in accordance

with s. 456.0135.~~, on a form provided by the board, showing to the satisfaction of the board that the applicant:~~

(c)~~(a)~~ Is at least 18 years old.

(d)~~(b)~~ Is of good moral character.

(e)~~(c)~~ Possesses a high school diploma or a high school equivalency diploma.

(f)~~(d)~~ Has not committed an act in any jurisdiction which would constitute grounds for disciplining an electrologist in this state.

(g)~~(e)~~ Has successfully completed the academic requirements of an electrolysis training program, not to exceed 120 hours, and the practical application thereof as approved by the board.

Section 26. Section 483.815, Florida Statutes, is amended to read:

483.815 Application for clinical laboratory personnel license.—An application for a clinical laboratory personnel license shall be made under oath on forms provided by the department and shall be accompanied by payment of fees as provided by this part. Applicants for licensure must also submit to background screening in accordance with s. 456.0135. A license may be issued authorizing the performance of procedures of one or more categories.

Section 27. Present paragraphs (b) through (k) of subsection (4) of section 483.901, Florida Statutes, are redesignated as paragraphs (c) through (l), respectively, a new

paragraph (b) is added to that subsection, and paragraph (a) of that subsection is amended, to read:

483.901 Medical physicists; definitions; licensure.—

(4) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, background screening requirements, and standards for practicing medical physics. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization approved by the department. The department may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(b) Applicants for a medical physicist license must submit to background screening in accordance with s. 456.0135.

Section 28. Subsections (2) and (3) of section 483.914, Florida Statutes, are amended to read:

483.914 Licensure requirements.—

(2) The department shall issue a license, valid for 2 years, to each applicant who meets all of the following criteria:

(a) Has completed an application.

(b) Has submitted to background screening in accordance with s. 456.0135.

(c) Is of good moral character.

(d) ~~(c)~~ Provides satisfactory documentation of having earned:

1. A master's degree from a genetic counseling training program or its equivalent as determined by the Accreditation Council of Genetic Counseling or its successor or an equivalent entity; or

2. A doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics and Genomics or the Canadian College of Medical Geneticists.

(e) ~~(d)~~ Has passed the examination for certification as:

1. A genetic counselor by the American Board of Genetic Counseling, Inc., the American Board of Medical Genetics and Genomics, or the Canadian Association of Genetic Counsellors; or

2. A medical or clinical geneticist by the American Board of Medical Genetics and Genomics or the Canadian College of Medical Geneticists.

(3) The department may issue a temporary license for up to 2 years to an applicant who meets all requirements for licensure except for the certification examination requirement imposed under paragraph (2)(e) ~~(2)(d)~~ and is eligible to sit for that certification examination.

Section 29. Subsection (1) of section 484.007, Florida

Statutes, is amended to read:

484.007 Licensure of opticians; permitting of optical establishments.—

(1) Any person desiring to practice opticianry shall apply to the department, upon forms prescribed by it, to take a licensure examination. The department shall examine each applicant who the board certifies meets all of the following criteria:

(a) Has completed the application form and remitted a nonrefundable application fee set by the board, in the amount of $100 or less, and an examination fee set by the board, in the amount of $325 plus the actual per applicant cost to the department for purchase of portions of the examination from the American Board of Opticianry or a similar national organization, or less, and refundable if the board finds the applicant ineligible to take the examination.~~;~~

(b) Submits to background screening in accordance with s. 456.0135.

(c) Is not less than 18 years of age.~~;~~

(d)~~(c)~~ Is a graduate of an accredited high school or possesses a certificate of equivalency of a high school education.~~; and~~

(e)1.~~(d)1.~~ Has received an associate degree, or its equivalent, in opticianry from an educational institution the curriculum of which is accredited by an accrediting agency recognized and approved by the United States Department of

Education or the Council on Postsecondary Education or approved by the board;

2. Is an individual licensed to practice the profession of opticianry pursuant to a regulatory licensing law of another state, territory, or jurisdiction of the United States, who has actively practiced in such other state, territory, or jurisdiction for more than 3 years immediately preceding application, and who meets the examination qualifications as provided in this subsection;

3. Is an individual who has actively practiced in another state, territory, or jurisdiction of the United States for more than 5 years immediately preceding application and who provides tax or business records, affidavits, or other satisfactory documentation of such practice and who meets the examination qualifications as provided in this subsection; or

4. Has registered as an apprentice with the department and paid a registration fee not to exceed $60, as set by rule of the board. The apprentice shall complete 6,240 hours of training under the supervision of an optician licensed in this state for at least 1 year or of a physician or optometrist licensed under the laws of this state. These requirements must be met within 5 years after the date of registration. However, any time spent in a recognized school may be considered as part of the apprenticeship program provided herein. The board may establish administrative processing fees sufficient to cover the cost of administering apprentice rules adopted ~~as promulgated~~ by the

board.

Section 30. Subsection (2) of section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(2) The department shall license each applicant who the board certifies meets all of the following criteria:

(a) Has completed the application form and remitted the required fees.

(b) Has submitted to background screening in accordance with s. 456.0135.

(c) Is of good moral character.

(d) ~~(c)~~ Is 18 years of age or older.

(e) ~~(d)~~ Is a graduate of an accredited high school or its equivalent.

(f)1. ~~(e)1.~~ Has met the requirements of the training program; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months.

(g) ~~(f)~~ Has passed an examination, as prescribed by board rule.

(h) ~~(g)~~ Has demonstrated, in a manner designated by rule of the board, knowledge of state laws and rules relating to the

fitting and dispensing of prescription hearing aids.

Section 31. Section 486.031, Florida Statutes, is amended to read:

486.031 Physical therapist; licensing requirements.—To be eligible for licensing as a physical therapist, an applicant must meet all of the following criteria:

(1) Be at least 18 years old.~~;~~

(2) Be of good moral character.

(3) Have submitted to background screening in accordance with s. 456.0135.~~; and~~

(4)(a)~~(3)(a)~~ Have ~~been~~ graduated from a school of physical therapy which has been approved for the educational preparation of physical therapists by the appropriate accrediting agency recognized by the Council for Higher Education Accreditation, or its successor entity, ~~Commission on Recognition of Postsecondary Accreditation~~ or the United States Department of Education at the time of her or his graduation and have passed, to the satisfaction of the board, the American Registry Examination prior to 1971 or a national examination approved by the board to determine her or his fitness for practice as a physical therapist as hereinafter provided;

(b) Have received a diploma from a program in physical therapy in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapists in this country, as recognized by the appropriate agency as identified by the board,

and have passed to the satisfaction of the board an examination to determine her or his fitness for practice as a physical therapist as hereinafter provided; or

(c) Be entitled to licensure without examination as provided in s. 486.081.

Section 32. Section 486.102, Florida Statutes, is amended to read:

486.102 Physical therapist assistant; licensing requirements.—To be eligible for licensing by the board as a physical therapist assistant, an applicant must meet all of the following criteria:

(1) Be at least 18 years old.~~;~~

(2) Be of good moral character.

(3) Have submitted to background screening in accordance with s. 456.0135.~~; and~~

(4)(a)~~(3)(a)~~ Have ~~been~~ graduated from a school giving a course of not less than 2 years for physical therapist assistants, which has been approved for the educational preparation of physical therapist assistants by the appropriate accrediting agency recognized by the Council for Higher Education Accreditation, or its successor entity, ~~Commission on Recognition of Postsecondary Accreditation~~ or the United States Department of Education~~,~~ at the time of her or his graduation and have passed to the satisfaction of the board an examination to determine her or his fitness for practice as a physical therapist assistant as hereinafter provided;

(b) Have ~~been~~ graduated from a school giving a course for physical therapist assistants in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapist assistants in this country, as recognized by the appropriate agency as identified by the board, and passed to the satisfaction of the board an examination to determine her or his fitness for practice as a physical therapist assistant as hereinafter provided;

(c) Be entitled to licensure without examination as provided in s. 486.107; or

(d) Have been enrolled between July 1, 2014, and July 1, 2016, in a physical therapist assistant school in this state which was accredited at the time of enrollment; and

1. Have ~~been~~ graduated ~~or be eligible to graduate from such school no later than July 1, 2018~~; and

2. Have passed to the satisfaction of the board an examination to determine his or her fitness for practice as a physical therapist assistant as provided in s. 486.104.

Section 33. Present paragraphs (b), (c), and (d) of subsection (1) of section 490.005, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, a new paragraph (b) is added to that subsection, and subsection (2) is amended, to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist

shall apply to the department to take the licensure examination. The department shall license each applicant whom the board certifies has met all of the following requirements:

(b) Submitted to background screening in accordance with s. 456.0135.

(2) Any person desiring to be licensed as a school psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the department certifies has met all of the following requirements:

(a) Satisfactorily completed the application form and submitted a nonrefundable application fee not to exceed $250 and an examination fee sufficient to cover the per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed $250 as set by department rule.

(b) Submitted to background screening in accordance with s. 456.0135.

(c) Submitted satisfactory proof to the department that the applicant:

1. Has received a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and has completed 60 semester hours or 90 quarter hours of graduate study, in areas related to school psychology as defined by rule of the department, from a college or university which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized and approved by the Council for

Higher Education Accreditation or its successor organization or from an institution that is a member in good standing with the Association of Universities and Colleges of Canada.

2. Has had a minimum of 3 years of experience in school psychology, 2 years of which must be supervised by an individual who is a licensed school psychologist or who has otherwise qualified as a school psychologist supervisor, by education and experience, as set forth by rule of the department. A doctoral internship may be applied toward the supervision requirement.

3. Has passed an examination provided by the department.

Section 34. Present paragraphs (b) and (c) of subsection (1) of section 490.0051, Florida Statutes, are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to that subsection, to read:

490.0051 Provisional licensure; requirements.—

(1) The department shall issue a provisional psychology license to each applicant whom the board certifies has met all of the following criteria:

(b) Submitted to background screening in accordance with s. 456.0135.

Section 35. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department, submitting to background screening in accordance

with s. 456.0135, and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

(a) Is a diplomate in good standing with the American Board of Professional Psychology, Inc.; or

(b) Possesses a doctoral degree in psychology and has at least 10 years of experience as a licensed psychologist in any jurisdiction or territory of the United States within the 25 years preceding the date of application.

Section 36. Subsections (1), (2), (4), and (6) of section 491.0045, Florida Statutes, are amended to read:

491.0045 Intern registration; requirements.—

(1) An individual who has not satisfied the postgraduate or post-master's level experience requirements, as specified in s. 491.005(1)(d), (3)(d), or (4)(d) ~~s. 491.005(1)(c), (3)(c), or (4)(c)~~, must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement or an individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, and must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.

(2) The department shall register as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern each applicant who the board certifies

has met all of the following criteria:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $200, as set by board rule.~~;~~

(b) Submitted to background screening in accordance with s. 456.0135.

(c)1. Completed the education requirements as specified in s. 491.005(1)(d), (3)(d), or (4)(d) ~~s. 491.005(1)(c), (3)(c), or (4)(c)~~ for the profession for which he or she is applying for licensure, if needed; and

2. Submitted an acceptable supervision plan, as determined by the board, for meeting the practicum, internship, or field work required for licensure that was not satisfied in his or her graduate program.

(d)~~(c)~~ Identified a qualified supervisor.

(4) An individual who fails to comply with this section may not be granted a license under this chapter, and any time spent by the individual completing the experience requirement as specified in s. 491.005(1)(d), (3)(d), or (4)(d) ~~s. 491.005(1)(c), (3)(c), or (4)(c)~~ before registering as an intern does not count toward completion of the requirement.

(6) Any registration issued after March 31, 2017, expires 60 months after the date it is issued. The board may make a one-time exception to the requirements of this subsection in emergency or hardship cases, as defined by board rule, if the candidate has passed the theory and practice examination

described in s. 491.005(1)(e), (3)(e), and (4)(e) ~~s. 491.005(1)(d), (3)(d), and (4)(d)~~.

Section 37. Subsection (2) of section 491.0046, Florida Statutes, is amended to read:

491.0046 Provisional license; requirements.—

(2) The department shall issue a provisional clinical social worker license, provisional marriage and family therapist license, or provisional mental health counselor license to each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $100, as set by board rule.~~; and~~

(b) Submitted to background screening in accordance with s. 456.0135.

(c) Earned a graduate degree in social work, a graduate degree with a major emphasis in marriage and family therapy or a closely related field, or a graduate degree in a major related to the practice of mental health counseling.~~; and~~

(d)~~(c)~~ Met the following minimum coursework requirements:

1. For clinical social work, a minimum of 15 semester hours or 22 quarter hours of the coursework required by s. 491.005(1)(c)2.b. ~~s. 491.005(1)(b)2.b.~~

2. For marriage and family therapy, 10 of the courses required by s. 491.005(3)(c) ~~s. 491.005(3)(b)~~, as determined by the board, and at least 6 semester hours or 9 quarter hours of

the course credits must have been completed in the area of marriage and family systems, theories, or techniques.

3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(4)(c)1.a., b., or c. ~~s. 491.005(4)(b)1.a.-c.~~

Section 38. Subsections (1) through (4) of section 491.005, Florida Statutes, are amended to read:

491.005 Licensure by examination.—

(1) CLINICAL SOCIAL WORK.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, the department shall issue a license as a clinical social worker to an applicant whom the board certifies has met all of the following criteria:

(a) Submitted an application and paid the appropriate fee.

(b) Submitted to background screening in accordance with s. 456.0135.

(c)1. Received a doctoral degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or received a master's degree in social work from a graduate school of social work which at the time the applicant graduated:

a. Was accredited by the Council on Social Work Education;

b. Was accredited by the Canadian Association for Social Work Education; or

c. Has been determined to have been a program equivalent

to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education. An applicant who graduated from a program at a university or college outside of the United States or Canada must present documentation of the equivalency determination from the council in order to qualify.

2. The applicant's graduate program emphasized direct clinical patient or client health care services, including, but not limited to, coursework in clinical social work, psychiatric social work, medical social work, social casework, psychotherapy, or group therapy. The applicant's graduate program must have included all of the following coursework:

a. A supervised field placement which was part of the applicant's advanced concentration in direct practice, during which the applicant provided clinical services directly to clients.

b. Completion of 24 semester hours or 32 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology, and no more than one course in research, taken in a school of social work accredited or approved pursuant to subparagraph 1.

3. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant provided additional documentation, including, but not limited to, a syllabus or catalog description

published for the course.

(d) ~~(c)~~ Completed at least 2 years of clinical social work experience, which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in subparagraph (c)2. ~~(b)2.~~, the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the clinical social work experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(e) ~~(d)~~ Passed a theory and practice examination designated by board rule.

(f) ~~(e)~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(2) CLINICAL SOCIAL WORK.—

(a) Notwithstanding ~~the provisions of~~ paragraph (1)(c) ~~(1)(b)~~, coursework which was taken at a baccalaureate level shall not be considered toward completion of education requirements for licensure unless an official of the graduate program certifies in writing on the graduate school's stationery that a specific course, which students enrolled in the same graduate program were ordinarily required to complete at the graduate level, was waived or exempted based on completion of a similar course at the baccalaureate level. If this condition is met, the board shall apply the baccalaureate course named toward the education requirements.

(b) An applicant from a master's or doctoral program in social work which did not emphasize direct patient or client services may complete the clinical curriculum content requirement by returning to a graduate program accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or to a clinical social work graduate program with comparable standards, in order to complete the education requirements for examination. However, a maximum of 6 semester or 9 quarter hours of the clinical curriculum content requirement may be completed by credit awarded for independent study coursework as defined by board rule.

(3) MARRIAGE AND FAMILY THERAPY.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, the department shall issue a license as a marriage

and family therapist to an applicant whom the board certifies has met all of the following criteria:

(a) Submitted an application and paid the appropriate fee.

(b) Submitted to background screening in accordance with s. 456.0135.

(c)1. Attained one of the following:

a. A minimum of a master's degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education.

b. A minimum of a master's degree with a major emphasis in marriage and family therapy or a closely related field from a university program accredited by the Council on Accreditation of Counseling and Related Educational Programs and graduate courses approved by the board.

c. A minimum of a master's degree with an emphasis in marriage and family therapy or a closely related field, with a degree conferred before September 1, 2027, from an institutionally accredited college or university and graduate courses approved by the board.

2. If the course title that appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant provided additional documentation, including, but not limited to, a syllabus or catalog description published for the course. The required master's degree must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an

institutional accrediting body recognized by the Council for Higher Education Accreditation or its successor organization or was a member in good standing with Universities Canada, or an institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an institutional accrediting body recognized by the Council for Higher Education Accreditation or its successor organization. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program that did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States

Department of Education.

(d) ~~(c)~~ Completed at least 2 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, which must be at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of experience, or the equivalent, who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field which did not include all of the coursework required by paragraph (c) ~~(b)~~, credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of 10 of the courses required by paragraph (c) ~~(b)~~, as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques. Within the 2 years of required experience, the applicant shall provide direct individual, group, or family therapy and counseling to cases including those involving unmarried dyads, married couples, separating and divorcing couples, and family groups that include children. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are

provided by a registered intern in a private practice setting.

(e) ~~(d)~~ Passed a theory and practice examination designated by board rule.

(f) ~~(e)~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure may not exceed those stated in this subsection.

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, the department shall issue a license as a mental health counselor to an applicant whom the board certifies has met all of the following criteria:

(a) Submitted an application and paid the appropriate fee.

(b) Submitted to background screening in accordance with s. 456.0135.

(c)1. Attained a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse. If the master's

degree is earned from a program related to the practice of mental health counseling which is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must consist of at least 60 semester hours or 80 quarter hours and meet all of the following requirements:

a. Thirty-three semester hours or 44 quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; substance abuse; and legal, ethical, and professional standards issues in the practice of mental health counseling. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework addressing diagnostic processes, including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. The graduate program must have emphasized the common core curricular experience.

c. The equivalent, as determined by the board, of at least 700 hours of university-sponsored supervised clinical practicum, internship, or field experience that includes at least 280 hours of direct client services, as required in the accrediting standards of the Council for Accreditation of Counseling and Related Educational Programs for mental health counseling programs. This experience may not be used to satisfy the post-master's clinical experience requirement.

2. Provided additional documentation if a course title that appears on the applicant's transcript does not clearly identify the content of the coursework. The documentation must include, but is not limited to, a syllabus or catalog description published for the course.

Education and training in mental health counseling must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an institutional accrediting body recognized by the Council for Higher Education Accreditation or its successor organization or was a member in good standing with Universities Canada, or an institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an institutional accrediting body recognized by

the Council for Higher Education Accreditation or its successor organization. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. Beginning July 1, 2025, an applicant must have a master's degree from a program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs, the Masters in Psychology and Counseling Accreditation Council, or an equivalent accrediting body which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(d) ~~(c)~~ Completed at least 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major related to the

practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (c)1.a and b. ~~(b)1.a. and b.~~, credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (c)1.a and b. ~~(b)1.a. and b.~~, as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(e) ~~(d)~~ Passed a theory and practice examination designated by board rule.

(f) ~~(e)~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Section 39. Subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the

practice of clinical social work, marriage and family therapy, and mental health counseling.

(b) Submitted to background screening in accordance with s. 456.0135.

(c)1. Holds an active valid license to practice and has actively practiced the licensed profession in another state for 3 of the last 5 years immediately preceding licensure;

2. Has passed a substantially equivalent licensing examination in another state or has passed the licensure examination in this state in the profession for which the applicant seeks licensure; and

3. Holds a license in good standing, is not under investigation for an act that would constitute a violation of this chapter, and has not been found to have committed any act that would constitute a violation of this chapter.

The fees paid by any applicant for certification as a master social worker under this section are nonrefundable.

Section 40. Section 486.025, Florida Statutes, is amended to read:

486.025 Powers and duties of the Board of Physical Therapy Practice.—The board may administer oaths, summon witnesses, take testimony in all matters relating to its duties under this chapter, establish or modify minimum standards of practice of physical therapy as defined in s. 486.021, including, but not limited to, standards of practice for the performance of dry

needling by physical therapists, and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter. The board may also review the standing and reputability of any school or college offering courses in physical therapy and whether the courses of such school or college in physical therapy meet the standards established by the appropriate accrediting agency referred to in s. 486.031(4)(a) ~~s. 486.031(3)(a)~~. In determining the standing and reputability of any such school and whether the school and courses meet such standards, the board may investigate and personally inspect the school and courses.

Section 41. Paragraph (b) of subsection (1) of section 486.0715, Florida Statutes, is amended to read:

486.0715 Physical therapist; issuance of temporary permit.—

(1) The board shall issue a temporary physical therapist permit to an applicant who meets the following requirements:

(b) Is a graduate of an approved United States physical therapy educational program and meets all the eligibility requirements for licensure under chapter ~~ch.~~ 456, s. 486.031(1)-(4)(a) ~~s. 486.031(1)-(3)(a)~~, and related rules, except passage of a national examination approved by the board is not required.

Section 42. Paragraph (b) of subsection (1) of section 486.1065, Florida Statutes, is amended to read:

486.1065 Physical therapist assistant; issuance of temporary permit.—

(1) The board shall issue a temporary physical therapist

assistant permit to an applicant who meets the following requirements:

(b) Is a graduate of an approved United States physical therapy assistant educational program and meets all the eligibility requirements for licensure under chapter ~~ch.~~ 456, s. 486.102(1)-(4)(a) ~~s. 486.102(1)-(3)(a)~~, and related rules, except passage of a national examination approved by the board is not required.

Section 43. Subsections (15), (16), and (17) of section 491.003, Florida Statutes, are amended to read:

491.003 Definitions.—As used in this chapter:

(15) "Registered clinical social worker intern" means a person registered under this chapter who is completing the postgraduate clinical social work experience requirement specified in s. 491.005(1)(d) ~~s. 491.005(1)(c)~~.

(16) "Registered marriage and family therapist intern" means a person registered under this chapter who is completing the post-master's clinical experience requirement specified in s. 491.005(3)(d) ~~s. 491.005(3)(c)~~.

(17) "Registered mental health counselor intern" means a person registered under this chapter who is completing the post-master's clinical experience requirement specified in s. 491.005(4)(d) ~~s. 491.005(4)(c)~~.

Section 44. For the 2024-2025 Fiscal Year, nine full-time equivalent positions, with associated salary rate of 714,651 are authorized and the sums of $1,164,134 in recurring and $59,931

in nonrecurring funds from the Medical Quality Assurance Trust Fund are appropriated to the Department of Health for the purpose of implementing this act.

Section 45. This act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Trabulsy offered the following:

Amendment

Remove line 283 and insert:

s. 456.0135, Florida Statutes, upon their next licensure renewal that takes place after January 1, 2025. Beginning January 1, 2025, the Department of Health may not renew the license of a health care practitioner until he or she complies with the background screening requirements of s. 456.0135, Florida Statutes.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1061 Community-based Child Welfare Agencies
SPONSOR(S): Health Care Appropriations Subcommittee, Children, Families & Seniors Subcommittee, McFarland
TIED BILLS: **IDEN./SIM. BILLS:** SB 536

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	DesRochers	Brazzell
2) Health Care Appropriations Subcommittee	14 Y, 1 N, As CS	Fontaine	Clark
3) Health & Human Services Committee		DesRochers	Calamas

SUMMARY ANALYSIS

Florida's model for providing child welfare services is unique in the nation. No other state outsources its child welfare services to private organizations to the extent that Florida does. Accordingly, the performance of those private organizations – community based-care lead agencies (CBCs) and their subcontractors – has a great impact on the health, safety, and well-being of the thousands of children and families served by Florida's child welfare system.

While most CBC's are deemed by DCF to overall meet or exceed performance standards, deficiencies remain, particularly in the well-being of children in care. Additionally, a recent forensic audit of 6 CBC's identified the following financial and managerial concerns with one or more of the 6 CBC's:

- Non-compliant contract procurement for related and non-related entities.
- Receipt of Paycheck Protection Program Loans that were not properly reimbursed to the State.
- Board approval of deficit budgets.
- Allocated officer compensation in excess of mandatory caps.
- Non-compliance with Cost Allocation Plans.

CS/CS/HB 1061 amends CBC contractual obligations and the CBC funding model in the following ways:

- Procurement of CBC's: The bill prohibits renewal of CBC contracts by DCF, though it allows DCF to extend a CBC contract for one year.
- Contractual Obligations: The bill restricts the ability of CBCs to transact with third-party entities that are directly or indirectly related to CBC board members, officers, and directors, and certain relatives. The bill expands the minimum data points that the CBCs must publish on its website every month.
- Actuarially-sound funding model: Gradually transitions the allocation of core service funds for CBCs to an actuarially-based tiered payment model over four state fiscal years, starting with 2024-2025.
- CBC Procurements: The bill requires DCF to establish by contract financial penalties or sanctions that DCF must enforce when a CBC is not compliant with applicable local, state, or federal law for the procurement of commodities or contractual services.
- CBC Receivership: The bill lowers the threshold levels that authorize DCF to petition the court for a receivership of a CBC.
- Remedies for Noncompliance or Inadequate Performance: The bill establishes contractual actions that DCF may enforce against a CBC if the CBC fails to comply with contract terms or experiences performance deficiencies.

The bill has no fiscal impact for Fiscal Year 2024-25, but may redistribute funding among CBCs beginning in Fiscal Year 2025-26 and annually thereafter. The bill has no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:[1]

- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

Community Alliances

DCF is required to establish community alliances to serve as a catalyst for community resource development and promote prevention and early intervention, among other obligations.[2] Each community alliance may encompass more than one county when such arrangement is determined to provide for more effective representation.[3]

Community Alliances include local stakeholders and representatives in each county to encourage and maintain community participation and oversight of community-based care lead agencies (CBCs).[4] Community alliances are composed of representatives from:

- DCF.
- the county government.
- the school district.
- the county United Way.
- the county sheriff's office.
- the circuit court corresponding to the county.
- the county children's board, if one exists.
- a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, and promote adoption.[5]

The community alliance must adopt bylaws and may increase the membership of the alliance if such increase is necessary to adequately represent the diversity.[6] The additional members may include state

[1] S. 39.001(1)(a), F.S.
[2] S. 20.19(5)(b), F.S.
[3] S. 20.19(5)(a), F.S.
[4] *Id*.
[5] S. 20.19(5)(d), F.S.
[6] S. 20.19(5)(e), F.S.

attorneys, public defenders, their designees, or individuals from funding organizations, community leaders or individuals who have knowledge of community-based service issues.[7]

DCF's procurement team for CBC contracts must include individuals from the community alliance in the area to be served under the contract.[8]

Community-Based Care Lead Agencies

Florida's model for providing child welfare services is unique in the nation. No other state outsources its child welfare services to private organizations to the extent that Florida does. Accordingly, the performance of those private organizations—community based-care lead agencies, or CBCs-- has great impact on the health, safety, and well-being of the thousands of children and families served by Florida's child welfare system. DCF's effective management and oversight of contractors is critical to the successful functioning of the child welfare system.

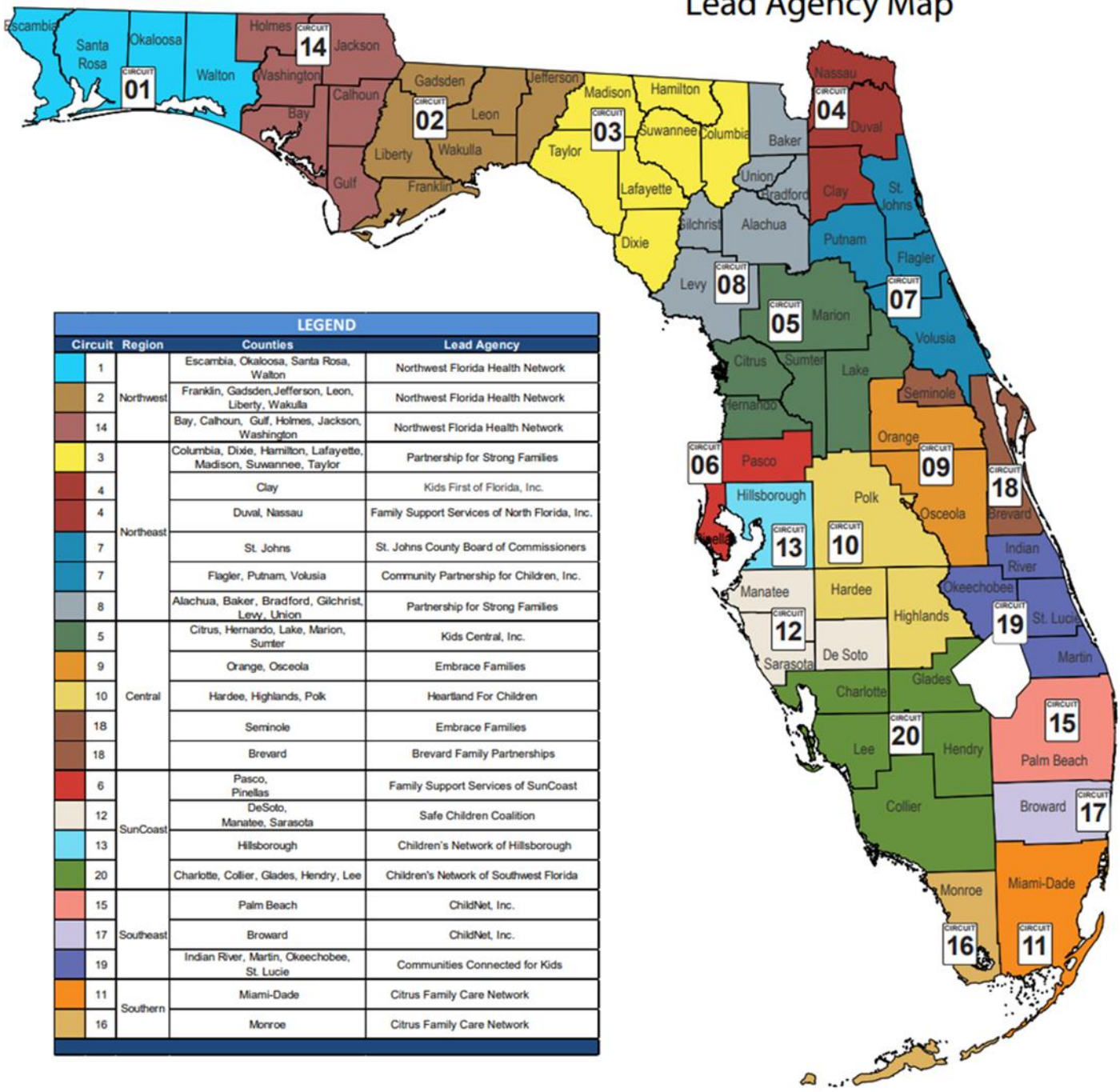
The Department of Children and Families (DCF) competitively contracts with CBCs as required by chapters 287 and 409 to provide child protection and child welfare services to children and families in Florida. These contracts generally cover case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services. Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system. [9]

At present, there are 18 CBCs that each cover specific geographic areas within the 20 Judicial Circuits in Florida. The geographic size of the CBC's varies widely. While a few serve only one county, ranging from St. Johns County to Broward County, several CBCs cover multiple counties, with one CBC (Partnership for Strong Families) encompassing 13 rural counties. The following map illustrates DCF Regions, Judicial Circuits, and CBC geographic areas.[10]

[7] *Id*.
[8] S. 409.987(5), F.S.
[9] S. 409.996, F.S.
[10] Florida Department of Children and Families, *A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis*, p. 2 (Dec. 1, 2023) https://www.myflfamilies.com/services/child-family/lmr (last visited Jan. 6, 2024).

Community-Based Care

Lead Agency Map



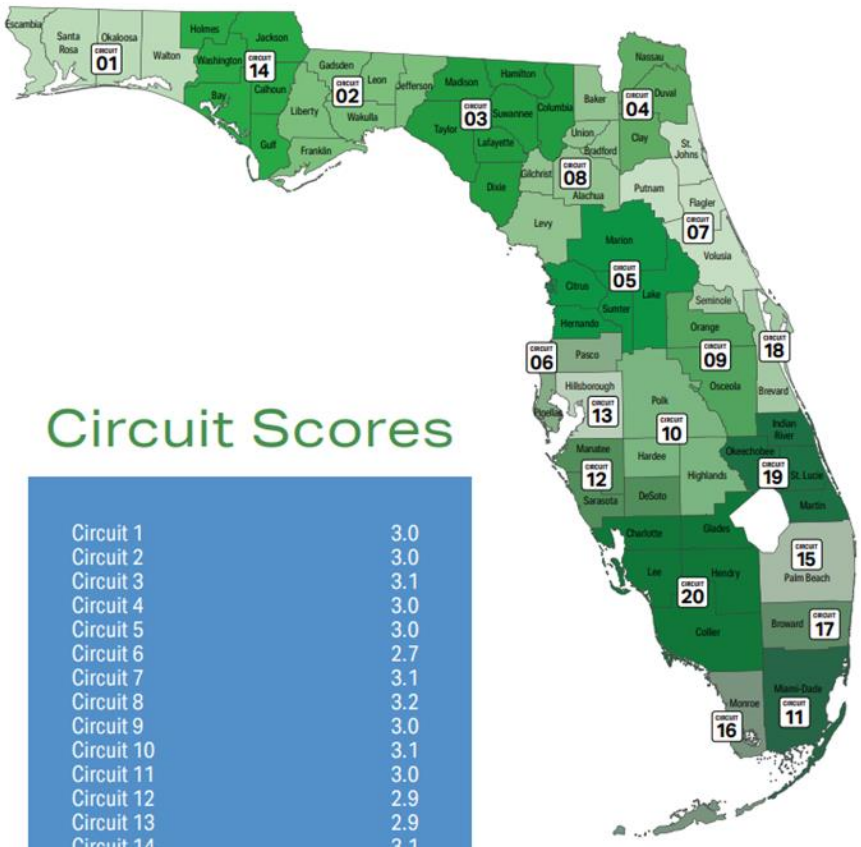
LEGEND

Circuit	Region	Counties	Lead Agency
1	Northwest	Escambia, Okaloosa, Santa Rosa, Walton	Northwest Florida Health Network
2		Franklin, Gadsden, Jefferson, Leon, Liberty, Wakulla	Northwest Florida Health Network
14		Bay, Calhoun, Gulf, Holmes, Jackson, Washington	Northwest Florida Health Network
3	Northeast	Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor	Partnership for Strong Families
4		Clay	Kids First of Florida, Inc.
4		Duval, Nassau	Family Support Services of North Florida, Inc.
7		St. Johns	St. Johns County Board of Commissioners
7		Flagler, Putnam, Volusia	Community Partnership for Children, Inc.
8		Alachua, Baker, Bradford, Gilchrist, Levy, Union	Partnership for Strong Families
5	Central	Citrus, Hernando, Lake, Marion, Sumter	Kids Central, Inc.
9		Orange, Osceola	Embrace Families
10		Hardee, Highlands, Polk	Heartland For Children
18		Seminole	Embrace Families
18		Brevard	Brevard Family Partnerships
6	SunCoast	Pasco, Pinellas	Family Support Services of SunCoast
12		DeSoto, Manatee, Sarasota	Safe Children Coalition
13		Hillsborough	Children's Network of Hillsborough
20		Charlotte, Collier, Glades, Hendry, Lee	Children's Network of Southwest Florida
15	Southeast	Palm Beach	ChildNet, Inc.
17		Broward	ChildNet, Inc.
19		Indian River, Martin, Okeechobee, St. Lucie	Communities Connected for Kids
11	Southern	Miami-Dade	Citrus Family Care Network
16		Monroe	Citrus Family Care Network

Accordingly, the child population of the area served by each CBC varies, and the number of children and families served by each CBC varies.

Florida Child Welfare System Performance Serving Children

The DCF infographic below scores the health of Florida's child welfare system at the circuit level.[11] DCF identifies areas with the most significant systemic impact on improving permanency and well-being[12] and evaluates progress toward achieving permanency, safety, and well-being for children in the welfare system. The overall score for each of the 20 circuits aggregates individual circuit performance scores on permanency, safety, and well-being. For FY21-22, the overall median score is 3.1 out of a possible 5, and 85% of circuits earned a 3.0 or higher.[13] A score over 3.50 indicates the circuit's performance exceeds established standards.[14] A score between 3.00-3.349 indicates the circuit's performance meets established standards.[15] A score of 2.00-2.99 indicated the circuit's performance does not meet established standards.[16] In FY 2021-2022, DCF gave 17 of 20 circuits a score of 3 or higher, indicating that the circuit's performance exceeds established standards. However, there were still deficiencies. Every CBC except one was rated below expectations or poor for the well-being of children in care.



[17]

CBC Funding

[11] Florida Department of Children and Families, *Annual Accountability Report on the Health of Florida's Child Welfare System: Fiscal Year 2021-2022*, p. 6 (Dec. 12, 2022) https://www.myflfamilies.com/sites/default/files/2022-12/Accountability_System_Report_2022-revision12DEC22.pdf (last visited Nov. 28, 2023).
[12] *Id*. at p. 3.
[13] *Id*. at p. 2.
[14] *Id*. at p. 7.
[15] *Id*.
[16] *Id*.
[17] *Id*. at pg. 6.

The source of CBC revenues are predominately federal and state funds appropriated by the Florida Legislature. Nearly all federal funding for child welfare purposes comes from the Social Security Act[18] and the Child Abuse Prevention and Treatment Act (CAPTA). Each of these federal sources generally require state matching funds.[19] Historically, CBCs could use Title IV-E funds in a variety of state-specific, innovative ways because the federal government approved a waiver allowing Florida to experiment. However, the federal government terminated the Title IV-E waiver authority it had allowed states on September 30, 2019.[20] This has led to significant change in levels and the mix of federal and state funds over the last five years.

CBC appropriations from federal and state sources grew from $951.9 million in Fiscal Year (FY) 2018-19 to $1.3 billion for FY 2023-24.[21] The Legislature appropriates funds from both state and federal sources to CBC's through DCF.

State law specifies calculation of annual CBC funding. The Legislature first established a CBC funding formula in law in 2011 and has changed over time.[22] Before this statutory formula, the allocation of new state or federal funds to lead agencies was based primarily on the number of children in care with direction to the department through proviso language in the General Appropriations Act, though at the time of the formula's enactment, the Legislature had begun considering additional factors such as those now in the formula.[23]

Under the current formula, 100 percent of the recurring core services funding for each community-based care lead agency are based on the prior year recurring base of core services funds, and any new funds are allocated according to a statutory formula.

Generally, all funds allocated to a CBCs are considered "core service funds", except for:

1. Funds appropriated for independent living.
2. Funds appropriated for maintenance adoption subsidies.
3. Funds allocated by DCF for protective investigations training.
4. Nonrecurring funds (e.g., risk pool appropriations, back of the bill authorizations designed in the General Appropriations Act, Legislative Budget Commission actions, and prior year excess federal earnings).[24]
5. Designated mental health wrap-around services.
6. Funds for special projects for a designated CBC.
7. Funds appropriated for the Guardianship Assistance Program under s. 39.6225, F.S.

Unless otherwise specified in the General Appropriations Act, any new core service funds are allocated according to the equity allocation model on the following weighted basis:

- 70% of new funding must be allocated among all CBCs.
- 30% of new funding must be allocated among the CBCs that are funded below their equitable share.[25]

[18] Relevant provisions of the Social Security Act include the Title IV-A Temporary Assistance for Needy Families (TANF) block grant, Title IV-B child welfare services, Title IV-B promoting safe and stable families, Title IV-E funds for foster care, Title IV-E funds for adoption assistance, independent living and education, training and voucher funds , and the Title XX Social Services Block Grant.
[19] In addition, a local match is required for the Title IV-B promoting safe and stable families fund.
[20] Florida Department of Children and Families, *A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis*, p. 3 (Dec. 1, 2023) https://www.myflfamilies.com/services/child-family/lmr (last visited Jan. 6, 2024).
[21] *Supra*, FN 10 at 3.
[22] Ch. 2011-62, L.O.F.
[23] Florida Senate Analysis of 2011 Senate Bill 2146, p. 3 (April 1, 2011) https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=2011s2146.bc.DOCX&DocumentType=Analysis&BillNumber=2146&Session=2011 (last visited Jan. 26, 2024).
[24] *Supra*, FN 3 at 4-5. At the time of DCF's annual report, the carry-forward balance for FY 2023-24 was not yet determined.
[25] S. 409.991(4), F.S.

The equity allocation model weights the proportions of the child population, the child abuse hotline workload, and the children in care according to the following formula:

- The proportion of the child population is weighted at 5% of the total.
- The proportion of the child abuse hotline workload is weighted at 35% of the total.
- The proportion of the children in care is weighted at 60% of the total.[26]

The FY 2023-24 GAA provides the following core service funding amounts to CBC's:

Community-based Care Lead Agency	Core Service Funding for FY 2023-24
Big Bend CBC (Northwest Florida Health Network)-West	$55,032,652
Big Bend CBC (Northwest Florida Health Network)-East	$35,459,931
Partnership for Strong Families	$31,401,300
Kids First of Florida	$12,525,871
Family Support Services of North Florida	$49,018,528
St Johns Board of County Commissioners (Family Integrity Program)	$7,683,739
Community Partnership for Children	$43,440,511
Kids Central	$54,912,909
Embrace Families	$60,761,737
Heartland for Children	$46,721,076
Community-Based Care of Brevard (Brevard Family Partnerships)	$29,292,110
Communities Connected for Kids	$24,247,000
Family Support Services of Suncoast	$87,553,887
Safe Children Coalition	$34,861,493
Children's Network of Hillsborough	$75,448,412
Children's Network of Southwest Florida	$53,746,134
ChildNet (Palm Beach)	$38,086,728
ChildNet (Broward)	$60,952,428
Citrus Family Care Network	$76,440,546

Total state-appropriated funds available for CBC's for FY 2023-24 was $1.331 billion.[27]

In addition, some CBCs receive revenue from local sources such as local government, private businesses, and not-for-profit foundations.[28]

Risk Pool

Total new funding available to CBC's varies by year but is generally a small percentage of the total funding for CBC services. This means that a CBC's funding does not change significantly year to year. When extenuating circumstances result in increased expenditures for CBC's, the funding through the formula does not change significantly. Thus s. 409.990, F.S., establishes a risk pool for lead agencies. The risk pool is intended to mitigate the financial risk to eligible lead agencies.

[26] S. 409.991(2), F.S.
[27] *Supra,* FN 10, at 5.
[28] *Supra*, FN 10 at 5.

CBC's must apply for risk pool funding, and then a DCF secretary-appointed risk pool peer review committee reviews and assesses all risk pool applications. The committee includes both DCF and non-applicant CBC representatives. The peer review committee then reports its findings and recommendations to the secretary, providing, at a minimum:

- Justification for the specific funding amount required by the risk pool applicant based on the current year's service trend data, including validation that the applicant's financial need was caused by circumstances beyond the control of the lead agency management;
- Verification that the proposed use of risk pool funds meets at least one of the purposes specified in paragraph (c); and
- Evidence of technical assistance provided in an effort to avoid the need to access the risk pool and recommendations for technical assistance to the lead agency to ensure that risk pool funds are expended effectively and that the agency's need for future risk pool funding is diminished.

Upon approval by the secretary of a risk pool application, the department may request funds from the risk pool in accordance with s. 216.181(6)(a).

The four purposes for which the community-based care risk pool shall be used include:

- Significant changes in the number or composition of clients eligible to receive services.
- Significant changes in the services that are eligible for reimbursement.
- Continuity of care in the event of failure, discontinuance of service, or financial misconduct by a lead agency.
- Significant changes in the mix of available funds.

The Legislature appropriates funding for the risk pool. The amount appropriated varies by year; for FY 23-24, the Legislature appropriated $3.0 million for the risk pool.[29] In FY 2022-23, two CBC's applied for risk pool funding, and one of the two (Embrace Families) was approved and awarded $3.1 million.[30]

2022 and 2024 Reports on Allocation Options

Current law sets monthly reporting requirements for DCF regarding its case management services or case management services provided by CBCs or their subcontractors. At a minimum, DCF must publish the following data points on its website by the 15th day of each month:[31]

1. The average caseload of case managers, including only filled positions;
2. The total number and percentage of case managers who have 25 or more cases on their caseloads;
3. The turnover rate for case managers and case management supervisors for the previous 12 months;
4. The percentage of required home visits completed; and
5. Performance on outcome measures required pursuant to s. 409.997 for the previous 12 months.

[29] *Supra,* FN 10, at 3.

[30] Department of Children and Families, *Risk Pool Peer Review Committee, Executive Summary Report, Fiscal Year 2022-23*, https://www.myflfamilies.com/sites/default/files/2023-05/Risk_Pool_Executive_Summary_FY22-23.pdf, p. 2.

[31] S. 409.988(1)(k), F.S.

Procurement by CBCs and Civil Penalties

Federal Requirements Governing Procurement by CBCs

The federal government awards federal program funds to DCF as the federal awarding agency or pass-through entity. Current law defines the pass-through entity as a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program. A non-federal entity means a state, local government, indigenous tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. [32]

CBCs must comply with state and federal statutory requirements and agency rules in the provision of contractual services.[33] To determine which federal rules apply to CBCs, DCF must first determine whether CBCs meet the federal classification of subrecipient or contractor. DCF, as the pass-through entity, must make a case-by-case determination whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract. The substance of the relationship is more important the form of the agreement.[34]

The table below describes the criteria that DCF must use to determine whether a CBC is a subrecipient or contractor; CBC's meet the criteria for subrecipients.

The Subrecipient Classification[35]	The Contractor Classification[36]
Determines a person's eligibility for federal assistance	Providers goods and services within normal business operations
Has its performance measured in relation to whether objectives of a federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision-making	Normally operates in a competitive environment
Must adhere to applicable federal program requirements specified in the federal award	Provides goods or services that are ancillary to the operation of the federal program
Uses federal funds to carry out a program for a public purpose authorized in statute (as opposed to providing goods or services for the benefit of a pass-through entity)	Is not subject to compliance requirements of the federal program as a result of the agreement with the pass-through entity.

At the time of DCF's subaward to the subrecipient CBC, the DCF must put the CBC on notice of all federal requirements to ensure the federal award is used in accordance with Federal statutes, regulations, and the terms and conditions of the federal award.[37] DCF must evaluate each CBC's risk of noncompliance with federal statutes, regulations, and terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring protocols.[38] The federal government authorizes the DCF to consider taking enforcement action against noncompliant subrecipients.[39]

The federal government delegates certain federal subaward enforcement responsibilities to DCF. If a CBC fails to comply with federal law or the terms and conditions of a federal award, DCF may impose

[32] 2 C.F.R. § 200.1.
[33] S. 409.988(1)(i), F.S.
[34] 2 C.F.R. § 200.331.
[35] 2 C.F.R. § 200.331(a).
[36] 2 C.F.R. § 200.331(b).
[37] 2 C.F.R. § 200.332(a)(2).
[38] 2 C.F.R. § 200.332(b).
[39] 2 C.F.R. § 200.332(h).

additional conditions[40] on the subrecipient or contractor. If DCF determines that noncompliance cannot be remedied by imposing additional conditions, DCF may take one of more the following actions:[41]

1. Temporarily withhold cash payments pending correction of the deficiency by the non-federal entity or take more serve enforcement action.
2. Deny all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.
4. Initiate suspension or debarment proceedings.
5. Withhold further federal awards for the project or program.
6. Take other remedies that are legally available.

Under federal law, a nonprofit organization that carries out a Federal award as a recipient or subrecipient (i.e., a CBC) must provide for full and open competition in procuring goods and services.[42] When the value of the procurement for property or services under a federal award does not exceed the federal simplified acquisition threshold of $250,000,[43] or a lower threshold established by a non-federal entity, formal procurement methods are not required.[44] When the value of the procurement for property or services under a federal financial assistance award exceed the federal simplified acquisition threshold of $250,000, or a lower threshold established by a non-federal entity, formal procurement methods are required.[45]

A CBC may conduct noncompetitive procurements with federal award dollars if:

1. the acquisition of services does not exceed an established micro-purchase threshold,
2. the item is available only from a single source,
3. there is public exigency or an emergency,
4. the federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity[46], or
5. competition is deemed inadequate after solicitation of a number of sources.[47]

State Law Governing Procurement by CBC's

In Florida, chapter 287 governs the procurement of commodities and contractual services. Generally, if a procurement request for commodities or contractual services exceeds $35,000, the competitive solicitation process is mandatory.[48] However, purchases of certain contractual services and commodities are exempt from this requirement, such as:

- Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.
- Services provided to persons with mental or physical disabilities by nonprofits recognized as 501(c)(3)s by the IRS.
- Medicaid services delivered to Medicaid eligible recipients.
- Family placement services.
- Prevention services related to mental health operated by nonprofits – including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways.[49]

[40] Additional conditions include adjusting specific federal award conditions, requiring payments as reimbursements rather than advance payments, requiring more detailed financial reports, requiring additional project monitoring, requiring technical or management assistance, and establishing additional prior approvals. 2 C.F.R. 200.208.
[41] 2 C.F.R. § 200.339.
[42] 2 C.F.R. § 200.318-320.
[43] 48 C.F.R. § 2.101.
[44] 2 C.F.R. § 200.320(a).
[45] 2 C.F.R. § 200.320(b).
[46] e.g., a DCF waiver to bypass competitive procurement requirements that create inefficiencies or inhibit of the performance of the CBC's duties.
[47] 2 C.F.R. § 200.320(c)(1)-(5).
[48] Ss. 287.057(1), 287.017(2), F.S.
[49] S. 287.057(3)(e), F.S.

If an agency receives fewer than two responsive bids, proposals, or replies, the procuring agency may negotiate with the vendor on the best terms and conditions.[50] Also, an agency may award a non-competitive government contract if state or federal law prescribes with whom the agency must contract or if the rate of payment or the receipt of funds is established during the appropriations process.[51]

CBCs have additional limitations on their procurement under state law beyond the general requirements in ch. 287, F.S. Specifically, CBC's cannot directly provide more than 35 percent of all child welfare services unless the CBC can demonstrate a need within the CBC's geographic service area to exceed this threshold. Current law requires community alliances[52] to review the CBC's justification for need and to recommend whether DCF should approve or deny the CBC's request for an exemption from the 35 percent threshold.[53] When CBCs outsource contractual services, the subcontracts must specify how the third-party vendor helps the CBC meet established performance standards under the child welfare results-oriented accountability system.[54].

CBC Governance and Expenditures

Organization and Board Responsibilities

Each CBC must be organized as a Florida corporation or a governmental entity and be governed by a board of directors or a board committee composed of by board members.[55] The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency.

- For boards of directors, at least 75% of the membership must consist of Florida residents, and at least 51% of these Florida resident members must reside within the CBC service area. The board of directors must have the power to hire the CBC's executive director.
- For board committees, 100% of its membership must consist of persons residing within the CBC service area. The board committee must have the power to confirm the selection of an executive director.[56]

Regardless of organization, each governing body must approve its CBC budget, set the CBC's operational policy and procedures, and demonstrate financial responsibility through an organized plan for regular fiscal audits and the posting of a performance bond.[57]

Conflict of Interest Requirements

Section 409.987, F.S, addresses conflict of interests in CBC board decision making. A CBC board member or officer must disclose to the board any activity that may reasonably be construed to be a conflict of interest before that activity may be initially considered and approved. This mandatory disclosure also applies to contract renewals.[58] A conflict of interest transaction manifests when a CBC board member or officer, or their relatives within the third degree of consanguinity by blood or marriage, does any of the following acts:

- enters into a contract or other transaction with the CBC for goods or services.
- holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts or proposes business with the CBC.

[50] S. 287.057(6), F.S.
[51] S. 287.057(11), F.S.
[52] Current law requires DCF to establish community alliances in each county to provide a focal point for community participation and governance of community-based services. s. 20.19(5), F.S.
[53] S. 409.988(1)(j). F.S.
[54] *Id*.
[55] e.g., St. Johns County Board of Commissioners is the CBC serving St. Johns County in Circuit 7.
[56] S. 409.987(4), F.S.
[57] S. 409.987(4), F.S.
[58] S. 409.987,(7)(b) F.S.

- knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such board member or officer, or their relatives, with the CBC.[59]

A rebuttable presumption of a conflict of interest exists if the board acted on a proposed conflict of interest transaction without prior notice on the board's meeting agenda. The meeting agenda must clearly identify the existence of a potential conflict of interest for the proposed transaction. At the meeting, if an affirmative vote of two-thirds of all other non-interested board members present approve the proposed transaction, only then can the CBC board member or officer engage in the conflict of interest activity.[60] The interested CBC board member or officer must recuse himself or herself from the vote.[61] However, if the proposed transaction is not approved, the CBC board member or officer must decide whether to provide written notice of the board member's or officer's intent to not pursue the proposed transaction or to withdraw from CBC leadership.[62]

If a conflict-of-interest contract entered into between the CBC and a CBC board member or officer (or their relatives) was not properly disclosed, the contract is voidable. The board may terminate the contract with the formal consent of at least 20% of the voting interests of the CBC.

CBC Executive Compensation

A CBC lead agency administrative employee cannot receive a salary, whether in base pay or base pay plus bonus or incentive payments, in excess of 150% of the annual salary paid to the DCF Secretary from state-appropriated funds – including state-appropriated federal funds.[63] Additional federal requirements also apply. In practice, this is currently a maximum of $350,449.71 of combined state and federal funds, of which only $213,000 can be federal funds. According to DCF, during recent audits of CBC spending on executive compensation, some CBCs stated that because they had multiple DCF contracts, they believed they could exceed this cap.[64]

Remedies

As an immediate remedy for failure to comply with contract terms or in the event of performance deficiencies, all contracts between DCF and the CBCs must provide for tiered interventions and graduated penalties. Examples of available interventions and penalties include:

- Enhanced monitoring and reporting.
- Corrective action plans.
- Requirements to accept DCF's technical assistance and consultation.
- Financial penalties requiring a CBC to reallocate funds from administrative costs to direct care for children.
- Early termination of contracts.[65]

In the event that DCF determines health, safety, and welfare of the dependent children currently cared for or supervised by a CBC is in imminent danger, DCF may petition a court of competent jurisdiction for the appointment of a receiver to ensure the continued health, safety, and welfare of the dependent children.[66] According to current law, DCF can make at least two arguments in a receivership petition:

- DCF determines that conditions exist in the CBC which present an imminent danger to the health, safety, or welfare of dependent children under the CBC's care or supervision.
- The CBC cannot meet its current financial obligations to its employees, contractors, or foster parents. The issuance of bad checks or the existence of delinquent obligations for payment of

[59] S. 409.987(7)(a), F.S.
[60] S. 409.987(7)(c), F.S.
[61] S. 409.987(e), F.S.
[62] S. 409.987(7)(d), F.S.
[63] S. 409.992(3), F.S.
[64] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1061, p. 6.
[65] S. 409.996(d), F.S.
[66] S. 409.994, F.S.

salaries, utilities, or invoices for essential services or commodities constitute prima facie evidence that the CBC lacks the financial ability to meet its financial obligations.[67]

The court may appoint a receiver for up to 90 days. DCF may petition for additional 30-day extensions. Sixty days after the appointment of the receiver, and every 30 days until the receivership is terminated, DCF must submit to the court an assessment of the CBC's ability to ensure the health, safety, and welfare of the dependent children under its supervision.[68]

Forensic Audits of CBCs

In December 2021, the DCF Inspector General (IG) identified 11 CBCs that routinely transferred funds to related parties. The IG expressed concern over this practice because funds transferred to related parties compromises DCF's ability to track further expenditures of state and federal dollars. Current law mandates that CBCs abide by DCF's financial guidelines and allow for a regular independent auditing of its financial activities,[69] and thus DCF procured the services of two auditing firms with the expertise to perform a forensic audit of these CBCs. As of January 2024, these auditing firms completed forensic examination reports for 6 CBCs and submitted them to DCF in August 2023.[70]

In response to the findings of the initial forensic examinations, the Department issued Corrective Action Plans (CAPs) to address key findings which included:

- Non-compliant contract procurement for related and non-related entities.
- Receipt of Paycheck Protection Program Loans that were not properly reimbursed to the State.
- Board approval of deficit budgets.
- Allocated officer compensation in excess of mandatory caps.
- Non-compliance with Cost Allocation Plans.[71]

Effect of the Bill

CBC Contractual Obligations

Contract Term

The bill prohibits DCF from renewing a CBC contract, instead requiring DCF to reprocure it at the end of the five-year term. The bill allows DCF to extend a CBC contract for one year.

General Governance

The bill requires board members to provide fiduciary oversight to prevent conflicts of interest, to promote accountability and transparency for the system of care, and to protect state and federal funding from misuse. The bill requires at least 75 percent of the membership of the board of directors or the board committee be composed of Florida residents. CBCs must ensure that board members participate in annual training related to their responsibilities.

Related Parties and Conflict of Interest Transactions

The bill restricts the ability of CBCs to transact with third-party entities that are directly or indirectly related to the CBC itself by requiring CBCs to competitively procure all contracts with related parties in excess of $35,000.

[67] S. 409.994, F.S.
[68] S. 409.994(2)(d), F.S.
[69] S. 409.988(1)(c), F.S.
[70] The six CBC's were Northwest Florida Health Network, Embrace Families, Partnership for Strong Families, Children's Network of Southwest Florida, Kids First of Florida, and Brevard Family Partnership. The audit reports for the first six CBC's are at https://www.myflfamilies.com/community-based-care-lead-agencies-audit-findings (last visited Jan. 26, 2024).
[71] *Supra*, FN 64.

The bill defines related party as "any entity of which a director or an executive of the entity is also directly or indirectly related to, or has a direct or indirect financial or other material interest in, the lead agency. The term also includes any subsidiary, parent entity, associate firm, or joint venture, or any entity that is controlled, influenced, or managed by another entity or an individual related to such entity, including an individual who is, or was within the immediately preceding 3 years, an executive officer or a board member of the entity."

The bill requires the board to disclose any known or actual conflicts of interest – including with related parties for the provision of management, administrative services, or oversight.

The bill expands the definition of conflict of interest to cover director level positions in the CBCs and the relatives of a board member, director, or officer of the CBCs. The bill prohibits directors and their relatives from knowingly obtaining a direct or indirect personal, financial, professional, or other benefit as a result of the conflict of interest relationship.

The bill requires DCF to assess a civil penalty of $5,000 per occurrence on a CBC for each known and potential conflict of interest that the CBC fails to disclose to DCF. In addition, the bill requires DCF to assess a civil penalty on a CBC when that CBC procures a contract for which a conflict of interest was not disclosed to DCF prior to the execution of the contract. For the first offense, DCF must assess a civil penalty of $50,000. For each subsequent offense, DCF must assess a civil penalty of $100,000. Finally, the bill requires the CBCs to reprocure transactions that involved a conflict of interest.

The bill authorizes DCF to prohibit the execution of a contract for which a conflict of interest exists, or will exist after execution.

CBC Executive Pay

The bill prohibits a CBC administrative employee from receiving a salary, whether base pay or base pay combined with any bonus or incentive payments from the CBC or any related party, in excess of 150 percent of the annual salary paid to the DCF Secretary from state-appropriated funds. The bill applies this limitation regardless of the number of contracts a CBC executes with DCF.

Financial Integrity

The bill requires the CBCs to comply with regular, independent auditing of its financial activities, including any requests for records associated with such financial audits within the timeframe established by DCF or its contracted vendors.

Reporting Requirements

The bill expands the minimum data points that the CBCs must publish on its website by the 15th day of each month. Specifically, the bill requires the CBCs to report four new data points:

1. The number of unlicensed placements for the previous month.
2. The percentages and trends for foster parent and group home recruitment and licensure for the previous month.
3. The percentage of families being served through family support, in-home, and out-home services for the previous month.
4. The percentage of cases that converted from nonjudicial to judicial for the previous month.

CBC Funding Methodology

The bill modifies the means by which the funding level for each CBC is determined by replacing the Equity Allocation Model with an actuarially-sound, reimbursement-based methodology. The bill defines which variables are to be considered "operational and fixed costs" and reaffirms that "core services funding" refers to all funds allocated to a CBC with certain exceptions. Operational and fixed costs include, but are not limited to, administrative expenditures, lease payments, asset depreciation, utilities,

and mandated activities such as training and contract management. Core services funds do not include funding a CBC receives for independent living services, adoption subsidies, child protective investigation training, nonrecurring funds, mental health wrap-around services, special projects, and the Guardianship Assistance Program.

The bill directs DCF to work in collaboration with CBCs and child welfare providers to develop a new funding methodology. At a minimum, the methodology must:

- Be actuarily sound,
- Be reimbursement based,
- Be designed to incentivize efficient and effective CBC operations, prevention, family preservation, and child permanency.
- Consider variable costs for in-home and out-of-home care, prevention services, operational costs, and fixed costs.
- Be scalable to account for regional cost-of-living differences.

The bill includes three reporting requirements to present the new methodology, to provide monthly progress reports on the development of the methodology, and to provide annual, recommended updates to the methodology that account for any changes to variable costs that serve as the basis for each CBC allocation:

1. From July 2024 through October 2024, DCF is required to submit monthly updates to the Governor and Legislature on the activities and progress in developing the new funding methodology.
2. By December 1, 2024, the bill requires DCF to submit the final report on the new methodology to the Governor and Legislature for consideration during the 2025 Session. The report shall describe the proposed methodology, the data used to develop the methodology, and include proposed rates and allocations for each CBC that may not exceed the total amount of funding provided in the General Appropriations Act for Fiscal Year 2024-25. The report shall also include risk mitigation recommendations should a CBC's proposed allocation negatively impact operations or result in a reduction of services to children.

Beginning October 31, 2025, the bill requires DCF to submit a report annually including recommended adjustments to the proposed methodology that incorporate fluctuations to the underlying criteria used to calculate the allocations.

CBC Subcontract Procurement

The bill requires CBCs to competitively procure all contracts, consistent with the simplified acquisition threshold as specified the Code of Federal Regulations; the simplified acquisition threshold is currently $250,000. The bill requires DCF to establish by contract financial penalties or sanctions that DCF must enforce when a CBC is not compliant with applicable local, state, or federal law for the procurement of commodities or contractual services.

The bill requires CBCs to procure contracts for real property and professionals services according to established purchasing practices. If a CBC sells, transfers, or dispossesses of real property procured during the contract term, the bill requires any resulting funds from the sell, transfer, or dispossession to be returned to DCF. When DCF or a CBC terminates a contract, the bill grants DCF immediate rights to the retention and ownership of all real property that the CBC procured.

When a CBC subcontracts for the provision of services, the bill requires subcontracts in excess of $250,000 to comply with the federal competitive procurement process. The bill prohibits a CBC from subcontracting administrative and management functions.

The bill prevents a CBC from providing more than 35 percent of all child welfare services unless it can demonstrate a need within its geographic service area where there is a lack of viable providers available to perform the necessary services. The bill limits the waiver period to two years. The bill

requires CBCs to reprocure each subcontract before the end of the two-year waiver period. If a CBC wishes to extend an active waiver to exceed the 35 percent cap, the bill requires the CBC to submit a new, evidenced-based exemption request to DCF and the community alliance for the geographic service area (if a community alliance serves the area) for approval each time the CBC wishes to extend an active waiver.

CBC Receivership

The bill lowers the threshold level of danger at which DCF can petition the court for a receivership of a CBC. Specifically, the bill allows DCF to file a petition in court for the receivership of a CBC when DCF determines that conditions exist at the CBC which present any danger to the health, safety, or welfare of the dependent children under that CBC's care or supervision.

The bill also lowers the threshold risk of financial insolvency at which DCF can petition the court for a receivership of a CBC. Specifically, the bill allows DCF to file a petition in court the receivership of a CBC when DCF determines a CBC is unlikely to meet its current financial obligations to its employees, contractors, or foster parents.

Remedies for Noncompliance or Inadequate Performance

The bill establishes contractual actions that DCF may enforce against a CBC if the CBC fails to comply with contract terms or experiences performance deficiencies in the opinion of DCF. Specifically, the bill authorizes DCF to reclaim funds from a CBC's administrative costs as a financial penalty when the CBC fails to provide timely, sufficient resolution of deficiencies resulting in a corrective action plan or other performance improvement plan issued by DCF. The bill allows financial penalties to manifest as liquidated damages.

If DCF reclaims funds for a CBC's administrative costs as a financial penalty, the bill requires DCF to spend those funds to support service delivery of quality improvement activities for children in the CBC's care.

The bill requires contracts between DCF and CBCs to include a provision that requires a CBC pay sanctions and disincentives for failure to comply with contractual terms. The bill requires DCF to establish a schedule of daily monetary sanctions or disincentives for CBCs. The bill requires the schedule of daily monetary sanctions or disincentives to be incorporated by reference into the contracts between DCF and CBCs. The bill vests the right to determine the monetary value of liquidated damages with DCF.

The bill obligates DCF to submit two special implementation reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the rules and polices adopted and other actions taken to implement the bill's requirements. The first special implementation report is due September 30, 2024. The second special implementation report is due February 1, 2025.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amending s. 409.987, F.S., relating to lead agency procurement; boards; conflicts of interest.
Section 2: Amending s. 409.988, F.S., relating to community-based care lead agency duties; general provisions.
Section 3: Creating s. 409.9913, F.S., relating to the funding methodology to allocate funding to community-based care lead agencies.
Section 4: Amending s. 409.992, F.S., relating to lead agency expenditures.
Section 5: Amending s. 409.994, F.S., relating to community-based care lead agencies; receivership.
Section 6: Amending s. 409.996, F.S., relating to duties of the department of children and families.
Section 7: Creating an unnumbered section of law relating to reporting requirements.

Section 8: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has no fiscal impact for FY 2024-25 as the only requirements during this fiscal year are for reports providing monthly updates on the progress of developing the methodology and for the submission of the proposed funding methodology. For FY 2025-26, the bill specifies that the sum of the proposed allocations for each CBC may not exceed the total amount appropriated to CBCs for Fiscal Year 2024-25; however, to the extent that the proposed methodology suggests an amount to each CBC that is different that its FY 2024-25 allocation, there may be either a positive or negative fiscal impact to individual lead agencies.

   The bill does not require the Legislature to adopt the proposed methodology for FY 2025-26, but requires due consideration of such when developing the General Appropriations Act for FY 2025-26. Furthermore, while the bill specifies that each annual update may not exceed the total provided to CBCs in the prior fiscal year, it does not preclude DCF from making a request for additional CBC funding through the Legislative Budget Request process.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. The elimination of the equity allocation model and the substitution of an actuarially sound, reimbursement-based funding methodology may redistribute funding among the CBCs beginning Fiscal Year 2025-26. The specific impact to each lead agency is indeterminate.

E. 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:

DCF has sufficient rulemaking authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 29, 2024, the Children, Families, & Seniors Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Gradually transitions the allocation for funds for CBC lead agencies to an actuarially-based tiered payment model over four state fiscal years, starting with 2024-2025.
    - Year One is a hold harmless year, and DCF must collaborate with the CBC lead agencies to refine the actuarially-based tiered payment model.
    - Years Two and Three blend the current and actuarial payment models.
    - Year Four and beyond sets 100 percent of payments according to the actuarially-based tiered payment model.

- Establishes reporting requirements for DCF on the details of, and CBC lead agency performance under, the actuarially-based tiered payment model:
    - Starting October 31, 2024, DCF must submit quarterly reports to the Governor, President of the Senate, and Speaker of the House of Representatives about the actuarially-based tiered payment model implementation and the Tier 3 incentive payment program.
    - Starting in 2027, DCF must submit an annual report that evaluates the CBC lead agencies' fiscal performance under the actuarially-based tier payment model and any funding adjustment and tiered payment model adjustment recommendations proposed.

- Requires a CBC lead agency with an active waiver to exceed the 35 percent statutory cap on providing child welfare services to submit a new, evidenced-based exemption request to DCF and the community alliance for the geographic service area (if a community alliance serves the area) for approval each time the CBC lead agency wishes to extend an active waiver.

- Requires DCF to submit two reports on the rules adopted, the policies promulgated, and actions implemented to carry out the provisions of the bill; the first report is due September 30, 2024, and the second report is due February 1, 2025.

On February 13, 2024, the Health Care Appropriations Subcommittee adopted one amendment that:

- Removes the 3-tiered funding model for CBC's, the multi-year on-ramp to full appropriations using the model, and the quarterly reports by DCF to the Legislature on the funding model;

- Requires DCF, in collaboration with lead agencies and child welfare providers, to develop a methodology for allocating core services funding;

- Specifies requirements for the funding methodology, such as being actuarially sound and reimbursement based, and incentivizing efficient and effective lead agency operation, prevention, family preservation, and permanency;

- Requires lead agencies and providers to submit detailed cost and expenditure data requested by DCF for the development of the funding methodology;

- Requires a report by December 1, 2024 that presents the proposed funding methodology, and that the Legislature must give due consideration to the allocations in the report for CBC appropriations beginning in the 2025-26 fiscal year;

- Requires DCF to provide a report to the Governor and Legislature each year including recommendations for adjustments to the funding methodology:

    - Specifies that DCF must follow standard appropriations procedures, and that the report can recommend total funding above what CBC's most recently received as long as DCF also submits a budget request,
    - The methodology must include risk mitigation strategies that ensure that no lead agency experiences a reduction in funding that would be detrimental to operations or result in a reduction in services to children,
    - Updated recommendations to the proposed methodology must be based on, at a minimum, updated expenditure data, cost-of-living adjustments, market dynamics, or other catchment area variations;

- Requires DCF to provide monthly reports during the first part of the next fiscal year (July through October) to update the Legislature on the development of the proposed funding methodology.

The analysis is drafted to bill as amended by the Health Care Appropriations Subcommittee.

A bill to be entitled

An act relating to community-based child welfare agencies; amending s. 409.987, F.S.; revising requirements for contracts the Department of Children and Families has with community-based care lead agencies; revising requirements for an entity to serve as a lead agency; providing duties for board members of lead agencies; requiring that lead agencies ensure that board members participate in certain annual training; revising the definition of the term "conflict of interest"; defining the term "related party"; requiring the lead agency's board of directors to disclose any known or potential conflicts of interest; prohibiting a lead agency from entering into a contract or being a party to a transaction that creates a conflict of interest; imposing civil penalties on lead agencies for undisclosed conflicts of interest; providing applicability; requiring certain contracts to be reprocured; authorizing the department to prohibit execution of certain contracts; amending s. 409.988, F.S.; revising lead agency duties; creating s. 409.9913, F.S.; providing definitions; requiring the department, in collaboration with lead agencies and providers of child welfare services, to develop a funding

methodology for allocating certain funding to lead agencies; providing requirements for the methodology; requiring lead agencies and providers to submit certain data to the department for a specified purpose; providing reporting requirements; providing construction; providing duties for the Legislature relating to funding for lead agencies; prohibiting the department from changing allocations of funds to lead agencies without legislative approval; authorizing the department to approve certain risk pool funding for lead agencies; amending s. 409.992, F.S.; revising requirements for lead agency practices in the procurement of commodities and contractual services; requiring the department to impose certain penalties for a lead agency's noncompliance with applicable procurement law; requiring lead agencies to comply with established purchasing practices for the procurement of real property and professional services; requiring the department to retain all rights to and ownership of real property procured upon termination of contracts; requiring certain funds to be returned to the department; providing applicability of certain limitations on the salaries of community-based care lead agency administrative employees; amending s. 409.994, F.S.; revising the conditions

under which the department may petition a court for the appointment of a receiver for a community-based care lead agency; amending s. 409.996, F.S.; revising requirements for contracts between the department and lead agencies; revising the actions the department may take under certain circumstances; making a technical change; providing duties of the department; providing reporting requirements; providing an effective date.

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

Section 1. Subsections (3) and (4) and paragraphs (a) and (b) of subsection (7) of section 409.987, Florida Statutes, are amended, and paragraph (g) is added to subsection (7) of that section, to read:

409.987 Lead agency procurement; boards; conflicts of interest.—

(3) Notwithstanding s. 287.057, the department shall use 5-year contracts with lead agencies. The 5-year contract must be reprocured at the end of each 5-year contract term. The contract may be extended at the discretion of the department for up to 1 year, based on department needs.

(4) In order to serve as a lead agency, an entity must:

(a) Be organized as a Florida corporation or a governmental entity.

(b) Be governed by a board of directors or a board committee composed of board members. Board members shall provide oversight and ensure accountability and transparency for the system of care. The board of directors shall provide fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse. The board of directors shall act in accordance with s. 617.0830. The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency, which must provide that at least 75 percent of the membership of the board of directors or board committee must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the state residents on the board of directors must reside within the service area of the lead agency. The lead agency shall ensure that board members participate in annual training related to their responsibilities. However, for procurements of lead agency contracts initiated on or after July 1, 2014:

1. At least 75 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing within the service area of the lead agency. If a board committee governs the lead agency, 100 percent of its membership must be composed ~~consist~~ of persons residing within the service area of

the lead agency.

2. The powers of the board of directors or board committee include, but are not limited to, approving the lead agency's budget and setting the lead agency's operational policy and procedures. A board of directors must additionally have the power to hire the lead agency's executive director, unless a board committee governs the lead agency, in which case the board committee must have the power to confirm the selection of the lead agency's executive director.

(c) Demonstrate financial responsibility through an organized plan for regular fiscal audits and the posting of a performance bond.

(7)(a) As used in this subsection, the term:

1. "Activity" includes, but is not limited to, a contract for goods and services, a contract for the purchase of any real or tangible property, or an agreement to engage with a lead agency for the benefit of a third party in exchange for an interest in real or tangible property, a monetary benefit, or an in-kind contribution.

2. "Conflict of interest" means when a board member, director, or ~~an~~ officer, or a relative of a board member, director, or ~~an~~ officer, of a lead agency does any of the following:

a. Enters into a contract or other transaction for goods or services with the lead agency.

b. Holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the lead agency or proposes to enter into a contract or other transaction with the lead agency. For purposes of this paragraph, the term "indirect interest" has the same meaning as in s. 112.312.

c. Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such board member, director, or officer, or relative of the board member, director, or officer, with the lead agency. For purposes of this paragraph, the term "benefit" does not include per diem and travel expenses paid or reimbursed to board members or officers of the lead agency in connection with their service on the board.

3. "Related party" means any entity of which a director or an officer of the entity is also directly or indirectly related to, or has a direct or indirect financial or other material interest in, the lead agency. The term also includes any subsidiary, parent entity, associate firm, or joint venture, or any entity that is controlled, influenced, or managed by another entity or an individual related to such entity, including an individual who is, or was within the immediately preceding 3 years, an executive officer or a board member of the entity.

4.~~3.~~ "Relative" means a relative within the third degree

of consanguinity by blood or marriage.

(b)1. For any activity that is presented to the board of a lead agency for its initial consideration and approval ~~after July 1, 2021~~, or any activity that involves a contract that is being considered for renewal ~~on or after July 1, 2021, but before January 1, 2022~~, a board member, a director, or an officer of a lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest before such activity is initially considered and approved or a contract is renewed by the board. A rebuttable presumption of a conflict of interest exists if the activity was acted on by the board without prior notice as required under paragraph (c). The board shall disclose any known actual or potential conflicts to the department.

2. A lead agency may not enter into a contract or be a party to any transaction that creates a conflict of interest, including with related parties for the provision of management or administrative services or oversight ~~For contracts with a lead agency which are in existence on July 1, 2021, and are not subject to renewal before January 1, 2022, a board member or an officer of the lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest under this section by December 31, 2021~~.

(g)1. Civil penalties in the amount of $5,000 per occurrence shall be imposed for each known and potential

conflict of interest, as described in paragraph (b), which is not disclosed to the department. Civil penalties shall be paid by the board and not from any state or federal funds.

2. If a contract is executed for which a conflict of interest was not disclosed to the department before execution of the contract, the following penalties apply:

a. A civil penalty in the amount of $50,000 for a first offense.

b. A civil penalty in the amount of $100,000 for a second or subsequent offense.

3. The civil penalties for failure to disclose a conflict of interest under subparagraphs 1. and 2. apply to any contract entered into, regardless of the method of procurement, including, but not limited to, formal procurement, single-source contracts, and contracts that do not meet the minimum threshold for formal procurement.

4. A contract procured for which a conflict of interest was not disclosed to the department before execution of the contract shall be reprocured.

5. The department may, at its sole discretion, prohibit execution of a contract for which a conflict of interest exists, or will exist after execution.

Section 2. Paragraphs (c), (j), and (k) of subsection (1) of section 409.988, Florida Statutes, are amended to read:

409.988 Community-based care lead agency duties; general

provisions.—

(1) DUTIES.—A lead agency:

(c) Shall follow the financial guidelines developed by the department and shall comply with regular, independent auditing of its financial activities, including any requests for records associated with such financial audits within the timeframe established by the department or its contracted vendors ~~provide for a regular independent auditing of its financial activities~~. The results of the financial audit must ~~Such financial information shall~~ be provided to the community alliance established under s. 20.19(5).

(j) May subcontract for the provision of services, excluding management and oversight functions, required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997. The lead agency shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need~~,~~ within the lead agency's geographic service area where there is a lack of qualified providers available to perform the necessary services. The approval period to exceed the threshold shall be limited to 2 years. If a lead agency wishes to continue its exemption from the services threshold, it must submit a new request with

updated evidence to the department and the community alliance showing its efforts to recruit providers and that conditions have not changed~~, to exceed this threshold~~. The local community alliance in the geographic service area in which the lead agency is seeking to exceed the threshold shall review the lead agency's justification for need and recommend to the department whether the department should approve or deny the lead agency's request for an exemption from the services threshold. If there is not a community alliance operating in the geographic service area in which the lead agency is seeking to exceed the threshold, such review and approval or denial of the lead agency's request for an exemption from the services threshold must be made by the department and the department must specify the duration of the exemption ~~recommendation shall be made by representatives of local stakeholders, including at least one representative from each of the following:~~

~~1. The department~~.

~~2. The county government.~~

~~3. The school district.~~

~~4. The county United Way.~~

~~5. The county sheriff's office.~~

~~6. The circuit court corresponding to the county.~~

~~7. The county children's board, if one exists.~~

(k) Shall publish on its website by the 15th day of each month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~

~~5.~~, calculated using a standard methodology determined by the department, for the preceding calendar month regarding its case management services. The following information must ~~shall~~ be reported by each individual subcontracted case management provider, by the lead agency, if the lead agency provides case management services, and in total for all case management services subcontracted or directly provided by the lead agency:

1. The average caseload of case managers, including only filled positions;

2. The total number and percentage of case managers who have 25 or more cases on their caseloads;

3. The turnover rate for case managers and case management supervisors for the previous 12 months;

4. The percentage of required home visits completed; ~~and~~

5. Performance on outcome measures required pursuant to s. 409.997 for the previous 12 months;~~.~~

6. The number of unlicensed placements for the previous month;

7. The percentages and trends for foster parent and group home recruitment and licensure for the previous month;

8. The percentage of families being served through family support, in-home, and out-of-home services for the previous month; and

9. The percentage of cases that converted from nonjudicial to judicial for the previous month.

Section 3. Section 409.9913, Florida Statutes, is created to read:

409.9913 Funding methodology to allocate funding to lead agencies.—

(1) As used in this section, the term:

(a) "Core services funding" means all funds allocated to lead agencies. The term does not include any of the following:

1. Funds appropriated for independent living services.

2. Funds appropriated for maintenance adoption subsidies.

3. Funds allocated by the department for child protective investigation service training.

4. Nonrecurring funds.

5. Designated mental health wrap-around service funds.

6. Funds for special projects for a designated lead agency.

7. Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(b) "Operational and fixed costs" means:

1. Administrative expenditures, including, but not limited to, information technology and human resources functions.

2. Lease payments.

3. Asset depreciation.

4. Utilities.

5. Administrative components of case management.

6. Mandated activities such as training, quality

improvement, or contract management.

(2) The department shall develop, in collaboration with lead agencies and providers of child welfare services, a funding methodology for allocating core services funding to lead agencies which, at a minimum:

(a) Is actuarially sound.

(b) Is reimbursement based.

(c) Is designed to incentivize efficient and effective lead agency operation, prevention, family preservation, and permanency.

(d) Considers variable costs, including, but not limited to, direct costs for in-home and out-of-home care for children served by the lead agencies, prevention services, and operational and fixed costs.

(e) Is scaled regionally for cost-of-living factors.

(3) The lead agencies and providers shall submit any detailed cost and expenditure data that the department requests for the development of the funding methodology.

(4) The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, which, at a minimum:

(a) Describes a proposed funding methodology and formula that will provide for the annual budget of each lead agency, including, but not limited to, how the proposed methodology will meet the criteria in subsection (2).

(b) Describes the data used to develop the methodology, and the data that will be used to annually calculate the proposed lead agency budget.

(c) Specifies proposed rates and total allocations for each lead agency. The allocations must ensure that the total of all amounts allocated to lead agencies under the funding methodology does not exceed the total amount appropriated to lead agencies in the General Appropriations Act in the 2024-2025 fiscal year.

(d) Provides risk mitigation recommendations that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(5) By October 31 of each year, beginning in 2025, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes recommendations for adjustments to the funding methodology for the next fiscal year, using the criteria in subsection (2) and basing the recommendations on, at a minimum, updated expenditure data, cost-of-living adjustments, market dynamics, or other catchment area variations. The total of all amounts proposed for allocation to lead agencies under the funding methodology for the next fiscal year may not exceed the total amount appropriated for core services funding in the current fiscal year's General Appropriations Act. The funding

methodology must include risk mitigation strategies that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(6)(a) The requirements of this section do not replace, and must be in addition to, any requirements of chapter 216, including, but not limited to, submission of final legislative budget requests by the department under s. 216.023.

(b) The data and reports required under subsections (4) and (5) may also include proposed rates and total allocations for each lead agency which reflect any additional core services funding for lead agencies which is requested by the department under s. 216.023.

(7)(a) Beginning with the 2025-2026 fiscal year, the Legislature shall allocate funding to lead agencies through the General Appropriations Act with due consideration of the funding methodology developed under this section.

(b) The department may not change the allocation of funds to a lead agency as provided in the General Appropriations Act without legislative approval. The department may approve additional risk pool funding for a lead agency as provided under s. 409.990.

(8) The department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives monthly reports from July through October 2024

which provide updates on activities and progress in developing the funding methodology.

Section 4. Subsections (1) and (3) of section 409.992, Florida Statutes, are amended to read:

409.992 Lead agency expenditures.—

(1) The procurement of commodities or contractual services by lead agencies is ~~shall be~~ governed by the financial guidelines developed by the department and must comply with applicable state and federal law and follow good business practices. Pursuant to s. 11.45, the Auditor General may provide technical advice in the development of the financial guidelines.

(a)1. Lead agencies shall competitively procure all contracts, consistent with the federal simplified acquisition threshold.

2. Lead agencies shall competitively procure all contracts in excess of $35,000 with related parties.

3. Financial penalties or sanctions, as established by the department and incorporated into the contract, shall be imposed by the department for noncompliance with applicable local, state, or federal law for the procurement of commodities or contractual services.

(b) Notwithstanding s. 402.73, for procurement of real property or professional services, lead agencies shall comply with established purchasing practices, including the provisions of s. 287.055, as required, for professional services, including

engineering or construction design. Upon termination of the contract, the department shall immediately retain all rights to and ownership of real property procured. Any funds from the sale, transfer, or other dispossession of such property during the contract term shall be returned to the department.

(3) Notwithstanding any other provision of law, a community-based care lead agency administrative employee may not receive a salary, whether base pay or base pay combined with any bonus or incentive payments from the lead agency or any related party, in excess of 150 percent of the annual salary paid to the secretary of the Department of Children and Families from state-appropriated funds, including state-appropriated federal funds. This limitation applies regardless of the number of contracts a community-based care lead agency may execute with the department. This subsection does not prohibit any party from providing cash that is not from appropriated state funds to a community-based care lead agency administrative employee.

Section 5. Paragraphs (c) and (d) of subsection (1) of section 409.994, Florida Statutes, are amended to read:

409.994 Community-based care lead agencies; receivership.—

(1) The Department of Children and Families may petition a court of competent jurisdiction for the appointment of a receiver for a community-based care lead agency established pursuant to s. 409.987 if any of the following conditions exist:

(c) The department determines that conditions exist in the

lead agency which present a ~~an imminent~~ danger to the health, safety, or welfare of the dependent children under that agency's care or supervision. Whenever possible, the department shall make a reasonable effort to facilitate the continued operation of the program.

(d) The lead agency cannot meet, or is unlikely to meet, its current financial obligations to its employees, contractors, or foster parents. Issuance of bad checks or the existence of delinquent obligations for payment of salaries, utilities, or invoices for essential services or commodities constitutes ~~shall constitute~~ prima facie evidence that the lead agency lacks the financial ability to meet its financial obligations.

Section 6. Paragraph (d) of subsection (1) of section 409.996, Florida Statutes, is amended to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that, at a minimum, services are delivered in accordance with applicable federal and state statutes and regulations and the performance standards and metrics specified in the strategic plan created under s. 20.19(1).

(1) The department shall enter into contracts with lead

agencies for the performance of the duties by the lead agencies established in s. 409.988. At a minimum, the contracts must do all of the following:

(d) Provide for contractual actions ~~tiered interventions and graduated penalties~~ for failure to comply with contract terms or in the event of performance deficiencies, as determined appropriate by the department.

1. Such contractual actions must ~~interventions and penalties shall~~ include, but are not limited to:

a.~~1.~~ Enhanced monitoring and reporting.

b.~~2.~~ Corrective action plans.

c.~~3.~~ Requirements to accept technical assistance and consultation from the department under subsection (6).

d.~~4.~~ Financial penalties, which ~~shall~~ require a lead agency to direct ~~reallocate~~ funds from administrative costs to the department. The department shall use the funds collected to support service delivery of quality improvement activities for children in the lead agency's care ~~to direct care for children~~. These penalties may be imposed for failure to provide timely, sufficient resolution of deficiencies resulting in a corrective action plan or other performance improvement plan issued by the department. Financial penalties may include liquidated damages.

e.~~5.~~ Early termination of contracts, as provided in s. 402.7305(3)(f) ~~s. 402.1705(3)(f)~~.

2. The department shall include in each lead agency

contract executed a provision that requires payment to the department of sanctions or disincentives for failure to comply with contractual obligations. The department shall establish a schedule of daily monetary sanctions or disincentives for lead agencies, which schedule shall be incorporated by reference into the contract. The department is solely responsible for determining the monetary value of liquidated damages.

Section 7. The Department of Children and Families shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on rules and policies adopted and other actions taken to implement the requirements of this act. The first such report must be due September 30, 2024, and the second such report must be due February 1, 2025.

Section 8. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative McFarland offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (3) and (4) of section 409.016, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and new subsection (3) is added to that section, to read:

409.016 Definitions.—As used in this chapter:

(3) "Management functions" means:

(a) Planning, directing, organizing, coordinating, and carrying out oversight duties of the lead agency;

(b) Contracting for officer or director level staffing in performance of the planning, directing, organizing,

coordinating, and carrying out oversight duties of the lead agency.

(4) ~~(3)~~ "Secretary" means the secretary of the Department of Children and Families.

(5) ~~(4)~~ "Social and economic services," within the meaning of this chapter, means the providing of financial assistance as well as preventive and rehabilitative social services for children, adults, and families.

Section 2. Subsections (3) and (4) and paragraphs (a) and (b) of subsection (7) of section 409.987, Florida Statutes, are amended to read, and paragraph (g) is added to subsection (7) of that section, to read:

409.987 Lead agency procurement; boards; conflicts of interest.—

(3) Notwithstanding s. 287.057, the department shall use 5-year contracts with lead agencies. The department may only extend for a period of one to five years, in accordance with s. 287.057, if the lead agency has met performance expectations within the monitoring evaluation.

(4) In order to serve as a lead agency, an entity must:

(a) Be organized as a Florida corporation or a governmental entity.

(b) Be governed by a board of directors or a board committee composed of board members. Board members shall provide oversight and ensure accountability and transparency for the

system of care. The board of directors shall provide fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse. The board of directors shall act in accordance with s. 617.0830. The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency, which must provide that at least 75 percent of the membership of the board of directors or board committee must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the state residents on the board of directors must reside within the service area of the lead agency. The lead agency shall ensure that board members participate in annual training related to their responsibilities. The department shall set forth minimum training criteria in the contracts with the lead agencies. However, for procurements of lead agency contracts initiated on or after July 1, 2014:

1. At least 75 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing within the service area of the lead agency. If a board committee governs the lead agency, 100 percent of its membership must be composed ~~consist~~ of persons residing within the service area of the lead agency.

2. The powers of the board of directors or board committee include, but are not limited to, approving the lead agency's budget and setting the lead agency's operational policy and procedures. A board of directors must additionally have the power to hire the lead agency's executive director, unless a board committee governs the lead agency, in which case the board committee must have the power to confirm the selection of the lead agency's executive director.

(c) Demonstrate financial responsibility through an organized plan for regular fiscal audits and the posting of a performance bond.

(7)(a) As used in this subsection, the term:

1. "Activity" includes, but is not limited to, a contract for goods and services, a contract for the purchase of any real or tangible property, or an agreement to engage with a lead agency for the benefit of a third party in exchange for an interest in real or tangible property, a monetary benefit, or an in-kind contribution.

2. "Conflict of interest" means when a board member, director, or ~~an~~ officer, or a relative of a board member, director, or ~~an~~ officer, of a lead agency does any of the following:

a. Enters into a contract or other transaction for goods or services with the lead agency.

b. Holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the lead agency or proposes to enter into a contract or other transaction with the lead agency. For purposes of this paragraph, the term "indirect interest" has the same meaning as in s. 112.312.

c. Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such board member, director, or officer, or relative of the board member, director, or officer, with the lead agency. For purposes of this paragraph, the term "benefit" does not include per diem and travel expenses paid or reimbursed to board members or officers of the lead agency in connection with their service on the board.

3. "Related party" means any entity of which a director or an officer of the entity is also directly or indirectly related to, or has a direct or indirect financial or other material interest in, the lead agency. The term also includes any subsidiary firm or joint venture.

4.~~3.~~ "Relative" means a relative within the third degree of consanguinity by blood or marriage.

(b)1. For any activity that is presented to the board of a lead agency for its initial consideration and approval ~~after July 1, 2021~~, or any activity that involves a contract that is

being considered for renewal ~~on or after July 1, 2021, but before January 1, 2022~~, a board member, a director, or an officer of a lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest before such activity is initially considered and approved or a contract is renewed by the board. A rebuttable presumption of a conflict of interest exists if the activity was acted on by the board without prior notice as required under paragraph (c). The board shall disclose any known actual or potential conflicts to the department.

2. A lead agency may not enter into a contract or be a party to any transaction with related parties if a conflict of interest is not properly disclosed. A lead agency may not enter into a contract with a related party for officer or director level staffing to perform management functions. The contract with the department and lead agency must specify the administrative functions and services that the lead agency will subcontract ~~For contracts with a lead agency which are in existence on July 1, 2021, and are not subject to renewal before January 1, 2022, a board member or an officer of the lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest under this section by December 31, 2021~~.

3. Subject to the requirements of subparagraph 2. of this subsection, a lead agency may enter into a contract or be a

party to any transaction with related parties as long as the fee, rate, or price paid by the lead agency for the commodities or services being procured does not exceed the fair market value for such commodities or services. The lead agency shall disclose any known actual or potential conflicts to the department.

(g) All department contracts with lead agencies shall contain the following contractual penalty provisions:

1. Penalties in the amount of $5,000 per occurrence shall be imposed for each known and potential conflict of interest, as described in paragraph (b), which is not disclosed to the department.

2. If a contract is executed for which a conflict of interest was not disclosed to the department before execution of the contract, the following penalties apply:

i. A penalty in the amount of $10,000 for a first offense.

ii. A penalty in the amount of $15,000 for a second or subsequent offense.

3. The penalties for failure to disclose a conflict of interest under subparagraph (1) and (2) apply to any contract entered into, regardless of the method of procurement, including, but not limited to, formal procurement, single-source contracts, and contracts that do not meet the minimum threshold for formal procurement.

4. A contract procured for which a conflict of interest was not disclosed to the department before execution of the contract shall be reprocured. The department shall recoup from the lead agency expenses related to a contract that was executed without disclosure of a conflict of interest.

Section 3. Paragraphs (c), (j), and (k) of subsection (1) of section 409.988, Florida Statutes, are amended to read:

409.988 Community-based care lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(c) Shall follow the financial guidelines developed by the department and shall comply with regular, independent auditing of its financial activities, including any requests for records associated with such financial audits within the timeframe established by the department or its contracted vendors ~~provide for a regular independent auditing of its financial activities~~. The results of the financial audit must ~~Such financial information shall~~ be provided to the community alliance established under s. 20.19(5).

(j) May subcontract for the provision of services, excluding with a related party for officer or director level staffing to perform management functions, required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established

pursuant to the child welfare results-oriented accountability system required by s. 409.997. The lead agency shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need~~,~~ within the lead agency's geographic service area~~,~~ where there is a lack of qualified providers available to perform the necessary services. The approval period to exceed the threshold shall be limited to 2 years and must be renewed following the process outlined in this section ~~to exceed this threshold~~. The local community alliance in the geographic service area in which the lead agency is seeking to exceed the threshold shall review the lead agency's justification for need and recommend to the department whether the department should approve or deny the lead agency's request for an exemption from the services threshold. If there is not a community alliance operating in the geographic service area in which the lead agency is seeking to exceed the threshold, such review and recommendation shall be made by representatives of local stakeholders, including at least one representative from each of the following:

1. The department.
2. The county government.
3. The school district.
4. The county United Way.
5. The county sheriff's office.
6. The circuit court corresponding to the county.

7. The county children's board, if one exists.

(k) Shall publish on its website by the 15th day of each month at a minimum the data specified in subparagraphs 1.-10.~~5.~~, calculated using a standard methodology determined by the department, for the preceding calendar month regarding its case management services. The following information shall be reported by each individual subcontracted case management provider, by the lead agency, if the lead agency provides case management services, and in total for all case management services subcontracted or directly provided by the lead agency:

1. The average caseload of case managers, including only filled positions;

2. The total number and percentage of case managers who have 25 or more cases on their caseloads;

3. The turnover rate for case managers and case management supervisors for the previous 12 months;

4. The percentage of required home visits completed; and

5. Performance on outcome measures required pursuant to s. 409.997 for the previous 12 months.

6. The number of unlicensed placements for the previous month;

7. The percentages and trends for foster parent and group home recruitment and licensure for the previous month;

8. The percentage of families being served through family support, in-home, and out-of-home services for the previous month; and

9. The percentage of cases that converted from nonjudicial to judicial for the previous month.

10. Children’s legal service staffing rates.

Section 4. Section 409.991, Florida Statutes, is repealed.

Section 5. Section 409.9913, Florida Statutes, is created to read:

409.9913 Funding methodology to allocate funding to lead agencies.—

(1) As used in this section, the term:

(a) "Core services funding" means all funds allocated to lead agencies. The term does not include any of the following:

1. Funds appropriated for independent living services.

2. Funds appropriated for maintenance adoption subsidies.

3. Funds allocated by the department for child protective investigation service training.

4. Nonrecurring funds.

5. Designated mental health wrap-around service funds.

6. Funds for special projects for a designated lead agency.

7. Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(b) "Operational and fixed costs" means:

1. Administrative expenditures, including, but not limited to, information technology and human resources functions.

2. Lease payments.

3. Asset depreciation.

4. Utilities.

5. Administrative components of case management.

6. Mandated activities such as training, quality improvement, or contract management.

(2) The department shall develop, in collaboration with lead agencies and providers of child welfare services, a funding methodology for allocating core services funding to lead agencies which, at a minimum:

(a) Is actuarially sound.

(b) Is reimbursement based.

(c) Is designed to incentivize efficient and effective lead agency operation, prevention, family preservation, and permanency.

(d) Considers variable costs, including, but not limited to, direct costs for in-home and out-of-home care for children served by the lead agencies, prevention services, and operational and fixed costs.

(e) Is scaled regionally for cost-of-living factors.

(3) The lead agencies and providers shall submit any detailed cost and expenditure data that the department requests for the development of the funding methodology.

(4) The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, which, at a minimum:

(a) Describes a proposed funding methodology and formula that will provide for the annual budget of each lead agency, including, but not limited to, how the proposed methodology will meet the criteria in subsection (2).

(b) Describes the data used to develop the methodology, and the data that will be used to annually calculate the proposed lead agency budget.

(c) Specifies proposed rates and total allocations for each lead agency. The allocations must ensure that the total of all amounts allocated to lead agencies under the funding methodology does not exceed the total amount appropriated to lead agencies in the General Appropriations Act in the 2024-2025 fiscal year.

(d) Provides risk mitigation recommendations that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(5) By October 31 of each year, beginning in 2025, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes recommendations for adjustments to the funding methodology for the next fiscal year, using the criteria in

subsection (2) and basing the recommendations on, at a minimum, updated expenditure data, cost-of-living adjustments, market dynamics, or other catchment area variations. The total of all amounts proposed for allocation to lead agencies under the funding methodology for the next fiscal year may not exceed the total amount appropriated for core services funding in the current fiscal year's General Appropriations Act. The funding methodology must include risk mitigation strategies that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(6)(a) The requirements of this section do not replace, and must be in addition to, any requirements of chapter 216, including, but not limited to, submission of final legislative budget requests by the department under s. 216.023.

(b) The data and reports required under subsections (4) and (5) may also include proposed rates and total allocations for each lead agency which reflect any additional core services funding for lead agencies which is requested by the department under s. 216.023.

(7)(a) Beginning with the 2025-2026 fiscal year, the Legislature shall allocate funding to lead agencies through the General Appropriations Act with due consideration of the funding methodology developed under this section.

(b) The department may not change the allocation of funds to a lead agency as provided in the General Appropriations Act without legislative approval. The department may approve additional risk pool funding for a lead agency as provided under s. 409.990.

(8) The department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives monthly reports from July through October 2024 which provide updates on activities and progress in developing the funding methodology.

Section 6. Subsections (1) and (3) of section 409.992, Florida Statutes, are amended to read:

409.992 Lead agency expenditures.—

(1) The procurement of commodities or contractual services by lead agencies is ~~shall be~~ governed by the financial guidelines developed by the department and must comply with applicable state and federal law and follow good business practices. Pursuant to s. 11.45, the Auditor General may provide technical advice in the development of the financial guidelines.

(a)1. Lead agencies shall competitively procure all contracts, consistent with the federal simplified acquisition threshold.

2. Lead agencies shall competitively procure all contracts in excess of $35,000 with related parties.

3. Financial penalties or sanctions, as established by the department and incorporated into the contract, shall be imposed by the department for noncompliance with applicable local, state, or federal law for the procurement of commodities or contractual services.

(b) The contract between the department and the lead agency for the provision of child protection and child welfare services shall delineate the rights and obligations of the parties concerning the acquisition, transfer, or other disposition of real property held by the lead agency during the term of the contract. This subsection applies prospectively to new contracts entered into between the department and a lead agency for the provision of child protection and child welfare services on or after July 1, 2024.

(3) Notwithstanding any other provision of law, a community-based care lead agency administrative employee may not receive a salary, whether base pay or base pay combined with any bonus or incentive payments, in excess of 150 percent of the annual salary paid to the secretary of the Department of Children and Families from state-appropriated funds, including state-appropriated federal funds. This limitation applies regardless of the number of community-based care contracts a community-based care lead agency may execute with the department. This subsection does not prohibit any party from

providing cash that is not from appropriated state funds to a community-based care lead agency administrative employee.

Section 7. Paragraph (d) of subsection (1) of section 409.994, Florida Statutes, is amended to read:

409.994 Community-based care lead agencies; receivership.—

(1) The Department of Children and Families may petition a court of competent jurisdiction for the appointment of a receiver for a community-based care lead agency established pursuant to s. 409.987 if any of the following conditions exist:

(d) The lead agency cannot meet, or is unlikely to meet, its current financial obligations to its employees, contractors, or foster parents. Issuance of bad checks or the existence of delinquent obligations for payment of salaries, utilities, or invoices for essential services or commodities constitutes ~~shall constitute~~ prima facie evidence that the lead agency lacks the financial ability to meet its financial obligations.

Section 8. Paragraph (d) of subsection (1) of section 409.996, Florida Statutes, is amended to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that, at a minimum, services are delivered in accordance with applicable federal and state

statutes and regulations and the performance standards and metrics specified in the strategic plan created under s. 20.19(1).

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies established in s. 409.988. At a minimum, the contracts must do all of the following:

(d) Provide for contractual actions ~~tiered interventions and graduated penalties~~ for failure to comply with contract terms or in the event of performance deficiencies, as determined appropriate by the department.

1. Such contractual actions must ~~interventions and penalties shall~~ include, but are not limited to:

a.~~1.~~ Enhanced monitoring and reporting.

b.~~2.~~ Corrective action plans.

c.~~3.~~ Requirements to accept technical assistance and consultation from the department under subsection (6).

d.~~4.~~ Financial penalties, as a matter of contract. The financial penalties assessed by the department on the lead agency revert to the state ~~which shall require a lead agency to reallocate funds from administrative costs to direct care for children~~.

e.~~5.~~ Early termination of contracts, as provided in s. 402.7305(3)(f) ~~s. 402.1705(3)(f)~~.

2. No later than January 1, 2025, the department shall ensure that each lead agency contract executed includes a list of financial penalties for failure to comply with contractual requirements.

Section 9. The Department of Children and Families shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on rules and policies adopted and other actions taken to implement the requirements of this act. The first such report must be due September 30, 2024, and the second such report must be due February 1, 2025.

Section 10. There is established the Future of Child Protection Contracting and Funding Working Group. The Department of Children and Families shall convene the working group and shall be responsible for producing and submitting a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 15, 2025.

(1) The report must, at a minimum:

(a) Examine the current contracting methods for the provision of all foster care and related services.

(b) Identify any barriers or deficiencies in creating local ownership and governance of such services.

(c) Assess the implications of a 10% cap on administrative costs.

(d) Evaluate barriers to entry in the procurement of managed care networks.

(e) Consider the unique regional needs of children and families at-risk of abuse and neglect.

(f) Recommend changes to existing laws, rules, and policies necessary to implement the task force's recommendations.

(2) The Secretary of the Department of Children and Families, or his or her designee, shall chair the working group and shall invite the following persons to participate as a member of the working group.

(a) The Secretary of the Agency for Health Care Administration, or his or her designee.

(b) The Secretary of the Department of Management Services, or his or her designee.

(c) A member of the Florida Coalition for Children, or his or her designee.

(d) A current contractor for lead agency child protection services.

(e) Two representatives of a direct provider of child protection or child welfare services.

(f) A member of the Family Law Section of the Florida Bar or a member of the court exercising jurisdiction over family law matters.

(g) A representative of a for-profit managed care entity.

(h) A representative from a State University System school of business.

(i) A representative from the Florida Institute for Child Welfare.

(j) Any additional members as the department deems appropriate.

(3) The working group shall terminate immediately after the Secretary of the Department of Children and Families submits the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 10. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert: An act relating to community-based child welfare agencies; amending s. 409.016, F.S.; defining the term "management functions"; amending s. 409.987, F.S.; revising requirements for contracts the Department of Children and Families has with community-based care lead agencies; revising requirements for an entity to serve as a lead agency; providing duties for board members of lead agencies; requiring that lead agencies ensure that board members participate in certain annual training; revising the definition of the term "conflict of interest"; defining the term "related party"; requiring the lead agency's

board of directors to disclose any known or potential conflicts of interest; prohibiting a lead agency from entering into a contract or being a party to any transaction with related parties if a conflict of interest is not properly disclosed; prohibiting a lead agency from entering into a contract or being a party to any transaction with related parties for officer or director level staffing to perform management functions; authorizing a lead agency to enter into certain contracts or be a party to certain transactions so long as any conflict of interest is properly disclosed; imposing civil penalties on lead agencies for undisclosed conflicts of interest; providing applicability; requiring certain contracts to be reprocured; authorizing the department to recoup lead agency expenses for the execution of certain contracts; amending s. 409.988, F.S.; revising lead agency duties; repealing s. 409.991, F.S., relating to allocation of funds for community-based care lead agencies; creating s. 409.9913, F.S.; providing definitions; requiring the department, in collaboration with the lead agencies and providers of child welfare services, to develop a specific funding methodology for the allocation of core services that meets certain criteria; requiring the lead agencies and providers of child welfare services to submit to the department certain financial information; requiring the department to submit to the Governor and the Legislature certain reports by the established deadlines; subjecting the allocation of core

services to the requirements of ch. 216, F.S.; authorizing the department to include certain rates and total allocations in certain reports; requiring the Legislature to allocate funding to the lead agencies with due consideration of the funding methodology, beginning with the 2025-2026 fiscal year; prohibiting the department from changing a lead agency's allocation of funds provided in the General Appropriations Act without legislative approval; authorizing the department to approve certain risk pool funding for a lead agency; requiring the department to submit to the Governor and the Legislature certain reports by the established deadlines; amending s. 409.992, F.S.; revising requirements for lead agency practices in the procurement of commodities and contractual services; requiring the department to impose certain penalties for a lead agency's noncompliance with applicable procurement law; requiring the contract between the department and the lead agency to specify the rights and obligations to real property held by the lead agency during the term of the contract; applying a prospective date for the inclusion of the real property contractual condition to new contracts; providing applicability of certain limitations on the salaries of community-based care lead agency administrative employees; amending s. 409.994, F.S.; revising the conditions under which the department may petition a court for the appointment of a receiver for a community-based care lead agency; amending s.

409.996, F.S.; revising requirements for contracts between the department and lead agencies; revising the actions the department may take under certain circumstances; making a technical change; providing duties of the department; providing reporting requirements; requiring the department to convene a working group to submit a certain report to the Governor and the Legislature by a certain date; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1065 Substance Abuse Treatment
SPONSOR(S): Ways & Means Committee, Children, Families & Seniors Subcommittee, Caruso
TIED BILLS: **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Curry	Brazzell
2) Ways & Means Committee	21 Y, 0 N, As CS	Rexford	Aldridge
3) Health & Human Services Committee		Curry	Calamas

SUMMARY ANALYSIS

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system.

A recovery residence is a residential dwelling unit, or other form of group housing, that provides a peer-supported, alcohol-free, and drug-free living environment. Florida requires residence to meet certain quality standards to be certified. CS/CS/HB 1065 amends the definition of certified recovery residence to include standards regarding the level of care provided at those residences. The bill requires four levels of care that distinguish the residences based on their provided care. The levels of care include:

- Level I: These homes house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: These homes provide oversight from a house manager. Residents are expected to follow rules outlined in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: These homes offer 24-hour supervision by formally trained staff and peer-support services for residents.
- Level IV: These homes are dwelling offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

CS/CS/HB 1065 expands the Statewide Council on Opioid Abatement. To ensure the settlement proceeds related to the opioid epidemic are used to fund substance abuse education, treatment, and prevention, the Office of the Attorney General coordinated with local governments in the state to enter into the Florida Opioid Allocation and Statewide Response Agreement. The agreement required the state to establish an opioid abatement task force. The bill changes the membership determined by this agreement by adding nine additional members beyond the existing membership balanced between state and local representatives.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[1] Substance use disorders is the recurrent use of alcohol and/or drugs leading to clinically significant impairment, including health problems, disability, and failure to fulfil responsibilities.[2] Substance use disorders can happen with both legal substances such as alcohol, nicotine or prescription drugs and illicit or illegal drugs.[3] In the United States, the most common substance use disorders are from alcohol, opioid, stimulants, hallucinogens, cannabis, and tobacco.[4]

Substance Abuse Treatment in Florida

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system that offers detoxification, treatment and recovery support for adolescents and adults affected by substance misuse, abuse or dependence:[5]

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.[6]
- **Treatment Services:** Treatment services[7] include a wide array of assessment, counseling, case management, and support services that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support. Some of these services may also be offered to the family members of the individual in treatment.[8]
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.[9]

Licensure of Substance Abuse Service Providers

DCF regulates substance abuse treatment, establishing licensure requirements and licensing service providers and individual service components under ch. 397, F.S., and rule 65D-30, F.A.C. Licensed

[1] World Health Organization, *Substance Abuse*, https://www.afro.who.int/health-topics/substance-abuse (last visited Feb 6, 2024).
[2] The Rural Health Information Hub, *Defining Substance Abuse and Substance Abuse Use Disorders*, https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition (last visited Feb. 6, 2024).
[3] *Id.*
[4] *Id.*
[5] Department of Children and Families, *Treatment for Substance Abuse* https://www.myflfamilies.com/services/samh/treatment, (last visited Feb. 6, 2024).
[6] *Id*.
[7] *Id*. Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child protective system, employment, increased earnings, and better health.
[8] *Supra*, note 5.
[9] *Id*.

service components include a continuum of substance abuse prevention,[10] intervention,[11] and clinical treatment services.[12] DCF uses a tier-based system of classifying violations and may issue administrative fines of up to $500 for violations committed by a licensee.[13]

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[14] "Clinical treatment services" include, but are not limited to, the following licensable service components:[15]

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opiate addiction;
- Outpatient treatment; and
- Residential treatment.

Recovery Residences

Recovery residences (also known as "sober homes" or "sober living homes") are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives. Most recovery residences require or encourage attendance in a 12-step, mutual-help organization and are self-funded through resident fees.[16]

In Florida, a recovery residence is a residential dwelling unit, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. In 2019 the definition was amended to also include as a recovery residence a community housing component of a licensed day or night treatment facility with community housing.[17]

Recovery residences can be located in single-family and two-family homes, duplexes, and apartment complexes. Most recovery residences are located in single-family homes, zoned in residential neighborhoods.[18] To live at a recovery residence, occupants may be required to pay a monthly fee or rent, which supports the cost of maintaining the home. Generally, recovery residences provide short-

[10] S. 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. *See also,* Department of Children and Families, *Substance Abuse: Prevention* https://www.myflfamilies.com/services/samh/substance-abuse-prevention, (last visited Feb. 6, 2024). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.

[11] S. 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.

[12] S. 397.311(26), F.S.

[13] S. 397.415, F.S.

[14] S. 397.311(25)(a), F.S.

[15] *Id*.

[16] Douglas L. Polcin, Ed.D., MFT, and Diane Henderson, B.A., *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses,* 40(2) J Psychoactive Drugs 153–159 (June 2008).

[17] Chapter 2019-159, Laws of Fla.

[18] Hearing before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary, House of Representatives, One Hundred Fifteenth Congress, Sept. 28, 2018, https://www.govinfo.gov/content/pkg/CHRG-115hhrg33123/html/CHRG-115hhrg33123.htm. *See also* The National Council for Behavioral Health, *Building Recovery: State Policy Guide for Supporting Recovery Housing* (2017), https://www.thenationalcouncil.org/wp-content/uploads/2018/05/18_Recovery-Housing-Toolkit_5.3.2018.pdf?daf=375ateTbd56 (last visited Feb. 6, 2024).

term residency, typically a minimum of at least 90 days. However, the length of time a person stays at a recovery residence varies based on the individuals' treatment needs.[19]

Day or Night Treatment: Community Housing Component

Community housing is a type of group home that provides supportive housing for individuals who are undergoing treatment for substance abuse.

Day or night treatment is one of the licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.[20] Some day or night treatment programs have a community housing component, which is a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services at a day or night treatment facility for a minimum of 5 hours a day for a minimum of 25 hours per week.[21]

Prior to 2019, the community housing component of a licensed day or night treatment program was not included in the definition of "recovery residence". In 2019, after the Legislature amended the definition of "recovery residence" to include the community housing component, DCF addressed the statutory change to the definition of "recovery residence" in a memo. The department stated that as a result of the change in definition, providers licensed for day or night treatment with community housing must be certified as a recovery residence in order to accept or receive patient referrals from licensed treatment providers or existing recovery residences.[22] The memo did not specifically address whether the community housing component requires certification if the only individuals residing there were clients of the licensed day or night treatment program.

Voluntary Certification of Recovery Residences

A certified recovery residence is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.[23] Florida has a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities.[24] Under the voluntary certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.[25]

As the credentialing entity for recovery residences in Florida, FARR is statutorily authorized to administer certification, recertification, and disciplinary processes as well as monitor and inspect recovery residences to ensure compliance with certification requirements. FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by the Department.[26]

In order to become certified, a recovery residence must submit the following documents with an application fee to the credentialing entity:[27]

- A policy and procedures manual containing:

[19] American Addiction Center, *Length of Stay at a Sober Living Home*, (October 2022), available at https://americanaddictioncenters.org/sober-living/length-of-stay, (last visited Feb. 6, 2024).
[20] S. 397.311(26)(a)2., F.S.
[21] S. 397.311(26)(a)3., F.S.
[22] DCF Memo to the Substance Abuse Prevention, Intervention, and Treatment Providers, dated July 1, 2019 (on file with the House Children, Families, & Seniors Subcommittee).
[23] Ss. 397.487–397.4872, F.S.
[24] *Id.*
[25] The DCF, *Recovery Residence Administrators and Recovery Residences,* available at https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences (last visited January 25, 2024).
[26] S. 397.487, F.S.
[27] *Id.*

    - Job descriptions for all staff positions;
    - Drug-testing procedures and requirements;
    - A prohibition on the premises against alcohol, illegal drugs, and the use of prescription medications by an individual other than for whom the medication is prescribed;
    - Policies to support a resident's recovery efforts; and
    - A good neighbor policy to address neighborhood concerns and complaints.;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

There are currently 675 certified recovery residences in Florida.[28] DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.[29]

National Alliance for Recovery Residences

The National Alliance for Recovery Residences (NARR) was established to develop and promote best practices in the operation of recovery residences.[30] The organization works with federal government agencies, national addiction and recovery organizations, state-level recovery housing organizations, and with state addiction services agencies to improve the effectiveness and accessibility of recovery housing.

In 2011, NARR established the national standard for all recovery residences. This standard defines the spectrum of recovery oriented housing and services and distinguishes four different types, which are known as "levels" or "levels of support." The standard was developed through a strength-based and collaborative approach that solicited input from all major regional and national recovery housing organizations.[31] NARR's levels of support are included in the Substance Abuse and Mental Health Services Administration's Best Practices for Recovery Housing.[32]

NARR Recovery Residence Levels of Support

A recovery residence is a broad term that describes safe and sober living environments that promote recovery from substance use disorders. These residences may also be referred to as halfway houses, three-quarter houses, transitional living facilities, or sober living homes. Since this is a broad term, to help categorize recovery residences into more specific groups, NARR distinguishes these residences based on their levels of care. There are four levels of care for recovery residences; peer-run, monitored, supervised, and service provider.

Level I – Peer-Run

A Peer-Run recovery residence is a home operated by the residents themselves. In this type of residence, there is no external management or oversight from outside sources such as an

[28] DCF, 2023 *Agency Bill Analysis SB 1180*, on file with House Children, Families, and Seniors Subcommittee.
[29] S. 397.4872, F.S.
[30] NARR, *About Us,* available at https://narronline.org/about-us/, (last visited Feb. 6, 2024).
[31] NARR, *Standards and Certification Program¸ available at https://narronline.org/affiliate-services/standards-and-certification-program/,* (last visited Feb. 6, 2024).
[32] Substance Abuse and Mental Health Services Administration, *Best Practices for Recovery Housing,* available https://store.samhsa.gov/sites/default/files/pep23-10-00-002.pdf, (last visited Feb. 6, 2024).

administrative director. The administration of these facilities is done democratically by the residents. Services may include house meetings for accountability, drug screenings, and self-help meetings. These residences are generally set up in single-family residences like a house. [33]

Level II -Monitored

A monitored recovery residence has an external management structure, usually in the form of an administrative director. The director oversees operations, provides guidance and support, and ensures that all tenants are following rules. These facilities, provide a structured environment with documented rules, policies and procedures. These residences are typically managed by a house manager or senior resident and may offer peer-run groups, house meetings, drug screenings, and involvement in self-help treatment. These facilities are primarily single-family residences, but they may also be apartments or other dwelling types.[34]

Level III – Supervised

Supervised recovery residences have more intense levels of oversight than monitored residences and typically have an on-site staff member who provides 24/7 support to residents. The staff at a Level III residence includes a facility manager and certified staff or case managers. Staff members may also provide counseling services or facilitate group activities. Residents at Level III houses are expected to adhere to a strict set of rules and guidelines while living in this type of residence. Level III residences have an organizational hierarchy with administrative oversight for service providers, and documented policies and procedures. This type of residence emphasizes life skill development. In these residences, services may be utilized in the outside community while service hours may be provided in-house. The type of dwelling for Level III residences varies and may include all types of residential settings.[35]

Level IV – Service Provider

Service provider recovery residences are typically operated by organizations or corporations. These residences offer a wide range of services and activities for residents. Staff levels in Level IV residences are higher than staff levels for Levels I-III residences, and the environments are more structured and institutionalized. These residences have an overseen organizational hierarchy. Level IV recovery residence employ credentialed staff and have both clinical and administrative supervision for residents. These residences also provide clinical services and programming in-house and may offer residents life skill development. While Level IV residences may have a more institutionalized environment, all types of residence may be included as a client moves through the care continuum of a treatment center. [36]

NARR Recovery Residence Levels of Support[37]

[33] Isaiah House, *NARR Levels of Care for Addiction Recovery Residences,* (December 2022), available at https://isaiah-house.org/narr-levels-of-care-for-addiction-recovery-residences/, (last visited Feb. 7, 2024).
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] NARR, *Recovery Residence Levels of Support,* available at https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf, (last visited Feb. 7, 2024).

NARR National Association of Recovery Residences		RECOVERY RESIDENCE LEVELS OF SUPPORT			
		LEVEL I Peer-Run	LEVEL II Monitored	LEVEL III Supervised	LEVEL IV Service Provider
STANDARDS CRITERIA	ADMINISTRATION	• Democratically run • Manual or P& P	• House manager or senior resident • Policy and Procedures	• Organizational hierarchy • Administrative oversight for service providers • Policy and Procedures • Licensing varies from state to state	• Overseen organizational hierarchy • Clinical and administrative supervision • Policy and Procedures • Licensing varies from state to state
	SERVICES	• Drug Screening • House meetings • Self help meetings encouraged	• House rules provide structure • Peer run groups • Drug Screening • House meetings • Involvement in self help and/or treatment services	• Life skill development emphasis • Clinical services utilized in outside community • Service hours provided in house	• Clinical services and programming are provided in house • Life skill development
	RESIDENCE	• Generally single family residences	• Primarily single family residences • Possibly apartments or other dwelling types	• Varies – all types of residential settings	• All types – often a step down phase within care continuum of a treatment center • May be a more institutional in environment
	STAFF	• No paid positions within the residence • Perhaps an overseeing officer	• At least 1 compensated position	• Facility manager • Certified staff or case managers	• Credentialed staff

FARR Recovery Residence Levels of Support

FARR recognizes four distinct support levels for recovery residences which were developed based on the NARR standards.[38] The levels are not a rating scale regarding the efficacy of valuation of any individual certified recovery residence, but instead offer a unique service structure most appropriate for a particular resident.[39] FARR recovery residence levels of support include:[40]

Level I

Level I residences are structured after the Oxford House model.[41] Individuals who enter FARR Level I homes have a high recovery capital with a minimum of 9 months of sobriety and the length of stay is determined by the resident. Level I homes are democratically run by the members who reside in the home through a guided policy and procedure manual or charter.

Level II

Level II residences encompass the traditional perspective of sober living homes. Oversight is provided from a house manager with lived experience, typically a senior resident. Residents are expected to

[38] FARR, *Levels of Support*, available at https://www.farronline.org/levels-of-support-1, (last visited Feb. 7, 2024).
[39] *Id.*
[40] *Id.*
[41] Oxford House Model is a concept and a system of operation in recovery from drug and alcohol addiction. The concept is that recovering individuals can live together and democratically run an alcohol and drug-free living environment which supports the recovery of every resident. Oxford Houses are the one of the largest self-help residential programs in the US. See Oxford House, *The Purpose and Structure of Oxford House,* available at https://oxfordhouse.org/purpose_and_structure, and the National Library of Medicine, Oxford House Recovery Homes: Characteristics and Effectiveness, *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2888149/, (last visited Feb. 7, 2024).

follow the rules outlined in the resident handbook, pay dues, and work on achieving milestones within a chosen recovery path. This level of support is a resident-driven length of stay, while providers may suggest a minimum commitment length.

Level III

Level III residences offer higher supervision by staff with formal training to ensure resident accountability. Level III homes offer peer-support services and are staffed 24 hours a day. No clinical services are performed at the residence. The services offered usually include life skills, mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction. Length of stay is determined by the resident; however, providers may ask for a minimum commitment length of stay to fully complete programming.

Level IV

A Level IV residence is any recovery residence offered or provided by a licensed service provider that provides housing to patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care at facilities that are operated by the same licensed service provider or a recovery residence used as the housing component of a day or night treatment with community housing, license issued pursuant to Rule 65D-30.0081, Florida. Administrative Code.

Opioids

Opioids are a class of medications derived from the opium poppy plant or mimic its naturally occurring substances.[42] Opioids function by binding to specific receptors in the brain that are associated with pain sensation, resulting in pain relief.[43] The opioid family includes several drugs, such as oxycodone, fentanyl, morphine, codeine, and heroin.[44] These drugs are effective at reducing pain; however, they can be highly addictive even when prescribed by a doctor. Overtime, individuals who use opioids can develop a tolerance to the drug, a physical dependence on it, and ultimately, succumb to an opioid use disorder. This condition can have grave consequences, including a heightened risk of overdose and even death.

Opioid Overdose

Opioid overdoses result from an overabundance of opioid in the body which leads to suppression of the respiratory system. Opioids account for two thirds of all deaths relating to drug use, most of which are the result of overdoses.[45] More than 106,000 Americans died from drug-involved overdose in 2021, including illicit drugs and prescription opioids.[46] Opioid-involved overdose deaths increased from 21,088 in 2010 to 47,600 in 2017; the rate of such deaths remained relatively consistent for the next two years with 49,860 opioid-involved overdose deaths in 2019.[47] This was followed by a sharp increase in opioid-involved overdose deaths associated with the COVID-19 pandemic beginning in 2020.[48] Nationally, there were 63,630 reported opioid-involved overdose deaths in 2020 and 80,411 in 2021.[49]

Multistate Opioid Lawsuit and Settlement

[42] John Hopkins Medicine, *Opioids*, https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/opioids (last visited Feb. 7, 2024).
[43] *Id.*
[44] *Id.*
[45] United Nations Office on Drugs and Crime, World Drug Report 2022, Global Overview: Drug Demand and Drug Supply (Jun. 2022), https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_1.pdf (last visited Feb. 7, 2024).
[46] National Institute on Drug Abuse, *Overdose Death Rates*, https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates (last visited Feb. 7, 2024).
[47] *Id.*
[48] Ghose, R., Forati, A.M. & Mantsch, J.R. *Impact of the COVID-19 Pandemic on Opioid Overdose Deaths: A Spatiotemporal Analysis.* J Urban Health 99, 316–327 (2022), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8856931/ (last visited Feb. 7, 2024).
[49] *Supra*, note 46.

In 2018, the Florida Attorney General filed a lawsuit against multiple opioid manufacturers and distributors. The lawsuit was later expanded to include the pharmacies CVS and Walgreens.[50] The complaint alleged that the defendants caused the opioid crisis by, among other things:[51]

- Engaging in a campaign of misrepresentations and omissions about opioid use designed to increase opioid prescriptions and opioid use, despite the risks.
- Funding ostensibly neutral and independent "front" organizations to publish information touting the benefits of opioids for chronic pain while omitting the information about the risks of opioid treatment.
- Paying ostensibly neutral medical experts called "key opinion leaders" who were really manufacturer "mouthpieces" to publish articles promoting the use of opioids to treat pain while omitting information regarding the risks.

In 2021, McKesson, Cardinal Health, and AmerisourceBergen, the nation's three largest pharmaceutical distributors, as well as manufacturer Janssen Pharmaceuticals, Inc., agreed to a national settlement in which the distributors agreed to pay $21 billion over 18 years and Janssen agreed to pay $5 billion over nine years.[52] Of the $26 billion available, approximately $22.7 billion was earmarked for use by states that participated in the lawsuit, including Florida.[53]

Florida additionally negotiated individual settlements with multiple other companies including:[54]

- $65 million settlement with Endo Health Solutions;
- $440 million settlement with CVS Pharmacy, Inc.;
- $177,114,999 settlement with Teva Pharmaceuticals Industries, Ltd.;
- $122 million settlement with Allergan Finance, LLC.;
- $620 million settlement with Walgreens Boots Alliance, Inc. and Walgreens Co.; and
- $215 million settlement with Walmart.

Additionally, Teva Pharmaceuticals agreed to provide the state with a supply of Naloxone Hydrochloride, an opioid antagonist,[55] valued at $84 million.[56]

These settlements will pay out over a period of time ranging from 10 to 18 years. In general, the monies from the settlements must be used for opioid abatement, including prevention efforts, treatment, and recovery services, and to pay litigation fees and costs incurred by the state, cities, and counties.[57]

Florida Opioid Allocation and Statewide Response Agreement

To ensure the settlement proceeds are used to fund opioid and substance abuse education, treatment, prevention, and other related programs and services, the Office of the Attorney General coordinated with certain local governments in the state to enter into the Florida Opioid Allocation and Statewide

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[50] Sullivan, E., NPR, *Florida Sues Walgreens, CVS for Alleged Role in Opioid Crisis*, (Nov. 2018), available at https://www.npr.org/2018/11/19/669146432/florida-sues-walgreens-cvs-for-alleged-role-in-opioid-crisis (last visited Feb. 7, 2024).
[51] Florida Attorney General, *Florida's Opioid Lawsuit*, available at http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/$file/Complaint+summary.pdf (last visited Feb. 7, 2024).
[52] National Opioid Settlement, *Executive Summary of National Opioid Settlements*, (Feb. 2023), available at https://nationalopioidsettlement.com/executive-summary/#:~:text=In%20all%2C%20the%20Distributors%20will,additional%20manufacturers%E2%80%94Allergan%20and%20Teva, (last visited Feb. 7, 2024).
[53] Office of the Attorney General, Attorney General Moody Secures Relief for Opioid Crisis, available at https://myfloridalegal.com/opioidsettlement,(last visited Feb. 7, 2024).
[54] *Id.*
[55] An opioid antagonist, such as Narcan or Naloxone Hydrochloride, is a drug that blocks the effects of exogenously administered opioids. They are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an overdose victim to breathe normally. See Harm Reduction Coalition, *Understanding Naloxone,* (Sept. 8, 2020), available at http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/understanding-naloxone/ (last visited Feb. 7, 2024).
[56] *Id.*
[57] *Id.*

Response Agreement.[58] The agreement requires the state to establish an opioid abatement task force or council to advise the Governor, the Legislature, DCF, and local governments on the priorities that should be addressed by the expenditure of settlement funds, as well as review the spending of such funds and the results achieved.

The Council's membership, administration, and duties are outlined in the agreement.[59] Per the agreement, the Council's membership must consist of ten members equally balanced between state and local government representatives.

Appointments from the local governments must include:

- Two municipality representatives appointed by or through the Florida League of Cities.
- Two county representatives, one appointed from a qualified county and one appointed from a county within the state that is not a qualified county.
- One representative appointment that will alternate every two years between being a county representative appointed by or through the Florida Association of Counties or a municipality representative appointed by or through the Florida League of Cities.

Further, the agreement requires that one municipality representative must be from a city of less than 50,000 people and that one county representative must be from a county of less than 2000,000 people and the other county representative must be from a county with a population greater than 200,000 people.

Appointments from the state must include:

- Two members appointed by the Governor.
- One member appointed by the Speaker of the House.
- One member appointed by the President of the Senate.
- The Attorney General or a designee.

Statewide Council on Opioid Abatement

In 2023, the Florida Legislature established the Statewide Council on Opioid Abatement (council). The council is tasked with enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims and families of the crisis.[60] The council is composed of the following 10 members:[61]

- The Attorney General, or a designee, who serves as a chair.
- The Secretary of DCF, or a designee, who services as vice-chair.
- A member appointed by the Governor.
- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House.
- Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. At least one of such members must be from a municipality with a population of less than 50,000.
- Two members appointed by, or though, the Florida Association of Counties who are county commissioners or mayors. One of such members must represent a county with a population of more than 200,000; the other must represent a county with a population of fewer than 200,000.

[58] *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf (last visited Feb. 7, 2024).
[59] *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf (last visited Feb. 7, 2024).
[60] S. 397.335, F.S.
[61] *Id.*

- One member who is appointed on a rotational basis by either the Florida Association of Counties or the Florida League of Cities.

The council has a series of duties associated with the monitoring of the abatement of the opioid epidemic in Florida and review of settlement fund expenditures associated with opioid litigation.[62]

Effect of the Bill

Certified Recovery Residences

CS/CS/HB 1065 requires certified recovery residence to meet additional standards regarding the levels of care offered within those residences. This amendment will help to better align recovery residences in Florida with industry best practices. The levels of care are as follows:

- Level I: these homes house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: in these homes, there is oversight from a house manager (typically a senior resident). Residents are expected to follow rules outlines in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: these homes offer 24-hour supervision by staff with formal training with peer-support services
- Level IV: these homes are offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

CS/CS/HB 1065 makes community housing a Level IV recovery residence. To be classified as Level IV, a recovery residence must be a certified recovery residence, offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Community housing provides the highest level of oversight and access to recovery services. Classifying community housing as Level IV aligns with the level of care provided in this type of residence.

Statewide Council on Opioid Abatement

CS/CS/HB 1065 expands the Statewide Council on Opioid Abatement by adding more members, increasing its membership from 10 to 19. The additional members include:

- Two members appointed by or through the State Surgeon General. One of such members must be from the department with experience coordinating state and local efforts to abate the opioid epidemic; the other must be a licensed physician board certified in both addiction medicine and psychiatry.
- One member appointed by the Florida Association of Recovery Residences.
- One member appointed by the Florida Association of EMS Medical Directors.
- One member appointed by the Florida Society of Addiction Medicine who is a medical doctor board certified in addiction medicine.
- One member appointed by the Florida Behavioral Health Association.
- One member appointed by Floridians for Recovery.
- One member appointed by the Florida Certification Board.
- One member appointed by the Florida Association of Managing Entities.

This will add additional members to represent the providers and clinicians providing behavioral health services, but will expand membership beyond those named in the agreement between the Attorney General and local governments, which included only state and local government representatives.

The bill makes conforming changing to implement the provisions of the bill.

[62] *Id.*

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 397.311, F.S., relating to definitions.
Section 2: Amends s. 397.355, F.S., relating to Statewide Council on Opioid Abatement.
Section 3: Amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.
Section 4: Amends s. 381.0038, F.S., relating to education; sterile needle and syringe exchange programs.
Section 5: Amends s. 394.4573, F.S., relating to coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.
Section 6: Amends s. 394.9085, F.S., relating to behavioral provider liability.
Section 7: Amends s. 397.4012, F.S., relating to exemptions from licensure.
Section 8: Amends s. 397.407, F.S., relating to licensure process; fees.
Section 9: Amends s. 397.410, F.S., relating to licensure requirements; minimum standards; rules.
Section 10: Amends s. 397.416, F.S., relating to substance abuse treatment services; qualified professional.
Section 11: Amends s. 893.13, F.S., relating to prohibited acts; penalties.
Section 12: Provides an effective date of July 1, 2024.

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 require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to

raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority to implement the bill. However, the Department of Children and Families has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2024, the Ways & Means Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removes language relating to substance abuse treatment centers being exempt from the taxes imposed on transient accommodations including state sales tax, convention development tax, tourist development taxes, and the tourist impact tax.

This analysis is drafted to the amendment as approved by the Ways & Means Committee.

A bill to be entitled

An act relating to substance abuse treatment; amending s. 397.311, F.S.; providing the levels of care at certified recovery residences and their respective levels of care for residents; defining the term "community housing"; amending s. 397.335, F.S.; revising the membership of the Statewide Council on Opioid Abatement to include additional members; amending ss. 119.071, 381.0038, 394.4573, 394.9085, 397.4012, 397.407, 397.410, 397.416, and 893.13, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (9) through (50) of section 397.311, Florida Statutes, are renumbered as subsections (10) through (51), respectively, subsection (5) and present subsection (43) are amended, and a new subsection (9) is added to that section, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence

administrator.

(a) Level I certified recovery residences that house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. Level I certified homes are democratically run by the members who reside in the home.

(b) Level II certified recovery residences encompass the traditional perspectives of sober living homes. There is oversight from a house manager with lived experience, typically a senior resident. Residents are expected to follow rules outlined in a resident handbook, pay dues, if applicable, and work toward achieving milestones within a chosen recovery path.

(c) Level III certified recovery residences offer higher supervision by staff with formal training to ensure resident accountability. These homes offer peer-support services and are staffed 24 hours a day. Clinical services are not performed at the residence. The services offered may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction.

(d) A Level IV certified recovery residence are dwellings offered, referred to, or provided by, a licensed service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Level IV recovery residences are staffed 24

hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan, attend group and individual sessions, in addition to developing a recovery plan within the social model of recovery spectrum. No clinical services are provided at the residence and all licensable services are provided off-site.

(9) "Community housing" means a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. A certified recovery residence used by a licensed service provider that meets the definition of community housing shall be classified as a Level IV level of support, as described in subsection (5).

(44) ~~(43)~~ "Service component" or "component" means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (27) ~~(26)~~.

Section 2. Paragraph (a) of subsection (2) of section 397.335, Florida Statutes, is amended to read:

397.335 Statewide Council on Opioid Abatement.—

(2) MEMBERSHIP.—

(a) Notwithstanding s. 20.052, the council shall be composed of the following members:

1. The Attorney General, or his or her designee, who shall serve as chair.

2. The secretary of the department, or his or her designee, who shall serve as vice chair.

3. One member appointed by the Governor.

4. One member appointed by the President of the Senate.

5. One member appointed by the Speaker of the House of Representatives.

6. Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. One member shall be from a municipality with a population of fewer than 50,000 people.

7. Two members appointed by or through the Florida Association of Counties who are county commissioners or mayors. One member shall be appointed from a county with a population of fewer than 200,000, and one member shall be appointed from a county with a population of more than 200,000.

8. One member who is either a county commissioner or county mayor appointed by the Florida Association of Counties or who is a commissioner or mayor of a municipality appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities and a member appointed by the Florida Association of Counties.

9. Two members appointed by or through the State Surgeon General. One shall be a staff member from the department who has experience coordinating state and local efforts to abate the opioid epidemic, and one shall be a licensed physician who is board certified in both addiction medicine and psychiatry.

10. One member appointed by the Florida Association of Recovery Residences.

11. One member appointed by the Florida Association of EMS Medical Directors.

12. One member appointed by the Florida Society of Addiction Medicine who is a medical doctor board certified in addiction medicine.

13. One member appointed by the Florida Behavioral Health Association.

14. One member appointed by Floridians for Recovery.

15. One member appointed by the Florida Certification Board.

16. One member appointed by the Florida Association of Managing Entities.

Section 3. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and

places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and

locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through

reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims,

administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of

employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth,

and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses,

telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of

the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt

from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(27) ~~s. 397.311(26)~~.

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case

review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s.

119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before

July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized

pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise

prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. Paragraph (a) of subsection (4) of section 381.0038, Florida Statutes, is amended to read:

381.0038 Education; sterile needle and syringe exchange programs.—The Department of Health shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

(4) A county commission may authorize a sterile needle and syringe exchange program to operate within its county boundaries. The program may operate at one or more fixed locations or through mobile health units. The program shall offer the free exchange of clean, unused needles and hypodermic

syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. Prevention of disease transmission must be the goal of the program. For the purposes of this subsection, the term "exchange program" means a sterile needle and syringe exchange program established by a county commission under this subsection. A sterile needle and syringe exchange program may not operate unless it is authorized and approved by a county commission in accordance with this subsection.

(a) Before an exchange program may be established, a county commission must:

1. Authorize the program under the provisions of a county ordinance;

2. Enter into a letter of agreement with the department in which the county commission agrees that any exchange program authorized by the county commission will operate in accordance with this subsection;

3. Enlist the local county health department to provide ongoing advice, consultation, and recommendations for the operation of the program;

4. Contract with one of the following entities to operate the program:

a. A hospital licensed under chapter 395.

b. A health care clinic licensed under part X of chapter 400.

c. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.

d. A licensed addictions receiving facility as defined in s. 397.311(27)(a)1. ~~s. 397.311(26)(a)1.~~

e. A s. 501(c)(3) HIV/AIDS service organization.

Section 5. Paragraph (e) of subsection (2) of section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall

consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). The department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(2) The essential elements of a coordinated system of care include:

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(11) ~~s. 397.311(10)~~ by July 1, 2017, and, thereafter, within 6 months after hire.

Section 6. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification ~~services~~," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(27)(a)4., 397.311(27)(a)1. ~~ss. 397.311(26)(a)3., 397.311(26)(a)1.~~, and 394.455(40), respectively.

Section 7. Subsection (8) of section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(27) ~~s. 397.311(26)~~ is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

The exemptions from licensure in subsections (3), (4), (8), (9), and (10) do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated under s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse does not represent to the public that he or she is a licensed service provider and does not provide services to individuals under part V of this

chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 8. Subsections (1) and (6) of section 397.407, Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish the licensure process to include fees and categories of licenses and must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(27) ~~s. 397.311(26)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover the costs of regulating the service components. The department shall specify a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers.

(6) The department may issue probationary, regular, and interim licenses. The department shall issue one license for each service component that is operated by a service provider and defined pursuant to s. 397.311(27) ~~s. 397.311(26)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least

60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

Section 9. Subsection (1) of section 397.410, Florida Statutes, is amended to read:

397.410 Licensure requirements; minimum standards; rules.—

(1) The department shall establish minimum requirements for licensure of each service component, as defined in s. 397.311(27) ~~s. 397.311(26)~~, including, but not limited to:

(a) Standards and procedures for the administrative management of the licensed service component, including procedures for recordkeeping, referrals, and financial management.

(b) Standards consistent with clinical and treatment best

practices that ensure the provision of quality treatment for individuals receiving substance abuse treatment services.

(c) The number and qualifications of all personnel, including, but not limited to, management, nursing, and qualified professionals, having responsibility for any part of an individual's clinical treatment. These requirements must include, but are not limited to:

1. Education; credentials, such as licensure or certification, if appropriate; training; and supervision of personnel providing direct clinical treatment.

2. Minimum staffing ratios to provide adequate safety, care, and treatment.

3. Hours of staff coverage.

4. The maximum number of individuals who may receive clinical services together in a group setting.

5. The maximum number of licensed service providers for which a physician may serve as medical director and the total number of individuals he or she may treat in that capacity.

(d) Service provider facility standards, including, but not limited to:

1. Safety and adequacy of the facility and grounds.

2. Space, furnishings, and equipment for each individual served.

3. Infection control, housekeeping, sanitation, and facility maintenance.

4. Meals and snacks.

(e) Disaster planning policies and procedures.

(f) A prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this paragraph, "marijuana" includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

Section 10. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(36) ~~s. 397.311(35)~~.

Section 11. Paragraph (h) of subsection (1) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(1)

(h) Except as authorized by this chapter, a person may not

sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a mental health facility, as that term is used in chapter 394; a health care facility licensed under chapter 395 which provides substance abuse treatment; a licensed service provider as defined in s. 397.311; a facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(27) ~~s. 397.311(26)~~; a recovery residence as defined in s. 397.311; an assisted living facility as defined in chapter 429; or a pain management clinic as defined in s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition

to any other penalty prescribed by law.

Section 12. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Caruso offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Present subsections (9) through (50) of section 397.311, Florida Statutes, are redesignated as subsections (10) through (51), respectively, a new subsection (9) is added to that section, and subsection (5) of that section is amended, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is

actively managed by a certified recovery residence administrator.

(a) A Level I certified recovery residence houses individuals in recovery who have completed treatment, with a minimum of 9 months of sobriety. A Level I certified recovery residence is democratically run by the members who reside in the home.

(b) A Level II certified recovery residence encompasses the traditional perspectives of sober living homes. There is oversight from a house manager who has experience with living in recovery. Residents are expected to follow rules outlined in a resident handbook, which is provided by the certified recovery residence administrator. Residents must pay dues, if applicable, and work toward achieving realistic and defined milestones within a chosen recovery path.

(c) A Level III certified recovery residence offers higher supervision by staff with formal training to ensure resident accountability. Such residences are staffed 24 hours a day, 7 days a week, and offer residents peer-support services, which may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. No clinical services are performed at the residence. Such residences are most appropriate for persons who require a more structured environment during early recovery from addiction.

(d) A Level IV certified recovery residence is a residence offered, referred to, or provided by, a licensed service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living a sober lifestyle. No clinical services are provided at the residence, and all licensable services are provided off-site.

(9) "Community housing" means a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. A certified recovery residence used by a licensed service provider that meets the definition of community housing shall be classified as a Level IV level of support, as described in subsection (5).

Section 2. Subsections (6) and (10) of section 397.407, Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(6) The department may issue probationary, regular, and interim licenses. The department may ~~shall~~ issue one license for all ~~each~~ service components ~~component~~ ~~that is~~ operated by a

service provider and defined pursuant to s. 397.311(26). The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for ~~a new license at least 60 days before~~ the addition of any service components and obtain approval prior to initiating additional services. The licensed service provider must notify the department and provide any required documentation at least ~~or~~ 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

~~(10) A separate license is required for each service component maintained by the service provider.~~

Section 3. Present paragraphs (c), (d), and (e) of subsection (8) of section 397.487, Florida Statutes, are redesignated as paragraphs (d), (e), and (f), respectively, a

new paragraph (c) is added to that subsection, subsections (13) and (14) are added to that section, and paragraph (b) and present paragraphs (c), (d), and (e) of subsection (8) of that section are amended, to read:

397.487 Voluntary certification of recovery residences.—

(8) Onsite followup monitoring of a certified recovery residence may be conducted by the credentialing entity to determine continuing compliance with certification requirements. The credentialing entity shall inspect each certified recovery residence at least annually to ensure compliance.

(b) A certified recovery residence must notify the credentialing entity within 3 business days after the removal of the recovery residence's certified recovery residence administrator due to termination, resignation, or any other reason. The certified recovery residence has 90 ~~30~~ days to retain a certified recovery residence administrator. The credentialing entity must ~~shall~~ revoke the certificate of compliance of any certified recovery residence that fails to comply with this paragraph.

(c) If a certified recovery residence's administrator has been removed due to termination, resignation, or any other reason and had been previously approved to actively manage more than 50 residents pursuant to s. 397.4871(8)(b), the certified recovery residence has 90 days to retain another certified recovery residence administrator pursuant to that section. The

credentialing entity must revoke the certificate of compliance of any certified recovery residence that fails to comply with this paragraph.

(d) ~~(c)~~ If any owner, director, or chief financial officer of a certified recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any offense listed in s. 435.04(2) while acting in that capacity, the certified recovery residence must ~~shall~~ immediately remove the person from that position and ~~shall~~ notify the credentialing entity within 3 business days after such removal. The credentialing entity must ~~shall~~ revoke the certificate of compliance of a certified recovery residence that fails to meet these requirements.

(e) ~~(d)~~ A credentialing entity shall revoke a certified recovery residence's certificate of compliance if the certified recovery residence provides false or misleading information to the credentialing entity at any time.

(f) ~~(e)~~ Any decision by a department-recognized credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on a certified recovery residence, is reviewable by the department. Upon receiving an adverse determination, the certified recovery residence may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any

appeals process offered by the credentialing entity or the department, as applicable.

(13) On or after January 1, 2025, a recovery residence may not deny an individual access to housing solely on the basis that he or she has been prescribed federally approved medication that assists with treatment for substance use disorders by a licensed physician, a physician's assistant, or an advanced practice registered nurse registered under s. 464.0123.

(14) A local ordinance or regulation may not further regulate the duration or frequency of a resident's stay in a certified recovery residence located within a multifamily zoning district after June 30, 2024. This provision shall expire July 1, 2026.

Section 4. Paragraphs (b) and (c) of subsection (6) of section 397.4871, Florida Statutes, are amended, and paragraph (c) is added to subsection (8) of that section, to read:

397.4871 Recovery residence administrator certification.—

(6) The credentialing entity shall issue a certificate of compliance upon approval of a person's application. The certification shall automatically terminate 1 year after issuance if not renewed.

(b) If a certified recovery residence administrator of a recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any offense

listed in s. 435.04(2) while acting in that capacity, the certified recovery residence must ~~shall~~ immediately remove the person from that position and ~~shall~~ notify the credentialing entity within 3 business days after such removal. The certified recovery residence shall ~~have 30 days to~~ retain a certified recovery residence administrator within 90 days after such removal. The credentialing entity must ~~shall~~ revoke the certificate of compliance of any recovery residence that fails to meet these requirements.

(c) A credentialing entity must ~~shall~~ revoke a certified recovery residence administrator's certificate of compliance if the recovery residence administrator provides false or misleading information to the credentialing entity at any time.

(8)

(c) Notwithstanding paragraph (b), a Level IV certified recovery residence operating as community housing as defined in s. 397.311(9), which residence is actively managed by a certified recovery residence administrator approved for 100 residents under this section and is wholly owned or controlled by a licensed service provider, may actively manage up to 150 residents so long as the licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8 and maintains onsite supervision at the residence 24 hours a day, 7 days a week, with a personnel-to-resident ratio of 1 to 10. A certified recovery residence administrator who has been removed

by a certified recovery residence due to termination, resignation, or any other reason may not continue to actively manage more than 50 residents for another service provider or certified recovery residence without being approved by the credentialing entity.

Section 5. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement

personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and

county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and

locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers,

juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone

numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed

pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(27) ~~s. 397.311(26)~~.

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such

personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the

statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information

to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand

repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. Paragraph (a) of subsection (4) of section 381.0038, Florida Statutes, is amended to read:

381.0038 Education; sterile needle and syringe exchange programs.—The Department of Health shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

(4) A county commission may authorize a sterile needle and syringe exchange program to operate within its county boundaries. The program may operate at one or more fixed locations or through mobile health units. The program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. Prevention of disease transmission must be the goal of the program. For the purposes of this subsection, the term "exchange program" means a sterile needle and syringe exchange program established by a county commission under this subsection. A sterile needle and syringe exchange program may not operate unless it is authorized and approved by a county commission in accordance with this subsection.

(a) Before an exchange program may be established, a county commission must:

1. Authorize the program under the provisions of a county ordinance;

2. Enter into a letter of agreement with the department in which the county commission agrees that any exchange program authorized by the county commission will operate in accordance with this subsection;

3. Enlist the local county health department to provide ongoing advice, consultation, and recommendations for the operation of the program;

4. Contract with one of the following entities to operate the program:

a. A hospital licensed under chapter 395.

b. A health care clinic licensed under part X of chapter 400.

c. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.

d. A licensed addictions receiving facility as defined in s. 397.311(27)(a)1. ~~s. 397.311(26)(a)1.~~

e. A s. 501(c)(3) HIV/AIDS service organization.

Section 7. Paragraph (e) of subsection (2) of section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). The department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(2) The essential elements of a coordinated system of care include:

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a

department-approved credentialing entity as defined in s. 397.311(11) ~~s. 397.311(10)~~ by July 1, 2017, and, thereafter, within 6 months after hire.

Section 8. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification ~~services~~," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(27)(a)4., 397.311(27)(a)1. ~~ss. 397.311(26)(a)3., 397.311(26)(a)1.~~, and 394.455(40), respectively.

Section 9. Subsection (8) of section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(27) ~~s. 397.311(26)~~ is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

The exemptions from licensure in subsections (3), (4), (8), (9), and (10) do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated under s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse does not represent to the public that he or she is a licensed service provider and does not provide services to individuals under part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Subsections (1) and (6) of section 397.407, Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish the licensure process to include fees and categories of licenses and must prescribe a fee range that is based, at least in part, on the number and

complexity of programs listed in s. 397.311(27) ~~s. 397.311(26)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover the costs of regulating the service components. The department shall specify a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers.

(6) The department may issue probationary, regular, and interim licenses. The department shall issue one license for each service component that is operated by a service provider and defined pursuant to s. 397.311(27) ~~s. 397.311(26)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer"

includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

Section 11. Subsection (1) of section 397.410, Florida Statutes, is amended to read:

397.410 Licensure requirements; minimum standards; rules.—

(1) The department shall establish minimum requirements for licensure of each service component, as defined in s. 397.311(27) ~~s. 397.311(26)~~, including, but not limited to:

(a) Standards and procedures for the administrative management of the licensed service component, including procedures for recordkeeping, referrals, and financial management.

(b) Standards consistent with clinical and treatment best practices that ensure the provision of quality treatment for individuals receiving substance abuse treatment services.

(c) The number and qualifications of all personnel, including, but not limited to, management, nursing, and qualified professionals, having responsibility for any part of an individual's clinical treatment. These requirements must include, but are not limited to:

1. Education; credentials, such as licensure or certification, if appropriate; training; and supervision of personnel providing direct clinical treatment.

2. Minimum staffing ratios to provide adequate safety, care, and treatment.

3. Hours of staff coverage.

4. The maximum number of individuals who may receive clinical services together in a group setting.

5. The maximum number of licensed service providers for which a physician may serve as medical director and the total number of individuals he or she may treat in that capacity.

(d) Service provider facility standards, including, but not limited to:

1. Safety and adequacy of the facility and grounds.

2. Space, furnishings, and equipment for each individual served.

3. Infection control, housekeeping, sanitation, and facility maintenance.

4. Meals and snacks.

(e) Disaster planning policies and procedures.

(f) A prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this paragraph, "marijuana" includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

Section 12. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(36) ~~s. 397.311(35)~~.

Section 13. Paragraph (h) of subsection (1) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(1)

(h) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a mental health facility, as that term is used in chapter 394; a health care facility licensed under chapter 395 which provides substance abuse treatment; a licensed service provider as defined in s. 397.311; a facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(27) ~~s. 397.311(26)~~; a recovery residence

as defined in s. 397.311; an assisted living facility as defined in chapter 429; or a pain management clinic as defined in s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

Section 14. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert:
An act relating to substance abuse treatment; amending s. 397.311, F.S.; providing the levels of care at certified recovery residences and their respective levels of care for

residents; defining the term "community housing"; amending s. 397.407, F.S.; authorizing, rather than requiring, the Department of Children and Families to issue a license for certain service components operated by a service provider; deleting the timeframe in which a licensed service provider must apply for additional services and requiring the service provider to obtain approval prior to relocating to a different service site; removing a requirement that a separate license is required for each service component maintained by a service provider; amending s. 397.487, F.S.; extending the deadline for certified recovery residences to retain a replacement for a certified recovery residence administrator who has been removed from his or her position; requiring certified recovery residences to remove certain individuals from their positions if they are arrested and awaiting disposition for, are found guilty of, or enter a plea of guilty or nolo contendere to certain offenses, regardless if adjudication is withheld; requiring the certified recovery residence to retain a certified recovery residence administrator if the previous certified recovery residence administrator has been removed due to any reason; conforming provisions to changes made by the act; prohibiting certified recovery residences, on or after a specified date, from denying an individual access to housing solely for being prescribed federally approved medications from licensed health care professionals; prohibiting local ordinances or regulations from

further regulating after a specified date the duration or frequency of a resident's stay in a certified recovery residence located within a certain zoning districts; providing applicability; amending s. 397.4871, F.S.; conforming provisions to changes made by the act; authorizing certain Level IV certified recovery residences owned or controlled by a licensed service provider and managed by a certified recovery residence administrator approved for a specified number of residents to manage a specified greater number of residents, provided that certain criteria are met; prohibiting a certified recovery residence administrator who has been removed by a certified recovery residence from taking on certain other management positions without approval from a credentialing entity; amending ss. 119.071, 381.0038, 394.4573, 394.9085, 397.4012, 397.407, 397.410, 397.416, and 893.13, F.S.; conforming provisions to changes made by the act; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1083 Permanency for Children
SPONSOR(S): Appropriations Committee, Children, Families & Seniors Subcommittee, Trabulsy and Abbott
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1486

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	16 Y, 0 N, As CS	DesRochers	Brazzell
2) Appropriations Committee	27 Y, 0 N, As CS	Fontaine	Pridgeon
3) Health & Human Services Committee		DesRochers	Calamas

SUMMARY ANALYSIS

When child welfare necessitates that the Florida Department of Children and Families (DCF) remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent, place that child in out-of-home care, and achieve a permanency outcome for the child in the form of reunification, a permanent guardian, adoption, or another permanent living arrangement. For young adults who have aged out of foster care, extended foster care is available for a period of time or independent living programs are available to help the young adult transition into adulthood.

CS/CS/HB 1083 makes the adoption process more efficient and less costly while reducing barriers to permanency. Additionally, the bill enhances protections for children from potentially unsafe placements and expands financial assistance options for children who are adopted or placed in permanent guardianships as younger teens.

The bill makes several changes to streamline permanency by creating a legal process for orphaned children, requiring that a child knows the successor guardian, provides flexibility for service of process in termination of parental rights advisory hearings, ensures safe and appropriate placements, and restricts access to the statewide adoption exchange.

The bill shifts judicial review of DCF's decision on an adoption application from a separate administrative process to the dependency court. The bill also expands eligibility for adoption incentive awards and increases the award amounts.

The bill defines the scope of individuals subject to a fingerprint-based background records check for child placements, which will bring the state into compliance with Federal regulations and maintain DCF's expedited access to the Federal Bureau of Intelligence (FBI)'s criminal history records database.

The bill expands the criteria for Post-Secondary Education and Support (PESS), Aftercare, and Extended Guardianship and Adoption Assistance Programs, to make it easier for young adults aged 18 to 23 who have been in foster care system to receive benefits as they transition to independence.

The bill has a significant negative fiscal impact on DCF and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:[1]

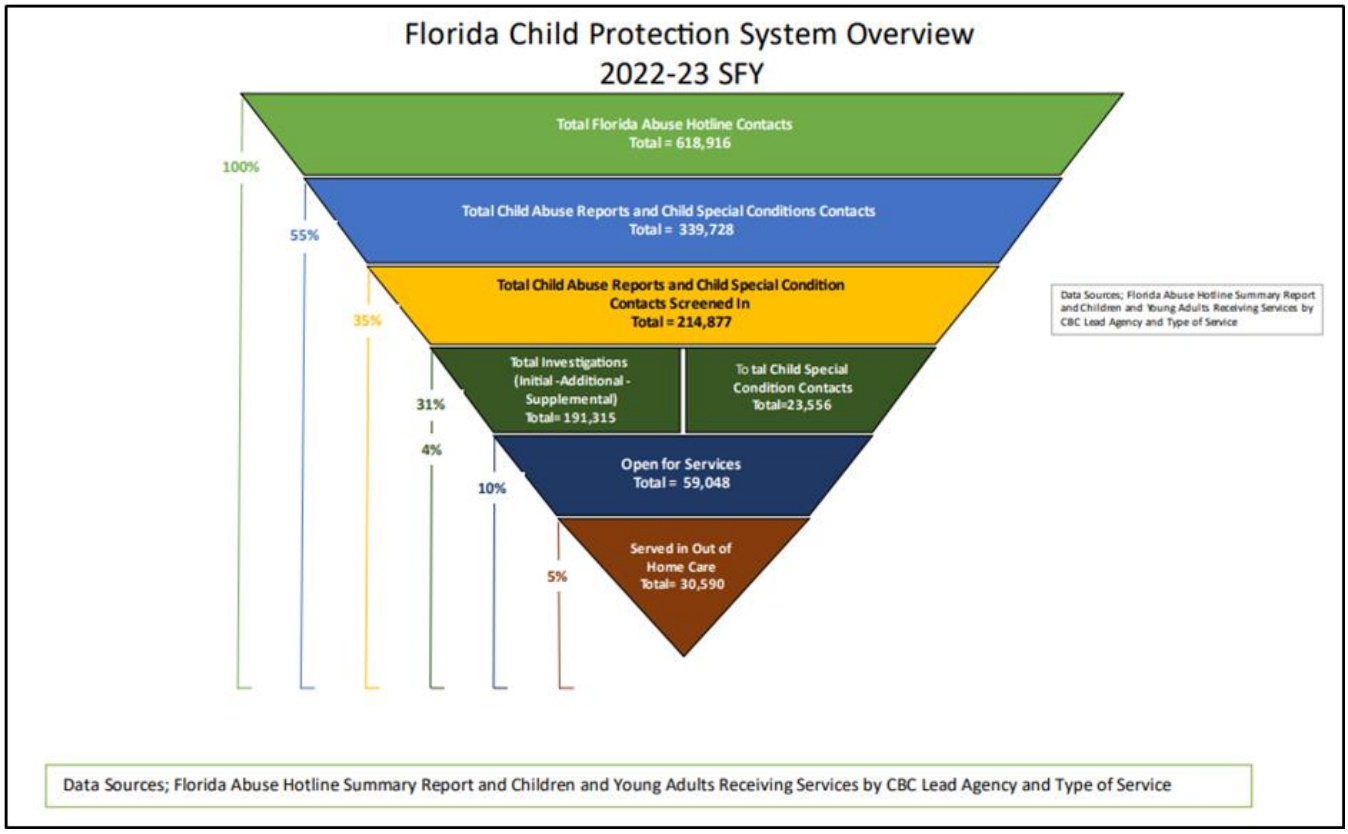
- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

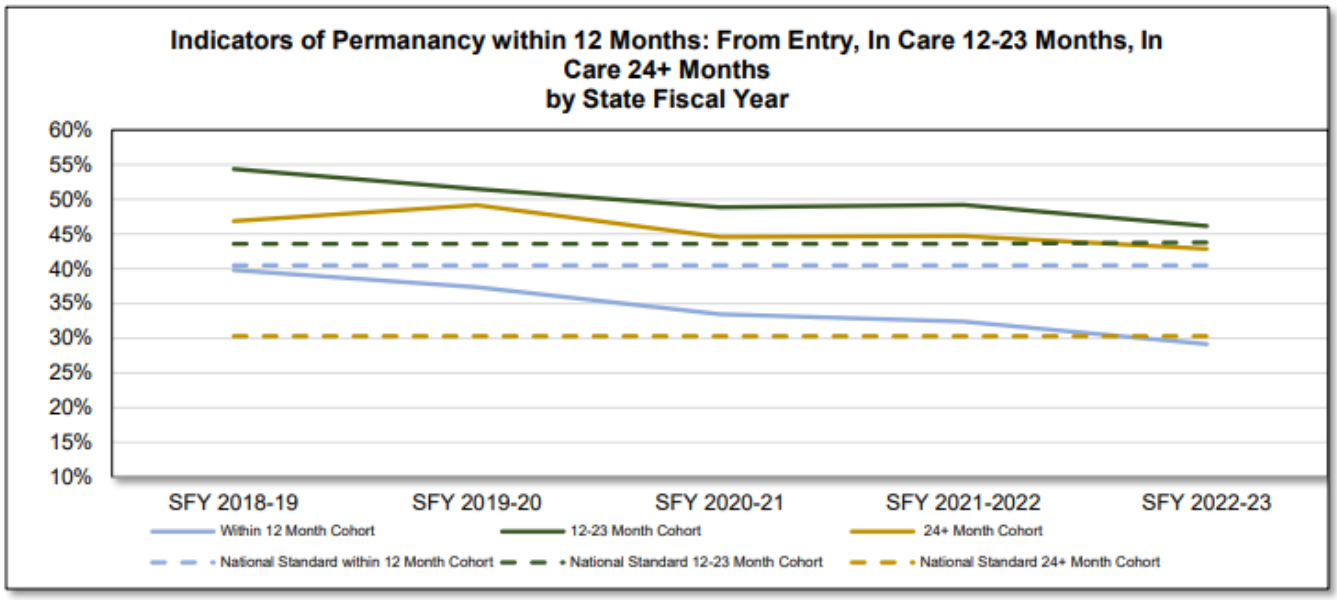
DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.[2] Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.[3]

During state fiscal year (SFY) 2022-23, there were a total of 339,728 child abuse reports and child special conditions contacts for potential child abuse and neglect, and 63% percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.[4]

[1] s. 39.001(1)(a), F.S.
[2] OPPAGA, report 06-50.
[3] *Id*.
[4] Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Dec. 1, 2023).



Also for SFY 2022-23, DCF's permanency report describes Florida's performance for three cohorts of children who entered care (children in care less than 12 months; children in care 12-23 months; and children in care 24 months or longer).[5] As the chart below illustrates, Florida's performance for each cohort generally declined over the past several years, with state's performance in achieving permanency for children in care less than 12 months declining over 25%.[6]



Dependency Case Process

[5] Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf (last visited Dec. 1, 2023).

[6] *Id*.

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care. Steps in the dependency process may include:

- A report to the central abuse hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.[7]

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.

[7] The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

The Florida Supreme Court's *Florida Rules of Juvenile Procedure* control procedural matters for Chapter 39 dependency proceedings unless otherwise provided by law.[8] DCF personally serves the parent(s) with a physical copy of the petition of dependency. Service of process gives the opposing party notice of the proceedings so that they may be given the opportunity to offer a defense.[9] Without proper service of process, the court lacks personal jurisdiction over the opposing party.[10]

However, under s. 39.502(2), F.S., a personal appearance by any person in a dependency hearing before the court, such as an arraignment, excuses DCF from having to serve process on that person.[11] Effective October 1, 2022, the Florida Supreme Court amended the Florida Rules of Juvenile Procedure to authorize personal appearances via audio-video communication technology in dependency hearings.[12] Therefore, in dependency proceedings, a personal appearance, whether in-person or remote, waives the formal service of process.

However, these court amendments preserved the personal service requirement in hearings for the termination of parental rights (TPR),[13] and s. 39.801(3), F.S., still requires personal service upon a parent in a TPR advisory hearing.[14] Thus, even if a parent attends the TPR advisory hearing, the court cannot conduct the hearing until DCF personally serves that parent. Previously, when TPR advisory hearings were routinely held in person, this was resolved when DCF personally served the physically-present parent with a physical copy of the petition in the courtroom. However, TPR advisory are now routinely conducted remotely by audio-video communication technology. As a result, DCF staff are not physically present with the parent to serve him or her, and DCF must request continuances from the court until it can complete service by a formal process service—even if the parent is simultaneously attending that TPR hearing remotely.

Permanency Placements

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.[15] While these children receive in-home or out-of-home care, which are both temporary solutions by design, DCF develops a permanency plan for each child. Current law specifies the following permanency goals, listed in order of preference:

- Reunification with the child's family;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.[16]

During SFY 2022-2023, 10,686 children exited out-of-home care. The table below shows the number placement type.

Permanency Placements SFY 2022-2023[17]

[8] s. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.
[9] *M.J.W. v. Fla. Dep't of Children and Families*, 825 So.2d 1038, 1041 (Fla. 1st DCA 2002).
[10] *Id*.
[11] s. 39.502(2), F.S.; Fla. R. Juv. P. 8225(a)(3)(C).
[12] *In re Amendments to Florida Rules of Juvenile Procedure, Florida Family Law Rules of Procedure, and Florida Supreme Court Approved Family Law Forms*, 356 So.3d 685, 686 (Fla. 2022).
[13] *Id*. at Appendix, Rule 8.505. Process and Service.
[14] s. 39.801(3)(b), F.S.
[15] *Supra*, FN 4.
[16] s. 39.621(3), F.S.

Reunification	Adoption	Permanent Guardianship	Permanent Placement with a fit and willing relative or in another planned permanent living arrangement
4,645	3,521	1,926	594

Some children living in DCF licensed care do not receive a permanent placement and age out of the system. For a child living in DCF licensed care who reaches age 18 without achieving permanency, the current law gives these young adults the option to remain in DCF licensed care under judicial supervision. If these young adults decide not to continue receiving Extended Foster Care services, then these young adults must actively participate in any one of four self-sufficiency activities:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment; or
4. Being employed for at least 80 hours per month.

However, the young adult may be excused from the self-sufficiency activities if the young adult documents a physical, intellectual, emotional, or a psychiatric condition that limits the young adult's full-time participation.[18]

The young adult loses eligibility to remain in DCF licensed care on the young adult's 21st birthday (or 22nd for those with disabilities), leave care to live in a permanent home consistent with the young adult's permanency plan, or knowingly and voluntarily withdraws consent to participate in extended care.[19]

Background Checks Prior to Child Placement

DCF may not place a child with a person, other than a parent, if the criminal history records check reveals that the person has certain felony convictions.[20] Additionally, DCF considers the criminal history of other individuals present in that person's home.

To determine whether any of these individuals have a disqualifying criminal history, DCF conducts a records check. The nature of the review and the standards for placement depend on the age of the individual and the nature of their presence in the home and whether they provide care to the child. These requirements are codified in statute and in rule.

When DCF scrutinizes a proposed placement of a child, under s. 39.0138(1), DCF must conduct a records check of household members.[21] DCF rule defines a "household member" as "any person who resides in a household, including the caregiver, other family members residing in the home, and adult visitors to the home who provide care of the child outside the parent's sight and/or sound supervision."[22]

At a minimum, DCF must conduct records checks for all household members 12 years of age and older through the State Automated Child Welfare Information System (SACWIS), a local law enforcement

[17] Office of Child Welfare Performance and Quality Improvement, *Child Welfare Key Indicators Monthly Report, October 2023*, Florida Department of Children and Families, (Oct. 2023) https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Jan. 16, 2024). DCF did not breakdown the numbers for permanent placement with a fit and willing relative or placement in another planned permanent living arrangement.
[18] s. 39.6251(1)-(4), F.S.
[19] s. 39.6251(5), F.S.
[20] Child abuse, abandonment, neglect, domestic violence, child pornography or other felony in which a child was a victim of the offense, homicide, or sexual battery. Violent felonies are also automatically disqualifying offenses unless the violent felony was felony assault of an adult, felony battery of an adult, or resisting arrest with violence. For these violent felony exceptions, DCF may not place a child with that person, other than a parent, if the felony conviction was within the previous 5 years. Also, a drug-related felony conviction within the previous 5 years subjects the person convicted, other than a parent, to a moratorium on placement approvals.
[21] s. 39.0138(1), F.S.
[22] 65C-30.001(59), F.A.C.

agency, and a statewide law enforcement agency.[23] For all household members age 18 or older, a name check through the National Crime Information Center must be performed when there are exigent circumstances which demand an emergency placement within 72 hours.[24] In addition, an out-of-state criminal history records check is mandatory for all household members 18 years of age and older who resided in another state.[25] At DCF's discretion, a criminal history records check may include a Level 2 screening and a local criminal records check through local law enforcement agencies of other visitors to the home of the proposed placement.[26]

DCF must complete the records check with 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing.[27] Applicants must also disclose to DCF any prior or pending local, state, or national criminal proceeding in they are or were involved.[28]

Florida statute authorizes DCF to place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant.[29] But first, DCF must submit fingerprints to FDLE for FBI review and must be awaiting the results of the state and national criminal history records check.[30]

The FBI's Criminal Justice Information Law Unit (CJILU) previously authorized access for DCF to conduct fingerprint-based background checks for child placements. In 2020, CJILU deemed s. 39.0138, F.S. inadequate because it found the term "visitor" in the definition of "household member" in DCF rule to be overly broad and the timeframes governing fingerprint-based background checks were not explicitly stated. While DCF retains temporary access to FBI criminal history record information because of a grace period, s. 39.0138, F.S., must be brought into compliance by January 1, 2025, or DCF risks losing access to FBI criminal history record information that is necessary to conduct these background checks.[31]

Emergency Postdisposition Modification of Placement

After the court adjudicates a child dependent, the court determines the most appropriate protections, services, and placement for the child in dependency cases at the disposition hearing.[32] However, these decisions may be changed at any time before the child begins residing at the approved permanent placement if DCF or another interested person petitions the court. If the motion made in the petition alleges a need for a change in the conditions of protective supervision or the placement, and if the interim caregiver denies the need for a change, then the court will hold a postdisposition hearing. If the court grants the postdisposition motion, the court will change the placement, modify the conditions of protective supervision, or continue the conditions of protective supervision.[33] In FY 2022-23, the court granted a postdisposition change in custody for 6,672 children.[34]

However, emergency circumstances may require a child's removal more quickly than the petition process allows, and current law does not include an expedited emergency postdisposition process to modify a child's placement. When DCF assesses that the child is in danger of or has been subject to is abuse, abandonment, or neglect in the current placement, DCF takes physical custody of the child. Without an emergency postdisposition process in current law, DCF can only petition the court for a

[23] s. 39.0138(1), F.S.
[24] 65C-28.011(1)(e), F.A.C.
[25] *Id*. The foreign state's jurisdiction may or may not allow the release of such records.
[26] *Id*.
[27] *Id*.
[28] s. 39.1038(6), F.S.
[29] s. 39.0138(5), F.S.
[30] *Id*.
[31] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 3 (Dec. 15, 2023).
[32] *See* s. 39.01(24), F.S.
[33] s. 39.522(2), F.S. To evaluate arguments at a postdisposition hearing, the court uses the best interest of the child standard factors in s. 39.01375, F.S.
[34] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 6 (Dec. 15, 2023).

shelter hearing, which is the initial stage of dependency and thus inappropriate given that the child is in the later stage of dependency proceedings, having already been sheltered and in DCF custody. [35]

Permanent Guardianship

Permanent guardianships promote the child's best interests when the child needs a nurturing, stable environment outside the home of their parents. An alternative to adoption, permanent guardianships preserve the legal parent-child relationship while physical custody rights to the child transfer from DCF to a legal caregiver. This permanency option maintains the child's inheritance rights, the parents' right to consent to a child's adoption, and the parents' responsibilities to provide financial, medical, and other support to the child.[36]

Guardianship Assistance Program

DCF operates the Guardianship Assistance Program to provide guardianship assistance payments to the child's permanent guardian. DCF establishes a permanent guardian's eligibility for guardianship assistance payments once all of the following requirements are met:

- The court approved the child's placement with the permanent guardian.
- The court granted legal custody to the permanent guardian.
- The permanent guardian is licensed to care for the child as a foster parent.
- The child retained eligibility for foster care room and board payments for at least 6 consecutive months while the child resided in the home of the permanent guardian so long as the permanent guardian is licensed to care for the child as a foster parent.[37]

Once the permanent guardian formalizes a guardianship agreement with DCF for a child adjudicated dependent, the permanent guardian may also receive guardianship assistance payments for that child's sibling(s). The sibling(s) adjudicated dependent because of child abuse, neglect, or abandonment are covered so long as the sibling(s) are also placed with the permanent guardian.[38]

Generally, DCF remits guardianship assistance payments in the default amount of $4,000 annually, paid on a monthly basis. However, the permanent guardian and DCF may set a different amount memorialized in their Guardianship Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the permanent guardian.[39]

Current law extends guardianship assistance payments beyond the child's 18th birthday in certain situations. First, the child's permanent guardian needs to create an initial Guardianship Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. Second, the child must actively perform any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities are as follows:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment; or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.[40]

[35] *Id.*
[36] s. 39.6221(6), F.S.
[37] s. 39.6225(2), F.S.
[38] s. 39.6225(3), F.S.
[39] s. 39.6225(5)(d), F.S.
[40] s. 39.6225(9), F.S.

Finally, a child or young adult receiving benefits through the guardianship assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., postsecondary education services and supports under s. 409.1451, F.S., or child-only cash assistance under Chapter 414.[41]

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Successor Guardians

If a permanent guardian named a DCF-approved successor guardian on the child's guardianship assistance agreement, current law states a court must let a 6-month interim period elapse before the child can be permanently placed with a successor guardian.[44]

Subject to DCF approval, a permanent guardian may formally nominate a successor guardian to assume care and responsibility for the child if the permanent guardian can no longer do so.[45] The permanent guardian nominates a successor guardian on the written Guardianship Assistance Agreement with DCF.[46] As a prerequisite of nomination and approval, the successor guardian must successfully complete a number of criminal, delinquency, and abuse/neglect history checks.[47] Should events occur that activate the successor guardian, the successor guardian must have a home study completed and approved before the child's placement with the successor guardian.[48]

The successor guardian is not required to be a relative, fictive kin, or licensed caregiver.[49]

Adoption of Children from the Child Welfare System

DCF, a CBC lead agency, or the CBC's subcontracted agency may field an initial inquiry from a prospective adoptive parent who seeks to learn about the adoption of children adjudicated dependent. Upon initial inquiry, an agency must respond to the prospective adoptive parent within 7 business days with information about the adoption process and the requirements for adopting a child adjudicated dependent.[50]

When the prospective adoptive parent articulates an interest in adopting a child adjudicated dependent, one of the agencies must refer the prospective adoptive parent to a DCF-approved adoptive parent training program.[51] To adopt, the prospective adoptive parent must complete the training program,[52] a DCF adoption application, and a home study.[53] The home study component is two parts: the preliminary home study and the final home investigation. A favorable preliminary home study allows

[41] s. 39.6225(5)(a), F.S.
[42] s. 39.6225(9), F.S.
[43] s. 39.6225(5)(a), F.S.
[44] s. 39.6221(1), F.S.
[45] R. 65C-44.001(6), 65C-44.0045, F.A.C.
[46] R. 65C-44.004, F.A.C.
[47] R. 65C-44.0045, F.A.C.
[48] *Id*.
[49] *Id*.
[50] s. 63.093(1), F.S.
[51] s. 63.093(2), F.S.
[52] The following prospective adoptive parents are not required to complete the training program: a licensed foster parent or an eligible caregiver. An eligible caregiver attended a training program within the past 5 years, had the child for at least 6 months , and can demonstrate a determination to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption.
[53] ss. 63.093(2)-(4), F.S.

the child adjudicated dependent to be placed in the intended adoptive home – pending the trial court's entry of the judgment of adoption.[54] A preliminary home study must include at a minimum an interview, a records checks, a physical home environment assessment, a financial security determination, and other required documentation.[55] The final home investigation must be conducted before the adoption becomes final.[56] The final home investigation determines the suitability of the adoptive placement with two scheduled visits and vets the applicant's social and medical history.[57]

Afterwards, one of the agencies must evaluate the applications through a preparation process prescribed by rule[58] and must decide the applicant's appropriateness to adopt.[59] This decision must reflect the final recommendation included in the adoptive home study and must be rendered within 14 business days after receipt of the final recommendation.[60]

The average length of time from a child being sheltered to the termination of parental rights (TPR) is 18 months. The average length of time from TPR to finalizing an adoption is 12 months. Thus, a child adjudicated dependent spends an average of 2.5 years in the dependency court before exiting through adoption. In June 2023, approximately 4,700 children adjudicated dependent were available for adoption. By December 2023, 3,300 of those children were matched and/or placed with caregivers who wanted to adopt.[61]

The Statewide Adoption Exchange

The federal Social Security Act Title IV-E conditions federal payments for foster care, prevention, and permanency upon DCF demonstrating proof that they are meeting a variety of requirements. Regarding the permanency goal of adoption, DCF must document how it is attempting to find an adoptive family for a child. At a minimum, such documentation must include child specific recruitment efforts through an electronic state, regional, or national adoption exchange that facilitates orderly and timely in-State and interstate placements.[62]

The federal Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA) also reflects a focused effort, in part, to eliminate barriers to adoptions across jurisdictional boundaries. The HHS Secretary must award CAPTA grants to states that carry out initiatives to this end. These CAPTA grants supplement, and do not supplant, efforts to expand the capacity of all adoption exchanges to serve increasing numbers of children.[63]

In Florida, current law directs DCF to establish, directly or through purchase, a statewide adoption exchange. All DCF-licensed child placing agencies must receive access to the statewide adoption exchange as a means to recruit adoptive families for children legally freed for adoption and who have

Adoption of Orphaned Children

A child adjudicated dependent under Chapter 39 can be a child who was abandoned because they lack a parent or legal custodian capable of providing supervision and care.[64] When orphaned children are adjudicated dependent, there is no statutory mechanism to permanently commit the child to DCF for the purposes of adoption because an orphaned child's parent(s) did not abandon them.[65] As Chapter 39 defines abandonment, abandonment means the parent made "no significant contribution to the

[54] s. 63.092(3), F.S.
[55] *Id*. A preliminary home study must document the counseling and education of the applicant(s) on adoptive parenting, that an agency provided the applicant(s) with information about the adoption process and community support services, and signed copies acknowledging receipt of required agency disclosures.
[56] s. 63.125(1), F.S.
[57] s. 63.125(5), F.S.
[58] R. 65C-16.005, F.A.C.
[59] s. 63.093(5), F.S.
[60] s. 63.093(5), F.S.
[61] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 11 (Dec. 15, 2023).
[62] 42 U.S.C. § 675(1)(E)
[63] 42 U.S.C. § 5113(e)
[64] s. 39.01(14)(e), F.S.
[65] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023); *see* s. 39.01(1), F.S.

child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both."[66]

Instead, dependency court judges rely on their inherent authority to enter any order in the child's best interest to permanently commit the child for adoption.[67]

A judgment of adoption relieves the birth parents of all parental rights and responsibilities, terminates all legal relationships between the adopted person and their birth parents and relatives, and creates a familial and legal relationship between the adopted person, the adoptive parent, and the adoptive parent's relatives.[68] Notably, the adopted person lacks intestate[69] inheritance rights to the petitioner's estate.[70] Meanwhile, the Florida Probate Code may preserve the adopted person's intestate inheritance rights to their birth parents' estate.[71]

For orphaned children, a judgment of adoption may produce a different outcome. For example, if an orphaned child is adopted by a close relative, the child's right of inheritance from or through the deceased parents is unaffected by the close relative adoption.[72] However, in all other cases, current law requires a court order granting the termination of parental rights (TPR) as a requirement to non-close relative adoptions because the orphaned child is considered dependent for Chapter 39 purposes.[73] Complicating matters, a TPR court order generally requires a judicial finding of harmful parental behavior towards the child.[74] Also, while living parents may voluntarily surrender their parental rights over a child by written consent, [75] deceased parents cannot consent. Furthermore, current law authorizes a court to waive the consent of certain individuals to an adoption, but none of those individuals include deceased parents.[76]

This current technical shortcoming in Florida statute means DCF lacks statutory authorization to secure legal custody of orphaned children for purposes of a permanent placement through a court order.[77]

Legal Challenges to Denied Adoption Petitions

When DCF receives the custodial rights of a child adjudicated dependent, DCF may seek an adoption placement for the child through its contracted CBCs if the court establishes adoption as the child's permanency goal. When there are two or more families with approved home studies, DCF's rules route these competing applications through a CBC's adoption applicant review committee (AARC) for a non-binding recommendation.[78] When a CBC's AARC offers the adoption recommendation to DCF, DCF reviews and issues its consent to one applicant while communicating its denial to the other applicant(s) through certified letter.[79]

Unsuccessful applicants get an opportunity to challenge DCF's decision under Florida's Administrative Procedure Act (APA).[80] If an unsuccessful applicant only contests DCF's reasoning, the unsuccessful applicant may request an informal hearing with a designated hearing officer at the agency.[81] A final

[66] s. 39.01(1), F.S.
[67] *G.S. v. T.B.*, 985 So.2d 978, 982 (Fla. 2008).
[68] s. 63.172(1), F.S.
[69] When a person dies intestate, that person died without a valid will. When this happens, the state's intestate law predetermines how the deceased person's estate will be distributed. *See* Bryan Gardner, *Intestate Law*, Black's Law Dictionary (11th ed. 2019) (Accessed Westlaw Dec. 22, 2023).
[70] s. 63.172(1)(c), F.S.
[71] s. 63.172(1)(b), F.S.
[72] s. 63.172(2), F.S.
[73] *See* s. 39.621(3)(b), F.S.
[74] s. 39.806(1), F.S.
[75] s. 39.806(1)(a), F.S.
[76] s. 63.064, F.S.
[77] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023).
[78] R. 65C-16.005(9), F.A.C.
[79] These certified letters represent final agency action for purposes of Florida's Administrative Procedure Act.
[80] *Fla. Dep't of Children and Family Services v. I.B. and D.B.*, 891 So.2d 1168, 1170 (Fla. 1st DCA 2005) (The Administrative Procedure Act confers an unsuccessful adoption applicant with the right to a hearing wherein they have an opportunity to change the agency's mind).
[81] s. 120.57(2), F.S.

order is due within 90 days after the conclusion of an informal hearing.[82] If an unsuccessful applicant contests a material fact underlying DCF's decision, the unsuccessful applicant may petition for a formal hearing before an administrative law judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).[83] The DOAH ALJ submits to DCF and all parties a non-binding, recommended order – complete with an established factual record, conclusions of law, and the suggested outcome.[84] Then, DCF may adopt the ALJ's recommended order as the final order or advance its own final order within 90 days.[85]

From 2021 through 2022, the average length of time between the receipt of a hearing request and entry of a final order was 161 days.[86] The chart below surveys administrative challenges to denied adoption petitions:[87]

Year	DCF Decisions Made After APA Review	CBC AARC Decisions Overturned by these DCF Decisions	DCA Appeals	DCF Decisions After APA Review Overturned through DCA Appeals
2019	58	0	2	0
2020	46	0	4	0
2021	42	1	2	0
2022	41	1	1	0
2023	41	1	1	0

As the chart suggests, a party who is adversely affected by final agency action is entitled to judicial review.[88] Generally, the unsuccessful applicant must appeal DCF's adoption decision to the First District Court of Appeals (the appellate district where DCF maintains its headquarters) or the appellate district of the party's residence.[89] From 2021 through 2022, the average additional delay created when an unsuccessful applicant appeals a DCF adoption decision to the appellate court was 323 days.[90]

Meanwhile, the original dependency trial court retains jurisdiction over a child adjudicated dependent until the child is adopted. This means the trial court can review the status of the child and the progress towards an adoption placement. In addition, for good cause shown by the guardian ad litem for the child, the trial court may review the appropriateness of a proposed adoptive placement for the child.[91]

Current law empowers a denied adoption applicant to file a petition with the court to argue DCF unreasonably withheld agency consent for the applicant to adopt the child. Along with the petition, the denied adoption applicant must also file a favorable preliminary adoptive home study. If the trial court agrees with the petitioner that DCF unreasonably withheld agency consent for the applicant to adopt the child, then the court waives DCF consent.[92] Fundamentally, DCF's consent to an adoption is not a prerequisite to the trial court's authority to finalize an adoption.[93] Rather, the court's orders must advance the best interests of the child and the legislative goal of expeditiously providing a stable and permanent home for the child.[94]

State Adoption Subsidies

[82] s. 120.56(2)(l), F.S.
[83] s. 120.57(1)(a), F.S.
[84] s. 120.57(1)(k), F.S.
[85] ss. 120.56(2)(l), 120.57(1)(l), F.S.
[86] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).
[87] *Id.*
[88] s. 120.68(1)(a), F.S.
[89] s. 120.68(2)(a), F.S.
[90] Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).
[91] s. 39.812(4), F.S.
[92] s. 63.062(7), F.S.
[93] *B.Y. v. Fla. Dep't of Children and Families*, 887 So.2d 1253, 1257 (Fla. 2004).
[94] *Id.*

The Maintenance Adoption Subsidy

Current law makes adoption assistance available to prospective adoptive parents to enable them to adopt difficult-to-place children.[95] A difficult-to-place child is a child:

1. adjudicated dependent remaining in the permanent custody of DCF of a licensed child-placing agency;
2. adjudicated dependent who established significant emotional ties with the foster parents or is unlikely to be adopted for certain reasons;[96] or
3. for whom a reasonable but unsuccessful effort was made to place that child without providing a maintenance subsidy.[97]

Adoption assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, reimbursement of nonrecurring expenses associated with adoption, and a tuition exemption at a postsecondary education institution.[98] As to the maintenance subsidy, DCF grants this monthly payment when all other resources available to a child were thoroughly explored, and it can be clearly established that the maintenance subsidy is the most acceptable plan for securing a permanent placement for the child.[99]

As a condition of receiving adoption assistance, the adoptive parents must have an approved adoption home study and an adoption assistance agreement with DCF before the adoption is finalized.[100] Generally, the default maintenance subsidy is $5,000/year, paid on a monthly basis, for the support and maintenance of a child until the child's 18th birthday. However, the adoptive parents and DCF may set a different amount memorialized in their Adoption Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the adoptive parents.[101]

Current law extends maintenance subsidy payments beyond the child's 18th birthday in certain situations. First, the child's adoptive parents need to create an initial Adoption Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. Second, the child must actively be involved in any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities include:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment; or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.[102]

Finally, a child or young adult receiving benefits through the adoption assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S. or postsecondary education services and supports under s. 409.1451, F.S.

[95] s. 409.166(1), F.S.
[96] These reasons could be that child is 8 years of age or older, developmentally disabled, physically or emotionally handicapped, a member of a racial group that is disproportionately represented among children adjudicated dependent, and/or a member of a sibling group of any age if two or more members of a sibling group remain together for purposes of adoption.
[97] s. 409.166(2)(d), F.S.
[98] s. 409.166(2)(a), F.S.
[99] s. 409.166(4)(b), F.S.
[100] s. 409.166(5)(a), F.S.
[101] s. 409.166(4)(c), F.S.
[102] s. 409.166(4)(d), F.S.

Incentivizing Adoption

Section 409.1664, F.S., provides for monetary awards to certain individuals to incentive the adoption of children from the child welfare system and those whom are generally difficult-to-place. Difficult-to-place children are those who meet one of the following: has developed strong emotional ties to the foster parents, is eight years of age or older, has a developmental disability, is physically or emotionally handicapped, is a member of a racial group that is disproportionately placed relative to other racial groups, or is a member of a sibling group.[103]

Initially, adoption incentive awards were available to state employees, but the Legislature has since expanded eligibility to include veterans, law enforcement officers, and servicemembers. The incentive awards are provided as a lump-sum payment in various amounts depending upon whether or not the child is considered difficult-to-place:

- Employee, veteran or servicemember - $10,000 per difficult-to-place child;
- Law enforcement officer - $25,000 per difficult-to-place child;
- Employee, veteran or servicemember - $5,000 per not difficult-to-place child;
- Law enforcement officer - $10,000 per not difficult-to-place child.

The availability of adoption incentive awards is subject to legislative appropriations, and are limited to one award per adopted child. During Fiscal Year 2022-23, a total of 412 adoptions received an incentive award for a total of $4,345,000.[104] For Fiscal Year 2024-25, a total of $8,377,470 of recurring base funding is available for adoption incentive awards.

Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.[105] They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.[106] These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.[107]

In federal fiscal year 2021, the federal Children's Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,[108] with 2,167 teens and young adults entering Florida's foster care system.[109] The Children's Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.[110] To this end, the Children's Bureau's National Youth in Transition Database (NYTD) representation tracks the independent living services each state provides to foster youth in care and assesses each state's performance in providing independent living and transition services.

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[103] s. 409.166, F.S.

[104] E-mail correspondence with the Department of Children and Families, dated February 15, 2024, and on file with the Health Care Appropriations Subcommittee.

[105] Gypen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic-Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, http://dx.doi.org/10.1016/j.childyouth.2017.02.035 (last visited February 14, 2024).

[106] *Id*.

[107] *Id*.

[108] Children's Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf (last accessed Dec. 3, 2023).

[109] Children's Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida* , U.S. Department of Health and Human Services, p. 1, June 28, 2022, https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf (last accessed Dec. 3, 2023).

[110] Children's Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606 (last visited Dec. 3, 2023).

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida's foster care system beginning on their 17th birthday.[111] In the interim, the most recent Florida NYTD available on DCF's website is the 2018 report.[112] In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:[113]

Outcomes of Young Adults who Aged Out of Care	
Area	**Outcome**
Education	• 74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college. • 12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.
Employment	• 15% were employed full-time (35 hours per week or more). • 26% were employed part-time. • 78% had a paid job over the last year. • 22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.
Housing	• The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility). • 41% had to couch surf or move from house to house because they did not have a permanent place to stay. • 27% experienced some type of homelessness in the past year.[114]
Financial & Transportation	• 46% received public food assistance. • 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments). • 83% had a reliable means of transportation to school/work. • 76% had an open bank account.
Health & Well-Being	• 85% were on Medicaid. • 18% had children. • 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed. • 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.
Connections	• 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support. • 67% had a close relationship with biological family members.

Florida's Road-to-Independence Program

Current law offers financial assistance to eligible young adults who desire the acquisition of skills, education, and necessary support to become self-sufficient and exit foster care. Eligible young adults

[111] Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf (last visited Dec. 4, 2023).
[112] Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living (last visited Dec. 4, 2023).
[113] Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf (last visited Dec. 4, 2023).
[114] *Id*.

access financial assistance through postsecondary education services and support (PESS) or aftercare services.[115]

PESS

The PESS stipend helps eligible young adults seek higher education and self-sufficiency. A young adult becomes PESS eligible once eight criteria are met:

1. A former foster youth who is in one of three situations:
    a. Turned 18 years of age while in the legal custody of DCF,
    b. Adopted from foster care after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption, or
    c. Placed with a court-approved permanent guardian after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the permanent guardianship.
2. Spent at least 6 months in licensed care before reaching their 18th birthday.
3. Earned a standard high school diploma or its equivalent.
4. Admitted for enrollment as a full-time student[116] at an eligible Florida Bright Futures postsecondary educational institution.
5. Reached the age of 18 but is not yet 23 years of age.
6. Applied for other grants and scholarships that the eligible young adult qualifies for.
7. Submitted a complete and error-proof Free Application for Federal Student Aid.
8. Signed an agreement to allow DCF and the CBC lead agency access to school records.[117]

After establishing eligibility, DCF determines the PESS stipend amount. Generally, the PESS stipend amount is $1,720/month. However, if the young adult remains in foster care while attending a postsecondary school and resides in a licensed foster home, the monthly PESS stipend amount is the established room and board rate for foster parents. If the young adult remains in foster care while attending a postsecondary school and resides in a licensed group home, the monthly PESS stipend amount is negotiated between the CBC lead agency and the licensed group home provider.[118]

Before an eligible young adult receives the PESS stipend, DCF or its contracted agency must assess the young adult's financial literacy and existing competencies necessary for successful independent living and the completion of postsecondary education.[119] Eligible young adults receive financial assistance during the months when they are enrolled in a postsecondary education institution.[120]

Aftercare Services

Aftercare services are intended to bridge gaps in an eligible young adult's progress towards self-sufficiency. A young adult establishes eligibility for aftercare services if the young adult meets three criteria:

1. Reached the age of 18 while in licensed foster care, but is not yet 23 years of age.
2. Is not in Extended Foster Care pursuant to s. 39.6251, F.S.

[115] s. 409.1451(1)(c), F.S.
[116] Students may enroll part-time if they have a recognized disability or if they secure approval from their academic advisor relating to a challenge or circumstance preventing full-time enrollment. Otherwise, full-time enrollment requires 9 credit hours or the vocational school equivalent.
[117] s. 409.1451(2)(a), F.S.
[118] s. 409.1451(2)(b), F.S.
[119] s. 409.1451(2)(d), F.S.
[120] s. 409.1451(2)(b), F.S.

3. Temporarily not receiving a PESS stipend.[121]

Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities.
8. Temporary financial assistance for emergencies like automobile repairs or large medical expenses.
9. Financial literary skills training.[122]

DCF or a CBC lead agency determines the specific aftercare services provided to eligible young adults after an assessment.[123] The resulting aftercare services plan is reassessed every 90 days.[124] Subject to available funding, aftercare services are available to PESS stipend grantees who experience an emergency situation and whose resources are insufficient to meet the emergency situation.[125]

DCF reports that Florida experienced a 13% increase in the total number of young adults receiving independent living services for state fiscal year (SFY) 2022-2023 compared to SFY 2021-2022. The table below itemizes the number of young adults served in each Independent Living program by each CBC Lead Agency during the past two state fiscal years (SFYs):

[121] s. 409.1451(3)(a), F.S.; R. 65C-42.003(1), F.A.C.
[122] s. 409.1451(3)(b), F.S.
[123] s. 409.1451(3)(b), F.S.
[124] R. 65C-42.003(8), F.A.C.
[125] s. 409.1451(3)(a), F.S.

Lead Agency	2021-2022			2022-2023		
	Aftercare	EFC	PESS	Aftercare	EFC	PESS
Brevard Family Partnership	28	33	14	27	104	11
ChildNet Inc	22	166	112	24	166	112
ChildNet Palm Beach	14	126	68	11	118	62
Children's Network of SW Florida	8	41	58	8	65	34
Citrus Health Network	39	229	198	48	269	186
Communities Connected for Kids	16	28	25	11	28	26
Community Partnership for Children	8	49	37	16	76	47
Family Support Services Suncoast	42	104	62	49	105	55
Children's Network Hillsborough	57	87	40	57	146	60
Embrace Families	32	117	58	38	145	57
Families First Network	12	98	28	11	100	19
St Johns County Commission	5	12	8	0	12	8
Family Support Services	36	97	33	23	107	31
Heartland for Children	32	79	23	37	91	29
Kids Central Inc	39	28	27	54	54	39
Kids First of Florida Inc	0	16	10	0	27	13
NWF Health Network-East	16	55	35	19	67	27
Partnership for Strong Families	10	16	12	6	16	5
Safe Children Coalition	17	37	16	29	37	16
Statewide	**433**	**1,418**	**864**	**467**	**1,733**	**857**

[126]

[126] Department of Children and Families, *Department of Children and Families Response to the Independent Living Services Advisory Council 2023 Annual Report*, p. 6 (Dec. 31, 2023) https://www.myflfamilies.com/services/child-family/lmr (last visited Jan. 4, 2023). EFC is the acronym for Extended Foster Care and is beyond the scope of this bill.

Effect of the Bill

Records Check Process

To preserve DCF's access to the FBI's criminal history records database, Florida must bring DCF's record checks process into federal compliance. CS/CS/HB 1083 requires the following:

- *Household Members*:
  - For emergency out-of-home care placements to benefit sheltered children, DCF to conduct a name-based criminal history records check of all adult members of a household.
  - Once DCF determines no household member is disqualified after the records check, the bill authorizes DCF to place the child in that household.
  - Unless an exemption applies, the bill requires all adult household members to subsequently submit a full set of fingerprints which the Florida Department of Law Enforcement (FDLE) must receive within 7 calendar days after the records check.
  - Then, the bill requires FDLE to forward the fingerprints to the Federal Bureau of Investigation for national processing within 15 calendar days after the records check.
  - Should an adult household member fail to submit their fingerprints within 15 calendar day after the records check, the bill requires DCF to seek a court order to immediately remove the child from the emergency out-of-home care placement.
- *Visitors to the Household*:
  - The bill adds a chapter-wide definition of visitor in s. 39.01, F.S. For Chapter 39 purposes, the bill defines a "visitor" as a person who provides care or supervision to a child the home or is person 12 years of age or older who will be in the child's home at least five consecutive days or a minimum of seven days total for any one-month period.
  - With this new definition in mind, the bill requires DCF to conduct a name-based check of criminal history records of all visitors to the home.
  - As a matter of discretion, the bill authorizes DCF to require a local criminal record check of all visitors to the home who are at least 18 years of age as an optional add-on component of the department's records check process.

The bill modernizes the name of DCF's record checks system to the Comprehensive Child Welfare Information System.

Orphaned Children Adjudication Process

The bill creates a formal process to adjudicate orphaned children dependent tailored to their situation.

- The bill authorizes an attorney for DCF, or any other person with factual or sourced knowledge of the allegations and who believes those allegations, to commence a Chapter 39 dependency proceeding if both parents of a child are deceased or the last known living parent of a child is deceased and the child did not receive an appointed legal custodian.
- In the event a child previously adjudicated dependent later becomes an orphan, the bill allows an interested party to file a petition for permanent commitment as a petition for adjudication is not necessary.
- The bill requires a petition for adjudication or permanent commitment of an orphaned child to include the following details in writing:
  - Identity of the allegedly deceased parents.
  - A factual basis that both parents are deceased or the last known living parent is deceased.
  - A factual basis that the child has not receive an appointed legal custodian.

- The bill requires the petitioner to sign a petition under oath affirming the petition was filed in good faith.
- The bill prescribes the procedural process for scheduling hearings, noticing required parties, conducting hearings, ruling on evidence, finalizing court orders, and developing case plans.

Emergency Process for Modifying a Child's Permanent Placement

The bill establishes a process to make emergency changes of placement for children whom the dependency court initially transferred the physical custody rights to the child from DCF to the permanent placement.

Specifically, the bill establishes the following procedural process:

- The bill allows a child's case manager, an authorized agent of DCF, and law enforcement officers to remove a child from a court-ordered placement at any time after the child's authorized caregiver requests the child's immediate removal from the placement.
- Separately, the bill authorizes DCF and law enforcement officers to remove a child from a placement if they have probable cause:
    - That a placed child was abused, neglected, or abandoned, or
    - That a placed child currently suffers from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.
- The bill prescribes the procedural process for the court to render the appropriate court order based on the facts and circumstances of the case for the purpose of finding a new placement for the child.

Changes a Placement with a Permanent Guardian

The bill cuts the minimum duration of the interim period before a child can be permanently placed with a successor guardian from 6 months to 3 months. The bill also requires the successor guardian to be known to the child.

Adoption Incentive Awards

The bill expands the population of who may be eligible to receive an adoption incentive award. The bill includes certain health care practitioners and tax collector employees. In this context, a health care practitioner is a person listed in s. 456.001(4), F.S. who holds an active license from the Department of Health and whose annual gross income does not exceed $150,000.[127] Tax collector in this context refers to an employee of an office of a county tax collector within Florida.

The bill increases the award amount and introduces parity among the eligible population:

- State employee, veteran, law enforcement officer, health care practitioner, tax collector, or servicemember - $25,000 per difficult-to-place child;
- State employee, veteran, law enforcement officer, health care practitioner, tax collector, or servicemember - $10,000 per not difficult-to-place child.

[127] s. 456.001(4), F.S. defines "health care practitioner" as one who holds a license pursuant to ch. 457, ch. 458, ch. 459, ch. 460, ch. 461, ch. 462, ch. 463, ch. 464, ch. 465, ch. 466, ch. 467, certain parts of ch. 468, ch. 478, ch. 480, certain parts of ch. 483, ch. 484, ch. 486, ch. 490, and ch. 491.

Age Eligibility Threshold Programs for Formerly Dependent Young Adults

The bill amends the age eligibility threshold for the extended guardianship assistance payment (EGAP), the extended maintenance adoption subsidy (EMAS), and the PESS programs by lowering the child's minimum eligibility age from 16 to 14. In addition, the bill allows young adults who qualify for, but do not participate in, the EGAP or EMAS programs to access aftercare services instead.

As illustrated by the table below, DCF projects participation in EGAP, EMAS, PESS, and aftercare services will increase as follows.

Program	Increased Eligible Population	Estimated Increase in Participation
EGAP	782	235
EMAS	550	165
PESS	351	71
Aftercare Services	1,835	275
Totals	3,518	746

Service of Process Waiver in TPR Proceedings

In advisory proceedings for the termination of parental rights, the bill authorizes the court to waive the service of process on any person if that person personally appears in court. The bill will enable the trial court to commence the TPR advisory proceeding without need for a continuance if the person on whom process is required makes a personal appearance, whether that person is physically present in the courtroom or remotely present in the courtroom by audio-video communication technology.

Adoption Appeal Process

The bill streamlines the process to resolve competing claims of prospective adoptive parents who were denied petitions to adopt. Specifically, the bill:

- grants the dependency trial court exclusive discretion to review DCF's denial of a petitioner's application to adopt a child.
- expressly eliminates the petitioner's access to administrative review under Chapter 120.
- prescribes the procedural process for the court to review a denied application to adopt.
    - While DCF must file a written notification of the denied application with the court and provide copies to all parties within 10 business days after DCF's decision, the court does not hold a hearing about the denial until the unsuccessful applicant files a motion to review.
    - If the court denies the unsuccessful applicant's motion to review, the bill authorizes DCF to remove the child from the unsuccessful applicant's home.
- requires the petition of adoption to include two items:
    - a favorable preliminary adoptive home study, and
    - an attached copy of DCF's consent to adopt unless the court waives the attached copy requirement upon a finding that DCF unreasonably withheld their consent to adopt.

DCF estimates these particular reforms will shave an average of 116 days of delay in the current permanency process.

Statewide Adoption Exchange Platform

The bill restricts public access to the online profiles of children available for adoption. It allows only prospective adoptive parents who completed or are completing an adoptive home study to access these online profiles, and no other members of the public are afforded access.

Any child who is 12 years of age or older may request that a specific photo be used for that child's photo listing and must be consulted during the development of the child's description.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amending s. 39.01, F.S., relating to definitions.
Section 2: Amending s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.
Section 3: Creating s. 39.5035, F.S., relating to deceased parents; special procedures.
Section 4: Amending s. 39.522, F.S., relating to postdisposition change of custody.
Section 5: Amending s. 39.6221, F.S., relating to permanent guardianship of a dependent child.
Section 6: Amending s. 39.6225, F.S., relating to the guardianship assistance program.
Section 7: Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.
Section 8: Amending s. 39.812, F.S., relating to postdisposition relief; petition for adoption.
Section 9: Amending s. 63.062, F.S., relating to persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.
Section 10: Amending s. 63.093, F.S., relating to adoption of children from the child welfare system.
Section 11: Amending s. 409.1451, F.S., relating to the road-to-independence program.
Section 12: Amending s. 409.166, F.S., relating to children within the child welfare system; adoption assistance program.
Section 13: Amending s. 409.1664, F.S., relating to adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, law enforcement officers, health care practitioners, and tax collector employees.
Section 14: Amending s. 409.167, F.S., relating to statewide adoption exchange; establishment; responsibilities; registration requirements; rules.
Section 15: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill expands the population eligible for adoption incentive awards to include health care practitioners and employees of tax collectors. Based on these changes, the department anticipates a total of 728 adoptions to receive incentive awards during Fiscal Year 2024-25, for a total need of $18,200,000. With existing base funding of $8,377,470, this equates to an additional need of $9,822,530.

   The House proposed General Appropriations Act for FY 2024-25 (GAA) provides $9,822,530 for the additional funding needs that result from the bill's expansion of adoption incentive award benefits.

   Also, the bill amends the eligibility criteria for the three Independent Living programs by lowering the age of eligibility from age 16 to age 14 for both the EMAS/EGAP and the PESS program. It also expands the population that is eligible for Aftercare services. The department expects these changes to result in additional youth being served and to require an additional $8,110,140 for all

three Independent Living programs (EMAS/EGAP - $3,216,000; PESS - $1,465,440; Aftercare - $3,428,700).

The House proposed GAA includes an additional $8,110,140 to DCF for the increased costs anticipated with the expanded eligibility of the Independent Living programs. The funding in the GAA is contingent upon HB 1083, or substantially similar legislation, becoming a law.

In total, the bill has a fiscal impact of $17,932,670 ($9,822,530 for adoption incentive awards and $8,110,140 for expanded Independent Living eligibility). The House proposed GAA includes sufficient funding to address the provisions of the bill.

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:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 14, 2024, the Appropriations Committee adopted one amendment that:

- Expands the eligibility for adoption incentive awards by including certain health care practitioners and employees of tax collector offices as potential award recipients:
  - Specifies that a health care practitioner's gross annual income may not exceed $150,000,
  - Specifies that a health care practitioner must hold an active licensed pursuant to ch. 456.001(4), F.S. and apply for an incentive award through the Department of Health,
  - Specifies that a health care practitioner or tax collector employee may apply for an award only is he or she is a resident of the state and adopts a child from the child welfare system on, or after, July 1, 2024.

- Increases the adoption incentive award amount for all eligible populations from $5,000 to $10,000 for a child who is not difficult-to-place and from $10,000 to $25,000 for a child considered difficult-to-place.

The analysis is drafted to the bill as amended by the Appropriations Committee.

A bill to be entitled

An act relating to permanency for children; amending s. 39.01, F.S.; defining the term "visitor"; amending s. 39.0138, F.S.; renaming the "State Automated Child Welfare Information System" as the "Comprehensive Child Welfare Information System"; requiring the Department of Children and Families to conduct a criminal history records check of certain visitors to a home in which a child is placed; requiring the department to conduct a name-based check of criminal history records of certain persons in specified circumstances; requiring certain persons to submit their fingerprints to the department or other specified entities; requiring the department or such entities to submit such fingerprints to the Department of Law Enforcement for state processing within a specified timeframe; requiring the Department of Law Enforcement to forward such fingerprints to the Federal Bureau of Investigation within a specified timeframe; requiring a child to be immediately removed from a home if certain persons fail to provide their fingerprints and are not exempt from a criminal history records check; creating s. 39.5035, F.S.; providing procedures and requirements relating to deceased parents of a dependent child; amending s.

39.522, F.S.; authorizing certain persons to remove a child from a court-ordered placement under certain circumstances; requiring the Department of Children and Families to file a specified motion, and the court to set a hearing, within specified timeframes under certain circumstances; requiring a certain determination by the court to support immediate removal of a child; authorizing the court to base its determination on certain evidence; requiring the court to enter certain orders and conduct certain hearings under certain circumstances; amending s. 39.6221, F.S.; revising a requisite condition for placing a child in a permanent guardianship; amending s. 39.6225, F.S.; revising eligibility for payments under the Guardianship Assistance Program; amending s. 39.801, F.S.; providing that service of process is not necessary under certain circumstances; amending s. 39.812, F.S.; authorizing the court to review the Department of Children and Families' denial of an application to adopt a child; requiring the department to file written notification of its denial with the court and provide copies to certain persons within a specified timeframe; authorizing a denied applicant to file a motion to review such denial within a specified timeframe; requiring the court to hold a hearing

within a specified timeframe; providing standing to certain persons; authorizing certain persons to participate in the hearing under certain circumstances; requiring the court to enter an order within a specified timeframe; providing an exception to authorize the department to remove a child from his or her foster home or custodian; amending s. 63.062, F.S.; conforming provisions to changes made by the act; amending s. 63.093, F.S.; requiring an adoptive home study to be updated every 12 months after the date on which the first study was approved; requiring the department to adopt certain rules; amending s. 409.1451, F.S.; revising the age requirements for receiving postsecondary education services and support; revising the requirements for receiving aftercare services; amending s. 409.166, F.S.; revising the age requirements for receiving adoption assistance; amending s. 409.1664, F.S.; providing definitions; providing certain adoption benefits to health care practitioners and tax collector employees; specifying methods for such persons to apply for such benefits; increasing the amount of monetary adoption benefits certain persons are eligible to receive; amending s. 409.167, F.S.; providing requirements for the statewide adoption exchange and its photo listing

component and description of children placed on such exchange; authorizing only certain persons to access the statewide adoption exchange; authorizing certain children to make certain requests and requiring them to be consulted on certain decisions; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (88) is added to section 39.01, Florida Statutes, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(88) "Visitor" means a person who:

(a) Provides care or supervision to a child in the home; or

(b) Is 12 years of age or older, other than a child in care, and who will be in the child's home at least:

1. Five consecutive days; or

2. Seven days or more in 1 month.

Section 2. Subsections (1) and (5) of section 39.0138, Florida Statutes, are amended to read:

39.0138 Criminal history and other records checks; limit on placement of a child.—

(1) The department shall conduct a records check through the Comprehensive ~~State Automated~~ Child Welfare Information System ~~(SACWIS)~~ and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered. For purposes of this section, a criminal history records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors 18 years of age and older to the home. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. The department must complete the records check within 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

(5)(a) If a child has been sheltered pursuant to s. 39.402 and must be placed in out-of-home care due to an emergency, the department must conduct a name-based check of criminal history records to ascertain if the person with whom placement of the child is being considered and any other adult household members of such person are disqualified.

(b) The department may place a child in the ~~a~~ home if the person with whom placement of the child is being considered and any other adult household members or visitors of the home are not disqualified by the name-based check, but, unless exempt, such persons must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency authorized under s. 943.053(13). Unless exempt, within 7 calendar days after the name-based check, the department, vendor, entity, or agency must submit the fingerprints to the Department of Law Enforcement for state processing. Within 15 calendar days after the name-based check was conducted, the Department of Law Enforcement must forward the fingerprints to the Federal Bureau of Investigation for national processing ~~that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant and if the department submits fingerprints to the Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the state and national criminal history records check~~.

(c) The department shall seek a court order to immediately remove the child from the home if the person with whom the child was placed or any other adult household members or visitors of the home fail to provide their fingerprints within 15 calendar days after the name-based check is conducted and such persons are not exempt from a criminal history records check.

Section 3. Section 39.5035, Florida Statutes, is created to read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased or the last known living parent of a child is deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts, and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable time after the date the petitioner first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents die or the last known living parent

dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts, and believes them to be true, may file a petition for permanent commitment. The petition must be filed within a reasonable time after the petitioner first becomes aware of the facts that support the petition for permanent commitment.

(2) The petition must be:

(a) In writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased or the last known living parent is deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court must set the case before the court for an adjudicatory hearing. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search or inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) The court shall conduct adjudicatory hearings without a jury and apply the rules of evidence in use in civil cases, adjourning the hearings as necessary. The court must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry, and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court must enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing must be scheduled no later than 30 days after the entry of the order, in which the

department must provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court must hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased, or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry, and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court must enter a written order adjudicating the child dependent. A disposition hearing must be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that the petitioner has not met the clear and convincing standard and that a preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or

care, the court must enter a written order so finding and dismiss the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court must enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing must be scheduled no later than 30 days after the entry of the order, in which the department must provide an amended case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court must hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased or that the last known living parent is deceased and the other parent cannot be found after a diligent search or inquiry, the court must enter a written order denying the petition. The order has no effect on the child's prior adjudication. The order does not bar the petitioner from filing a subsequent petition for

permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased, or that the last known living parent is deceased, and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 4. Subsection (7) is added to section 39.522, Florida Statutes, to read:

39.522 Postdisposition change of custody.—

(7) Notwithstanding any other provision of this section, a child's case manager, an authorized agent of the department, or a law enforcement officer may, at any time, remove a child from a court-ordered placement and take the child into custody if the court-ordered caregiver of the child requests immediate removal of the child from the home. Additionally, an authorized agent of the department or a law enforcement officer may, at any time, remove a child from a court-ordered placement and take the child into custody if there is probable cause as required under s. 39.401(1)(b).

(a) If, at the time of the removal, the child was not placed in licensed care in the department's custody, the department must file a motion to modify placement within 1 business day after the child is taken into custody. The court must then set a hearing within 24 hours after the motion is filed unless all of the parties and the current caregiver agree to the change of placement. At the hearing, the court must

determine if the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition or affidavit or on testimony and may hear all relevant and material evidence, including oral or written reports, to the extent of their probative value, even if such evidence would not be competent evidence at an adjudicatory hearing.

(b) If the court finds that the department did not establish probable cause to support the removal of the child from his or her current placement, the court must enter an order that the child be returned to such placement. An order by the court to return the child to his or her current placement does not preclude a party from filing a subsequent motion pursuant to subsection (2).

(c) If the current caregiver admits that a change of placement is needed or the department establishes probable cause to support removal of the child, the court must enter an order changing the placement of the child. The new placement for the child must meet the home study criteria in this chapter if the child is not placed in foster care.

(d) If the court finds probable cause and modifies the child's placement, the court must conduct a hearing pursuant to subsection (2) or subsection (3), unless such hearing is waived by all parties and the caregiver.

Section 5. Paragraph (a) of subsection (1) of section 39.6221, Florida Statutes, is amended to read:

39.6221 Permanent guardianship of a dependent child.—

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months, or the preceding 3 months if the caregiver is already known by the child and such caregiver has been named as the successor guardian on the child's guardianship assistance agreement.

Section 6. Subsection (9) of section 39.6225, Florida Statutes, is amended to read:

39.6225 Guardianship Assistance Program.—

(9) Guardianship assistance payments may not ~~shall only~~ be made for a young adult unless the young adult's ~~whose~~ permanent guardian entered into a guardianship assistance agreement after the child attained 14 ~~16~~ years of age but before the child attained 18 years of age and if the child is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution that provides postsecondary or vocational education;

(c) Participating in a program or activity designed to promote or eliminate barriers to employment;

(d) Employed for at least 80 hours per month; or

(e) Unable to participate in programs or activities listed in paragraphs (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, emotional, or psychiatric condition that impairs the child's ability to perform one or more life activities.

Section 7. Paragraph (d) of subsection (3) of section 39.801, Florida Statutes, is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(d) Personal appearance of a person at the advisory hearing as provided in s. 39.013(13) obviates the necessity of serving process on that person and the court may proceed with the advisory hearing and any subsequently noticed hearing.

Section 8. Subsections (4), (5), and (6) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the child is adopted. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, ~~for good cause shown by the guardian ad litem for the child,~~ the court may:

(a) Review the appropriateness of the adoptive placement of the child if good cause is shown by the guardian ad litem for the child.

(b) Review the department's denial of an application to adopt a child. The department's decision to deny an application to adopt a child is only reviewable under this section and is not subject to chapter 120.

1. If the department denies an application to adopt a child, the department must file written notification of the denial with the court and provide copies to all parties within 10 business days after the department's decision.

2. A denied applicant may file a motion to have the court review the department's denial within 30 business days after the issuance of the department's written notification of its decision to deny the application to adopt a child. The motion to review must allege that the department unreasonably denied the

application to adopt and request that the court allow the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

3. A denied applicant only has standing under this chapter to file a motion to review the department's denial and to present evidence in support of such motion. Such standing is terminated upon the entry of the court's order.

4. The court shall hold a hearing within 30 business days after the denied applicant files the motion to review. The court may only consider whether the department's denial of the application is consistent with its policies and if the department made such decision in an expeditious manner. The standard of review is whether the department's denial of the application is an abuse of discretion.

5. If the department selected a different applicant to adopt the child, the selected applicant may participate in the hearing as a participant, as defined in s. 39.01, and may be granted leave by the court to be heard without the need to file a motion to intervene.

6. Within 15 business days after the conclusion of the hearing, the court must enter a written order denying the motion to review or finding that the department unreasonably denied the application to adopt and authorizing the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

(5) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

(a) There is probable cause to believe that the child is at imminent risk of abuse or neglect;

(b) Thirty business days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed;

(c) A motion to review the department's denial of an application to adopt a child under paragraph (4)(b) has been denied; or

(d) ~~(c)~~ The foster parent or custodian agrees to the child's removal.

(6) ~~(5)~~ The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted pursuant to s. 47.122. A copy of the consent to adoption executed by the department must be attached to the petition, unless such consent is waived under ~~pursuant to~~ s.

63.062(7). The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

(7)(a) ~~(6)(a)~~ Once a child's adoption is finalized, the community-based care lead agency must make a reasonable effort to contact the adoptive family by telephone 1 year after the date of finalization of the adoption as a postadoption service. For purposes of this subsection, the term "reasonable effort" means the exercise of reasonable diligence and care by the community-based care lead agency to make contact with the adoptive family. At a minimum, the agency must document all of the following:

1. The number of attempts made by the community-based care lead agency to contact the adoptive family and whether those attempts were successful.~~;~~

2. The types of postadoption services that were requested by the adoptive family and whether those services were provided

by the community-based care lead agency.~~; and~~

3. Any feedback received by the community-based care lead agency from the adoptive family relating to the quality or effectiveness of the services provided.

(b) The community-based care lead agency must report annually to the department on the outcomes achieved and recommendations for improvement under this subsection.

Section 9. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or the court order finding that the department unreasonably denied the application to adopt entered under s. 39.812(4) must be attached to the petition to adopt, and ~~The consent of the department shall be waived upon a determination by the court that such consent is being unreasonably withheld and if~~ the petitioner must file ~~has filed~~ with the court a favorable preliminary adoptive home study as required under s. 63.092.

Section 10. Subsections (4) and (5) of section 63.093,

Florida Statutes, are amended, and subsection (6) is added to that section, to read:

63.093 Adoption of children from the child welfare system.—

(4) Before a child is placed in an adoptive home, the community-based care lead agency or its subcontracted agency must complete an adoptive home study of a prospective adoptive parent that includes observation, screening, and evaluation of the child and the prospective adoptive parent. An adoptive home study must be updated every ~~is valid for~~ 12 months after the date on which the first study was approved. If the child was placed before the termination of parental rights, the updated placement or licensing home study may serve as the adoption home study. In addition, the community-based care lead agency or its subcontracted agency must complete a preparation process, as established by department rule, with the prospective adoptive parent.

(5) At the conclusion of the adoptive home study and preparation process, a decision must ~~shall~~ be made about the prospective adoptive parent's appropriateness to adopt. This decision must ~~shall~~ be reflected in the final recommendation included in the adoptive home study. If the recommendation is for approval, the adoptive parent application file must be submitted to the community-based care lead agency or its subcontracted agency for approval. The community-based care lead

agency or its subcontracted agency must approve or deny the home study within 14 business days after receipt of the recommendation.

(6) The department shall adopt rules to eliminate duplicative practices and delays in the adoption home study process for a member of a uniformed service on active duty seeking to adopt in the state, including, but not limited to, providing a credit for adoption classes that have been taken in another state which substantially cover the preservice training required under s. 409.175(14)(b).

Notwithstanding subsections (1) and (2), this section does not apply to a child adopted through the process provided in s. 63.082(6).

Section 11. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(a) A young adult is eligible for services and support under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 14 ~~16~~ years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6

months in licensed care within the 12 months immediately preceding such placement or adoption;

2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;

3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

5. Has reached 18 years of age but is not yet 23 years of age;

6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;

7. Submitted a Free Application for Federal Student Aid which is complete and error free; and

8. Signed an agreement to allow the department and the

community-based care lead agency access to school records.

(3) AFTERCARE SERVICES.—

(a)1. Aftercare services are available to a young adult who has reached 18 years of age but is not yet 23 years of age and is:

a. Not in foster care.

b. Temporarily not receiving financial assistance under subsection (2) to pursue postsecondary education.

c. Eligible for the Extended Guardianship Assistance Program under s. 39.6225(9) or the extended adoption assistance program under s. 409.166(4), but is not participating in either program.

2. Subject to available funding, aftercare services as specified in subparagraph (b)8. are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance under subsection (2), is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation. Such assistance shall be in addition to any amount specified in paragraph (2)(b).

Section 12. Paragraph (d) of subsection (4) of section 409.166, Florida Statutes, is amended to read:

409.166 Children within the child welfare system; adoption assistance program.—

(4) ADOPTION ASSISTANCE.—

(d) Effective January 1, 2019, adoption assistance

payments may be made for a child whose adoptive parent entered into an initial adoption assistance agreement after the child reached 14 ~~16~~ years of age but before the child reached 18 years of age. Such payments may be made until the child reaches age 21 if the child is:

1. Completing secondary education or a program leading to an equivalent credential;

2. Enrolled in an institution that provides postsecondary or vocational education;

3. Participating in a program or activity designed to promote or eliminate barriers to employment;

4. Employed for at least 80 hours per month; or

5. Unable to participate in programs or activities listed in subparagraphs 1.-4. full time due to a physical, an intellectual, an emotional, or a psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, an intellectual, an emotional, or a psychiatric condition that impairs the child's ability to perform one or more life activities.

Section 13. Section 409.1664, Florida Statutes, is amended to read:

409.1664 Adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, ~~and~~ law enforcement officers, health care practitioners, and tax

collector employees.—

(1) As used in this section, the term:

(a) "Child within the child welfare system" has the same meaning as provided in s. 409.166(2).

(b) "Health care practitioner" means a person listed in s. 456.001(4) who holds an active license from the Department of Health and whose gross income does not exceed $150,000 per year.

(c) ~~(b)~~ "Law enforcement officer" has the same meaning as provided in s. 943.10(1).

(d) ~~(c)~~ "Qualifying adoptive employee" means a full-time or part-time employee of a state agency, a charter school established under s. 1002.33, or the Florida Virtual School established under s. 1002.37, who is not an independent contractor and who adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. The term includes instructional personnel, as defined in s. 1012.01, who are employed by the Florida School for the Deaf and the Blind, and includes other-personal-services employees who have been continuously employed full time or part time by a state agency for at least 1 year.

(e) ~~(d)~~ "Servicemember" has the same meaning as in s. 250.01(19).

(f) ~~(e)~~ "State agency" means a branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions, a state university or Florida

College System institution as defined in s. 1000.21, a school district unit as defined in s. 1001.30, or a water management district as defined in s. 373.019.

(g) "Tax collector employee" means an employee of an office of county tax collector in the state.

(h) ~~(f)~~ "Veteran" has the same meaning as in s. 1.01(14).

(2) A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $25,000 ~~$10,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $25,000 per such child, subject to applicable taxes.~~ A qualifying adoptive employee, veteran, law enforcement officer, health care practitioner, tax collector employee, or servicemember who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $10,000 ~~$5,000~~ per such child, subject to applicable taxes. ~~A law enforcement officer who adopts a child within the child welfare system who is not difficult to place as described in s.~~

~~409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $10,000 per each such child, subject to applicable taxes.~~ A qualifying adoptive employee of a charter school or the Florida Virtual School may retroactively apply for the monetary benefit provided in this subsection if such employee was employed by a charter school or the Florida Virtual School when he or she adopted a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. A veteran or servicemember may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2020. A law enforcement officer may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2022. A health care practitioner or tax collector employee may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2024.

(a) Benefits paid to a qualifying adoptive employee who is a part-time employee must be prorated based on the qualifying adoptive employee's full-time equivalency at the time of applying for the benefits.

(b) Monetary benefits awarded under this subsection are

limited to one award per adopted child within the child welfare system.

(c) The payment of a lump-sum monetary benefit for adopting a child within the child welfare system under this section is subject to a specific appropriation to the department for such purpose.

(3) A qualifying adoptive employee must apply to his or her agency head, or to his or her school director in the case of a qualifying adoptive employee of a charter school or the Florida Virtual School, to obtain the monetary benefit provided in subsection (2). A veteran, ~~or~~ servicemember, or tax collector employee must apply to the department to obtain the benefit. A law enforcement officer must apply to the Department of Law Enforcement to obtain the benefit. A health care practitioner must apply to the Department of Health to obtain the benefit. Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent. Monetary benefits shall be approved on a first-come, first-served basis based upon the date that each fully completed application is received by the department.

(4) This section does not preclude a qualifying adoptive employee, veteran, servicemember, health care practitioner, tax collector employee, or law enforcement officer from receiving adoption assistance for which he or she may qualify under s.

409.166 or any other statute that provides financial incentives for the adoption of children.

(5) Parental leave for a qualifying adoptive employee must be provided in accordance with the personnel policies and procedures of his or her employer.

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees, veterans, servicemembers, health care practitioners, tax collector employees, or law enforcement officers may apply for monetary benefits under this section.

(7) The Chief Financial Officer shall disburse a monetary benefit to a qualifying adoptive employee upon the department's submission of a payroll requisition. The Chief Financial Officer shall transfer funds from the department to a state university, a Florida College System institution, a school district unit, a charter school, the Florida Virtual School, or a water management district, as appropriate, to enable payment to the qualifying adoptive employee through the payroll systems as long as funds are available for such purpose.

(8) To receive an approved monetary benefit under this section, a veteran or servicemember must be registered as a vendor with the state.

(9) Each state agency shall develop a uniform procedure for informing employees about this benefit and for assisting the

department in making eligibility determinations and processing applications. Any procedure adopted by a state agency is valid and enforceable if the procedure does not conflict with the express terms of this section.

Section 14. Subsections (1) through (4) of section 409.167, Florida Statutes, are amended to read:

409.167 Statewide adoption exchange; establishment; responsibilities; registration requirements; rules.—

(1) The Department of Children and Families shall establish, either directly or through purchase, a statewide adoption exchange, with a photo listing component, which serves ~~shall serve~~ all authorized licensed child-placing agencies in the state as a means of recruiting adoptive families for children who have been legally freed for adoption and who have been permanently placed with the department or a licensed child-placing agency. The statewide adoption exchange must ~~shall~~ provide, in accordance with rules adopted by the department, a description and photo listing component of each child ~~descriptions and photographs of such children~~, as well as any other information deemed useful in the recruitment of adoptive families for each child. The photo listing component of the statewide adoption exchange must be updated monthly and may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

(2)(a) Each district of the department shall refer each child in its care who has been legally freed for adoption to the statewide adoption exchange no later than 30 days after the date of acceptance by the department for permanent placement. The referral must be accompanied by a photo listing component ~~photograph~~ and description of the child. Any child who is 12 years of age or older may request that a specific photo be used for that child's photo listing component and such child must be consulted during the development of his or her description.

(b) The department shall establish criteria by which a district may determine that a child need not be registered with the statewide adoption exchange. Within 30 days after the date of acceptance by the department for permanent placement, the name of the child accepted for permanent placement must be forwarded to the statewide adoption exchange by the district together with reference to the specific reason why the child should not be placed on the statewide adoption exchange. If the child has not been placed for adoption within 3 months after the date of acceptance by the department for permanent placement, the district must ~~shall~~ provide the statewide adoption exchange with the necessary photograph and information for registration of the child with the statewide adoption exchange and the child must ~~shall~~ be placed on the statewide adoption exchange. The department shall establish procedures for monitoring the status of children who are not placed on the statewide adoption

exchange within 30 days after the date of acceptance by the department for permanent placement.

(3) In accordance with rules established by the department, the statewide adoption exchange may accept, from licensed child-placing agencies, information pertaining to children meeting the criteria of this section, and to prospective adoptive families, for registration with the statewide adoption exchange.

(4) For purposes of facilitating family-matching between children and prospective adoptive parents, the statewide adoption exchange must ~~shall~~ provide the photo listing component ~~service~~ to all licensed child-placing agencies and, in accordance with rules adopted ~~established~~ by the department, to all appropriate citizen groups and other organizations and associations interested in children's services. The photo listing component of the statewide adoption exchange may not be accessible to the public, except to persons who have completed or are in the process of completing an adoption home study.

Section 15. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Trabulsy offered the following:

Amendment (with title amendment)

Remove line 131 and insert:

of such person are disqualified. For the purposes of this subsection, the term "emergency placement" refers to when the department is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of an immediate removal pursuant to s. 39.402.

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

Remove line 9 and insert:

a home in which a child is placed; defining the term "emergency placement"; requiring the

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Trabulsy offered the following:

Amendment (with title amendment)

Between lines 539 and 540, insert:

Section 11. Subsections (1), (3), and (4) and paragraph (c) of subsection (5) of section 63.097, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

63.097 Fees.—

(1) When the adoption entity is an agency, fees may be assessed if such fees ~~they~~ are approved by the department within the process of licensing the agency and if such fees ~~they~~ are for:

(a) Foster care expenses.~~;~~

(b) Preplacement and postplacement social services.~~; and~~

(c) Agency facility and administrative costs.

(3) The court must issue an order pursuant to s. 63.132(3) if ~~Approval of the court is not required until~~ the total of amounts permitted under subsection (2) exceeds:

(a) $5,000 in legal or other professional fees;

(b) $800 in court costs; or

(c) $5,000 in reasonable and necessary living and medical expenses.

(4) Any fees, costs, or expenses not included in subsection (2) ~~or prohibited under subsection (5)~~ require court approval and entry of an order pursuant to s. 63.132(3) before ~~prior to~~ payment and must be based on a finding of extraordinary circumstances.

(5) The following fees, costs, and expenses are prohibited:

(c) Any fee on the affidavit which is not a fee of the adoption entity, is not supported by a receipt, does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.

(7) Beginning January 1, 2025, an adoption entity shall report quarterly to the department information related to the

age, race, ethnicity, sex, and county of birth of the adopted child and the county of residence of the adoptive family for each finalized adoption. The adoption entity shall also report for each finalized adoption the fees, costs, and expenses that were assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents, itemized by the categories enumerated in subsection (2), and any fees, costs, and expenses approved by the court under subsection (4). The confidentiality provisions of this chapter do not apply to the fees, costs, and expenses assessed or paid in connection with an adoption. In reporting the information required by this subsection to the department, the adoption entity shall redact any confidential identifying information concerning the child, the child's biological parents, and the child's adoptive parents. The department shall report quarterly on its website information for each adoption entity including the actual fees, costs, and expenses of finalized adoptions. The department shall adopt rules to implement this subsection.

Section 12. Subsection (3) of section 63.132, Florida Statutes, is amended to read:

63.132 Affidavit of expenses and receipts.—

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenses itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. An order approving fees,

costs, and expenses that exceed the limits set forth in s. 63.097 must include a written determination of reasonableness. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is any of the following:

(a) Contrary to this chapter.

(b) Not supported by a receipt~~, if requested~~, if the expense is not a fee of the adoption entity.

(c) Not a reasonable fee or expense, considering the requirements of this chapter and the totality of the circumstances.

Section 13. Paragraph (g) of subsection (1) of section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(g) Except an adoption entity, to place an advertisement or offer to the public, in any way, by any medium whatever that a minor is available for adoption or that a minor is sought for adoption; and, further, it is unlawful for any person purchasing advertising space or purchasing broadcast time to advertise adoption services to fail to include in any publication or fail to include in the broadcast for such advertisement the Florida license number of the adoption entity or The Florida Bar number of the attorney placing the advertisement. This prohibition applies, but is not limited, to a paid advertisement, an

article, a notice, or any other paid communication published in any newspaper or magazine, or on the Internet, on a billboard, over radio or television, or other similar media.

1. Only a person who is an attorney licensed to practice law in this state or an adoption entity licensed under the laws of this state may place an ~~a paid~~ advertisement in this state ~~or paid listing of the person's telephone number, on the person's own behalf, in a telephone directory~~ that:

a. A child is offered or wanted for adoption; or

b. The person is able to place, locate, or receive a child for adoption.

2. A person who publishes a telephone directory, newspaper, magazine, billboard, or any other written advertisement that is distributed in this state must ~~shall~~ include~~, at the beginning of any classified heading for adoption and adoption services,~~ a statement that ~~informs directory users that~~ only attorneys licensed to practice law in this state and ~~licensed~~ adoption entities licensed under the laws of this state may legally provide adoption services under state law.

3. A person who places an advertisement ~~described in subparagraph 1. in a telephone directory~~ must include the following information:

a. For an attorney licensed to practice law in this state, the person's Florida Bar number.

b. For a child-placing agency licensed under the laws of this state, the number on the person's adoption entity license.

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

Between lines 62 and 63, insert:

63.097, F.S.; requiring the court to issue a specified order under certain circumstances; prohibiting certain fees; requiring an adoption entity, beginning on a specified date, to quarterly report certain information to the department; requiring certain information to be itemized by certain categories; providing that confidentiality provisions do not apply to certain information; requiring an adoption entity to redact certain confidential identifying information; requiring the department to quarterly report certain information on its website; requiring the department to adopt rules; amending s. 63.132, F.S.; requiring certain orders to contain a written determination of reasonableness; conforming a provision to changes made by the act; amending s. 63.212, F.S.; providing applicability; requiring a specified statement to be included in certain advertisements; amending s.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Trabulsy offered the following:

Amendment

Remove lines 584-594 and insert:

adult who is between the ages of 18 and 22, and is:

i. receiving financial assistance under subsection (2), is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation. Such assistance shall be in addition to any amount specified in paragraph (2)(b), or~~.~~

ii. eligible for the Extended Guardianship Assistance Program under s. 39.6225(9) or the extended adoption assistance program under s. 409.166(4), but is not participating in either program.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1271 Individuals with Disabilities
SPONSOR(S): Health Care Appropriations Subcommittee, Children, Families & Seniors Subcommittee, Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1758

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Lloyd	Brazzell
2) Health Care Appropriations Subcommittee	15 Y, 0 N, As CS	Fontaine	Clark
3) Health & Human Services Committee		Lloyd	Calamas

SUMMARY ANALYSIS

The Agency for Persons with Disabilities (APD) provides services to individuals with certain developmental disabilities, including through a Medicaid Home and Community-Based Services (HCBS) waiver. The HCBS waiver allows these individuals to continue to live in their own homes or in another home-like setting and avoid institutionalization. Florida's HCBS waiver for individuals with developmental disabilities is called iBudget Florida (iBudget). Waiver applications are submitted through a paper-based process and then reviewed by APD based on statutory deadlines. Most eligible individuals are initially placed on a pre-enrollment list; some can wait for years before funding is available for waiver enrollment.

Applying and being determined eligible for the iBudget waiver can be confusing and frustrating. CS/HB 1271 enhances the individual's eligibility and enrollment experience through:

- Requiring an online application process;
- Specifying the steps or documentation required to meet the definition of a "complete application";
- Requiring APD to communicate with applicants about certain application actions;
- Specifying time standards for review and action on eligibility by pre-enrollment category.

The bill expands the iBudget program and improves service delivery by:

- Reprioritizing individuals whose caregivers are between 60 and 69 years old higher on the pre-enrollment list (wait list);
- Creating care navigation to assist individuals waiting for services in accessing community resources;
- Limiting APD to developing support plans only for waiver enrollees;
- Authorizing funding for enrolling on the waiver individuals in pre-enrollment categories 3-5; and

The bill authorizes planning for a new Medicaid HCBS waiver for a new population. It requires the Agency for Health Care Administration to contract with necessary experts, in consultation with APD, for the development of a plan for a new Medicaid waiver for clients transitioning into adulthood. APD must submit a report on the plan to the Legislature and Governor by December 1, 2024.

The bill provides a total appropriation of $38,852,223 in recurring fund to APD and has no fiscal impact on local government.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) provides services to certain individuals with developmental disabilities.[1] APD supports these individuals and families in living, learning, and working within their communities by creating multiple pathways to be successful through a variety of social, medical, behavioral, residential, and therapeutic services.[2]

Chapter 393, F.S., provides the authority and guidance to the APD on what programs to develop, who is eligible, and how to manage those programs within available resources. In s. 393.062, F.S., the legislative findings and declaration of intent state:

> The greatest priority shall be given to the development and implementation of community-based services that will enable individuals with developmental disabilities to achieve their greatest potential for independent and productive living, enable them to live in their own homes or in residences located in their own communities, and permit them to be diverted or removed from unnecessary institutional placements.

One of the ways in which services are delivered to individuals with developmental disabilities is through federal waivers, such as the Home and Community Based Services (HCBS) waiver [3]. The HCBS waiver allows individuals to continue to live in their own homes or in another home-like setting and avoid institutionalization.[4] To qualify for this waiver, an individual must meet the standards for institutional level of care.[5]

Home and Community Based Waiver Programs

iBudget Florida Program

The APD also administers the Medicaid HCBS waiver known as iBudget Florida (iBudget) for individuals with specified developmental disabilities who also meet Medicaid eligibility requirements.[6] The iBudget provides home and community-based services and supports to eligible persons with developmental disabilities living at home or in a home-like setting, with the costs shared with the federal government. The waiver services are delivered through a fee-for-service (FFS) delivery model, which means that providers are enrolled and reimbursed for services directly by the Agency for Health Care Administration (AHCA).

The iBudget program allocates available funding to clients, providing each one with an established budget with the flexibility to choose from the authorized array of services that best meet their individual needs within their community.[7] Individual waiver support coordinators client assist each client with determination of his or her unique needs and the coordination of necessary providers to provide those services.

[1] S. 393.062, F.S.
[2] Agency for Persons with Disabilities, *About Us,* available at About Us | APD - Agency for Persons with Disabilities - State of Florida (myflorida.com) (last visited January 22, 2024).
[3] Medicaid.gov, *Home and Community Based Services – 1915(c),* available at https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html (last visited January 22, 2024).
[4] Rule 59G-13.080(1), F.A.C.
[5] *Id.*
[6] S. 392.00662, F.S.
[7] *Id.*

Beginning May 2011, APD started the phase-in of the iBudget program statewide completing the final transition from the old system on July 1, 2013.[8] The iBudget uses an algorithm or formula to set each participant's funding allocation under the waiver.[9] According to APD, over 35,000 enrolled individuals are currently receiving their services under the iBudget waiver program, and 21,000 individuals are on the pre-enrollment (wait) list for waiver services (see below).

Consumer Directed Care Plus Program

An individual who is enrolled on the iBudget waiver may elect to receive services through the Consumer Directed Care Plus Program, or CDC+, Program. The CDC+ Program allows individuals greater flexibility in the selection of providers and types of services and supports that may be purchased using the individual's budget. For instance, under CDC+, an individual and his or her family can directly hire personal caregivers instead of using a Medicaid-enrolled provider. Like the waiver, a support coordinator assists the individual and his or her family with the identification of appropriate services and supports and then makes those selections through the system. However, under CDC+, this support individual is known as a consultant and has a more limited role.[10]

Program Eligibility

To receive services from APD, an individual must be found eligible through a paper application submission process. Information from the paper application is received at regional offices and is manually keyed into an electronic client data management system. The application is reviewed for eligibility based on application information and to identify if additional information is needed. The APD determines eligibility based on Florida statutes and rules.

To be eligible, an individual must:

- Demonstrate evidence that one of the following developmental diagnoses manifested itself before the age of 18 and can reasonably be expected to continue indefinitely:
  - Intellectual disability.
  - Spina Bifida.
  - Cerebral palsy.
  - Autism.
  - Down syndrome.
  - Phelan McDermid syndrome.
  - Prader-Willi syndrome. [11]
- Be domiciled in Florida;[12] and
- Be at least three years of age.[13]

The APD must review an application within 60 days depending on individual circumstances and the documentation received.[14] Additional time to work with the applicant may be needed, for example, to conduct a comprehensive assessment to determine if the individual meets clinical eligibility requirements.

For an applicant deemed in crisis, APD must expedite the application review to completion within 45 days.[15] If additional documentation is needed, APD may pend the application until that information is provided which would toll the clock until the information was provided by the applicant. Eligible

[8] The Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and their Costs: First Quarter Fiscal Year 2022-23,* p.2, November 15, 2022, available at https://apd.myflorida.com/publications/reports/ (last visited January 22, 2024).
[9] *Id.*
[10] A support coordinator is defined in s. 393.063(37), F.S. Further responsibilities are also included in the Agency for Health Care Administration, *Consumer Directed Care Plus Program Coverage, Limitations, and Reimbursement Handbook (October 2015),* available at https://apd.myflorida.com/cdcplus/docs/CDC_Plus_Program_Handbook_2015.pdf (last visited January 22, 2024).
[11] S. 393.063(11), F.S. and 393.065, F.S.
[12] S. 393.063(13), F.S. and 393.065, F.S.
[13] *Supra,* note 2.
[14] S. 393.065(1), F.S.
[15] *Id.*

individuals are either enrolled in the program (provided a slot) or placed on the pre-enrollment list if the demand exceeds the available funding.[16]

The APD assigns each waitlisted client to a pre-enrollment category based on their needs and prioritized in the following decreasing order of priority:[17]

- Category 1: Clients deemed to be in crisis.
- Category 2: Children in the child welfare system at the time of permanency or turning 18.
- Category 3: Intensive Needs
- Category 4 : Caregiver over the age of 70
- Category 5: Transition from School
- Category 6: Age 21 and Over
- Category 7: Age under 21

Eligible individuals that meet the criteria for Categories 1 or 2 are directly enrolled onto the iBudget waiver. Currently, there is a higher demand for iBudget services than funding available, which means individuals who require services are put on the pre-enrollment list based on the categorization of their needs.

As of December 2023, as the table shows below, over 21,000 individuals were waiting for services, with approximately 50 percent of those between 25 through 59 years old.[18]

iBudget Pre-Enrollment List December 2023[19]		
Category	**Description**	**Total Clients**
Category 1	Crisis	0
Category 2	Children in welfare system at the time of permanency or turning 18	0
Category 3	Intensive Needs	210
Category 4	Caregiver over age 70	83
Category 5	Transition from School	20
Category 6	Age 21 and Over	12,809
Category 7	Age under 21	8,464
	Grand Total:	**21,587**

For each client in a pre-enrollment category, APD develops a support plan and sends an annual status letter. During this annual check-in, APD verifies contact information, provides resources information, and also provides the family an opportunity to indicate if there are any new unmet needs or other changes that may impact the individual's eligibility.[20] The APD has recently begun providing care navigation to these clients, using positions that were repurposed for that effort.

When an individual is deemed eligible for services, the APD is required to consult with the client, if the client is competent, if not then the client's parent or guardian to devise a support plan. For children ages 3 to 18 and other individuals, the support plan must include the most appropriate, the least restrictive, and most cost beneficial environment for the individual's progress, and have the appropriate specification for the services authorized.[21]

Effects of the Bill

Care Navigators

[16] Rule 65G-1.047, F.A.C. The rule provides that the severity of the crisis is determined by the risk to the health, safety, and w elfare of each applicant relative to other applicant. Rule 65G-11.004 provides a procedure for determining if a client is considered to be in crisis.
[17] S. 363.065(5), F.S.
[18] Agency for Persons with Disabilities, *2024 Agency Bill Analysis – HB 1271 (January 8, 2024)(on file with Children, Families & Seniors Subcommittee).*
[19] *Id.*
[20] *Id.*
[21] S. 393.0651, F.S.

CS/HB 1271 authorizes the APD to offer clients and their caregivers care navigation services within available resources at the time of application and as part of any eligibility or renewal review. A care navigator would assist the client and the client's family with navigating the systems and accessing services, supports, and available resources to meet an individual non-waiver enrolled client's needs, as well as identifying and addressing any barriers preventing individuals from accomplishing their goals. The care navigator would also connect individuals to supports and services in a timely manner and address immediate or critical needs to stabilize the individual seeking assistance before the individual reaches a crisis point.

Under s. 393.064, F.S., a care navigator would be involved in activities such as assessing client needs, developing care plans, and connecting individuals to resources that address the individual's immediate, intermediate, and long-term needs, goals leading to increased opportunities in education, employment, social engagement, community integration, and caregiver support.

For an individual who is also a public school student, the student's Individuals with Disabilities Education Act (I.D.E.A.) plan, as amended, would also be incorporated into the care plan.

Online Application

CS/HB 1271 modernizes the application and eligibility processes at APD to incorporate a requirement for an online application, identify the federal time standards for eligibility review and processing, specify the steps for a complete application, and provide specificity for eligibility determination time standards.

With only a paper application currently available, CS/HB 1271 requires APD to develop and implement an online application process and system that meets certain minimum requirements, including the directive to:

- Create and maintain a paperless, electronic application.
- Maintain access to a printable, paper application on the APD website.
- Provide paper applications upon request.
- Designate a central or regional address for submission of paper applications via regular U.S. mail or via confidential fax.
- Provide immediate confirmation of receipt in the same manner as application was submitted, unless the applicant has designated otherwise.

For those individuals seeking enrollment in the HCBS waiver program who identify as being in crisis, the APD must make an eligibility determination in an expedited manner of 15 calendar days after receipt of a completed application. To be considered a completed application, the application must:

- Include a signature and date by the applicant or someone with legal authority to apply for public benefits on behalf of the applicant.
- Be responsive on all parts of the application.
- Contain documentation of a diagnosis.

For individuals with developmental disabilities who meet the criteria in s. 393.065(5)(b), F.S., which are children who are in the child welfare system (Category 2 on the pre-enrollment list), the APD must make eligibility determinations as soon as practicable. For the remaining categories under s. 393.065, F.S., CS/HB 1271 requires an eligibility determination standard of 60 days after receipt of a complete application. The APD may toll the clock on the 60 day time period if documentation is missing; however, APD must convey this delay to the client verbally as soon as the action is taken and follow up with a written confirmation which details the anticipated length of the delay and a contact person for the client to reach should he or she have questions.

The bill amends the individual support plan requirement in s. 393.0651, F.S., to limit that requirement to only individuals served by the current iBudget waiver. CS/HB 1271 adds a time standard of 60 calendar days after an APD eligibility determination for the development of the individual support plan and a requirement that the waiver support coordinator specifically inform the client, the client's parent or

guardian about the CDC+ program. This will ensure that individuals eligible for CBC+ are informed about the opportunity.

Category 4 Expansion

The Category 4 pre-enrollment eligibility category expands with CS/HB 1271 through the reduction of the qualifying age of the older caregiver from age 70 or older to age 60 or older. For those individuals on the waiver for whom a caregiver is required, whose caregiver is older but not yet 70, and there is no alternate caregiver available, the reduction in the minimum age for priority 5 with CS/HB 1271 likely makes more individuals eligible in a higher priority category. The caregiver age adjustment may move an eligible individual from category 6 up to category 5, and provide help to caregivers sooner.

Waiver Plan

The AHCA, APD, and other stakeholders are directed to work together to jointly develop a comprehensive plan for the administration, finance, and delivery of a new HCBS Medicaid waiver program focused on successfully transitioning clients into adulthood and proactively preventing crisis situations. The AHCA is authorized to contract with the necessary experts, in consultation with APD, to develop the plan. APD; however, is responsible for the submission of the final report, in consultation with AHCA, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024. The report must specifically address, at a minimum:

- The purpose, rationale, and expected benefits of the new waiver program.
- The proposed eligibility criteria for clients and the service benefit package to be offered through the waiver.
- A proposed implementation plan and timeline, including the recommended number of clients to be served at implementation and at different program intervals.
- Proposals for how clients may transition off and on the program and between other designated waiver programs.
- The fiscal impact of the program for the implementation year and over the next five fiscal years, determined on an actuarially sound basis.
- An analysis of the availability of the services that would be offered under the waiver program and recommendations for how to increase access, if necessary.
- A list of participating stakeholders, public and private, involved in or consulted about the proposed waiver program.

The effective date of the bill is July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 393.064; F.S.; Care navigation.
Section 2: Amends s. 393.065, F.S.; Application and eligibility determination.
Section 3: Amends s. 393.0651, F.S.; Family or individual support plan.
Section 4: Provides an appropriation.
Section 5: Creates an unnumbered section of law, related to a report.
Section 6: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates a recurring total of $38,852,223 ($16,562,703 from the General Revenue Fund and $22,289,520 the Operations and Maintenance Trust Fund) to expand HCBS waiver services to additional clients. This funding is expected to offer waiver services to individuals from pre-enrollment categories 3, 4, and 5.

The bill requires the agency to implement an electronic application process. The agency indicates a cost of between $1,750,000 to $1,850,000 to develop the system, based upon the level of sophistication desired. Total implementation may take longer than a year.[22] Based on a review of historical reversions, the agency has sufficient existing resources to begin system development during FY 2024-25. APD can submit a Legislative Budget Request for the following year to request the additional resources needed to complete the system and for recurring maintenance needs.

The bill requires APD to collaborate with AHCA and other stakeholders to develop a plan for the administration, finance, and delivery of a new HCBS Medicaid waiver. The new program will transition clients into adulthood by offering services to prevent crisis situations. The House proposed General Appropriations Act for FY 2024-25 provides $800,000 for actuarial services to determine appropriate capitation rates for the newly-created program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to affect local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those individuals enrolled on the waiver under the bill will receive additional supports and services. The number of individuals who will be enrolled on the waiver under the bill is unknown, as under the iBudget waiver the specific budget for each individual is determined after enrollment.

Providers of services to these individuals will have increased revenue.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

[22] *Supra,* Note 12.

The Agency for Persons with Disabilities has sufficient rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 24, 2024, the Children, Families, and Seniors Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Define the term "complete application," which means an application that:
  - Has been signed and dated,
  - Is responsive on all parts, and
  - Contains documentation of a diagnosis.
- Identify the Agency for Persons with Disabilities (APD) as responsible for the report on the waiver study, and require the Agency for Health Care Administration (AHCA) to consult APD when hiring any experts to assist with the study.

On January 29, 2024, the Health Care Appropriations Subcommittee adopted one amendment that modifies the appropriation funding sources to reflect the most recently adopted Federal Medical Assistance Percentage (FMAP). The total appropriation amount of $38,852,223 does not change; rather, the amounts from the General Revenue Fund and the Operations and Maintenance Trust Fund are updated for the FMAP fund split.

The analysis is drafted to the bill as amended and passed by the Health Care Appropriations Subcommittee.

A bill to be entitled

An act relating to individuals with disabilities; amending s. 393.064, F.S.; requiring the Agency for Persons with Disabilities to offer voluntary participation care navigation services to certain persons under certain circumstances; providing goals and requirements for care navigation services; amending s. 393.065, F.S.; requiring the agency to develop and implement an electronic application process; requiring the agency to maintain a printable paper application on its website and, upon request, provide a printed paper application to an applicant; requiring the agency to provide applicants with specified information upon receipt of an application for services; defining the term "complete application"; revising timeframes within which the agency must make eligibility determinations for services; lowering the age that a caregiver must be for an individual to be placed in a certain preenrollment category; amending s. 393.0651, F.S.; requiring the agency to provide an individual support plan for each client served by the home and community-based services Medicaid waiver program; providing appropriations; requiring the Agency for Persons with Disabilities, in consultation with Agency for Health

Care Administration, to jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program; providing requirements for the waiver program; requiring the Agency for Health Care Administration to submit a specified report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; providing an effective date.

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

Section 1. Subsection (1) of section 393.064, Florida Statutes, is amended to read:

393.064 Care navigation ~~Prevention~~.—

(1) Within available resources, the agency must offer to clients and their caregivers, care navigation services for voluntary participation at time of application and as part of any eligibility or renewal review. The goals of care navigation are to create a seamless network of community resources and supports for the client and the client's family as a whole to support a client in daily living, community integration, and achievement of individual goals. Care navigation services shall involve assessing client needs, developing care plans, and

implementing care plans, including, but not limited to, connecting a client to resources and supports. At a minimum, a care plan shall address immediate, intermediate, and long term needs and goals to promote and increase well-being and opportunities for education, employment, social engagement, community integration, and caregiver support. For a client who is a public school student entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended, the care plan shall be integrated with the student's individual education plan (IEP). The care plan and IEP must be implemented to maximize the attainment of educational and habilitation goals ~~shall give priority to the development, planning, and implementation of programs which have the potential to prevent, correct, cure, or reduce the severity of developmental disabilities. The agency shall direct an interagency and interprogram effort for the continued development of a prevention plan and program. The agency shall identify, through demonstration projects, through program evaluation, and through monitoring of programs and projects conducted outside of the agency, any medical, social, economic, or educational methods, techniques, or procedures that have the potential to effectively ameliorate, correct, or cure developmental disabilities. The agency shall determine the costs and benefits that would be associated with such prevention efforts and shall implement, or recommend the implementation of,~~

~~those methods, techniques, or procedures which are found likely to be cost-beneficial~~.

Section 2. Subsection (1) and paragraph (d) of subsection (5) of section 393.065, Florida Statutes, are amended to read:

393.065 Application and eligibility determination.—

(1)(a) The agency shall develop and implement an online application process that, at a minimum, supports paperless electronic application submissions with immediate e-mail confirmation to each applicant to acknowledge receipt of application upon submission.

(b) The agency shall maintain access to a printable paper application on its website and, upon request, must provide an applicant with a printed paper application. Paper applications may ~~Application for services shall~~ be submitted ~~made~~ in writing to the agency, in the region in which the applicant resides, sent to a central or regional address via regular United States mail, or faxed to a central or regional confidential fax number. All applications, regardless of manner of submission, must be acknowledged as received, with an immediate receipt confirmation in the same manner as the application had been received unless the applicant has designated an alternative, preferred communication method on the submitted application.

(c) The agency must ~~shall~~ review each submitted application in accordance with federal time standards. ~~and make an eligibility determination within 60 days after receipt of the~~

~~signed application. If, at the time of the application, an applicant is requesting enrollment in the home and community-based services Medicaid waiver program for individuals with developmental disabilities deemed to be in crisis, as described in paragraph (5)(a), the agency shall complete an eligibility determination within 45 days after receipt of the signed application.~~

1.~~(a)~~ If the agency determines additional documentation is necessary to make an eligibility determination, the agency may request the additional documentation from the applicant.

2.~~(b)~~ When necessary to definitively identify individual conditions or needs, the agency or its designee must provide a comprehensive assessment.

~~(c) If the agency requests additional documentation from the applicant or provides or arranges for a comprehensive assessment, the agency's eligibility determination must be completed within 90 days after receipt of the signed application.~~

(d)1. For purposes of this paragraph, the term "complete application" means an application submitted to the agency which is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant, is responsive on all parts of the application, and contains documentation of a diagnosis.

2. If the applicant requesting enrollment in the home and

community-based services Medicaid waiver program for individuals with developmental disabilities is deemed to be in crisis as described in paragraph (5)(a), the agency must make an eligibility determination within 15 calendar days after receipt of a complete application.

3. If the applicant meets the criteria specified in paragraph (5)(b), the agency must review and make an eligibility determination as soon as practicable after receipt of a complete application.

4. If the application meets the criteria specified in paragraphs (5)(c)-(g), the agency shall make an eligibility determination within 60 days after receipt of a complete application. Any delays in the eligibility determination process or any tolling of the time standard until certain information or actions have been completed, must be conveyed to the client as soon as such delays are known with a verbal contact to the client or the client's designated caregiver and confirmed by a written notice of the delay, the anticipated length of delay, and a contact person for the client.

(5) Except as provided in subsections (6) and (7), if a client seeking enrollment in the developmental disabilities home and community-based services Medicaid waiver program meets the level of care requirement for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150, the agency must assign the client

to an appropriate preenrollment category pursuant to this subsection and must provide priority to clients waiting for waiver services in the following order:

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 60 ~~70~~ years of age or older and for whom a caregiver is required but no alternate caregiver is available.

Within preenrollment categories 3, 4, 5, 6, and 7, the agency shall prioritize clients in the order of the date that the client is determined eligible for waiver services.

Section 3. Section 393.0651, Florida Statutes, is amended to read:

393.0651 Family or individual support plan.—The agency shall provide directly or contract for the development of a family support plan for children ages 3 to 18 years of age and an individual support plan for each client served by the home and community-based services Medicaid waiver program under s. 393.0662. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan must include

provisions for the most appropriate level of care for the client. Within the specification of needs and services for each client, when residential care is necessary, the agency shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community. The family or individual support plan must be developed within 60 calendar days after the agency determines the client eligible pursuant to s. 393.065(3). When developing or reviewing the support plan, the waiver support coordinator must inform the client, the client's parent or guardian, or, when appropriate, the client advocate about the consumer-directed care program under s. 409.221.

(1) The agency shall develop and specify by rule the core components of support plans.

(2) The family or individual support plan shall be integrated with the individual education plan (IEP) for all clients who are public school students entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended. The family or individual support plan and IEP must be implemented to maximize the attainment of educational and habilitation goals.

(a) If the IEP for a student enrolled in a public school program indicates placement in a public or private residential

program is necessary to provide special education and related services to a client, the local education agency must provide for the costs of that service in accordance with the requirements of the Individuals with Disabilities Education Act, I.D.E.A., as amended. This does not preclude local education agencies and the agency from sharing the residential service costs of students who are clients and require residential placement.

(b) For clients who are entering or exiting the school system, an interdepartmental staffing team composed of representatives of the agency and the local school system shall develop a written transitional living and training plan with the participation of the client or with the parent or guardian of the client, or the client advocate, as appropriate.

(3) Each family or individual support plan shall be facilitated through case management designed solely to advance the individual needs of the client.

(4) In the development of the family or individual support plan, a client advocate may be appointed by the support planning team for a client who is a minor or for a client who is not capable of express and informed consent when:

(a) The parent or guardian cannot be identified;

(b) The whereabouts of the parent or guardian cannot be discovered; or

(c) The state is the only legal representative of the

client.

Such appointment may not be construed to extend the powers of the client advocate to include any of those powers delegated by law to a legal guardian.

(5) The agency shall place a client in the most appropriate and least restrictive, and cost-beneficial, residential facility according to his or her individual support plan. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, and the administrator of the facility to which placement is proposed shall be consulted in determining the appropriate placement for the client. Considerations for placement shall be made in the following order:

(a) Client's own home or the home of a family member or direct service provider.

(b) Foster care facility.

(c) Group home facility.

(d) Intermediate care facility for the developmentally disabled.

(e) Other facilities licensed by the agency which offer special programs for people with developmental disabilities.

(f) Developmental disabilities center.

(6) In developing a client's annual family or individual support plan, the individual or family with the assistance of

the support planning team shall identify measurable objectives for client progress and shall specify a time period expected for achievement of each objective.

(7) The individual, family, and support coordinator shall review progress in achieving the objectives specified in each client's family or individual support plan, and shall revise the plan annually, following consultation with the client, if competent, or with the parent or guardian of the client, or, when appropriate, the client advocate. The agency or designated contractor shall annually report in writing to the client, if competent, or to the parent or guardian of the client, or to the client advocate, when appropriate, with respect to the client's habilitative and medical progress.

(8) Any client, or any parent of a minor client, or guardian, authorized guardian advocate, or client advocate for a client, who is substantially affected by the client's initial family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. Notice of such right to appeal shall be included in all support plans provided by the agency.

Section 4. For the 2024-2025 fiscal year, the sums of $16,562,703 in recurring funds from the General Revenue Fund and $22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated in the Home and

Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from preenrollment categories 3, 4, and 5, including individuals whose caregiver is age 60 or older in category 4, established in s. 393.065, Florida Statutes, as amended by this act.

Section 5. The Agency for Health Care Administration and the Agency for Persons with Disabilities, in consultation with other stakeholders, shall jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program. The waiver program shall be for clients transitioning into adulthood and shall be designed to prevent future crisis enrollment into the waiver authorized under s. 393.0662, Florida Statutes. The Agency for Health Care Administration is authorized to contract with necessary experts, in consultation with the Agency for Persons with Disabilities, to assist in developing the plan. The Agency for Persons with Disabilities, in consultation with the Agency for Health Care Administration, must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, addressing, at a minimum, all of the following:

(1) The purpose, rationale, and expected benefits of the

new waiver program.

(2) The proposed eligibility criteria for clients and service benefit package to be offered through the waiver program.

(3) A proposed implementation plan and timeline, including recommendations for number of clients served by the waiver program at initial implementation, changes over time, and any per-client benefit caps.

(4) Proposals for how clients will transition onto and off of the waiver, including, but not limited to, transitions between this waiver and the waiver established under s. 393.0662, Florida Statutes.

(5) The fiscal impact for the implementation year and projections for the next 5 years, determined on an actuarially-sound basis.

(6) An analysis of the availability of services that would be offered under the waiver program and recommendations to increase availability of such services, if necessary.

(7) A list of all stakeholders, public and private, who were consulted or contacted as part of the waiver program.

Section 6. This act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Fine offered the following:

Amendment

Remove lines 279-282 and insert:

appropriation from preenrollment categories 3, 4, and 5, including individuals whose caregiver is age 60 or older in category 4, established in s. 393.065, Florida Statutes, as amended by this act; and from preenrollment category 6 who have a sibling in preenrollment categories 3, 4, 5, or 6.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Buchanan offered the following:

Amendment

Remove lines 294-296 and insert:

to assist in developing the plan. The Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, must submit a report to the Governor, the

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Buchanan offered the following:

Amendment (with title amendment)

Between lines 320 and 321, insert:

Section 6. The agency shall provide the option and include functionality for providers to electronically transmit all required information to the agency iConnect system in an industry standard format designated by the agency. Notwithstanding s. 393.066(2), F.S., persons or entities under contract with the agency may maintain information documenting service provision to clients in their own data management systems until the agency data management system's ability to accept all required data from external systems electronically is fully operational. Persons or entities shall use the system for

electronic visit verification as required by the agency. The agency may not require training on the use of its data management system by persons or entities that choose to maintain data in their own data management systems until the agency data management system's ability to accept all required data from external systems electronically is fully operational, except that the agency may require training for use of the electronic visit verification functionality. The agency shall, at a minimum, provide enhanced technical assistance and host feedback and listening sessions with service providers to plan for future system enhancements. The agency shall submit a report to the Governor, President of the Senate, Speaker of the House of Representatives, and the appropriate fiscal and policy committees by December 31, 2024, that assesses the functionality of the system, considering the needs of and impacts on the agency and persons and entities using the system, and provides options and associated costs for achieving sufficient functionality.

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

Remove line 35 and insert:
date; requiring the agency to provide the option and include functionality for electronic transmissions to the iConnect system; prohibiting the agency from requiring training on the

use of its data management system by certain persons or entities; requiring the agency to provide enhanced technical assistance; requiring the agency to submit a specified report; providing an effective date.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Buchanan offered the following:

Amendment (with title amendment)

Between lines 320 and 321, insert:

Section 6. Type two transfer from the Department of Commerce.—Effective October 1, 2024, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and any other funds relating to the Florida Unique Abilities Partner Program are transferred by a type two transfer, as described in s. 20.06(2), Florida Statutes, from the Department of Commerce to the Agency for Persons with Disabilities.

Section 7. Effective October 1, 2024, paragraph (c) of subsection (10) of section 20.60, Florida Statutes, is amended to read:

20.60 Department of Commerce; creation; powers and duties.—

(10) The department shall, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of the business climate and economic development in the state.

(c) The report must incorporate annual reports of other programs, including:

1. A detailed report of the performance of the Black Business Loan Program and a cumulative summary of quarterly report data required under s. 288.714.

2. The Rural Economic Development Initiative established under s. 288.0656.

3. ~~The Florida Unique Abilities Partner Program.~~

~~4.~~ A detailed report of the performance of the Florida Development Finance Corporation and a summary of the corporation's report required under s. 288.9610.

4.~~5.~~ Information provided by Space Florida under s. 331.3051 and an analysis of the activities and accomplishments of Space Florida.

Section 8. Effective October 1, 2024, section 413.801, Florida Statutes, is amended to read:

413.801 Florida Unique Abilities Partner Program.—

(1) CREATION AND PURPOSE.—The Agency for Persons with Disabilities ~~Department of Economic Opportunity~~ shall establish the Florida Unique Abilities Partner Program to designate a business entity as a Florida Unique Abilities Partner if the business entity demonstrates commitment, through employment or support, to the independence of individuals who have a disability. The agency ~~department~~ shall consult with the Department of Commerce ~~Agency for Persons with Disabilities~~, the Division of Vocational Rehabilitation of the Department of Education, the Division of Blind Services of the Department of Education, and CareerSource Florida, Inc., in creating the program.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Agency ~~Department~~" means the Agency for Persons with Disabilities ~~Department of Economic Opportunity~~.

(b) "Individuals who have a disability" means persons who have a physical or intellectual impairment that substantially limits one or more major life activities, persons who have a history or record of such an impairment, or persons who are perceived by others as having such an impairment.

(3) DESIGNATION.—

(a) A business entity may apply to the agency ~~department~~ to be designated as a Florida Unique Abilities Partner, based on the business entity's achievements in at least one of the following categories:

1. Employment of individuals who have a disability.

2. Contributions to local or national disability organizations.

3. Contributions to, or the establishment of, a program that contributes to the independence of individuals who have a disability.

(b) As an alternative to application by a business entity, the agency ~~department~~ must consider nominations from members of the community where the business entity is located. The nomination must identify the business entity's achievements in at least one of the categories provided in paragraph (a).

(c) The name, location, and contact information of the business entity must be included in the business entity's application or nomination.

(d) The agency ~~department~~ shall adopt procedures for the application, nomination, and designation processes for the Florida Unique Abilities Partner Program. Designation as a Florida Unique Abilities Partner does not establish or involve licensure, does not affect the substantial interests of a party, and does not constitute a final agency action. The Florida

Unique Abilities Partner Program and designation are not subject to chapter 120.

(4) ELIGIBILITY AND AWARD.—In determining the eligibility for the designation of a business entity as a Florida Unique Abilities Partner, the agency ~~department~~ shall consider, at a minimum, the following criteria:

(a) For a designation based on an application by a business entity, the business entity must certify that:

1. It employs at least one individual who has a disability. Such employees must be residents of this state and must have been employed by the business entity for at least 9 months before the business entity's application for the designation. The agency ~~department~~ may not require the employer to provide personally identifiable information about its employees;

2. It has made contributions to local and national disability organizations or contributions in support of individuals who have a disability. Contributions may be accomplished through financial or in-kind contributions, including employee volunteer hours. Contributions must be documented by providing copies of written receipts or letters of acknowledgment from recipients or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least $1,000, and a business entity with more

than 100 employees must make a financial or in-kind contribution of at least $5,000; or

3. It has established, or has contributed to the establishment of, a program that contributes to the independence of individuals who have a disability. Contributions must be documented by providing copies of written receipts, a summary of the program, program materials, or letters of acknowledgment from program participants or volunteers. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least $1,000 in the program, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least $5,000.

A business entity that applies to the agency ~~department~~ to be designated as a Florida Unique Abilities Partner shall be awarded the designation upon meeting the requirements of this section.

(b) For a designation based upon receipt of a nomination of a business entity:

1. The agency ~~department~~ shall determine whether the nominee, based on the information provided by the nominating person or entity, meets the requirements of paragraph (a). The agency ~~department~~ may request additional information from the nominee.

2. If the nominee meets the requirements, the agency ~~department~~ shall provide notice, including the qualification

criteria provided in the nomination, to the nominee regarding the nominee's eligibility to be awarded a designation as a Florida Unique Abilities Partner.

3. The nominee shall be provided 30 days after receipt of the notice to certify that the information in the notice is true and accurate and accept the nomination, to provide corrected information for consideration by the agency ~~department~~ and indicate an intention to accept the nomination, or to decline the nomination. If the nominee accepts the nomination, the agency ~~department~~ shall award the designation. The agency ~~department~~ may not award the designation if the nominee declines the nomination or has not accepted the nomination within 30 days after receiving notice.

(5) ANNUAL CERTIFICATION.—After an initial designation as a Florida Unique Abilities Partner, a business entity must certify each year that it continues to meet the criteria for the designation. If the business entity does not submit the yearly certification of continued eligibility, the agency ~~department~~ shall remove the designation. The business entity may elect to discontinue its designation status at any time by notifying the agency ~~department~~ of such decision.

(6) LOGO DEVELOPMENT.—

(a) The agency ~~department~~, in consultation with members of the disability community, shall develop a logo that identifies a

business entity that is designated as a Florida Unique Abilities Partner.

(b) The agency ~~department~~ shall adopt guidelines and requirements for the use of the logo, including how the logo may be used in advertising. The agency ~~department~~ may allow a business entity to display a Florida Unique Abilities Partner logo upon designation. A business entity that has not been designated as a Florida Unique Abilities Partner or has elected to discontinue its designated status may not display the logo.

(7) WEBSITE.—The agency ~~department~~ shall maintain a website for the program. At a minimum, the website must provide a list of business entities, by county, which currently have the Florida Unique Abilities Partner designation, updated quarterly; information regarding the eligibility requirements for the designation and the method of application or nomination; and best practices for business entities to facilitate the inclusion of individuals who have a disability, updated annually. The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability.

(8) INTERAGENCY COLLABORATION.—

(a) The Department of Commerce ~~Agency for Persons with Disabilities~~ shall provide a link on its website to the agency's ~~department's~~ website for the Florida Unique Abilities Partner Program.

(b) On a quarterly basis, the agency ~~department~~ shall provide the Florida Tourism Industry Marketing Corporation with a current list of all businesses that are designated as Florida Unique Abilities Partners. The Florida Tourism Industry Marketing Corporation must consider the Florida Unique Abilities Partner Program in the development of marketing campaigns, and specifically in any targeted marketing campaign for individuals who have a disability or their families.

(c) The agency ~~department~~ and CareerSource Florida, Inc., shall identify employment opportunities posted by business entities that currently have the Florida Unique Abilities Partner designation in the workforce information system under s. 445.011.

(9) REPORT.—

~~(a)~~ By January 1, 2025, and annually thereafter ~~2017~~, the agency ~~department~~ shall provide a report on the progress and use of the program to the President of the Senate and the Speaker of the House of Representatives ~~on the status of the implementation of this section, including the adoption of rules, development of the logo, and development of application procedures~~.

~~(b) Beginning in 2017 and each year thereafter, the department's annual report required under s. 20.60 must describe in detail the progress and use of the program.~~ At a minimum, the report must include, for the most recent year, all of the following:

(a) The number of applications and nominations received.~~;~~

(b) The number of nominations accepted and declined.~~;~~

(c) The number of designations awarded.~~;~~

(d) Annual certifications.~~;~~

(e) The use of information provided under subsection (8).~~;~~ ~~and~~

(f) Any other information the agency deems ~~deemed~~ necessary to evaluate the program.

(10) RULES.—The agency ~~department~~ shall adopt rules to administer this section.

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

Remove line 35 and insert:

date; providing for a type two transfer of the Florida Unique Abilities Partner Program from the Department of Commerce to the Agency for Persons with Disabilities; amending ss. 20.60 and 413.801, F.S.; conforming provisions to changes made by the act; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1295 Health Care Practitioner Titles and Abbreviations
SPONSOR(S): Healthcare Regulation Subcommittee, Massullo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	17 Y, 0 N, As CS	Osborne	McElroy
2) Health & Human Services Committee		Osborne	Calamas

SUMMARY ANALYSIS

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners. The MQA works in conjunction with 22 professional boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions.

An unlicensed individual may be subject to administrative action or criminal penalties if the individual states or otherwise implies that he or she is a licensed medical professional. This may include the use of certain terms or titles that the public generally associates with a specific medical profession. DOH does not license specialties or sub-specialties based upon board certification, but current law does limit who can hold themselves out as board-certified specialists.

Current law authorizes regulatory boards (or DOH) to discipline health care practitioners for violations related to how they represent their professional identities, including:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

CS/HB 1295 further regulates the way in which health care practitioners may represent their professions and educational background. The bill specifies the titles and abbreviations that health care practitioners may use in advertisements, communications, and personal identification. Any unauthorized use of a title, abbreviation, or educational degree qualifies as a misleading, deceptive, or fraudulent representation by the health care practitioner and constitutes grounds for discipline.

The bill requires any advertisement for health care services naming a practitioner to identify the practitioner's profession and educational degree. The bill also requires health care practitioners to wear name tags meeting certain requirements, with exceptions. The bill directs each professional board, or DOH if there is no applicable board, to establish rules determining how practitioners must comply with this requirement.

The bill authorizes DOH or the professional boards, as applicable, to discipline any health care practitioner who violates the provisions of the bill.

The bill has an insignificant, negative fiscal impact on DOH, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Health Care Practitioners Licensure and Regulation

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.[1] The MQA works in conjunction with 22 professional boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions. Every profession is regulated by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA, as well as a profession- or field-specific practice act which outlines requirements and standards that vary by profession and establishes the individual professional boards.

MQA is statutorily responsible for the following professional boards and advisory councils:[2]

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Clinical Laboratory Personnel, created under part III of ch. 483, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- The Board of Respiratory Care, created under part V of ch. 468, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Dietetics and Nutrition Practice Council, created under part X of ch. 468, F.S.;
- The Electrolysis Council, created under ch. 478, F.S.;
- The Council of Licensed Midwifery, created under ch. 467, F.S.;
- The Council on Physician Assistants, created under chs. 458 and 459, F.S.

[1] Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, mental health counselors, and psychotherapists, among others.

[2] Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2022* (2023). Available at https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/MQAAnnualReport2022-2023.pdf (last visited January 26, 2024).

MQA also oversees the following seven health care professions for which there is no profession-specific regulatory board:[3]

- Certified Master Social Workers, as provided by s. 491.015, F.S.;
- Emergency Medical Technicians, as provided under part III of ch. 401, F.S.;
- Genetic Counselors, as provided under part III of ch. 483, F.S.;
- Medical Physicists, as provided under part II of ch. 483, F.S.;
- Naturopaths, as provided under ch. 462, F.S.;[4]
- Paramedics, as provided under part III of ch. 401, F.S.;
- Radiologic Technologists, as provided under part IV under ch. 468, F.S.; and
- School Psychologists, as provided under ch. 490, F.S.

Except for those professions for which there is no board, DOH and the professional boards have different roles in the regulatory system. Boards act as the governing body of a specified profession; they establish practice standards by rule, pursuant to statutory authority and directives, and determine disciplinary action against practitioners who have violated the practice standards.

DOH receives and investigates complaints against practitioners and facilitates the legal response when necessary. DOH, on behalf of the boards, investigates legally sufficient complaints against practitioners.[5] Once an investigation is complete, DOH presents the investigatory findings to the boards. DOH recommends a course of action to the appropriate board's probable cause panel[6] which may include having the file reviewed by an expert, issuing a closing order, or filing an administrative complaint.[7]

The boards determine the course of action and any disciplinary action to take against a practitioner.[8] For professions that have no board, DOH determines the action and discipline to take against a practitioner and issues the final orders.[9] DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.[10] If a case is appealed, DOH defends the board's (or DOH's) final actions before the appropriate appellate court.[11]

Specialist Board Certification and Florida Licensure

DOH licenses health care practitioners by profession according to the requirements established in statute and rule. DOH does not directly license health care practitioners by specialty or subspecialty; alternatively, current law recognizes the authority of private national specialty boards for granting board certification to practitioners.[12] While DOH does not directly license practitioners by specialty, current law limits which health care practitioners may hold themselves out as board-certified specialists by imposing requirements for specialty designations in individual profession's practice acts.

An allopathic physician (M.D.) may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the ABMS or other

[3] *Id*.
[4] *Id*. There are currently no naturopaths actively licensed to practice in Florida.
[5] Department of Health, *Investigative Services.* Available at http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html (last visited January 26, 2024).
[6] *See also*, Department of Health, *A Quick Guide to the MQA Disciplinary Process: Probable Cause Panels*. Available at https://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/_documents/a-quick-guide-to-the-mqa-disciplinary-process.pdf (last visited January 26, 2024)
[7] Department of Health, *Prosecution Services.* Available at http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html (last visited January 26, 2024).
[8] S. 456.072(2), F.S.
[9] *Id*. Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, and school psychologists.
[10] *Supra*, note 7.
[11] *Id*.
[12] Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry. Examples of national specialty boards include The American Board of Medical Specialties and The Accreditation Board for Specialty Nursing Certification.

recognizing agency[13] approved by the Board of Medicine.[14] Similarly, an osteopathic physician (D.O.) may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency[15] approved by the Board of Osteopathic Medicine.[16]

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:[17]

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- A diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.[18]

By rule, the Board of Chiropractic Medicine (BCM) prohibits chiropractors from using deceptive, fraudulent, and misleading advertising. The BCM permits chiropractors to advertise that they have attained Diplomate status in a chiropractic specialty area recognized by the BCM. BCM-recognized specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.[19]

Additionally, an advanced practice registered nurse may not advertise or hold himself or herself out as a specialist for which he or she has not received certification.[20]

Professional Identity Representation

Section 456.072, F.S., authorizes a professional board or DOH, if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

Physicians are expressly subject to discipline for advertising a board-certified specialty for which they are not qualified. Using a term designating a medical specialty for which a *non-physician* practitioner has not completed a residency or fellowship program accredited or recognized by the ACGME or the AOA in such specialty is not expressly grounds for discipline under current law.[21]

[13] The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. *See,* Rule 64B8-11.001(1)(f), F.A.C.
[14] S. 458.3312, F.S.
[15] The Board of Osteopathic Medicine has approved the specialty boards of the ABMS and AOA as recognizing agencies. *See*, Rule 64B15-14.001(h), F.A.C.
[16] S. 459.0152, F.S.
[17] S. 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.
[18] S. 466.0282(3), F.S.
[19] Rule 64B-15.001(2)(e), F.A.C. Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.
[20] S. 464.018(1)(s), F.S.
[21] Ss. 458.331(1)(ll) and 459.015(1)(nn), F.S.

If the board or DOH finds that a licensee committed a violation, the board or DOH may:[22]

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed $10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of $10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

Effect of the Bill

Health Care Professional Representation

CS/HB 1295 further regulates the way in which health care practitioners represent their professions.

Professional Designations

The bill specifies the titles and abbreviations that may be used by allopathic and osteopathic physicians, chiropractic physicians, podiatric physicians, dentists, anesthesiologist assistants, and optometrists. Under the bill, health care practitioners, regardless of whether they are specified in the bill, may only identify themselves by the titles and abbreviations authorized by the bill or the practitioner's respective practice act.

Advertisements

Current law authorizes licensure discipline for "deceptive or misleading terms or false representation". The bill expressly makes misrepresentation of a practitioner's educational degree a qualifying offense under this provision. The bill also establishes an extensive list[23] of titles and designations which, when used in an advertisement or in a manner constituting a misleading, deceptive, or fraudulent representation by a person not licensed constitutes the unlicensed practice of medicine or osteopathic medicine.

The bill requires any advertisement for health care services naming a practitioner to identify the practitioner's profession and educational degree as related to the services featured in the advertisement. The advertisement must also include the specific license under which the practitioner is authorized to provide services. These requirements apply to any printed, electronic, or oral statement that:

- Is communicated or disseminated to the general public.
- Is intended to encourage a person to use a practitioner's services or to promote those services or the practitioner in general.
- For commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.

[22] S. 456.073(1), F.S.

[23] The list includes: Doctor of Medicine, M.D., Doctor of Osteopathy, D.O., Emergency Physician, Family Physician, Interventional Pain Physician, Medical Doctor, Osteopath, Osteopathic Physician, Doctor of Osteopathic Medicine, Surgeon, Neurosurgeon, General Surgeon, Resident Physician, Medical Resident, Medical Intern, Anesthesiologist, Cardiologist, Dermatologist, Endocrinologist, Gastroenterologist, Gynecologist, Hematologist, Hospitalist, Intensivist, Internist, Laryngologist, Nephrologist, Neurologist, Obstetrician, Oncologist, Ophthalmologist, Orthopedic Surgeon, Orthopedist, Otologist, Otolaryngologist, Pathologist, Pediatrician, Primary Care Physician, Proctologist, Psychiatrist, Radiologist, Rheumatologist, Rhinologist, and Urologist.

- Is prepared, communicated, or disseminated by the practitioner or with their consent.

The bill requires any advertisement by a health care practitioner include the specific license under which they are authorized to provide services, and restricts them to advertising with only the specific titles and abbreviations they are authorized to use under the bill.

The bill permits only allopathic or osteopathic physicians, chiropractic physicians, podiatric physicians, and dentists to use the titles, abbreviations, or medical specialties specified in the bill the bill, such as "dermatologist," "oncologist," and "periodontist," in advertisements.

Non-physician practitioners may identify themselves according to specialties expressly named in their respective practice acts, but only in conjunction with the title of the profession which they are licensed to practice.

License Display

The bill requires health care practitioners to wear a name tag displaying their name and profession when treating or consulting a patient. The practitioner's profession must be identified on the name tag consistent with the naming conventions specified in the bill. This requirement does not apply to a practitioner providing services in his or her own office if the practitioner prominently displays a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients.

Discipline

Failure to adhere to the provisions of the bill constitute grounds for discipline. The bill authorizes DOH or the boards, as applicable, to discipline any health care practitioner who violates the preceding requirements. The bill directs each board, or DOH if there is no board, to develop rules determining how practitioners must comply with the requirements of the bill.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.0651, F.S., relating to health care practitioner titles and designations.
Section 2: Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.
Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOH may experience a non-recurring increase in workload associated with rulemaking, which can be absorbed within current resources.[24] DOH may also experience an increase in workload and costs associated with the enforcement of the provisions of this bill, which can be absorbed within current resources.[25]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[24] Department of Health, *Agency Analysis of House Bill 583* (2023). (February 7, 2023).
[25] *Id*.

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To comply with the provisions of the bill, health care practitioners currently practicing under titles that are not expressly authorized by the bill will need to transition to approved titles. Such practitioners will incur the costs associated with rebranding. The practitioners most likely to be impacted by these requirements are optometrists,[26] commonly identified as optometric physicians, and acupuncturists,[27] commonly referred to as acupuncture physicians and Doctors of Oriental Medicine; such titles are not expressly authorized under the bill, or in the respective practice acts.

Health care practitioners in violation of the restrictions in this bill may be subject to disciplinary actions and fines.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to DOH and the relevant regulatory boards to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

By specifying titles and abbreviations applicable to a specialty or certification, it is unclear if other recognized credentials earned by a health care practitioner may be used. For example, it is unclear if a dentist who has completed advanced training in dental anesthesiology could refer to himself as a dental anesthesiologist.

The DOH analysis of the bill notes that the use of "may" throughout the bill indicates a permissive provision, implying some discretion, which may be difficult to enforce.[28]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[26] *See*, Ch. 463, F.S., for the Optometry Practice Act.
[27] See, Ch. 457, F.S., for the statute regulating acupuncture.
[28] *Supra*, note 24.

On February 1, 2024, the Healthcare Regulation Subcommittee adopted an amendment to HB 1295 and reported the bill favorably as a committee substitute. The amendment removed “physician” from the list of titles protected under the bill.

The analysis is drafted to the bill as amended by the Healthcare Regulation Subcommittee.

A bill to be entitled

An act relating to health care practitioner titles and abbreviations; creating s. 456.0651, F.S.; defining terms; providing that, for specified purposes, the use of specified titles or designations in connection with one's name constitutes the practice of medicine or the practice of osteopathic medicine; providing exceptions; amending s. 456.072, F.S.; revising grounds for disciplinary action relating to a practitioner's use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; revising applicability; requiring certain health care practitioners to prominently display copies of their licenses in a conspicuous area of their practices; requiring that the copy of the license be a specified size; requiring such health care practitioners to also verbally identify themselves in a specified manner to new patients; requiring, rather than authorizing, certain boards or the Department of Health if there is no board, to adopt certain rules; providing an effective date.

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

Section 1. Section 456.0651, Florida Statutes, is created to read:

456.0651 Health care practitioner titles and designations.—

(1) As used in this section, the term:

(a) "Advertisement" means any printed, electronic, or oral statement that:

1. Is communicated or disseminated to the general public.

2.a. Is intended to encourage a person to use a practitioner's professional services or to promote those services or the practitioner in general; or

b. For commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.

3. Is prepared, communicated, or disseminated under the control of the practitioner or with the practitioner's consent.

(b) "Educational degree" means the degree awarded to a practitioner by a college or university relating to the practitioner's profession or specialty designation which may be referenced in an advertisement by name or acronym.

(c) "Misleading, deceptive, or fraudulent representation" means any information that misrepresents or falsely describes a practitioner's profession, skills, training, expertise, educational degree, board certification, or licensure.

(d) "Practitioner" means a health care practitioner as defined in s. 456.001.

(e) "Profession" in addition to the meaning provided in s. 456.001, also means the name or title of a practitioner's profession that is regulated by the department in the Division of Medical Quality Assurance and which is allowed to be used by an individual due to his or her license, license by endorsement, certification, or registration issued by a board or the department. The term does not include a practitioner's license or educational degree.

(2) For purposes of this section and s. 456.065, in addition to the definition of "practice of medicine" in s. 458.305 and the definition of "practice of osteopathic medicine" in s. 459.003, the practice of medicine or osteopathic medicine also includes attaching to one's name, either alone or in combination, or in connection with other words, any of the following titles or designations, if used in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation:

(a) Doctor of medicine.

(b) M.D.

(c) Doctor of osteopathy.

(d) D.O.

(e) Emergency physician.

(f) Family physician.

(g) Interventional pain physician.

(h) Medical doctor.

(i) Osteopath.

(j) Osteopathic physician.

(k) Doctor of osteopathic medicine.

(l) Surgeon.

(m) Neurosurgeon.

(n) General surgeon.

(o) Resident physician.

(p) Medical resident.

(q) Medical intern.

(r) Anesthesiologist.

(s) Cardiologist.

(t) Dermatologist.

(u) Endocrinologist.

(v) Gastroenterologist.

(w) Gynecologist.

(x) Hematologist.

(y) Hospitalist.

(z) Intensivist.

(aa) Internist.

(bb) Laryngologist.

(cc) Nephrologist.

(dd) Neurologist.

(ee) Obstetrician.

(ff) Oncologist.

(gg) Ophthalmologist.

(hh) Orthopedic surgeon.

(ii) Orthopedist.

(jj) Otologist.

(kk) Otolaryngologist.

(ll) Otorhinolaryngologist.

(mm) Pathologist.

(nn) Pediatrician.

(oo) Primary care physician.

(pp) Proctologist.

(qq) Psychiatrist.

(rr) Radiologist.

(ss) Rheumatologist.

(tt) Rhinologist.

(uu) Urologist.

(3) Notwithstanding subsection (2):

(a) A licensed practitioner may use the name or title of his or her profession which is authorized under his or her practice act, and any corresponding designations or initials so authorized, to describe himself or herself and his or her practice.

(b) A licensed practitioner who has a specialty area of practice authorized under his or her practice act may use the following format to identify himself or herself or describe his

or her practice: "...(name or title of the practitioner's profession)..., specializing in ...(name of the practitioner's specialty)...."

(c) A chiropractic physician licensed under chapter 460 may use the titles "chiropractic physician," "doctor of chiropractic medicine," "chiropractic radiologist," and other titles, abbreviations, or designations authorized under his or her practice act or reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

(d) A podiatric physician licensed under chapter 461 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "podiatric physician," "podiatric surgeon," "Fellow in the American College of Foot and Ankle Surgeons," and other titles or abbreviations authorized under his or her practice act.

(e) A dentist licensed under chapter 466 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "doctor of medicine in dentistry," "doctor of dental medicine," "D.M.D.," "doctor of dental surgery," "D.D.S.," "oral surgeon," "maxillofacial surgeon," "oral and maxillofacial surgeon," "O.M.S.," "oral

radiologist," "dental anesthesiologist," "oral pathologist," and other titles or abbreviations authorized under his or her practice act.

(f) An anesthesiologist assistant licensed under chapter 458 or chapter 459 may use only the titles "anesthesiologist assistant" or "certified anesthesiologist assistant" and the abbreviation "C.A.A."

(g) An optometrist licensed under chapter 463 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "doctor of optometry," "optometric physician," and other titles or abbreviations authorized under his or her practice act.

Section 2. Paragraph (t) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t)1. A practitioner's failure, when treating or consulting with a patient, ~~Failing~~ to identify through ~~written notice, which may include~~ the wearing of a name tag the practitioner's name and~~, or orally to a patient~~ the profession, as defined in s. 456.0651, ~~type of license~~ under which the practitioner is practicing. The information on the name tag must be consistent with the specifications of s. 456.0651(2) such

that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

2. The failure of any advertisement for health care services naming the practitioner to ~~must~~ identify the profession, as defined in s. 456.0651, under which the practitioner is practicing and the practitioner's educational degree, as defined in s. 456.0651, in relation to the services featured in the advertisement ~~type of license the practitioner holds~~.

3. Subparagraph 1. ~~This paragraph~~ does not apply to a practitioner while the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case, in lieu of a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license. The practitioner must also verbally identify himself or herself to a new patient by name and identify the profession, as defined in s. 456.0651, under which the practitioner is practicing. Such verbal identification must be consistent with the specifications of s. 456.0651(2) such that it does not constitute the unlicensed practice of medicine or osteopathic medicine ~~a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429~~.

4. Each board, or the department if ~~where~~ there is no

board, shall ~~is authorized~~ by rule ~~to~~ determine how its practitioners must ~~may~~ comply with this paragraph ~~disclosure requirement~~.

Section 3. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1365 Unauthorized Public Camping and Public Sleeping
SPONSOR(S): Judiciary Committee, Garrison and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N	Darden	Darden
2) Judiciary Committee	16 Y, 6 N, As CS	Padgett	Kramer
3) Health & Human Services Committee		Curry	Calamas

SUMMARY ANALYSIS

CS/HB 1365 creates ss. 125.0231 and 166.0453, F.S., to prohibit a county or municipality from authorizing or otherwise permitting any person from regularly engaging in public camping or public sleeping on any public property, public building, or public right-of-way under the county or municipality's jurisdiction unless such person has been lawfully issued a temporary permit authorizing such activity by the county or municipality.

The bill authorizes a county or municipality, in its discretion, to designate property owned by the county or municipality to be used for public camping or public sleeping for a continuous period of no longer than one year. The bill prohibits a county or municipality from designating property to be used for public camping or public sleeping if the property is in a location where such a designation would adversely and materially affect the property value or safety and security of other existing residential or commercial property. Under the bill, if a county or municipality designates public property to be used for public camping or public sleeping, the county or municipality must establish and maintain minimum standards and procedures related to ensuring security, minimum sanitation, and access to mental health and substance abuse treatment, unless the county is a fiscally constrained county or the municipality is located in a fiscally constrained county and complying with such requirements would result in a financial hardship.

The bill requires a county or municipality that designates public property to be used for public camping or public sleeping to provide notice to the Department of Children and Families (DCF) within 30 days of making such a designation and to post the minimum standards and procedures required by the bill to the county's or municipality's publicly accessible website. The bill requires DCF to inspect such designated property within specified time periods.

The bill authorizes, a resident of the county or municipality or the owner of a business located in the county or municipality to bring a civil action to enjoin the county or municipality from authorizing public camping or public sleeping. If the civil action is successful, a person or business may recover reasonable expenses incurred in bringing such an action. The bill requires an application for an injunction to be accompanied by an affidavit confirming that the applicant has provided notice of the violation to the county or municipality and that the county or municipality failed to cure the violation within five business days.

The bill has a negative fiscal impact on DCF, and may have a negative fiscal impact on a local government that chooses to designate property for public sleeping or public camping. *See* Fiscal Analysis.

The bill provides an effective date of October 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.[2] Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.[3] A local government enactment may be inconsistent with state law if the:

- State Constitution preempts the subject area;
- Legislature preempts the subject area; or
- Local enactment conflicts with a state statute.

Local governments exercise their powers by adopting ordinances. The adoption or amendment of a regular ordinance, other than an ordinance making certain changes to zoning, may be considered at any regular or special meeting of the local governing body.[4] Notice of the proposed ordinance must be published at least 10 days before the meeting in a newspaper of general circulation in the area; state the date, time, and location of the meeting, the title of the proposed ordinance, and locations where the proposed ordinance may be inspected by the public; and advise that interested parties may appear and speak at the meeting. Municipal ordinances must also be read by title or in full on at least two separate days.[5] Ordinances may only encompass a single subject and may not be revised or amended solely by reference to the title.[6]

Homelessness and Public Camping

According to the January 2023 Point-In-Time Count,[7] 653,104 people are experiencing homelessness across the United States, including 30,756 in Florida.[8] Over the past five years, the number of people in Florida who are experiencing homelessness has increased by 9 percent.[9] In 2023, approximately 50 percent of people experiencing homelessness in Florida were unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as a sidewalk, vehicle, abandoned building, or park.[10] Living unsheltered can have significant impacts on a person's health

[1] Art. VIII, s. 1(f), Fla. Const.
[2] Art. VIII, s. 1(g), Fla. Const.
[3] Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.
[4] *See* ss. 125.66(2)(a) and 166.041, F.S. In addition to general notice requirements, a local government must provide written notice by mail to all property owners before adopting a zoning change involving less than 10 contiguous acres. Ss. 125.66(4)(a) and 166.041(3)(c)1., F.S. If a zoning change involves 10 or more contiguous acres, the local government must conduct two public hearings, advertised in a newspaper, before adopting the ordinance. Ss. 125.66(4)(b) and 166.041(3)(c)2., F.S.
[5] S. 166.041(3)(a), F.S.
[6] Ss. 125.67 and 166.041(2), F.S.
[7] A "Point-in-Time Count" is a count of sheltered and unsheltered people experiencing homelessness on a single night in January. This data is collected by the United States Department of Housing and Urban Development. Department of Housing and Urban Development, Point-in-Time Count and Housing Inventory Count, https://www.hudexchange.info/programs/hdx/pit-hic/#2024-pit-count-and-hic-guidance-and-training (last visited Feb. 7, 2024).
[8] *See* Department of Housing and Urban Development, Office of Policy Development and Research, *2007 - 2023 Point-in-Time Estimates by State*, https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html (last visited Feb. 7, 2024).
[9] Florida Department of Children and Families, *Florida's Council on Homelessness – Annual Report,* https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf (last visited Feb. 7, 2024).
[10] *Id.*

and safety. Unsheltered persons experiencing homelessness are at a 270 percent greater risk of mortality compared to those who are sheltered.[11]

Jurisdictions that have placed restrictions on public camping have seen significant declines in the size of the population of persons experiencing homelessness. Voters in Austin, Texas reinstated a previously repealed camping ban by referendum in 2021.[12] According to January 2023 Point-In-Time Count, the persons experiencing homelessness in Austin had declined by five percent compared to 2020, but with 19 percent more persons sheltered and 20 percent fewer who were unsheltered.

Effect of Proposed Changes

CS/HB 1365 creates ss. 125.0231 and 166.0453, F.S., to prohibit a county or municipality from authorizing or otherwise permitting any person from regularly engaging in public camping or public sleeping on any public property, public building, or public right-of-way under the county's or municipality's jurisdiction unless such person has been lawfully issued a temporary permit authorizing such activity by the county or municipality.

The bill authorizes a county or municipality, in its discretion, to designate certain property owned by the county or municipality to be used for public camping or public sleeping for a continuous period of no longer than one year. The bill prohibits a county or municipality from designating property to be used for public camping or public sleeping if the property is in a location where such a designation would adversely and materially affect the property value or safety and security of other existing residential or commercial property.

Under the bill, if a county or municipality designates public property to be used for public camping or public sleeping, the county or municipality must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

- Ensuring the safety and security of the designated property and the persons lodging or residing on such property;
- Maintaining sanitation, including providing access to clean and operable restrooms and running water;
- Coordinating with the local continuum of care to provide access to behavioral health services, including substance abuse and mental health treatment resources; and
- Prohibiting illegal drug use and alcohol use on the designated property and enforcing such prohibition.

The bill exempts a fiscally constrained county or a municipality that is located in a fiscally constrained county that designates public property to be used for public camping or public sleeping from the requirement to establish and maintain the minimum standards and procedures specified in the bill, except for the prohibition on illegal drug use or alcohol use, if the governing board of such a county or municipality makes a finding that compliance with the other requirements would result in a financial hardship.

The bill requires a county or municipality that designates public property to be used for public camping or public sleeping to:

- Provide notice to the Department of Children and Families (DCF) within 30 days after making such a designation and provide DCF with the location of such property; and
- Post the minimum standards and procedures required by the bill to the county's or municipality's publicly accessible website, which must remain publicly available as long as the public property is designated for public camping or public sleeping.

[11] C. Y. Liu, S. J. Chai, and J. P. Watt, *Communicable disease among people experiencing homelessness in California*, *Epidemiology and Infection* 148 (2020), https://www.cambridge.org/core/journals/epidemiology-and-infection/article/communicable-disease-among-people-experiencing-homelessness-in-california/01D82460F7E8092791D0C5B1B94C8343 (last visited Feb. 7, 2024).
[12] Katy McAfee and Ben Thompson, *Austin's homeless population dispersing after 2 years of camping ban enforcement*, Community Impact (May 25, 2023), https://communityimpact.com/austin/central-austin/city-county/2023/05/25/austins-homeless-population-dispersing-after-2-years-of-camping-ban-enforcement/ (last visited Feb. 7, 2024).

The bill requires DCF, within 90 days after a county or municipality designates property to be used for public camping or public sleeping and at least once more after 180 days if the property remains so designated, to inspect such property and issue a report to the county or municipality with recommendations to assist the county or municipality in maintaining the minimum standards and procedures required under the bill. The bill requires the county or municipality to post the DCF report to the county's or municipality's publicly available website within five days of receiving the report.

Under the bill, a resident of a county or municipality or an owner of a business located in a county or municipality may bring a civil action in any court of competent jurisdiction against such a county or municipality to enjoin the county or municipality from authorizing public camping or public sleeping on county or municipal property. If the civil action is successful, a person or business may recover reasonable expenses including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs. The bill requires an application for an injunction to be accompanied by an affidavit attesting that:

- The applicant has provided written notice of the alleged violation to the governing board of the county or municipality;
- The applicant has provided the county or municipality five business days to cure the alleged violation; and
- The county or municipality has failed to cure the alleged violation within five business days of receiving written notice of the violation.

The provisions of the bill do not apply to any time period in which:

- The Governor has declared a state of emergency in the county or another county immediately adjacent to the county, or the county in which a municipality is located or another county immediately adjacent to the county in which the municipality is located; or
- A state of emergency has been declared in the county or the county in which the municipality is located under ch. 870, F.S.[13]

The bill provides the following definitions:

- "Public camping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.
- "Public sleeping" means lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

The bill provides that the Legislature determines and declares the bill fulfills an important state interest.

The bill provides an effective date of October 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 125.0231, F.S., relating to unauthorized public camping and public sleeping.
Section 2: Creates s. 166.0453, F.S., relating to unauthorized public camping and public sleeping.
Section 3: Provides that the bill fulfills an important state interest.
Section 4: Provides an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[13] Section 870.043, F.S., authorizes a county sheriff or designated municipal official such as the mayor or chief of police to declare a state of emergency if he or she determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that there is reason to believe that there is a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the county or municipality.

1. Revenues:

   None.

2. Expenditures:

   To the extent that counties or municipalities designate county or municipal property to be used for public sleeping or public camping as authorized under the bill, the bill will have a negative fiscal impact on DCF for conducting inspections and making recommendations to assist a county or municipality with maintaining minimum standards and procedures required by the bill.

   To implement the provisions of the bill, DCF will require additional resources to review proposed sites to be used for public camping or public sleeping and conduct inspections. DCF will use 12 vacant FTE positions from the state mental health facilities and will require $1 million for salaries and benefits. This includes $56,700 for salaries for 12 inspectors and $242,000, recurring, for expenses and high travel package for the inspectors.[14]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an indeterminate fiscal impact on a county or municipality that chooses to designate county or municipal property to be used for public sleeping or public camping since the county or municipality is required to maintain specified conditions on such property, unless the county is a fiscally constrained county or the municipality is located in a fiscally constrained county. Also, the bill authorizes a court to award reasonable expenses incurred in filing a civil action against a county or municipality for authorizing public sleeping or public camping on specified county or municipal property if a person prevails in such an action, which may have an indeterminate negative fiscal impact on local governments.

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 require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

[14] DCF, Agency Bill Analysis HB 1365 (2024), pg. 3.

The bill requires DCF, if a county or municipality designates certain county or municipal property for public camping or public sleeping, to conduct inspections of such property and to issue a report to the county or municipality. However, the bill does not provide DCF with rulemaking authority to implement this provision of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 7, 2024, the Judiciary Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment differed from the original bill in that it:

- Defined the terms "public camping" and "public sleeping."
- Limited the designation of public property to be used for purposes of public camping or public sleeping to a continuous period of no longer than one year.
- Required a county or municipality that designates public property to be used for public camping or public sleeping to notify DCF within 30 days of making such a designation and to post minimum standards and procedures on the county's or municipality's publicly accessible website.
- Required DCF to conduct inspections of county or municipal property that has been designated to be used for public camping or public sleeping within specified time periods.
- Exempted a fiscally constrained county or a municipality located in a fiscally constrained county from complying with specified minimum standards and procedures required under the bill.
- Required a person who applies for an injunction to provide an affidavit attesting that he or she has provided notice of such a violation to the county or municipality and that the county or municipality failed to cure such violation within five business days.

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

A bill to be entitled

An act relating to unauthorized public camping and public sleeping; creating ss. 125.0231 and 166.0453, F.S.; defining the terms "public camping" and "public sleeping"; prohibiting counties and municipalities, respectively, from authorizing or otherwise permitting public sleeping or public camping on public property without a specified permit; authorizing counties and municipalities to designate certain public property for such uses for a specified time period; requiring counties and municipalities to establish specified standards and procedures relating to such property; requiring the Department of Children and Families to conduct inspections of such property at specified intervals and to issue a report; providing applicability; providing an exception to applicability during specified emergencies; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 125.0231, Florida Statutes, is created to read:

125.0231 Unauthorized public camping and public sleeping.—

(1) As used in this section, the term:

(a) "Public camping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

(b) "Public sleeping" means lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

(2) Except as provided in subsection (3), a county may not authorize or otherwise permit any person to regularly engage in public camping or public sleeping on any public property, public building, or public right-of-way under the county's jurisdiction, unless such person has been lawfully issued a temporary permit authorizing such activity by the county.

(3)(a) A county may, in its discretion, designate property owned by the county to be used for a continuous period of no longer than 1 year for the purposes of public camping or public sleeping. A property designated for such purposes may not be located in an area where such designation would adversely and materially affect the property value or safety and security of other existing residential or commercial property.

(b) Except as provided in paragraph (e), if a county designates county property to be used for public camping or

public sleeping, it must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

2. Maintaining sanitation, which must include providing access to clean and operable restrooms and running water.

3. Coordinating with the local continuum of care to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.

4. Prohibiting illegal drug use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after designating county property as authorized in paragraph (a), the county must:

1. Provide notice to the Department of Children and Families that property has been designated for such purposes and provide the location of such property.

2. Post the minimum standards and procedures required under paragraph (b) to the county's publicly accessible website. Such policies and procedures must continue to be publicly available as long as any county property remains designated for the purposes authorized in (a).

(d) Within 90 days after the designation of county property as authorized in paragraph (a), and at least once more after 180 days if the property remains so designated, the

Department of Children and Families shall inspect the property and issue a report to the county which may include recommendations to assist the county in maintaining the minimum standards and procedures required under paragraph (b). A county must post any inspection report issued pursuant to this paragraph to the county's publicly accessible website within 5 business days after receiving the report.

(e) A fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1.-3. if the governing board of the county makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the county or an owner of a business located in the county may bring a civil action in any court of competent jurisdiction against the county to enjoin a violation of subsection (2). If the resident or business owner prevails in a civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the county.

2. The applicant has provided the county with 5 business days to cure the alleged violation.

3. The county has failed to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a county during any time period in which:

(a) The Governor has declared a state of emergency in the county or another county immediately adjacent to the county.

(b) A state of emergency has been declared in the county under chapter 870.

Section 2. Section 166.0453, Florida Statutes, is created to read:

166.0453 Unauthorized public camping and public sleeping.—

(1) As used in this section, the term:

(a) "Public camping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

(b) "Public sleeping" means lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

(2) Except as provided in subsection (3), a municipality

may not authorize or otherwise permit any person to regularly engage in public camping or public sleeping on any public property, public building, or public right-of-way under the municipality's jurisdiction, unless such person has been lawfully issued a temporary permit authorizing such activity by the municipality.

(3)(a) A municipality may, in its discretion, designate property owned by the municipality to be used for a continuous period of no longer than 1 year for the purposes of public camping or public sleeping. A property designated for such purposes may not be located in an area where such designation would adversely and materially affect the property value or safety and security of other existing residential or commercial property.

(b) Except as provided in paragraph (e), if a municipality designates municipal property to be used for public camping or public sleeping, it must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

2. Maintaining sanitation, which must include providing access to clean and operable restrooms and running water.

3. Coordinating with the local continuum of care to provide access to behavioral health services, which must include

substance abuse and mental health treatment resources.

4. Prohibiting illegal drug use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after designating municipal property as authorized in paragraph (a), the municipality must:

1. Provide notice to the Department of Children and Families that property has been designated for such purposes and provide the location of such property.

2. Post the minimum standards and procedures required under paragraph (b) to the municipality's publicly accessible website. Such policies and procedures must continue to be publicly available as long as any municipal property remains designated for the purposes authorized in paragraph (a).

(d) Within 90 days after the designation of municipal property as authorized in paragraph (a), and at least once more after 180 days if the property remains so designated, the Department of Children and Families shall inspect the property and issue a report to the municipality which may include recommendations to assist the municipality in maintaining the minimum standards and procedures required under paragraph (b). A municipality must post any inspection report issued pursuant to this paragraph to the municipality's publicly accessible website within 5 business days after receiving the report.

(e) A municipality located within a fiscally constrained county is exempt from the requirement to establish and maintain

minimum standards and procedures under subparagraphs (b)1.-3. if the governing board of the municipality makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the municipality or an owner of a business located in the municipality may bring a civil action in any court of competent jurisdiction against the municipality to enjoin a violation of subsection (2). If the resident or business owner prevails in the civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the municipality.

2. The applicant has provided the municipality with 5 business days to cure the alleged violation.

3. The municipality has failed to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a municipality during any time period in which:

(a) The Governor has declared a state of emergency in the

county in which the municipality is located or another county immediately adjacent to the county in which the municipality is located.

(b) A state of emergency has been declared in the county in which the municipality is located under chapter 870.

Section 3. The Legislature hereby determines and declares that this act fulfills an important state interest.

Section 4. This act shall take effect October 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Garrison offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 125.0231, Florida Statutes, is created to read:

125.0231 Public camping and public sleeping.—

(1) As used in this section, the term:

(a) "Department" means the Department of Children and Families.

(b) "Public camping or sleeping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the

storage of personal belongings, or means lodging or residing overnight in an outdoor space without a tent or other temporary shelter. The term does not include:

1. Lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

2. Camping for recreational purposes on property designated for such purposes.

(2) Except as provided in subsection (3), a county or municipality may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds, and any public right-of-way under the jurisdiction of the county or municipality, as applicable.

(3) A county may, by majority vote of the county's governing body, designate property owned by the county or a municipality within the boundaries of the county to be used for a continuous period of no longer than 1 year for the purposes of public camping or sleeping. If the designated property is within the boundaries of a municipality, the designation is contingent upon the concurrence of the municipality, by majority vote of the municipality's governing body.

(a) A county designation is not effective until the department certifies the designation. To obtain department certification, the county shall submit a request to the

Secretary of the department which shall include certification of, and documentation proving, the following:

1. There are not sufficient open beds in homeless shelters in the county for the homeless population of the county;

2. The designated property is not contiguous to property designated for residential use by the county or municipality in the local government comprehensive plan and future land use map;

3. The designated property would not adversely and materially affect the property value or safety and security of other existing residential or commercial property in the county or municipality, and would not negatively affect the safety of children; and

4. The county has developed a plan to satisfy the requirements of paragraph (b).

Upon receipt of a county request to certify a designation, the department shall notify the county of the date of receiving the request, and of any omission or error, within 10 days of receipt by the department. The department shall certify the designation within 45 days of receipt of a complete submission from the county, and the designation shall be deemed certified on the 45th day if the department takes no action.

(b) Except as provided in paragraph (e), if a county designates county or municipal property to be used for public camping or public sleeping, it must establish and maintain

minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

2. Maintaining sanitation, which must include, at a minimum, providing access to clean and operable restrooms and running water.

3. Coordinating with the regional managing entity to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.

4. Prohibiting illegal substance use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after certification of a designation by the department, the county must publish the minimum standards and procedures required under paragraph (3)(b) on the county and, if applicable, the municipality publicly accessible website. The county and municipality must continue to make such policies and procedures publicly available for as long as any county or municipal property remains designated under paragraph (3)(a).

(d) The department may inspect any designated property at any time, and the Secretary may provide notice to the county recommending closure of the designated property if the requirements of this section are no longer satisfied. A county, and municipality, if applicable, must publish any such notice

issued by the department to the county and municipality publicly accessible websites within 5 business days of receipt of the notice.

(e) A fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1.-3. if the governing board of the county makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the county, an owner of a business located in the county, or the Attorney General may bring a civil action in any court of competent jurisdiction against the county or applicable municipality to enjoin a violation of subsection (2). If the resident or business owner prevails in a civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the county or applicable municipality.

2. The applicant has provided the county or applicable municipality with 5 business days to cure the alleged violation.

3. The county or applicable municipality has failed to take all reasonable actions within the limits of its governmental authority to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a county during any time period in which:

(a) The Governor has declared a state of emergency in the county or another county immediately adjacent to the county and has suspended the provisions of this section pursuant to s. 252.36.

(b) A state of emergency has been declared in the county under chapter 870.

Section 2. The Legislature hereby determines and declares that this act fulfills an important state interest of ensuring the health, safety, welfare, quality of life, and aesthetics of Florida communities while simultaneously making adequate provision for the homeless population of the State.

Section 3. This act shall take effect October 1, 2024.

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

Remove everything before the enacting clause and insert: An act relating to unauthorized public camping and public sleeping; creating s. 125.0231, F.S.; defining the term "public

camping or sleeping"; prohibiting counties and municipalities from authorizing or otherwise allowing public camping or sleeping on public property without certification of designated public property by the Department of Children and Families; authorizing counties to designate certain public property for such uses for a specified time period; requiring the Department of Children and Families to certify such designation; requiring counties to establish specified standards and procedures relating to such property; authorizing the Department of Children and Families to conduct inspections of such property and to issue notice; providing applicability; providing an exception to applicability during specified emergencies; providing a declaration of important state interest; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1441 Department of Health
SPONSOR(S): Health Care Appropriations Subcommittee, Anderson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1582

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	19 Y, 0 N	Osborne	McElroy
2) Health Care Appropriations Subcommittee	14 Y, 0 N, As CS	Aderibigbe	Clark
3) Health & Human Services Committee		Osborne	Calamas

SUMMARY ANALYSIS

HB 1441 makes changes to several programs administered under the Department of Health (DOH).

Environmental health professionals (EHPs) are certified by DOH to perform evaluations of environmental or sanitary conditions in two environmental health program areas: food hygiene and onsite sewage treatment and disposal. The bill creates an environmental health technician certification for candidates to work under the supervision of a certified EHP.

The Legislature established the Rare Disease Advisory Council (RDAC) in 2021 to assist DOH in providing recommendations to improve health outcomes for individuals with rare diseases residing in the state. In the United States, a rare disease is any condition that nationally affects fewer than 200,000 people. There may be as many as 7,000 rare diseases impacting the lives of 25-30 million Americans and their families. The bill creates the Andrew John Anderson Pediatric Rare Disease Grant Program within DOH with the purpose of advancing the progress of research and cures for rare pediatric diseases through the award of grants by a competitive, peer-reviewed process. Grants shall be awarded by DOH, after consultation with the RDAC.

Sickle cell disease is a rare disease affecting approximately 100,000 Americans. In 2023, the Legislature directed DOH to partner with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry to track outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant. The bill revises certain requirements for the registry related to who may be included in the registry, and the process by which parents can opt their newborns out of the registry.

The Florida Newborn Screening Program (NSP) promotes the screening of all newborns for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect. The NSP also promotes the identification and screening of all newborns in the state and their families for environmental risk factors. The bill revises the certain aspects of the NSP to specify the responsibilities of relevant health care practitioners and repeal obsolete provisions.

Newborns are also required to undergo hearing screening before they are discharged from the hospital. The bill standardizes hearing screening practices for newborns born in licensed birth facilities and requires screening results for children up to 36 months of age be reported to DOH.

The bill has an insignificant, negative fiscal impact on DOH, which current resources are adequate to absorb.

The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Environmental Health Professionals

Current Situation

Environmental health professionals (EHPs) are certified by the Department of Health (DOH) to perform evaluations of environmental or sanitary conditions in two environmental health program areas: food hygiene and onsite sewage treatment and disposal.[1]

DOH currently employs 448 certified EHPs, most of which are housed in county health departments to perform health evaluations at public food establishments and sanitary evaluations on private and business properties where onsite wastewater treatment and disposal systems are in use.[2]

EHPs must be certified by DOH to perform evaluations of environmental or sanitary conditions in food hygiene or onsite sewage treatment and disposal. Current law requires an EHP to have graduated from an accredited four-year college or university with a degree or major coursework in public health, environmental health, environmental science, or a physical or biological science to be certified.[3] According to DOH, county health departments are experiencing a shortage of qualified applicants to the food hygiene and onsite sewage treatment and disposal programs due to the requirement for a four-year degree.[4]

In 2020, the Legislature transferred the Onsite Sewage Program from DOH to the Department of Environmental Protection (DEP). In establishing the transfer, the Legislature also required that the agencies enter into an interagency agreement for a period of no less than five years in order to coordinate the logistics relating to collaboration with the county health departments and the transfer or shared use of buildings or facilities owned by DOH.[5]

Effect of Proposed Changes – Environmental Health Professionals

The bill creates a certification for environmental health technicians who will be authorized to conduct septic tank inspections under the supervision of an environmental health professional who is certified in onsite sewage treatment and disposal.

The bill directs DOH, in conjunction with DEP, to adopt rules to establish standards for environmental health technicians, as well as, relevant administrative processes. To obtain and maintain certification as an environmental health technician, one must:

- Be certified by examination to be knowledgeable in the area of onsite sewage treatment and disposal;
- Have a high school diploma, or its equivalent;
- Be employed by a department as defined in s. 20.03;
- Complete supervised field inspection work as prescribed by rule before examination;
- Renew certification biennially by completing at least 24 contact hours of continuing education; and
- Notify the department within 60 days after any change of name or address.

[1] S. 381.0101(4), F.S.
[2] This excludes establishments licensed under Ch. 509, F.S., which operate under separate standards. *See*, Department of Health, *Agency Analysis of HB 1441* (2024). On file with the Healthcare Regulation Subcommittee.
[3] S. 381.0101(4)(e), F.S.
[4] *Supra*, note 2.
[5] Ch. 2020-150, L.O.F.

Rare Diseases

Current Situation

In the United States, a rare disease is any condition that nationally affects fewer than 200,000 people. There may be as many as 7,000 rare diseases impacting the lives of 25-30 million Americans and their families.[6] So, while the individual diseases may be rare, the total number of people impacted by a rare disease is large.

Rare diseases include genetic disorders, infectious diseases, cancers, and various other pediatric and adult conditions. A rare disease can affect anyone at any point in their life, and can be acute or chronic. It is estimated that 80 percent or more of rare diseases are genetic. For genetic rare diseases, genetic testing is often the only way to make a definitive diagnosis. Rare diseases present a fundamentally different array of challenges compared to those of more common diseases; often patients are set on a "diagnostic odyssey," in order to determine the cause of their symptoms as they seek treatment in health care settings where their condition may have never been seen before.[7]

In 2023, the Legislature allocated $500,000 in General Revenue funds in the General Appropriations Act for pediatric rare disease research grants.[8]

Rare Disease Advisory Council

The Legislature established the Rare Disease Advisory Council (RDAC) in 2021 to assist DOH in providing recommendations to improve health outcomes for individuals with rare diseases residing in the state.[9]

The establishment of RDACs across the country is an initiative spearheaded by the National Organization for Rare Disorders (NORD),[10] a national nonprofit group advocating for individuals and families affected by rare diseases.[11] Florida was the 19th state to establish a RDAC through legislation.[12]

Florida's RDAC is directed to:[13]

- Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in Florida;
- Develop recommended strategies for academic research institutions in Florida to facilitate continued research on rare diseases;
- Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients; and
- Provide input and feedback in writing to DOH, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases.

Rare Disease Registries – Sickle Cell Disease

[6] National Organization for Rare Diseases, *Rare Disease Day: Frequently Asked Questions*. Available at https://rarediseases.org/wp-content/uploads/2019/01/RDD-FAQ-2019.pdf (last visited January 19, 2024).
[7] Department of Health, *Rare Disease Advisory Council: Legislative Report, Fiscal Year 2022-2023* (2023). Available at https://www.floridahealth.gov/provider-and-partner-resources/rdac/_documents/RDACLegislativeReport2023Final_Draft.pdf (last visited January 20, 2024).
[8] Ch. 2023-239, L.O.F., line item 539A; *See also*, Department of Health, *Agency Analysis of HB 1441* (2024). On file with the Healthcare Regulation Subcommittee.
[9] S. 381.99, F.S.
[10] National Organization for Rare Disorders (NORD). *Project RDAC Year One* (2021). Available at https://rarediseases.org/wp-content/uploads/2021/11/NRD-2200-RDAC-Year1-Highlights_FNL.pdf (last visited January 20, 2024).
[11] National Organization for Rare Disorders (NORD). *About Us*. Available at https://rarediseases.org/about-us/ (last visited January 20, 2024).
[12] *Supra*, note 7.
[13] S. 381.99(4), F.S.; *See also*, the Rare Disease Advisory Council's 2nd Legislative Report at: https://www.floridahealth.gov/provider-and-partner-resources/rdac/_documents/RDACLegislativeReport2023Final_Draft.pdf

In addition to the diagnostic challenges presented by rare diseases, difficulties abound in the research of rare diseases. Due to the inherently small population affected by each rare disease, gathering sufficient sample sizes to conduct clinical trials is difficult. Patient data is scarce, and small sample sizes limit research possibilities. Patient registries are a means of overcoming some of the research limitations that exist due to the nature of rare diseases. Patient registries are organized systems that allow for the use of observational study methods to collect uniform data and evaluate specified outcomes for a population defined by a particular disease.[14]

Sickle cell disease (SCD) affects approximately 100,000 Americans, well within the definition of a rare disease, and is also the most prevalent inherited blood disorder in the US.[15] SCD affects mostly, but not exclusively, Americans of African ancestry. SCD is a group of inherited disorders in which abnormal hemoglobin cause red blood cells to buckle into the iconic sickle shape; the deformed red blood cells damage blood vessels and over time contribute to a cascade of negative health effects beginning in infancy, such as intense vaso-occlusive pain episodes, strokes, organ failure, and recurrent infections.[16] The severity of complications generally worsens as people age, but treatment and prevention strategies can mitigate complications and lengthen the lives of people with SCD.[17]

A person who carries a single gene for SCD has sickle cell trait. People with sickle cell trait do not have SCD, and under normal conditions they are generally asymptomatic. However, they are carriers of SCD and have an increased likelihood of having a child with SCD. It is estimated that 8 to 10 percent of African Americans carry sickle cell trait.[18]

While SCD is the most common inherited blood disorder in the US and is often diagnosed at birth through newborn screening programs,[19] patients with SCD experience many of the other trials associated with treating a rare disease. Until recently there was very little research development in the areas of managing, treating, or curing SCD, and a lack of understanding of SCD persists among many health care professionals.[20]

In 2023, the Legislature directed DOH to partner with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry to track outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant.[21] DOH has since contracted with the Foundation for Sickle Cell Research for the implementation of the registry.[22] Under current law, only newborns who have been detected as carrying a sickle cell hemoglobin variant through the Newborn Screening Program are included in the registry. Parents may choose to have their child removed from the registry by submitting a form provided by DOH.[23] There is not a mechanism under current law for adults with SCD to be included in the registry.

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[14] Hageman, I.C., van Rooij, I.A., de Blaauw, I., et al. *A systematic overview of rare disease patient registries: challenges in design, quality management, and maintenance* (2023). Orphanet Journal of Rare Diseases 18, 106. https://doi.org/10.1186/s13023-023-02719-0

[15] National Heart, Lung, and Blood Institute, *What is Sickle Cell Disease?* Available at https://www.nhlbi.nih.gov/health/sickle-cell-disease (last visited June 26, 2023).

[16] Centers for Disease Control and Prevention, *What is Sickle Cell Disease?* Available at https://www.cdc.gov/ncbddd/sicklecell/facts.html (last visited January 24, 2024). See also, AHCA (2023) *Florida Medicaid Study of Enrollees with Sickle Cell Disease*. Available at https://ahca.myflorida.com/content/download/20771/file/Florida_Medicaid_Study_of_Enrollees_with_Sickle_Cell_Disease.pdf (last visited January 24, 2024).

[17] Centers for Disease Control and Prevention, *Complications of Sickle Cell Disease*. Available at https://www.cdc.gov/ncbddd/sicklecell/complications.html (last visited January 24, 2024).

[18] American Society of Hematology. ASH Position on Sickle Cell Trait (2021). Available at https://www.hematology.org/advocacy/policy-news-statements-testimony-and-correspondence/policy-statements/2021/ash-position-on-sickle-cell-trait (last visited January 20, 2024).

[19] Centers for Disease Control and Prevention. *Newborn Screening (NBS) Data* (2023). Available at https://www.cdc.gov/ncbddd/hemoglobinopathies/scdc-state-data/newborn-screening/index.html#:~:text=Newborn%20screening%20(NBS)%20for%20sickle,SCD%20living%20in%20a%20state. (last visited January 20, 2024).

[20] *See*, American Society of Hematology. *ASH Sickle Cell Disease Initiative*. Available at https://www.hematology.org/advocacy/sickle-cell-disease-initiative (last visited January 20, 2024).

[21] S. 383.147, F.S.

[22] Department of Health. *Contract Summary: Contract # CMO28*. On file with the Healthcare Regulation Subcommittee.

[23] S. 383.147, F.S.

Current law also directs the newborn's primary care physician to provide the parent or guardian of the newborn with information regarding the availability and benefits of genetic counseling.

Effect of Proposed Changes – Rare Diseases

Andrew John Anderson Pediatric Rare Disease Grant Program

HB 1441 establishes the Andrew John Anderson Pediatric Rare Disease Grant Program within DOH with the purpose of advancing the progress of research and cures for rare pediatric diseases through the award of grants through a competitive, peer-reviewed process. Grants are awarded by DOH, after consultation with the Rare Disease Advisory Council (RDAC).

Grants are awarded to universities or established research institutes in the state for scientific and clinical research to further the search for new diagnostics, treatments, and cures for rare pediatric diseases. The bill establishes a preference for grant proposals which foster collaboration among institutions, researchers, and community practitioners.

The bill directs DOH to appoint peer review panels of independent, scientifically qualified individuals to review the scientific merit of each proposal, and to share the results of such reviews with the RDAC which are to be considered in the recommendations for funding. The RDAC and peer review panels are to establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest.

Sickle Cell Disease Registry

HB 1441 creates a process through which parents may opt-out of their child's inclusion in the registry through a proactive process, rather than retroactively removing a child from the registry upon the parent's request. Parents may opt-out through a form obtained from DOH, or otherwise indicating their objection to DOH in writing.

The bill transfers the responsibility of informing parents of the availability and benefits of genetic counseling from the infant's primary care physician to DOH.

The bill also creates a mechanism for adults with SCD who are Florida residents to choose to be included in the registry. The bill directs DOH to prescribe by rule the process for an adult to opt into the registry.

Florida Newborn Screening Program

Current Situation

The Legislature created the Florida Newborn Screening Program (NSP) within DOH, to promote the screening of all newborns for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect.[24] The NSP also promotes the identification and screening of all newborns in the state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services.[25]

The NSP involves coordination across several entities, including the Bureau of Public Health Laboratories Newborn Screening Laboratory in Jacksonville (state laboratory), DOH Children's Medical Services (CMS) Newborn Screening Follow-up Program in Tallahassee, referral centers, birthing centers, and physicians throughout the state.[26] Health care providers in hospitals, birthing centers,

[24] S. 383.14(1), F.S.
[25] *Id*.
[26] S. 383.14, F.S.

perinatal centers, county health departments, and school health programs provide screening as part of the multilevel NSP screening process.[27] This includes a risk assessment for prenatal women, and risk factor analysis and screening for postnatal women and newborns as well as laboratory screening for select disorders in newborns.[28] The NSP attempts to screen all newborns for hearing impairment and to identify, diagnose, and manage newborns at risk for select disorders that, without detection and treatment, can lead to permanent developmental and physical damage or death.[29] The NSP is intended to screen all prenatal women and newborns, however, parents and guardians may choose to decline the screening.[30]

Health care providers perform non-laboratory NSP screening, such as hearing and risk factor analysis, and report the results to the Office of Vital Statistics. If necessary, health care providers refer patients to the appropriate health, education, and social services.[31] Health care providers in hospitals and birthing centers perform specimen collection for laboratory NSP screening by collecting a few drops of blood from the newborn's heel on a standardized specimen collection card. [32] The specimen card is then sent to the state laboratory for testing and the results are released to the newborn's health care provider. In the event that a newborn screen has an abnormal result, the newborn's health care practitioner,[33] or a nurse or specialist from NSP's Follow-up Program provides follow-up services and referrals for the child and his or her family.[34]

To administer the NSP, DOH is authorized to charge and collect a fee not to exceed $15 per live birth occurring in a hospital or birth center.[35] DOH must calculate the annual assessment for each hospital and birth center, and then quarterly generate and mail each hospital and birth center a statement of the amount due.[36] DOH bills hospitals and birth centers quarterly using vital statistics data to determine the amount to be billed.[37] DOH is authorized to bill third-party payers for the NSP tests and bills insurers directly for the cost of the screening.[38] DOH does not bill families that do not have insurance coverage.[39]

The Legislature established the Florida Genetics and Newborn Screening Advisory Council to advise DOH on disorders to be included in the NSP panel of screened disorders and the procedures for collecting and transmitting specimens.[40] Florida's NSP currently screens for 58 conditions, 55 of which are screened through the collection of blood spots. Screening of the other three conditions – hearing screening, critical congenital heart defect (CCHD) or pulse oximetry, and congenital cytomegalovirus (CCMV) targeted screening—are completed at the birthing facility through point-of-care testing.[41]

Newborn Hearing Screening

Section 383.145, F.S., requires a newborn hearing screening for all newborns in hospitals before discharge. The newborn hearing screening program (NBHS) is housed within DOH, which is

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[27] *Id.*
[28] *Id*.
[29] Florida Department of Health, *Florida Newborn Screening Guidelines*. Available at https://floridanewbornscreening.com/wp-content/uploads/NBS-Protocols-2022-FINAL.pdf (last visited December 27, 2023).
[30] S. 383.14(4), F.S.; Rule 64C-7.008, F.A.C.; The health care provider must attempt to get a written statement of objection to be placed in the medical record.
[31] *Id*.
[32] Florida Newborn Screening, *What is Newborn Screening?* Available at https://floridanewbornscreening.com/parents/what-is-newborn-screening/ (last visited December 27, 2023). *See also,* Florida Newborn Screening, *Specimen Collection Card*. Available at http://floridanewbornscreening.com/wp-content/uploads/Order-Form.png (last visited December 27, 2023).
[33] Current law allows for the screening results to be released to specified health care practitioners including: allopathic and osteopathic physicians and physician assistants licensed under chs. 458 and 459, F.S., advanced practice registered nurses, registered nurses, and licensed practical nurses licensed under ch. 464, F.S., a midwife licensed under ch. 467, F.S., a speech-language pathologist or audiologist licensed under part I of ch. 468, F.S., or a dietician or nutritionist licensed under part X of ch. 468, F.S.
[34] *Id*.
[35] S. 383.145(3)(g)1., F.S.
[36] *Id.*
[37] S. 383.145(3)(g), F.S.
[38] S. 383.145(3)(h), F.S.
[39] *Supra*, note 26.
[40] S. 383.14(5), F.S.
[41] Department of Health, *Agency Analysis of HB 1441* (2024). On file with the Healthcare Regulation Subcommittee.

responsible for coordinating the statewide hearing screening and follow-up referral system. The NBHS program is funded through donations trust and federal grants from the Centers for Disease Control and Prevention and the Health Resources and Services Administration (HRSA).[42]

Before a newborn is discharged from a hospital or other state-licensed birthing facility, and unless objected to by the parent or legal guardian, the newborn must be screened for the detection of hearing loss to prevent the consequences of unidentified disorders.[43] For births occurring in a non-hospital setting, specifically a licensed birth center or private home, the facility or attending health care provider is responsible for providing a referral to an audiologist, a hospital, or other newborn hearing screening provider within 7 days after the birth or discharge from the facility.[44]

All screenings must be conducted by a licensed audiologist, a licensed physician, or appropriately supervised individual who has completed documented training specifically for newborn hearing screening.[45] When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration (FDA).[46]

NBHS staff provide follow-up to parents of infants who do not pass the newborn hearing screen to ensure timely diagnosis and enrollment in early intervention for children diagnosed with hearing loss.[47] A child who is diagnosed as having a permanent hearing impairment must be referred by the licensee or individual who conducted the screening to the primary care physician for medical management, treatment, and follow-up services. Furthermore, any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program by the licensee or individual who conducted the screening serving the geographical area in which the child resides.

Hearing loss is one of the most common birth defects in the United States, with approximately 2 newborns per 1,000 born having hearing loss each year. It is estimated that only half of early childhood hearing loss is detected through newborn hearing screening. To further support early identification of hearing loss prior to school entry to prevent the consequences of unidentified disorders, the HRSA federal grant requires collection of hearing screening data for infants and toddlers up to age 36 months.[48]

In 2020, 98% of newborns in Florida received a hearing screen. In 2020, 9,500 infants did not pass the hearing screening, and 261 infants were diagnosed with hearing loss. It is estimated that 71% (814) of infants born in birthing centers in 2020 did not receive a hearing screen.[49]

Effect of Proposed Changes – Florida Newborn Screening Program

HB 1441 expressly states that the health care practitioner present at birth, or responsible for primary care during the neonatal period, has the responsibility for administering the newborn screenings. The bill requires that health care practitioners responsible for administering newborn screenings shall prepare and send all specimen cards to the State Public Health Laboratory. The bill provides DOH rulemaking authority to implement these provisions.

The bill adds genetic counselors to the list of health care practitioners to whom the state laboratory may release NBS results.

The bill deletes several obsolete provisions related to the NBS program, including:

[42] *Id*.
[43] S. 383.145(3), F.S. If the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 21 days after the birth.
[44] S. 383.145(3)(d), F.S.
[45] S. 383.145(3)(f), F.S.
[46] S. 383.145(3)(i), F.S.
[47] *Supra*, note 42.
[48] *Id.*
[49] *Id.*

- The requirement that the NBS program and Healthy Start to coordinate with the Florida Department of Education;
- Statutory references to a specific disease, phenylketonuria, which is included in the NBS program regimen;
- The requirement for DOH's Office of Inspector General to certify the financial operations of the NBS program;[50]
- The requirement for DOH to furnish physicians, county health departments, perinatal centers, birth centers, and hospitals with forms related in NBS.

Environmental Risk Screening

The bill removes current language relating to environmental risk screening from the NBS program and creates a separate section of law wherein the requirements for environmental risk screening are outlined. The requirements for environmental risk screening under the bill are consistent with current law.

Newborn Hearing Screening

The bill requires licensed birth centers to conduct newborn screenings before the newborn is discharged, rather than requiring the newborn be referred for testing outside of the birth center. The bill also requires that all newborns who do not pass the hearing screening are, within seven days of birth, referred for congenital cytomegalovirus testing to occur before the infant is 21 days of age.

The bill defines "toddler," as a child from 12 months to 36 months of age. Under current law, a physician-ordered hearing screening of a newborn must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the US Food and Drug Administration. The bill expands these requirements to apply to physician-ordered screenings for infants and toddlers. The results of such tests must be reported to DOH within seven days of the receipt of test results.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.0101, F.S., relating to environmental health professionals.
Section 2: Creates s. 381.991, F.S., relating to the Andrew John Anderson Pediatric Rare Disease Grant Program.
Section 3: Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.
Section 4: Amends s. 383.145, F.S., relating to newborn and infant hearing screening.
Section 5: Amends s. 383.147, F.S., relating to newborn and infant screenings for sickle cell hemoglobin variants; registry.
Section 6: Creates s. 383.148, F.S., relating to environmental risk screening.
Section 7: Amends s. 383.318, F.S., relating to postpartum care for birth center clients and infants.
Section 8: Amends s. 395.1053, F.S., relating to postpartum education.
Section 9: Amends s. 456.0496, F.S., relating to provision of information on eye and vision disorders to parents during planned out-of-hospital births.
Section 10: Provides an effective date of July 1, 2024.

[50] *Id*. DOH reports that the current process is duplicative as NBS program funds are placed in a state trust fund subject to the rules governing state trust funds.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The provision of Section 2 (the Andrew John Anderson Pediatric Rare Disease Grant Program) of the bill is subject to appropriation.

See *Fiscal Comments*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private research institutions who are eligible for the Andrew John Anderson Pediatric Rare Disease Grant Program may experience a positive fiscal impact from access to this additional funding.

D. FISCAL COMMENTS:

Andrew John Anderson Pediatric Rare Disease Grant Program

According to DOH, the $500,000 that was allocated in the 2023 General Appropriations Act to fund research grants for pediatric rare diseases is intended fund the inaugural year of the Andrew John Anderson Pediatric Rare Disease Grant Program.[51]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[51] *Id*.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 29, 2024, the Health Care Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed language related to the Telehealth Minority Maternity Care Pilot Program.

A bill to be entitled

An act relating to the Department of Health; amending s. 381.0101, F.S.; defining the term "environmental health technician"; exempting environmental health technicians from certain certification requirements under certain circumstances; requiring the department, in conjunction with the Department of Environmental Protection, to adopt rules that establish certain standards for environmental health technician certification; requiring the Department of Health to adopt by rule certain standards for environmental health technician certification; revising provisions related to exemptions and fees to conform to changes made by the act; creating s. 381.991, F.S.; creating the Andrew John Anderson Rare Pediatric Disease Grant Program within the department for a specified purpose; subject to an appropriation by the Legislature, requiring the program to award grants for certain scientific and clinical research; specifying entities eligible to apply for the grants; specifying the types of applications that may be considered for grant funding; providing for a competitive, peer-reviewed application and selection process; providing that the remaining balance of appropriations for the program as of a specified date may be carried forward for a

specified timeframe under certain circumstances; amending s. 383.14, F.S.; providing that any health care practitioner present at a birth or responsible for primary care during the neonatal period has the primary responsibility of administering certain screenings; defining the term "health care practitioner"; deleting identification and screening requirements for newborns and their families for certain environmental and health risk factors; deleting certain related duties of the department; revising the definition of the term "health care practitioner" to include licensed genetic counselors; requiring that blood specimens for screenings of newborns be collected before a specified age; requiring that newborns have a blood specimen collected for newborn screenings, rather than only a test for phenylketonuria, before a specified age; deleting certain rulemaking authority of the department; deleting a requirement that the department furnish certain forms to specified entities; deleting the requirement that such entities report the results of certain screenings to the department; making technical and conforming changes; deleting a requirement that the department submit certain certifications as part of its legislative budget

request; requiring certain health care practitioners to prepare and send all newborn screening specimen cards to the State Public Health Laboratory; defining the term "health care practitioner"; amending s. 383.145, F.S.; defining the term "toddler"; revising hearing loss screening requirements to include infants and toddlers; revising hearing loss screening requirements for licensed birth centers; revising the timeframe in which a newborn's primary health care provider must refer a newborn for congenital cytomegalovirus screening after the newborn fails the hearing loss screening; requiring licensed birth centers to complete newborn hearing loss screenings before discharge, with an exception; amending s. 383.147, F.S.; revising sickle cell disease and sickle cell trait screening requirements; requiring screening providers to notify a newborn's parent or guardian, rather than the newborn's primary care physician, of certain information; authorizing the parents or guardians of a newborn to opt out of the newborn's inclusion in the sickle cell registry; specifying the manner in which a parent or guardian may opt out; authorizing certain persons other than newborns who have been identified as having sickle cell disease or carrying a sickle cell trait to choose to be included

in the registry; creating s. 383.148, F.S.; requiring the department to promote the screening of pregnant women and infants for specified environmental risk factors; requiring the department to develop a multilevel screening process for prenatal and postnatal risk screenings; specifying requirements for such screening processes; providing construction; requiring persons who object to a screening to give a written statement of such objection to the physician or other person required to administer and report the screening; amending ss. 383.318, 395.1053, and 456.0496, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (5), (6), and (7) of section 381.0101, Florida Statutes, are redesignated as subsections (6), (7), and (8), respectively, a new subsection (5) is added to that section, and subsections (1), (2), and (4) and present subsections (5) and (6) of that section are amended, to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Board" means the Environmental Health Professionals

Advisory Board.

(c) ~~(b)~~ "Department" means the Department of Health.

(d) ~~(c)~~ "Environmental health" means that segment of public health work which deals with the examination of those factors in the human environment which may impact adversely on the health status of an individual or the public.

(e) ~~(d)~~ "Environmental health professional" means a person who is employed or assigned the responsibility for assessing the environmental health or sanitary conditions, as defined by the department, within a building, on an individual's property, or within the community at large, and who has the knowledge, skills, and abilities to carry out these tasks. Environmental health professionals may be either field, supervisory, or administrative staff members.

(b) ~~(e)~~ "Certified" means a person who has displayed competency to perform evaluations of environmental or sanitary conditions through examination.

(f) "Environmental health technician" means a person who is employed or assigned the responsibility for conducting septic inspections under the supervision of a certified environmental health professional. An environmental health technician must have completed training approved by the department and have the knowledge, skills, and abilities to carry out these tasks.

(h) ~~(f)~~ "Registered sanitarian," "R.S.," "Registered Environmental Health Specialist," or "R.E.H.S." means a person

who has been certified by either the National Environmental Health Association or the Florida Environmental Health Association as knowledgeable in the environmental health profession.

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection program work.

(2) CERTIFICATION; EXEMPTIONS ~~REQUIRED~~.—A person may not perform environmental health or sanitary evaluations in any primary program area of environmental health without being certified by the department as competent to perform such evaluations. This section does not apply to any of the following:

(a) Persons performing inspections of public food service establishments licensed under chapter 509.~~; or~~

(b) Persons performing site evaluations in order to determine proper placement and installation of onsite wastewater treatment and disposal systems who have successfully completed a department-approved soils morphology course and who are working under the direct responsible charge of an engineer licensed under chapter 471.

(c) Environmental health technicians employed by a department as defined in s. 20.03 who are assigned the

responsibility for conducting septic tank inspections under the supervision of an environmental health professional certified in onsite sewage treatment and disposal.

(4) STANDARDS FOR CERTIFICATION.—The department shall adopt rules that establish definitions of terms and minimum standards of education, training, or experience for those persons subject to this subsection ~~section~~. The rules must also address the process for application, examination, issuance, expiration, and renewal of certification and ethical standards of practice for the profession.

(a) Persons employed as environmental health professionals shall exhibit a knowledge of rules and principles of environmental and public health law in Florida through examination. A person may not conduct environmental health evaluations in a primary program area unless he or she is currently certified in that program area or works under the direct supervision of a certified environmental health professional.

1. All persons who begin employment in a primary environmental health program on or after September 21, 1994, must be certified in that program within 6 months after employment.

2. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system prior to September 21, 1994, shall

be considered certified while employed in that position and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b), complete any continuing education requirements imposed under paragraph (d), and pay the certificate renewal fee imposed under subsection (7) ~~(6)~~.

3. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system prior to September 21, 1994, who change positions or program areas and transfer into another primary environmental health program area on or after September 21, 1994, must be certified in that program within 6 months after such transfer, except that they will not be required to possess the college degree required under paragraph (e).

4. Registered sanitarians shall be considered certified and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b).

(b) At a minimum, the department shall establish standards for professionals in the areas of food hygiene and onsite sewage treatment and disposal.

(c) Those persons conducting primary environmental health evaluations shall be certified by examination to be knowledgeable in any primary area of environmental health in which they are routinely assigned duties.

(d) Persons who are certified shall renew their

certification biennially by completing not less than 24 contact hours of continuing education for each program area in which they maintain certification, subject to a maximum of 48 hours for multiprogram certification.

(e) Applicants for certification shall have graduated from an accredited 4-year college or university with a degree or major coursework in public health, environmental health, environmental science, or a physical or biological science.

(f) A certificateholder shall notify the department within 60 days after any change of name or address from that which appears on the current certificate.

(5) STANDARDS FOR ENVIRONMENTAL HEALTH TECHNICIAN CERTIFICATION.—The department, in conjunction with the Department of Environmental Protection, shall adopt rules that establish definitions of terms and minimum standards of education, training, and experience for those persons subject to this subsection. The rules must also address the process for application, examination, issuance, expiration, and renewal of certification, and ethical standards of practice for the profession.

(a) At a minimum, the department shall establish standards for technicians in the areas of onsite sewage treatment and disposal.

(b) A person conducting septic inspections must be certified by examination to be knowledgeable in the area of

onsite sewage treatment and disposal.

(c) An applicant for certification as an environmental health technician must, at a minimum, have received a high school diploma or its equivalent.

(d) An applicant for certification as an environmental health technician must be employed by a department as defined in s. 20.03.

(e) An applicant for certification as an environmental health technician must complete supervised field inspection work as prescribed by department rule before examination.

(f) A certified environmental health technician must renew his or her certification biennially by completing at least 24 contact hours of continuing education for each program area in which he or she maintains certification, subject to a maximum of 48 hours for multiprogram certification.

(g) A certified environmental health technician shall notify the department within 60 days after any change of name or address from that which appears on the current certificate.

(6)~~(5)~~ EXEMPTIONS.—A person who conducts primary environmental evaluation activities and maintains a current registration or certification from another state agency which examined the person's knowledge of the primary program area and requires comparable continuing education to maintain the certificate shall not be required to be certified by this section. ~~Examples of persons not subject to certification are~~

~~physicians, registered dietitians, certified laboratory personnel, and nurses.~~

(7)~~(6)~~ FEES.—The department shall charge fees in amounts necessary to meet the cost of providing environmental health professional certification. Fees for certification shall be not less than $10 or more than $300 and shall be set by rule. Application, examination, and certification costs shall be included in this fee. Fees for renewal of a certificate shall be no less than $25 nor more than $150 per biennium.

Section 2. Section 381.991, Florida Statutes, is created to read:

381.991 Andrew John Anderson Pediatric Rare Disease Grant Program.—

(1)(a) There is created within the Department of Health the Andrew John Anderson Rare Pediatric Disease Grant Program. The purpose of the program is to advance the progress of research and cures for rare pediatric diseases by awarding grants through a competitive, peer-reviewed process.

(b) Subject to an annual appropriation by the Legislature, the program shall award grants for scientific and clinical research to further the search for new diagnostics, treatments, and cures for rare pediatric diseases.

(2)(a) Applications for grants for rare pediatric disease research may be submitted by any university or established research institute in the state. All qualified investigators in

the state, regardless of institutional affiliation, shall have equal access and opportunity to compete for the research funding. Preference may be given to grant proposals that foster collaboration among institutions, researchers, and community practitioners, as such proposals support the advancement of treatments and cures of rare pediatric diseases through basic or applied research. Grants shall be awarded by the department, after consultation with the Rare Disease Advisory Council, pursuant to s. 381.99, on the basis of scientific merit, as determined by the competitive, peer-reviewed process to ensure objectivity, consistency, and high quality. The following types of applications may be considered for funding:

1. Investigator-initiated research grants.

2. Institutional research grants.

3. Collaborative research grants, including those that advance the finding of treatment and cures through basic or applied research.

(b) To ensure appropriate and fair evaluation of grant applications based on scientific merit, the department shall appoint peer review panels of independent, scientifically qualified individuals to review the scientific merit of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(c) The council and the peer review panels shall establish

and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest. A member of the council or panel may not participate in any discussion or decision of the council or panel with respect to a research proposal by any firm, entity, or agency that the member is associated with as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.

(d) Notwithstanding s. 216.301 and pursuant to s. 216.351, the balance of any appropriation from the General Revenue Fund for the Andrew John Anderson Pediatric Rare Disease Grant Program that is not disbursed but that is obligated pursuant to contract or committed to be expended by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Section 3. Present subsection (5) of section 383.14, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsections (1), (2), and (3) of that section are amended, to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all newborns born in Florida for

metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. Any health care practitioner present at a birth or responsible for primary care during the neonatal period has the primary responsibility of administering screenings as required in ss. 383.14 and 383.145. As used in this subsection, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, an advanced practice registered nurse licensed under part I of chapter 464, or a midwife licensed under chapter 467 ~~The department shall also promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health~~

~~departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.~~

~~(a) *Prenatal screening.*—The department shall develop a multilevel screening process that includes a risk assessment instrument to identify women at risk for a preterm birth or other high-risk condition. The primary health care provider shall complete the risk assessment instrument and report the results to the Office of Vital Statistics so that the woman may immediately be notified and referred to appropriate health, education, and social services.~~

~~(b) *Postnatal screening.*—A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which~~

~~ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system~~.

(a) *Blood specimens for newborn screenings.*—Newborn ~~Tests and~~ screenings must be performed by the State Public Health Laboratory, in coordination with Children's Medical Services, at such times and in such manner as is prescribed by the department after consultation with the Genetics and Newborn Screening Advisory Council ~~and the Department of Education~~.

(b)~~(c)~~ *Release of screening results.*—Notwithstanding any law to the contrary, the State Public Health Laboratory may release, directly or through the Children's Medical Services program, the results of a newborn's ~~hearing and metabolic tests or~~ screenings to the newborn's health care practitioner, the newborn's parent or legal guardian, the newborn's personal representative, or a person designated by the newborn's parent or legal guardian. As used in this paragraph, the term "health

care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced practice registered nurse, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; ~~or~~ a dietician or nutritionist licensed under part X of chapter 468; or a genetic counselor licensed under part III of chapter 483.

(2) RULES.—

(a) After consultation with the Genetics and Newborn Screening Advisory Council, the department shall adopt and enforce rules requiring that every newborn in this state shall:

1. Before becoming 1 week of age, have a blood specimen collected for newborn screenings ~~be subjected to a test for phenylketonuria~~;

2. Be tested for any condition included on the federal Recommended Uniform Screening Panel which the council advises the department should be included under the state's screening program. After the council recommends that a condition be included, the department shall submit a legislative budget request to seek an appropriation to add testing of the condition to the newborn screening program. The department shall expand statewide screening of newborns to include screening for such conditions within 18 months after the council renders such

advice, if a test approved by the United States Food and Drug Administration or a test offered by an alternative vendor is available. If such a test is not available within 18 months after the council makes its recommendation, the department shall implement such screening as soon as a test offered by the United States Food and Drug Administration or by an alternative vendor is available; and

3. At the appropriate age, be tested for such other metabolic diseases and hereditary or congenital disorders as the department may deem necessary ~~from time to time~~.

~~(b) After consultation with the Department of Education, the department shall adopt and enforce rules requiring every newborn in this state to be screened for environmental risk factors that place children and their families at risk for increased morbidity, mortality, and other negative outcomes.~~

(b) ~~(c)~~ The department shall adopt such additional rules as are found necessary for the administration of this section and ss. 383.145 and 383.148 ~~s. 383.145~~, including rules providing definitions of terms, rules relating to the methods used and time or times for testing as accepted medical practice indicates, rules relating to charging and collecting fees for the administration of the newborn screening program authorized by this section, rules for processing requests and releasing test and screening results, and rules requiring mandatory reporting of the results of tests and screenings for these

conditions to the department.

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(a) Assure the availability and quality of the necessary laboratory tests and materials.

(b) ~~Furnish all physicians, county health departments, perinatal centers, birthing centers, and hospitals forms on which environmental screening and the results of tests for phenylketonuria and such other disorders for which testing may be required from time to time shall be reported to the department.~~

~~(c)~~ Promote education of the public about the prevention and management of metabolic, hereditary, and congenital disorders ~~and dangers associated with environmental risk factors~~.

(c)~~(d)~~ Maintain a confidential registry of cases, including information of importance for the purpose of follow-up ~~followup~~ services to prevent intellectual disabilities, to correct or ameliorate physical disabilities, and for epidemiologic studies, if indicated. Such registry shall be exempt from the provisions of s. 119.07(1).

(d)~~(e)~~ Supply the necessary dietary treatment products where practicable for diagnosed cases of ~~phenylketonuria and other~~ metabolic diseases for as long as medically indicated when

the products are not otherwise available. Provide nutrition education and supplemental foods to those families eligible for the Special Supplemental Nutrition Program for Women, Infants, and Children as provided in s. 383.011.

(e) ~~(f)~~ Promote the availability of genetic studies, services, and counseling in order that the parents, siblings, and affected newborns may benefit from detection and available knowledge of the condition.

(f) ~~(g)~~ Have the authority to charge and collect fees for the administration of the newborn screening program. ~~authorized in this section, as follows:~~

~~1.~~ A fee not to exceed $15 will be charged for each live birth, as recorded by the Office of Vital Statistics, occurring in a hospital licensed under part I of chapter 395 or a birth center licensed under s. 383.305 ~~per year~~. The department shall calculate the ~~annual~~ assessment for each hospital and birth center, and this assessment must be paid ~~in equal amounts~~ quarterly. ~~Quarterly,~~ The department shall generate and issue ~~mail to~~ each hospital and birth center a statement of the amount due.

~~2. As part of the department's legislative budget request prepared pursuant to chapter 216, the department shall submit a certification by the department's inspector general, or the director of auditing within the inspector general's office, of the annual costs of the uniform testing and reporting procedures~~

~~of the newborn screening program. In certifying the annual costs, the department's inspector general or the director of auditing within the inspector general's office shall calculate the direct costs of the uniform testing and reporting procedures, including applicable administrative costs. Administrative costs shall be limited to those department costs which are reasonably and directly associated with the administration of the uniform testing and reporting procedures of the newborn screening program.~~

(g) ~~(h)~~ Have the authority to bill third-party payors for newborn screening tests.

(h) ~~(i)~~ Create and make available electronically a pamphlet with information on screening for, and the treatment of, preventable infant and childhood eye and vision disorders, including, but not limited to, retinoblastoma and amblyopia.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(5) SUBMISSION OF NEWBORN SCREENING SPECIMEN CARDS.—Any health care practitioner whose duty it is to administer screenings under this section shall prepare and send all newborn screening specimen cards to the State Public Health Laboratory in accordance with rules adopted under this section. As used in this subsection, the term "health care practitioner" means a

physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, an advanced practice registered nurse licensed under part I of chapter 464, or a midwife licensed under chapter 467.

Section 4. Paragraph (k) is added to subsection (2) of Section 383.145, Florida Statutes, and subsection (3) of that section is amended, to read:

383.145 Newborn, ~~and~~ infant, and toddler hearing screening.—

(2) DEFINITIONS.—As used in this section, the term:

(k) "Toddler" means a child from 12 months to 36 months of age.

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS, INFANTS, AND TODDLERS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a) Each hospital or other state-licensed birth ~~birthing~~ facility that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birth ~~birthing~~ facility must administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of

age or before discharge, whichever occurs earlier.

(b) Each licensed birth center that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss. Within 7 days after the birth, the licensed birth center must ensure that all newborns who do not pass the hearing screening are referred for ~~to~~ an appointment ~~audiologist, a hospital, or another newborn hearing screening provider~~ for a test to screen for congenital cytomegalovirus before the newborn becomes 21 days of age ~~screening for the detection of hearing loss to prevent the consequences of unidentified disorders. The referral for appointment must be made within 7 days after discharge~~. Written documentation of the referral must be placed in the newborn's medical chart.

(c) If the parent or legal guardian of the newborn objects to the screening, the screening must not be completed. In such case, the physician, midwife, or other person attending the newborn shall maintain a record that the screening has not been performed and attach a written objection that must be signed by the parent or guardian.

(d) For home births, the health care provider in attendance is responsible for coordination and referral to an audiologist, a hospital, or another newborn hearing screening provider. The health care provider in attendance must make the referral for appointment within 7 days after the birth. In cases

in which the home birth is not attended by a health care provider, the newborn's primary health care provider is responsible for coordinating the referral.

(e) For home births and births in a licensed birth center, if a newborn is referred to a newborn hearing screening provider and the newborn fails the screening for the detection of hearing loss, the newborn's primary health care provider must refer the newborn for administration of a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age.

(f) All newborn and infant hearing screenings must be conducted by an audiologist, a physician, or an appropriately supervised individual who has completed documented training specifically for newborn hearing screening. Every hospital that provides maternity or newborn care services shall obtain the services of an audiologist, a physician, or another newborn hearing screening provider, through employment or contract or written memorandum of understanding, for the purposes of appropriate staff training, screening program supervision, monitoring the scoring and interpretation of test results, rendering of appropriate recommendations, and coordination of appropriate follow-up services. Appropriate documentation of the screening completion, results, interpretation, and recommendations must be placed in the medical record within 24

hours after completion of the screening procedure.

(g) The screening of a newborn's hearing must be completed before the newborn is discharged from the hospital or licensed birth center. However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 21 days after the birth. Screenings completed after discharge or performed because of initial screening failure must be completed by an audiologist, a physician, a hospital, or another newborn hearing screening provider.

(h) Each hospital shall formally designate a lead physician responsible for programmatic oversight for newborn hearing screening. Each birth center shall designate a licensed health care provider to provide such programmatic oversight and to ensure that the appropriate referrals are being completed.

(i) When ordered by the treating physician, screening of a newborn's, infant's, or toddler's hearing must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration.

(j) The results of any test conducted pursuant to this section, including, but not limited to, newborn hearing loss screening, congenital cytomegalovirus testing, and any related diagnostic testing, must be reported to the department within 7 days after receipt of such results.

(k) The initial procedure for screening the hearing of the newborn or infant and any medically necessary follow-up reevaluations leading to diagnosis shall be a covered benefit for Medicaid patients covered by a fee-for-service program. For Medicaid patients enrolled in HMOs, providers shall be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service may not be considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental policies, shall compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are eligible to bill Medicaid for the professional and technical component of each procedure code.

(l) A child who is diagnosed as having permanent hearing loss must be referred to the primary care physician for medical management, treatment, and follow-up services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age who is diagnosed as having hearing loss that requires ongoing special hearing services must be referred to the Children's Medical

Services Early Intervention Program serving the geographical area in which the child resides.

Section 5. Section 383.147, Florida Statutes, is amended to read:

383.147 ~~Newborn and infant screenings for~~ Sickle cell disease and sickle cell trait ~~hemoglobin variants;~~ registry.—

(1) If ~~a screening provider detects that~~ a newborn as ~~or an infant, as those terms are~~ defined in s. 383.145(2)~~,~~ is identified as having sickle cell disease or carrying a sickle cell trait through the newborn screening program as described in s. 383.14, the department ~~hemoglobin variant, it~~ must:

(a) Notify the parent or guardian of the newborn and provide information regarding the availability and benefits of genetic counseling. ~~primary care physician of the newborn or infant and~~

(b) Submit the results of such screening ~~to the Department of Health~~ for inclusion in the sickle cell registry established under paragraph (2)(a), unless the parent or guardian of the newborn provides an opt-out form obtained from the department, or otherwise indicates in writing to the department his or her objection to having the newborn included in the sickle cell registry. ~~The primary care physician must provide to the parent or guardian of the newborn or infant information regarding the availability and benefits of genetic counseling.~~

(2)(a) The Department of Health shall contract with a

community-based sickle cell disease medical treatment and research center to establish and maintain a registry for individuals ~~newborns and infants~~ who are identified as having sickle cell disease or carrying a sickle cell trait ~~hemoglobin variant~~. The sickle cell registry must track sickle cell disease outcome measures, except as provided in paragraph (1)(b). ~~A parent or guardian of a newborn or an infant in the registry may request to have his or her child removed from the registry by submitting a form prescribed by the department by rule.~~

(b) In addition to newborns identified and included in the registry under subsection (1), persons living in this state who have been identified as having sickle cell disease or carrying a sickle cell trait may choose to be included in the registry by providing the department with notification as prescribed by rule.

(c) The Department of Health shall also establish a system to ensure that the community-based sickle cell disease medical treatment and research center notifies the parent or guardian of a child who has been included in the registry that a follow-up consultation with a physician is recommended. Such notice must be provided to the parent or guardian of such child at least once during early adolescence and once during late adolescence. The department shall make every reasonable effort to notify persons included in the registry who are 18 years of age that they may request to be removed from the registry by submitting a

form prescribed by the department by rule. The department shall also provide to such persons information regarding available educational services, genetic counseling, and other beneficial resources.

(3) The Department of Health shall adopt rules to implement this section.

Section 6. Section 383.148, Florida Statutes, is created to read:

383.148 ENVIRONMENTAL RISK SCREENING.—

(1) RISK SCREENING.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all pregnant women and infants in this state for environmental risk factors, such as low income, poor education, maternal and family stress, mental health, substance use disorder, and other high-risk conditions, and promote education of the public about the dangers associated with environmental risk factors.

(2) PRENATAL RISK SCREENING REQUIREMENTS.—The department shall develop a multilevel screening process that includes a risk assessment instrument to identify women at risk for a preterm birth or other high-risk condition.

(a) A primary health care provider must complete the risk screening at a pregnant woman's first prenatal visit using the form and in the manner prescribed by rules adopted under this section, so that the woman may immediately be notified and

referred to appropriate health, education, and social services.

(b) This subsection does not apply if the pregnant woman objects to the screening in a manner prescribed by department rule.

(3) POSTNATAL RISK SCREENING REQUIREMENTS.—The department shall develop a multilevel screening process that includes a risk assessment instrument to identify factors associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management.

(a) A hospital or birth center must complete the risk screening immediately following the birth of the infant, before discharge from the hospital or birth center, using the form and in the manner prescribed by rules adopted under this section.

(b) This subsection does not apply if a parent or guardian of the newborn objects to the screening in a manner prescribed by department rule.

Section 7. Paragraph (i) of subsection (3) of section 383.318, Florida Statutes, is amended to read:

383.318 Postpartum care for birth center clients and infants.—

(3) The birth center shall provide a postpartum evaluation and followup care that includes all of the following:

(i) Provision of the informational pamphlet on infant and

childhood eye and vision disorders created by the department pursuant to s. 383.14(3)(h) ~~s. 383.14(3)(i)~~.

Section 8. Section 395.1053, Florida Statutes, is amended to read:

395.1053 Postpartum education.—A hospital that provides birthing services shall incorporate information on safe sleep practices and the possible causes of Sudden Unexpected Infant Death into the hospital's postpartum instruction on the care of newborns and provide to each parent the informational pamphlet on infant and childhood eye and vision disorders created by the department pursuant to s. 383.14(3)(h) ~~s. 383.14(3)(i)~~.

Section 9. Section 456.0496, Florida Statutes, is amended to read:

456.0496 Provision of information on eye and vision disorders to parents during planned out-of-hospital births.—A health care practitioner who attends an out-of-hospital birth must ensure that the informational pamphlet on infant and childhood eye and vision disorders created by the department pursuant to s. 383.14(3)(h) ~~s. 383.14(3)(i)~~ is provided to each parent after such a birth.

Section 10. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Anderson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 381.991, Florida Statutes, is created to read:

381.991 Andrew John Anderson Pediatric Rare Disease Grant Program.—

(1)(a) There is created within the Department of Health the Andrew John Anderson Pediatric Rare Disease Grant Program. The purpose of the program is to advance the progress of research and cures for pediatric rare diseases by awarding grants through a competitive, peer-reviewed process.

(b) Subject to an annual appropriation by the Legislature,

the program shall award grants for scientific and clinical research to further the search for new diagnostics, treatments, and cures for pediatric rare diseases.

(2)(a) Applications for grants for pediatric rare disease research may be submitted by any university or established research institute in the state. All qualified investigators in the state, regardless of institutional affiliation, shall have equal access and opportunity to compete for the research funding. Preference may be given to grant proposals that foster collaboration among institutions, researchers, and community practitioners, as such proposals support the advancement of treatments and cures of pediatric rare diseases through basic or applied research. Grants shall be awarded by the department, after consultation with the Rare Disease Advisory Council, pursuant to s. 381.99, on the basis of scientific merit, as determined by the competitive, peer-reviewed process to ensure objectivity, consistency, and high quality. The following types of applications may be considered for funding:

1. Investigator-initiated research grants.

2. Institutional research grants.

3. Collaborative research grants, including those that advance the finding of treatment and cures through basic or applied research.

(b) To ensure appropriate and fair evaluation of grant applications based on scientific merit, the department shall

appoint peer review panels of independent, scientifically qualified individuals to review the scientific merit of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(c) The council and the peer review panels shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest. A member of the council or panel may not participate in any discussion or decision of the council or panel with respect to a research proposal by any firm, entity, or agency that the member is associated with as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.

(d) Notwithstanding s. 216.301 and pursuant to s. 216.351, the balance of any appropriation from the General Revenue Fund for the Andrew John Anderson Pediatric Rare Disease Grant Program that is not disbursed but that is obligated pursuant to contract or committed to be expended by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Section 2. This act shall take effect July 1, 2024

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

Remove everything before the enacting clause and insert:

An act relating to the Department of Health; creating s. 381.991, F.S.; creating the Andrew John Anderson Pediatric Rare Disease Grant Program within the department for a specified purpose; subject to an appropriation by the Legislature, requiring the program to award grants for certain scientific and clinical research; specifying entities eligible to apply for the grants; specifying the types of applications that may be considered for grant funding; providing for a competitive, peer-reviewed application and selection process; providing that the remaining balance of appropriations for the program as of a specified date may be carried forward for a specified timeframe under certain circumstances; providing an effective date.

HB 1561

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1561 Office Surgeries
SPONSOR(S): Busatta Cabrera
TIED BILLS: **IDEN./SIM. BILLS:** SB 1188

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	16 Y, 0 N	Guzzo	McElroy
2) Health Care Appropriations Subcommittee	15 Y, 0 N	Smith	Clark
3) Health & Human Services Committee		Guzzo	Calamas

SUMMARY ANALYSIS

Current law requires a physician to register their office with the Department of Health (DOH) if they perform liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed. The bill requires them to register if the fat is temporarily or permanently removed, thus removing a loophole from registration because gluteal fat grafting procedures involve removing (temporarily) and then reinserting the fat in the patient.

The bill requires physicians to register their office with DOH if they perform gluteal fat grafting procedures. Additionally, the bill requires a physician to register their office with DOH if they perform a liposuction procedure in which the patient is rotated 180 degrees or more during the procedure.

Further, the bill requires physicians who have already registered their offices prior to July 1, 2024, to reregister their offices, in accordance with a schedule developed by DOH, if they perform gluteal fat grafting procedures, or if they perform liposuction procedures in which the patient is rotated 180 degrees or more. If during the reregistration process, DOH determines that the procedures being performed in such an office create a significant risk to patient safety and that the office should be licensed and regulated as an ambulatory surgical center (ASC), DOH must notify the Agency for Health Care Administration (AHCA) and AHCA must inspect the office to confirm that the office should be licensed as an ASC. If AHCA determines that the office should be licensed as an ASC, they must notify the office and DOH, and the office must cease performing procedures that require registration. The office is prohibited from performing such procedures until it relinquishes its registration and obtains an ASC license. The bill requires DOH to complete reregistration by December 1, 2024.

Current law authorizes DOH to impose a fine of $5,000 per day on a physician who performs a gluteal fat grafting procedure in an office that is not registered with DOH. The bill changes the fine to $5,000 per incident to allow DOH to fine a physician for multiple offenses committed during the same day.

The bill has an indeterminate, likely insignificant, fiscal impact on AHCA and DOH and no impact on local government.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Gluteal Fat Grafting

Gluteal fat grafting, commonly known as a "Brazilian butt lift" or BBL, is the fastest-growing plastic surgery procedure in the U.S. The procedure involves liposuction in areas where fat removal will improve the contour of the body. Typically, fat is harvested from two or more regions which may include the flanks (love handles), abdomen, or back. The harvested fat is purified to optimize the viability of fat cells and stem cells before it is injected into the subcutaneous layer (below the skin, but above the muscle) of the buttocks.[1]

The rate of fatal complications from gluteal fat grafting is higher than any other cosmetic procedure.[2] South Florida carries the highest BBL mortality rate by far in the nation with 25 deaths occurring between 2010 and 2022.[3] According to a study on the deaths that occurred in South Florida, the surgical setting and the short surgical times for these cases were the most significant contributing factors to the deaths.[4] Of the 25 deaths, 23 of the surgeries were performed at high-volume, low budget clinics. These clinics employ a practice model based on high-volume and minimal-patient-interaction. All of the deaths resulted from pulmonary fat embolism, which occurs when a vein wall is injured during the injection process allowing fat to enter the pulmonary vessels.[5]

Regulation of Office Surgery

The Board of Medicine and the Board of Osteopathic Medicine (collectively, boards) have authority to adopt rules to regulate practice of medicine and osteopathic medicine, respectively.[6] The boards have authority to establish, by rule, standards of practice and standards of care for particular settings.[7] Such standards may include education and training, assistance of and delegation to other personnel, sterilization, performance of complex or multiple procedures, records, informed consent, and policy and procedures manuals.[8]

The boards also establish the standards of care physicians must meet for office surgeries. An office surgery is any surgery that is performed outside a facility licensed under ch. 390, F.S., or ch. 395, F.S.[9] There are several levels of office surgeries governed by rules adopted by the boards, which establish the scope of each level of office surgeries, the equipment and medications that must be available, and the training requirements for personnel present during the surgery. The levels of office surgeries include Level I, Level II, Level IIA, Level III, and Liposuction Procedures where more than 1,000 cubic centimeters of supernatant fat is removed.[10]

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[1] O'Neill RC, Abu-Ghname A, Davis MJ, Chamata E, Rammos CK, Winocour SJ. *The Role of Fat Grafting in Buttock Augmentation*, Seminars in Plastic Surgery (February 15, 2020) available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7023974/#:~:text=First%2C%20fat%20is%20harvested%20from,figure%20with%20an%20augmented%20buttock (last visited January 25, 2024).

[2] Pat Pazmiño, Onelio Garcia, *Brazilian Butt Lift–Associated Mortality: The South Florida Experience*, Aesthetic Surgery Journal, Volume 43, Issue 2, February 2023, Pages 162–178, https://doi.org/10.1093/asj/sjac224 (last visited January 25, 2024).

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] Chapter 458, F.S., regulates the practice of allopathic medicine, and ch. 459, F.S., regulates the practice of osteopathic medicine.

[7] Ss. 458.331(v) and 459.015(z), F.S.

[8] *Id.*

[9] Rules 64B8-9.009(1)(d) and 64B15-14.007(1)(d), F.A.C. Abortion clinics are licensed under ch. 390, F.S., and facilities licensed under ch. 395, F.S., include hospitals, ASCs, mobile surgical facilities, and certain intensive residential treatment programs. Office surgery is a surgery performed at an office that primarily serves as the doctor's office where he or she regularly performs consultations, presurgical exams, and postoperative observation and care, and where patient medical records are maintained and available.

[10] Rule 64B8-9.009(3)-(6) and 64B15-14.007(3)-(6), F.A.C. Level I office surgery includes minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas and repair of lacerations, or surgery limited to the skin and subcutaneous tissue performed under

Office Surgeries – Gluteal Fat Procedures

Current law establishes standards of practice for physicians performing gluteal fat grafting procedures in office surgery settings.[11]

A physician providing gluteal fat grafting procedures must adhere to the standards of practice in statute and in rule.[12] A physician or osteopathic physician performing such procedures must conduct an in-person exam of the patient, while physically present in the same room as the patient, no later than the day before the procedure.[13]

Any duty delegated by the physician and performed during the gluteal fat grafting procedure must be completed under the direct supervision of the physician.[14] Gluteal fat injections and fat extraction may not be delegated. Gluteal fat injections must be done under ultrasound guidance, or guidance with other technology authorized by rule that equals or exceeds the quality of ultrasound, to ensure the fat is injected into the subcutaneous space.[15] Gluteal fat may only be injected into the subcutaneous space and may not cross the fascia covering gluteal muscle. Intramuscular and submuscular fat injections are prohibited.[16]

When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle.[17]

An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.[18]

Office Surgeries – All Levels

Prior to performing any surgery, a physician must evaluate the risk of anesthesia and of the surgical procedure to be performed.[19] A physician must maintain a complete record of each surgical procedure, including the anesthesia record, if applicable, and written informed consent.[20] The written consent must reflect the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider, and that a choice of anesthesia provider exists.[21]

Office Surgeries – Level II, Level IIA, Level III, and Liposuction Procedures

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topical or local anesthesia not involving drug-induced alteration of consciousness (liposuction involving the removal of less than 4000cc supernatant fat is permitted). Level II office surgeries involve moderate sedation and include hemorrhoidectomy, hernia repair, large joint dislocations, colonoscopy, and liposuction involving the removal of up to 4000cc supernatant fat. Level IIA office surgeries are those Level II surgeries with a maximum planned duration of 5 minutes or less and in which chances of complications requiring hospitalization are remote. Level III office surgeries are the most complex and require deep sedation or general anesthesia.

[11] Ss. 458.328(2) and 459.0138(2), F.S.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] Rules 64B8-9.009(2) and 64B15-14.007(2), F.A.C.

[20] *Id.* A physician does not need to obtain written informed consent for minor Level I procedures limited to the skin and mucosa.

[21] *Id.* A patient may use an anesthesiologist, anesthesiologist assistant, another appropriately trained physician, certified registered nurse anesthetist, or physician assistant.

Physicians performing office surgeries must maintain a log of all liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed and Level II and Level III surgical procedures performed, which includes:[22]

- A confidential patient identifier;
- The time the patient arrives in the operating suite;
- The name of the physician who provided medical clearance;
- The surgeon's name;
- The diagnosis;
- The CPT Codes for the procedures performed;
- The patient's ASA classification;
- The type of procedure performed;
- The level of surgery;
- The anesthesia provider;
- The type of anesthesia used;
- The duration of the procedure;
- The type of post-operative care;
- The duration of recovery;
- The disposition of the patient upon discharge;
- A list of medications used during surgery and recovery; and
- Any adverse incidents.

Such log must be maintained for at least six years from the last patient contact and must be provided to DOH investigators upon request.[23]

For elective cosmetic and plastic surgery procedures performed in a physician's office:[24]

- The maximum planned duration of all planned procedures cannot exceed eight hours.
- A physician must discharge the patient within 24 hours, and overnight stay may not exceed 23 hours and 59 minutes.
- The overnight stay is strictly limited to the physician's office.
- If the patient has not sufficiently recovered to be safely discharged within the 24-hour period, the patient must be transferred to a hospital for continued post-operative care.

Office surgeries are prohibited from:

- Resulting in blood loss greater than 10 percent of blood volume in a patient with normal hemoglobin;
- Requiring major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, excluding laparoscopy;
- Involving a major blood vessel with direct visualization by open exposure of the vessel, not including percutaneous endovascular treatment[25]; or
- Being emergent or life threatening.

Registration

Current law requires a physician to register their office with DOH to perform liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, a level II office surgery, or a level III office surgery.[26]

[22] Rules 64B8-9.009(2)(c) and 64B15-14.007(2)(c), F.A.C.
[23] *Id*.
[24] Rules 64B8-9.009(2)(g) and 64B15-14.007(2)(g), F.A.C.
[25] Such treatment addresses conditions such as peripheral artery disease and other arterial blockages.
[26] Ss. 458.328(1) and 459.0138(1), F.S.

Each registered office must designate a physician who is responsible for complying with all laws and regulations establishing safety requirements for such offices.[27] The designated physician is required to notify DOH within 10 days of hiring any new recovery or surgical team personnel.[28] The office must notify DOH within 10 calendar days after the termination of a designated physician relationship.[29]

DOH must inspect any office where office surgeries will be done before the office is registered.[30] If the office refuses such inspection, it will not be registered until the inspection can be completed. If an office that has already been registered with DOH refuses inspection its registration will be immediately suspended and remain suspended until the inspection is completed, and the office must close for 14 days.[31]

DOH must inspect each registered office annually unless the office is accredited by a nationally recognized accrediting agency approved by the respective board. Such inspections may be unannounced.[32]

Currently, there are 724 offices registered with DOH.[33]

Enforcement Authority

DOH may deny or revoke an office registration if any of its physicians, owners, or operators do not comply with any office surgery laws or rules. Also, DOH may deny a person applying for a facility registration if he or she was named in the registration document of an office whose registration is revoked for five years after the revocation date.

DOH may impose penalties on the designated physician if the registered office is not in compliance with safety requirements, including:[34]

- Suspension or permanent revocation of a license;
- Restriction of license;
- Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of $10,000 per count or offense.;
- Issuance of a reprimand or letter of concern.
- Placement of the licensee on probation for a period of time and subject to such conditions as the board;
- Corrective action;
- Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights;
- Refund of fees billed and collected from the patient or a third party on behalf of the patient; or
- Requirement that the licensee undergo remedial education.

DOH can also issue an emergency order suspending or restricting the registration of a facility if there is probable cause that:

- The office or its physicians are not in compliance with the board rule on the standards of practice; or
- The licensee or registrant is practicing or offering to practice beyond the scope allowed by law or beyond his or her competence to perform; and

[27] Rule 64B8-9.0091(1) and 64B15-14.0076(1), F.A.C.
[28] *Id.*
[29] *Id.*
[30] *Supra* note 26.
[31] *Id.*
[32] *Id.*
[33] Department of Health, *License Verification – Office Surgery Registration, Practicing Statuses Only*, March 21, 2023, available at https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders (last visited January 25, 2024).
[34] S. 456.072(2), F.S.

- Such noncompliance constitutes an immediate danger to the public.

The boards must fine physicians who perform office surgeries in an unregistered facility $5,000 per day.[35]

Adverse Incident Reporting

A physician must report any adverse incident that occurs in an office practice setting to DOH within 15 days after the occurrence any adverse incident.[36] An adverse incident in an office setting is defined as an event over which the physician or licensee could exercise control and which is associated with a medical intervention and results in one of the following patient injuries:[37]

- The death of a patient;
- Brain or spinal damage to a patient;
- The performance of a surgical procedure on the wrong patient;
- If the procedure results in death; brain or spinal damage; permanent disfigurement; the fracture or dislocation of bones or joints; a limitation of neurological, physical, or sensory functions; or any condition that required the transfer of a patient, the performance of:
    - A wrong-site surgical procedure;
    - A wrong surgical procedure; or
    - A surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed consent process;
- A procedure to remove unplanned foreign objects remaining from a surgical procedure; or
- Any condition that required the transfer of a patient to a hospital from an ASC or any facility or any office maintained by a physician for the practice of medicine which is not licensed under ch. 395, F.S.

DOH must review each adverse incident report to determine if discipline against the practitioner's license is warranted.[38]

Ambulatory Surgical Centers

An ambulatory surgical center, or ASC, is a facility, that is not a part of a hospital, the primary purpose of which is to provide elective surgical care, in which the patient is admitted and discharged within 24 hours.[39] If a provider anticipates or knows that they will be discharging patients beyond 24 hours, they must self-designate as an ASC by applying for ASC licensure with the Agency for Health Care Administration (AHCA).[40]

ASCs are licensed and regulated by AHCA under the same regulatory framework as hospitals.[41] Currently, there are 520 licensed ASCs in Florida.[42]

Effect of the Bill

Current law requires a physician who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed to register his or her office with DOH. The bill requires physicians to register if the fat is temporarily or permanently removed, thus removing a loophole from registration because gluteal fat grafting procedures involve temporarily removing the fat and then reinserting it into the patient.

[35] Ss. 458.328(1)(h) and 459.0138(1)(h), F.S.
[36] Ss. 458.351 and 459.026, F.S.
[37] Ss. 458.351(4) and 459.026(4), F.S.
[38] Ss. 458.351(5) and 459.026(5), F.S.
[39] S. 395.002(3), F.S.
[40] Agency for Health Care Administration, Agency Analysis of HB 1561 (Jan. 18, 2024).
[41] SS. 395.001-.1065, F.S., and Part II, Chapter 408, F.S.
[42] *Supra* note 32.

The bill requires physicians to register their office with DOH if they perform gluteal fat grafting procedures. Additionally, the bill requires a physician to register their office with DOH if they perform a liposuction procedure in which the patient is rotated 180 degrees or more during the procedure.

Further, the bill requires physicians who have already registered their offices prior to July 1, 2024, to reregister their offices, in accordance with a schedule developed by DOH, if they perform gluteal fat grafting procedures, or if they perform liposuction procedures in which the patient is rotated 180 degrees or more. The bill requires DOH to complete reregistration by December 1, 2024.

If during the reregistration process, DOH determines that the procedures being performed in such an office create a significant risk to patient safety and that the office should be licensed and regulated as an ASC, DOH must notify AHCA and AHCA must inspect the office to confirm whether the office should be licensed as an ASC. If AHCA determines that the office should be licensed as an ASC, they must notify the office and DOH and the office must cease performing procedures that require registration. The office is prohibited from performing such procedures until it relinquishes its registration and obtains an ASC license.

Current law authorizes DOH to impose a fine of $5,000 per day on a physician who performs a gluteal fat grafting procedure in an office that is not registered with DOH. The bill changes the fine to $5,000 per incident, to allow DOH to fine a physician for multiple offenses committed during the same day.

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 458.328, F.S., relating to office surgeries.
Section 2: Amends s. 459.0138, F.S., relating to office surgeries.
Section 3: In an unnumbered section of law, requires DOH to develop a schedule for reregistration of medical offices affected by the bill, to be completed by a specified date.
Section 4: Provides the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill would have an indeterminate, positive fiscal impact on the DOH Medical Quality Assurance Trust Fund, to the extent the number of annual office incidents exceeds one per day.

2. Expenditures:

The bill has an indeterminate, yet likely insignificant, negative fiscal impact on AHCA for additional staff to conduct survey inspections of physician offices. According to AHCA, the number of additional surveys is unknown, so it is unknown if additional staff would be needed to cover the workload.[43]

DOH will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System (LEIDS) and Iron Data Mobile (IDM) inspection software to update inspection requirements; DOH will also experience a non-recurring workload increase to update the artificial intelligence virtual agent (ELI) for voice and web, Search Services application, data reporting, and board and DOH websites. Additionally, DOH may be required to create data exchange services with the AHCA.[44] The workload and costs associated with the bill can be absorbed within existing resources.

[43] *Id.*
[44] Department of Health, *2024 Agency Legislative Bill Analysis: SB 1188*, (Jan. 11, 2024)

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

2. Other:
   None.

B. RULE-MAKING AUTHORITY:
   DOH has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:
   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to office surgeries; amending ss. 458.328 and 459.0138, F.S.; revising the types of procedures for which a medical office must register with the Department of Health to perform office surgeries; deleting obsolete language; making technical and clarifying changes; revising standards of practice for office surgeries; requiring medical offices already registered with the department to perform certain office surgeries as of a specified date to reregister if such offices perform specified procedures; specifying notification and inspection procedures for the department and the Agency for Health Care Administration in the event that, during the reregistration process, the department determines that the performance of specified procedures in an office creates a risk of patient safety such that the office should instead be regulated as an ambulatory surgical center; requiring an office to cease performing the specified procedures and relinquish its office surgery registration and instead seek licensure as an ambulatory surgical center under such circumstances; requiring the department to develop a schedule for reregistration of medical offices affected by this act, to be completed by a specified

date; providing an effective date.

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

Section 1. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 458.328, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure in which the patient is rotated 180 degrees or more during the procedure, a gluteal fat grafting procedure, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 459.0138 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted

hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 459 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend the registration of an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood

loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be

delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in

hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(c) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) REREGISTRATION.—An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated 180 degrees or more during the procedure or in which a physician performs gluteal fat grafting procedures must seek reregistration with the department consistent with the parameters of initial registration under subsection (1) according to a schedule developed by the department. During the reregistration process, if the department determines that the performance of such procedures in the office creates a significant risk to patient safety and that the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

(a) The department must notify the Agency for Health Care Administration of its determination;

(b) The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding the exceptions provided under s. 395.002(3).

If the agency determines that an office is a candidate for ambulatory surgical center licensure under paragraph (b), the agency must notify the office and the department, and the office must cease performing procedures described in this subsection. The office may not recommence performing such procedures without first relinquishing its registration under this section and attaining ambulatory surgery center licensure under chapter 395.

Section 2. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 459.0138, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure in which the patient is rotated 180

degrees or more during the procedure, a gluteal fat grafting procedure, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 458.328 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 458 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend a registration for an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office~~

~~that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the

following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of

ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) REREGISTRATION.—An office that registered under this section before July 1, 2024, in which a physician performs

liposuction procedures that include a patient being rotated 180 degrees or more during the procedure or in which a physician performs gluteal fat grafting procedures must seek reregistration with the department consistent with the parameters of initial registration under subsection (1) according to a schedule developed by the department. During the reregistration process, if the department determines that the performance of such procedures in the office creates a significant risk to patient safety and that the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

(a) The department must notify the Agency for Health Care Administration of its determination;

(b) The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding the exceptions provided under s. 395.002(3).

If the agency determines that an office is a candidate for ambulatory surgical center licensure under paragraph (b), the agency must notify the office and the department, and the office must cease performing procedures described in this subsection.

The office may not recommence performing such procedures without first relinquishing its registration under this section and attaining ambulatory surgery center licensure under chapter 395.

Section 3. The Department of Health shall develop a schedule for reregistration of offices affected by the amendments made to s. 458.328(1) or s. 459.0138(1), Florida Statutes, by this act. Registration of all such offices must be completed by December 1, 2024.

Section 4. This act shall take effect upon becoming a law.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Busatta Cabrera offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (3), (4) and (5) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(3) A physician performing a gluteal fat grafting procedure in an office surgery setting registered under s. 458.328 must also establish financial responsibility by one of the following methods:

(a) Obtaining and maintaining professional liability coverage in an amount not less than $250,000 per claim, with a minimum annual aggregate of not less than $750,000 from an

authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance which meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this subsection may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

(b) Obtaining and maintaining an unexpired irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than $250,000 per claim, with a minimum aggregate availability of credit of not less than $750,000. The letter of credit must be payable to the physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the physician or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. The letter of credit may not be used for litigation costs or attorney’s fees for the defense of any medical malpractice claim. The letter of credit must be nonassignable and nontransferable. The letter of credit must be issued by any bank or savings association organized and existing

under the laws of this state or any bank or savings association organized under the laws of the United States which has its principal place of business in this state or has a branch office that is authorized under the laws of this state or of the United States to receive deposits in this state.

The exemption established in paragraph (6)(f) does not apply to this subsection. This subsection shall be inclusive of the coverage in subsection (1).

(4) ~~(3)~~ (a) Meeting the financial responsibility requirements of this section or the criteria for any exemption from such requirements must be established at the time of issuance or renewal of a license.

(b) Any person may, at any time, submit to the department a request for an advisory opinion regarding such person's qualifications for exemption.

(5) ~~(4)~~ (a) Each insurer, self-insurer, risk retention group, or Joint Underwriting Association must promptly notify the department of cancellation or nonrenewal of insurance required by this section. Unless the physician demonstrates that he or she is otherwise in compliance with the requirements of this section, the department shall suspend the license of the physician pursuant to ss. 120.569 and 120.57 and notify all health care facilities licensed under chapter 395 of such action. Any suspension under this subsection remains in effect

until the physician demonstrates compliance with the requirements of this section. If any judgments or settlements are pending at the time of suspension, those judgments or settlements must be paid in accordance with this section unless otherwise mutually agreed to in writing by the parties. This paragraph does not abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest, or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the physician, the department shall suspend the license of the physician pursuant to procedures set forth in subparagraphs (5)(g)3., 4., and 5. Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(5) The requirements of subsections (1), (2), ~~and~~ (3), and (4) do not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(16).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his or her teaching duties at an accredited medical school or in its main teaching

hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he or she must notify the department of such activity and fulfill the financial responsibility requirements of this section before resuming the practice of medicine in this state.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $25,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, constitutes action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with this paragraph.

7. The licensee must submit biennially to the department certification stating compliance with the provisions of this paragraph. The licensee must, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph must post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. The sign or statement must read as follows: "Under Florida law, physicians are generally required to carry

medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law."

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the

existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he or she shall be subject to disciplinary action unless, within 30 days from the date of mailing, he or she either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom

medical services are being provided. Such sign or statement shall state: "Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law."

Section 2. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 458.328, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 459.0138 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 459 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend the registration of an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an~~

~~office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty

delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a

gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

Section 3. Subsections (3), (4), and (5) of section 459.0085, Florida Statutes, are amended to read:

459.0085 Financial responsibility.—

(3) A physician performing a gluteal fat grafting procedure in an office surgery setting registered under s. 459.0138 must also establish financial responsibility by one of the following methods:

(a) Obtaining and maintaining professional liability coverage in an amount not less than $250,000 per claim, with a minimum annual aggregate of not less than $750,000 from an

authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance which meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this subsection may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

(b) Obtaining and maintaining an unexpired irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than $250,000 per claim, with a minimum aggregate availability of credit of not less than $750,000. The letter of credit must be payable to the physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the physician or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. The letter of credit may not be used for litigation costs or attorney’s fees for the defense of any medical malpractice claim. The letter of credit must be nonassignable and nontransferable. The letter of credit must be issued by any bank or savings association organized and existing

under the laws of this state or any bank or savings association organized under the laws of the United States which has its principal place of business in this state or has a branch office that is authorized under the laws of this state or of the United States to receive deposits in this state.

The exemption established in paragraph (6)(f) does not apply to this subsection. This subsection shall be inclusive of the coverage in subsection (1).

(4) ~~(3)~~ (a) Meeting the financial responsibility requirements of this section or the criteria for any exemption from such requirements must be established at the time of issuance or renewal of a license.

(b) Any person may, at any time, submit to the department a request for an advisory opinion regarding such person's qualifications for exemption.

(5) ~~(4)~~ (a) Each insurer, self-insurer, risk retention group, or joint underwriting association must promptly notify the department of cancellation or nonrenewal of insurance required by this section. Unless the osteopathic physician demonstrates that he or she is otherwise in compliance with the requirements of this section, the department shall suspend the license of the osteopathic physician pursuant to ss. 120.569 and 120.57 and notify all health care facilities licensed under chapter 395, part IV of chapter 394, or part I of chapter 641 of

such action. Any suspension under this subsection remains in effect until the osteopathic physician demonstrates compliance with the requirements of this section. If any judgments or settlements are pending at the time of suspension, those judgments or settlements must be paid in accordance with this section unless otherwise mutually agreed to in writing by the parties. This paragraph does not abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the osteopathic physician, the department shall suspend the license of the osteopathic physician pursuant to procedures set forth in subparagraphs (5)(g)3., 4., and 5. Nothing in this paragraph

shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(6) ~~(5)~~ The requirements of subsections (1), (2), and (3) do not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(16).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage that provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 459.0075 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his or her teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in this state. If such person initiates or resumes any practice of osteopathic medicine in this state, he or she must notify the department of such activity and fulfill the financial responsibility requirements of this section before resuming the practice of osteopathic medicine in this state.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $25,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, constitutes action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with this paragraph.

7. The licensee must submit biennially to the department a certification stating compliance with this paragraph. The licensee must, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph must post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. The sign or statement must read as follows: "Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law."

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria.

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff

privileges, or $250,000, if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he or she shall be subject to disciplinary action unless, within 30 days from the date of mailing, the licensee either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or

her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state: "Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law."

Section 4. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 459.0138, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters

of supernatant fat is temporarily or permanently removed, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 458.328 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 458 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend a registration for an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office~~

~~that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the

following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of

ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

Section 5. This act shall take effect upon becoming a law.

711 ----------
712 **T I T L E A M E N D M E N T**
713 Remove everything before the enacting clause and insert:
714 An act relating to office surgeries; amending ss. 458.328 and
715 459.0138, F.S.; revising the types of procedures for which a
716 medical office must register with the Department of Health to
717 perform office surgeries; deleting obsolete language; making
718 technical and clarifying changes; revising standards of practice
719 for office surgeries; amending ss. 458.320 and 459.0085, F.S.;
720 establishing financial responsibility requirements for
721 physicians performing gluteal fat grafting procedures in office
722 settings; providing an effective date.

HB 1617

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1617 Behavioral Health Teaching Hospitals
SPONSOR(S): Garrison
TIED BILLS: **IDEN./SIM. BILLS:** SB 330

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Committee		DesRochers	Calamas
2) Appropriations Committee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

Demand for physicians across the United States is projected to grow faster than supply leading to a potential nationwide shortfall of as many as 124,000 full-time employee physicians in 2034. This includes a projected shortage of between 17,800 and 48,000 primary care physicians, between 15,800 and 30,200 surgeons, between 3,800 and 13,400 internal medicine and pediatric specialists, and between 10,300 and 35,600 physicians across the other specialties.

Current challenges to the recruitment and retainer of behavioral health providers include financial limitations (e.g., resources, reimbursement rates, student debt), educational limitations (e.g., lack of training to serve diverse populations, barriers to enter workforce), and workplace limitations (e.g., shortages in rural areas, high workloads that lead to burnout). To increase the overall supply of behavioral health professionals, some states may choose to act through partnerships with educational institutions and residency programs. These partnerships can encourage students and early career professionals to practice in rural and underserved communities.

HB 1617 creates the behavioral health teaching hospital designation for hospitals in Florida. Specifically, the bill authorizes a hospital that partners with a university school of medicine to apply to AHCA for designation as a behavioral health teaching hospital if the hospitals meets certain criteria. The bill also establishes the Florida Center for Behavioral Health Workforce (Center) within the Louis de la Parte Florida Mental Health Institute at the University of South Florida to address issues of workforce supply and demand in the behavioral health professions, including the issues of recruitment, retention, and workforce resources.

The bill requires the Center to administer the Florida Behavioral Health Professions Scholarship and Grant Program, which the bill simultaneously creates. The bill advises the scholarships are for students enrolled in educational programs, including practicums, internships, and rotations, at designated behavioral teaching hospitals in Florida. The bill advises the grants are to support the establishment of the students' educational programs. The bill subjects the scholarship and grant program to Legislative appropriation.

The bill requires The Department of Children and Families (DCF) to coordinate with the Center in contracting for a two-part study on the behavioral health system in Florida and the state's involuntary civil commitment system.

The bill has a significant, indeterminate, negative fiscal impact on DCF and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024, except for the provision related to the DCF studies, which is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Mental Health Safety Net Services

In February 2023, over 32.3% of adults in the Florida self-reported symptoms of anxiety and or depression. Mental illnesses can be acute or chronic and are diagnosable conditions that affect an individual's emotional, psychological, and social well-being, and often their behavior. These conditions include depression, anxiety, schizophrenia, and mood or personality disorders, among others.[1] Magnifying the mental health crisis undercurrent, Florida's drug overdose deaths per 100,000 people increased from 15.4 in 2011 to 37.5 in 2021. Similarly, suicide is often linked to underlying mental health conditions. Florida's age-adjusted suicide rate in 2021 was 14.0 per 100,000 people.[2]

The Substance Abuse and Mental Health Services Administration (SAMHSA) is the U.S. Department of Health and Human Services' agency that leads public health efforts to advance the behavioral health of the nation.[3] Congress established SAMHSA in 1992 to make substance use and mental disorder information, services, and research more accessible. To this end, state mental health agencies (SMHAs) compile and report annual data as part of their application package for SAMHSA's Community Mental Health Block Grant.

The Department of Children and Families (DCF) Office of Substance Abuse and Mental Health is Florida's SMHA. The table below itemizes the federal block grants for mental health-related funding that Florida received the last three years:[4]

Federal SAMHSA Block Grants Funding: FFY 2021-2022 through 2022-2023 (in $ millions)		
	Substance Abuse Prevention and Treatment Block Grant	**Community Mental Health Services Block Grant**
Award Year (Oct 1 – Sept 30)	**FFY 2021-2022**	**FFY 2022-2023**
Recurring 2021	$111,389,890	$47,760,577
Recurring 2022	$112,320,687	$55,973,788
Recurring 2023	$116,814,207	$65,481,738

The DCF table below records the number of unduplicated individuals served in community mental health settings, state psychiatric hospitals, and residential treatment settings:[5]

Number of Unduplicated Individuals Served in the Community

[1] *Mental Health in Florida*, KFF (Mar. 2023) https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/florida (last visited Dec. 16, 2023).
[2] *Id*.
[3] Substance Abuse and Mental Health Services Administration, *About Us*, https://www.samhsa.gov/about-us (last visited Dec. 16, 2023).
[4] *Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Positions of the Managing Entities Including A System of Care Analysis*, Office of Substance Abuse and Mental Health, Florida Department of Children and Families, p. 13 (Nov. 1, 2023) https://www.myflfamilies.com/services/samh/publications (last visited Dec. 16, 2023).
[5] *Id*. at p. 14.

	07/01/2021 – 06/30/2022		07/01/2022 – 06/30/2023	
Service Setting	**Total**	**Percentage**	**Total**	**Percentage**
Community Mental Health	196,328	94.2%	242,849	93.6%
State Psychiatric Hospitals	4,436	2.1%	5,153	2.0%
Residential Treatment	7,640	3.7%	11,365	4.4%
Total	**208,404**	**100%**	**259,367**	**100%**

For FY 2022, Florida's total SMHA mental health expenditures were $914,342,441. This total amounts to $41.98 per capita. Florida's SMHA system served 147,804 clients in community settings with 4,523 of those served in state hospitals. The 147,804 total clients represent a utilization rate of 6.8 per 1,000 people. [6]

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. DCF provides services based upon state and federally-established priority populations, administered by regional managing entities under contract with the Department of Health.

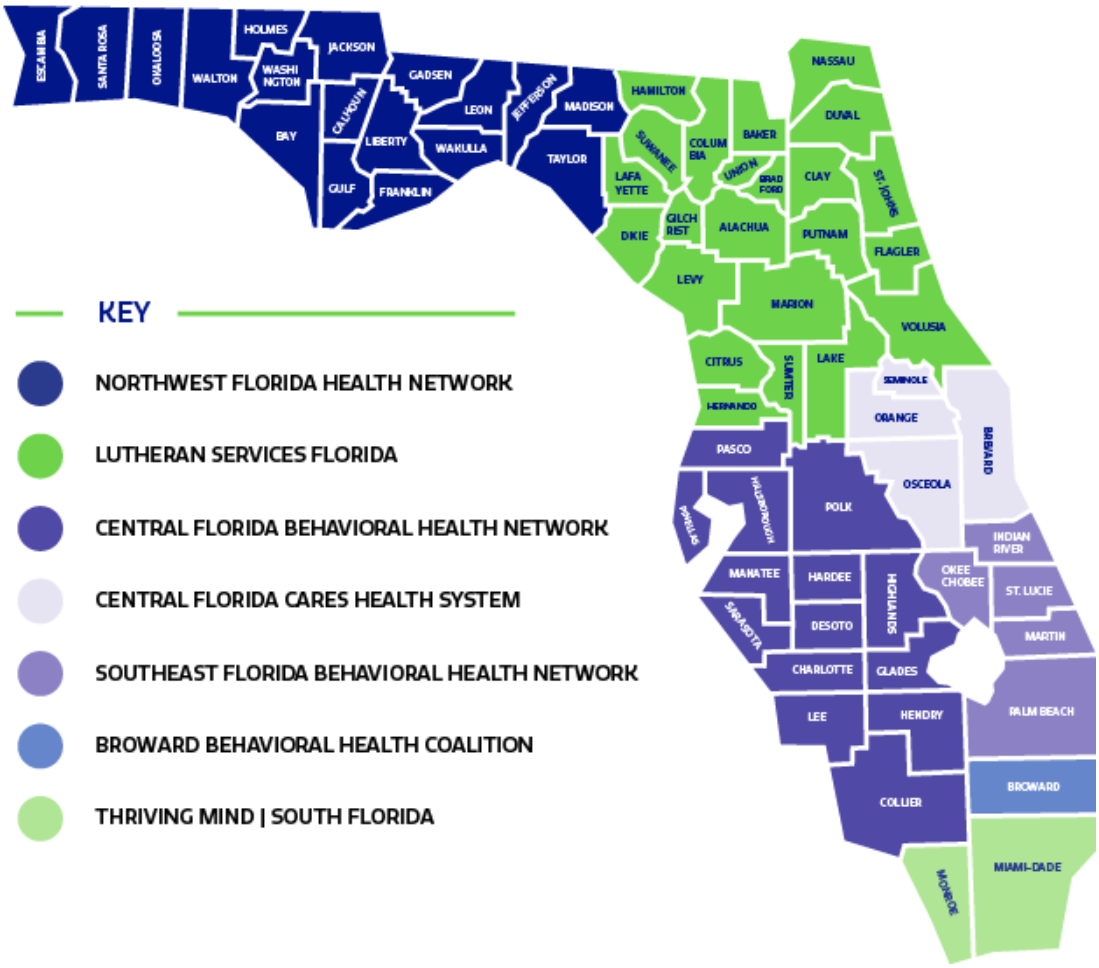
Behavioral Health Managing Entities

Managing entities are local, not-for-profit organizations with community boards that hold service providers accountable for quality service delivery and leverage local resources to meet each county's behavioral health needs. Managing entities adapt and tailor funding from the state and federal governments in response to evolving community trends on prevention, intervention, crisis support, opioid, medication-assisted treatment, residential treatment, and outpatient services for adults, children, and families.[7] Managing entities provide SAMH services to over 320,000 Floridians, including:[8]

- Substance-abusing mothers and women who are pregnant.
- Families in the foster care system.
- People who inject drugs.
- Substance abusers who are infected with HIV.
- Individuals with a serious mental illness.
- Youth in the juvenile justice System.
- Veterans.
- Incarcerated individuals.
- Chronically homeless individuals.

As the map below illustrates, DCF currently contracts with seven behavioral health managing entities for the delivery of local SAMH services throughout Florida.[9]

[6] *2022 Uniform Reporting System (URS) Table for Florida*, Substance Abuse and Mental Health Services Administration, p. 3 (Nov. 21, 2023), https://www.samhsa.gov/data/report/2022-uniform-reporting-system-urs-table-florida (last visited Dec. 16, 2023).
[7] The Florida Association of Managing Entities, *Who We Are*, https://flmanagingentities.com/who-we-are/ (last visited Feb. 11, 2024).
[8] The Florida Association of Managing Entities, *Who We Help*, https://flmanagingentities.com/who-we-help/ (last visited Feb. 11, 2024).
[9] Florida Association of Managing Entities, *Map*, https://flmanagingentities.com/map/ (last Feb. 11, 2024); Florida Department of Children and Families, *Managing Entities*, https://www.myflfamilies.com/services/samh/providers/managing-entities (last visited Feb. 11, 2024).



Managing entities must submit detailed plans to enhance crisis services based on the no-wrong-door model[10] or to meet specific needs identified in DCF's assessment of behavioral health services in this state.[11] DCF must use performance-based contracts to award grants.[12]

Managing entities are required to conduct a community behavioral health care needs assessment once every three years in the geographic area served by the managing entity, which identifies needs by sub-region.[13] The assessments must be submitted to DCF for inclusion in the state and district substance abuse and mental health plan.[14]

The Baker Act: Involuntary Commitment

The Florida Mental Health Act, commonly referred to as the Baker Act[15], focuses on crisis services for individuals with mental illness, much like an emergency department serves individuals experiencing a medical emergency.[16] Under the Baker Act, DCF designates hospitals and crisis stabilization units as receiving facilities to provide emergency mental health treatment.[17] The purpose of a crisis stabilization unit is to stabilize and redirect a patient to the most appropriate and least restrictive community setting

[10] The no-wrong-door model means a model for the delivery of acute care services to persons who have mental health or substance use disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system. s. 394.4573(1)(d), F.S.
[11] S. 394.4573(3), F.S.
[12] *Id.*
[13] S. 394.9082(5)(b), F.S.
[14] S. 394.75(3), F.S.
[15] The Baker Act is contained in Part I of ch. 394, F.S.
[16] The Florida Department of Children and Families, *The Baker Act*, https://www.myflfamilies.com/crisis-services/baker-act (last visited Feb. 11, 2024).
[17] Florida Department of Children and Families, *Baker Act Resources for Individuals & Families*, https://www.myflfamilies.com/crisis-services/baker-act/baker-act-resources-individuals-families (last visited Feb. 11, 2024).

available. Similar to a hospital's emergency department, a crisis stabilization unit provides services regardless of a person's ability to pay.[18]

Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[19] An involuntary examination is required if there is reason to believe that the person has a mental illness and, because of his or her mental illness, has refused voluntary examination, is likely to refuse to care for him or herself to the extent that such refusal threatens to cause substantial harm to that person's well-being, and such harm is unavoidable through help of willing family members or friends, or will cause serious bodily harm to him or herself or others in the near future based on recent behavior.[20]

In FY 2021-22, hospitals and crisis stabilization units in Florida conducted 170,048 involuntary examinations for 115,239 individuals. As the table below indicates, the number of involuntary examinations for FY 2021-22 is significantly less than the prior four years.[21]

Baker Act Involuntary Examinations for the Past Five Fiscal Years			
Fiscal Year (FY)	Involuntary Exams	Year-to-Year Percent Change	
		Involuntary Exams	Population
2021-2022	170,048	-12.65%	1.45%
2020-2021	194,680	-3.91%	1.75%
2019-2020	202,598	-3.98%	1.74%
2018-2019	210,992	2.53%	1.80%
2017-2018	205,781	2.92%	1.62%

While researchers cannot extrapolate from the data the reasons why the number of involuntary examinations decreased, they emphasize that this decrease in involuntary examinations should not be read to automatically erase some of the need for mental health crisis services. Instead, researchers recommend an additional study to determine the impact of the following possible factors:[22]

- An increase in the use of DCF-funded services such as Care Coordination and Mobile Response Teams;
- Collaboration between DCF and the Administration for Health Care Administration (AHCA) to identify and address high utilizers of crisis services;
- Changes to law enforcement and designated receiving facility transportation processing procedures;
- An increase in the percentage of involuntary examinations by Crisis Intervention Team (CIT) trained law enforcement officers; and
- Workforce shortage for health professionals of all types.

The Commission on Mental Health and Substance Abuse

In 2021, the legislature created the Commission on Mental Health and Substance Abuse (Commission).[23] The Commission consists of 19 members, which include the Secretaries of DCF and

[18] S. 394.875(1)(a), F.S.
[19] Ss. 394.4625 and 394.463, F.S.
[20] S. 394.463(1), F.S.
[21] Annette Christy, Kevin Jenkins, Sara Rhode, Sarah Bogovic, Lillian Deaton, and Charles Dion, *Baker Act Reporting Center Fiscal Year 2021-2022 Report*. University of South Florida, Department of Mental Health Law and Policy, Baker Act Reporting Center, p. 4 (2023) https://www.usf.edu/cbcs/baker-act/documents/ba_usf_annual_report_2021_2022.pdf (last visited Feb. 12, 2024).
[22] *Id*. at 5.
[23] See Chapter 2021-170, L.O.F.

the Agency of Health Care Administration (AHCA). The remaining members are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives.[24]

Under current law, DCF is required to provide administrative and staff support services to the Commission as it carries out its statutory functions.[25] State agencies are also required to assist the Commission in a timely manner when needed.[26] The duties of the Commission include:

1. Conducting a review and evaluation of the management and functioning of existing publicly supported mental health and substance abuse systems in DCF, AHCA, and all other relevant state departments;
2. Considering the unique needs of people who are dually diagnosed;
3. Addressing access to, financing of, and scope of responsibility in the delivery of emergency behavioral health care services;
4. Addressing the quality and effectiveness of current service delivery systems and professional staffing and clinical structure of services, roles, and responsibilities of public and private providers;
5. Addressing priority population groups for publicly funded services, identifying the comprehensive delivery systems, needs assessment and planning activities, and local government responsibilities for funding services;
6. Reviewing the implementation of ch. 2020-107, Laws of Fla.;[27]
7. Identifying gaps in the provision of mental health and substance abuse services;
8. Providing recommendations on how managing entities may promote service continuity;
9. Making recommendations about the mission and objectives of state-supported mental health and substance abuse services and the planning, management, staffing, financing, contracting, coordination, and accountability of mechanisms best suited for the recommended mission and objectives; and
10. Evaluating and making recommendations regarding the establishment of a permanent, agency-level entity to manage mental health, behavioral health, substance abuse, and related services statewide.

In January 2024, the Commission released their annual interim report to address statewide behavioral health challenges. The Commission offered the following 12 recommendations:[28]

1. Complete a gap analysis to provide a clear picture of the state's behavioral health infrastructure.
2. Expand patient-centered behavioral health clinics to enable coordinated, comprehensive access to behavioral healthcare services.
3. Establish regional collaboratives to address ongoing challenges at the local level.
4. Get the school districts and the managing entities to negotiate a memorandum of understanding to coordinate a behavioral healthcare approach tailored for students.
5. Designate a single state agency to create a Multi-Agency Continuum of Care Collaborative.
6. Establish a statewide policy that recognizes the 988 Florida Suicide & Crisis Lifelines and network providers (e.g., mobile response teams and crisis stabilization units) as part of the behavioral health system of care.
7. Organize peer specialists so that they participate throughout the crisis care continuum.
8. Amend s. 394.462, F.S., to require transportation plans to address the protocols for transitions between 988 providers, mobile response teams., and designated receiving facilities.

[24] S. 394.9086(3), F.S.
[25] S. 394.9086(1), F.S.
[26] S. 394.9086(4)(b), F.S.
[27] 2020 House Bill 945 (Silvers) requires managing entities to implement of a coordinated system of mental health care for children and expands the use of mobile response teams (MRT) across the state. It requires the Florida Mental Health Institute within the University of South Florida to develop a model protocol for school use of MRTs. The bill also requires AHCA and DCF to identify children and adolescents who are the highest users of crisis stabilization services and take action to meet the needs of such children. Lastly, the bill requires AHCA to continually test the Medicaid managed care provider network databases to ensure behavioral health providers are accepting enrollees and confirm that enrollees have access to behavioral health systems.
[28] The Commission on Mental Health and Substance Use Disorder, *Annual Interim Report* (Jan. 1, 2024) https://www.myflfamilies.com/services/samh/commission-mental-health-and-substance-use-disorder (last visited Feb. 12, 2024).

9. Enhance the state system of data collection and create a publicly accessible data dashboard for 988 services.
10. Explore opportunities that support the regionalized expansion of Health Information Exchange platforms that allow healthcare professionals and patients access medical records electronically.
11. Establish a Florida Behavioral Healthcare Data Repository.
12. Review the statutory requirements that direct the fiscal management process for behavioral health services.

The Louis de la Parte Florida Mental Health Institute at the University of South Florida

The Florida Legislature established the Louis de la Parte Florida Mental Health Institute (FMHI) at the University of South Florida (USF) in 2002.[29] FMHI provides technical assistance and support services to mental health agencies and mental health professionals.[30] As a behavioral health services research center, FMHI sponsors USF faculty or staff members pursuing applied research projects relating to mental, addictive, or development disorders.[31, 32] In addition, FMHI provides direct services to other government agencies.[33] Most recently, following the incident of mass violence at Marjory Stoneman Douglas High School, the Florida Legislature directed FMHI to develop a statewide model protocol for mobile response teams serving the mental health emergencies of children and adolescents at schools.[34]

Florida's Behavioral Health Workforce

The United States Department of Health and Human Services (HHS) designates Health Professional Shortage Areas (HPSAs) to identify areas and population groups that are experiencing a shortage of health professionals. HPSAs measure the ratio of psychiatrists to the population; they do not account for mental health services provided by clinical psychologists, clinical social workers, psychiatric nurse specialists, and marriage and family therapists.[35]

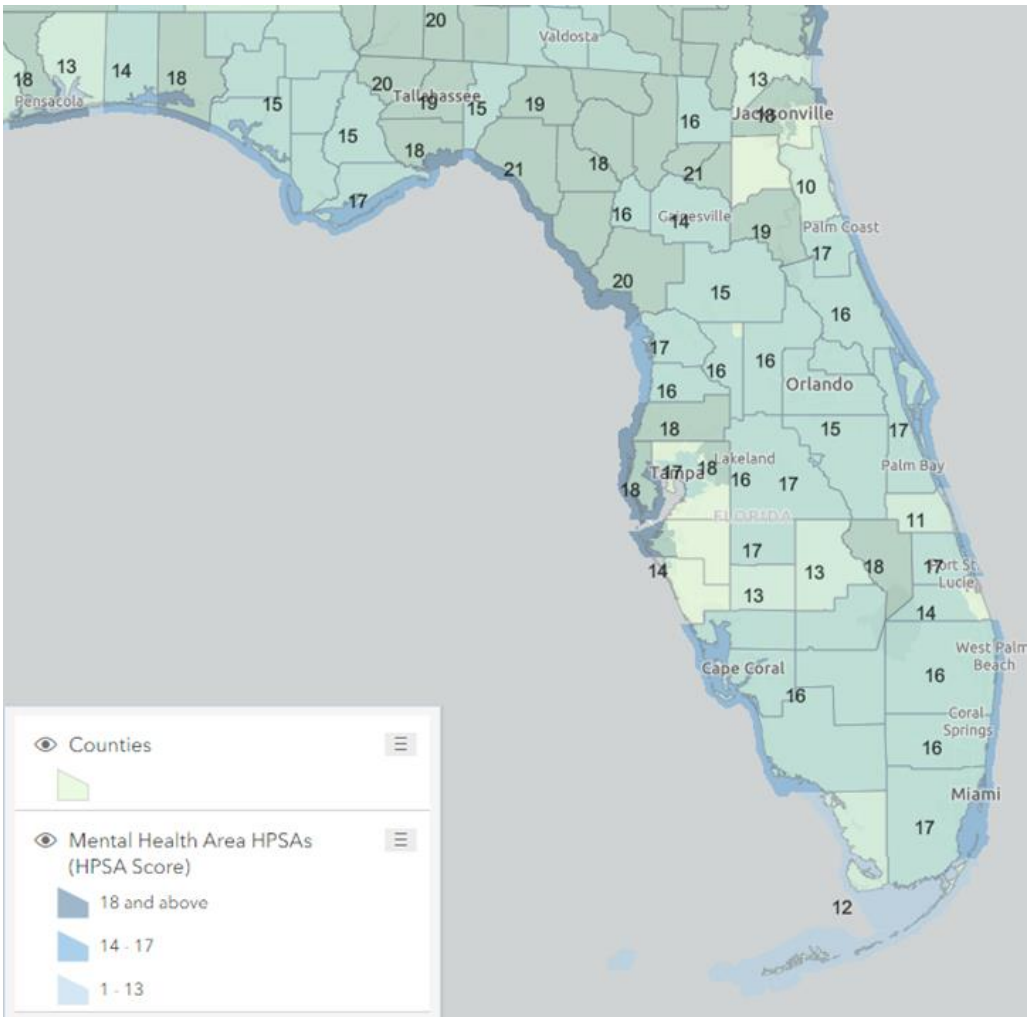
A prerequisite to a HPSA designation is an analysis of the population-to-provider ratio. For mental health, the ratio threshold must be at 30,000 to 1 for a HPSA designation. As indicated by the chart below, more than 10 million Floridians live in shortage areas: [36]

Location	Total Mental Health Care HPSA Designations	Population of Designated HPSAs	Percent of Need Met	Practitioners Needed to Remove HPSA Designation
Florida	228	10,207,269	21.8%	587

The number of psychiatrists currently working in Florida's HPSAs only meets 21.8% of the need for mental health services in those HPSAs. Therefore, Florida needs 587 more psychiatrists to eliminate all 228 HPSA designations in Florida.

[29] Ch. 2002-387, Laws of Fla.
[30] S. 1004.44(1), F.S.
[31] Louis de la Parte Florida Mental Health Institute, *Affiliates*, College of Behavioral & Community Sciences, https://www.usf.edu/cbcs/fmhi/affiliates/index.aspx (last visited Jan. 7, 2024).
[32] Louis de la Parte Florida Mental Health Institute, *Research*, College of Behavioral & Community Sciences, https://www.usf.edu/cbcs/fmhi/research/index.aspx (last visited Jan. 7, 2024). FMHI's applied research covers adult mental health, autism and development disabilities, child welfare, children's mental health systems of care, behavioral health in the crimin al justice system, integrated care, HIV/AIDS, elder mental health, substance use, trauma and violence, and veterans' behavioral health and homelessness.
[33] S. 1004.44(3), F.S.
[34] *See* S. 1004.44(4), F.S.
[35] *Mental Health Care Health Professional Shortage Areas (HPSAs)*, KFF (last revised Nov. 1, 2023) https://www.kff.org/other/state-indicator/mental-health-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0&selectedRows=%7B%22states%22:%7B%22florida%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D (last visited Dec. 16, 2023).
[36] *Id*.

As the graphic below illustrates, HHS overlaid a county map of Florida with current HPSA scores. The higher the score, the greater the need for psychiatrists.[37]



[37] Health Resources and Services Administration, *HRSA Map Tool*, United States Department of Health and Human Services, https://data.hrsa.gov/maps/map-tool/ (last visited Feb. 12, 2024); Health Resources and Services Administration, *Health Professional Shortage Areas (HPSA) – Mental Health Map* (last updated Feb. 12, 2024) https://data.hrsa.gov/ExportedMaps/MapGallery/HPSAMH.pdf (last visited Feb. 12, 2024).

Behavioral Health Teaching Hospitals

To increase the overall supply of behavioral health professionals, some states may choose to act through partnerships with educational institutions and residency programs.[38] These partnerships can encourage students and early career professionals to practice in rural and underserved communities.[39]

Other states may support new and existing behavioral health educational initiatives at behavioral health teaching hospitals with grant funding. For example, Massachusetts pledged at least $20 million for FY 2024 to establish new, or enhance existing, clinical supervision of students pursuing degrees in behavioral health and behavioral health providers-in-training pursing certification or licensure. Massachusetts's clinical supervision incentive program provides grants to clinical supervisors working in community-based settings who also provide unreimbursed supervision to students and clinicians-in-training. Administered by the Executive Office for Health and Human Services, the grant program prioritizes providers of diverse backgrounds and providers who practice in underserved and geographically isolated areas.[40]

McLean Hospital (Massachusetts) Model

A member of Mass General Brigham, McLean Hospital is an international mental health facility for psychiatric treatment, education, and research.[41] Founded in 1811, McLean Hospital is the largest psychiatric affiliate of Harvard Medical School and treats mental health conditions, such as depression, anxiety, personality disorders, and substance use disorders.[42] The U.S. News & World Report currently ranks McLean Hospital as the country's best hospital for psychiatry.[43]

McLean Hospital, in partnership with Harvard Medical School, provides clinical supervision of the following persons through residencies,[44] fellowships,[45] and other educational training programs[46]:

- Graduate and undergraduate students pursing degrees in behavioral health fields, including psychiatric nursing.
- College graduates interested in pursuing a career in mental health.
- Post-doctoral professionals pursuing advanced competencies in treating addiction, older adult mental health care, neurology and neuropsychiatry, and women's mental health.
- Clinical social workers pursuing advanced competencies in patient assessment, treatment, crisis intervention, aftercare planning, and case management.
- Theological students and spiritual leaders who provide mental health chaplaincy services.

[38] National Conference of State Legislatures, *State Strategies to Recruit and Retain the Behavioral Health Workforce*, (last updated May 20, 2022), https://www.ncsl.org/health/state-strategies-to-recruit-and-retain-the-behavioral-health-workforce (last visited Dec. 17, 2023).
[39] *Id*.
[40] Commonwealth of Massachusetts Session Law 2023-28, Line Item 4000-0054, https://malegislature.gov/Laws/SessionLaws/Acts/2023/Chapter28 (last visited Jan. 7, 2024).
[41] Mass General Brigham, *International Patient Care: About McLean Hospital*, https://www.massgeneralbrigham.org/en/patient-care/international/about/mclean (last visited Dec. 17, 2023).
[42] *Id*.
[43] U.S. News and World Report, *McLean Hospital*, https://health.usnews.com/best-hospitals/area/ma/mclean-hospital-6142120#rankings (last visited Jan. 7, 2024).
[44] McLean Hospital, *Residencies*, https://www.mcleanhospital.org/training/residencies (last visited Dec. 17, 2023). McLean offers Adult Psychiatry Residency Training in the fields of community psychiatry, global psychiatry, law and psychiatry, clinical research, mind-body medicine, medical education, and psychodynamic psychotherapy. In addition, McLean offers Child and Adolescent Psychiatry Residency Training to prepare students through clinical rotations at Mass General Hospital, McLean Hospital, Boston Juvenile Court Clinic, and the local public-school systems.
[45] McLean Hospital, *Psychiatry Fellowships*, https://www.mcleanhospital.org/training/psychiatry-fellowships (last visited Dec. 17, 2023).
[46] McLean Hospital, *Mental Health Clinical Pastoral Education Program* , https://www.mcleanhospital.org/training/cpe (last visited Dec. 21, 2023).

University of Washington Behavioral Health Teaching Hospital

Washington State recently enacted legislation focused on behavioral health care access and workforce development to alleviate barriers to access and workforce shortages. In 2019, the Washington State Legislature and the University of Washington School of Medicine partnered to pass House Bill 1593,[47] which established a Behavioral Health Teaching Facility (BHTF) to treat patients with behavioral health needs and train an integrated behavioral health workforce. The state allocated $33.25 million to initiate the design and building of the new teaching facility and budgeted a total of $224.5 million over four years for the completion of BHTF.[48]

Scheduled to open its doors in June 2024, the Behavioral Health Teaching Facility at the University of Washington Medical Center Northwest Campus will be a new 191,000 square foot facility with 150 inpatient beds, a neuromodulation suite[49] serving both inpatient and outpatient needs, consultation rooms to provide state-wide telepsychiatry consultation, and graduate medical education workspaces.[50]

Tampa General Hospital and The University of South Florida

Tampa General Hospital (TGH) is a private, not-for-profit hospital licensed for 1,040 beds. TGH employs more than 8,000 people and is one of the region's largest employers. The U.S. News & World Report for 2023-24 ranks TGH as among the top 50 hospitals nationwide in six specialties. TGH partners with the USF Morsani College of Medicine to train more than 700 physician residents and fellows assigned to TGH for specialty training.[51]

In 2023, Florida appropriated $10,000,000 in nonrecurring General Revenue to establish Tampa General Behavioral Health Hospital,[52] which is to be a new 96-bed inpatient behavioral health hospital at TGH with the capacity to expand to 120 beds.[53] The appropriation contemplated that the USF Morsani College of Medicine would provide the requisite faculty to help staff the behavioral health hospital to provide inpatient and outpatient care, advance graduate medical education, and conduct research.[54]

Effect of Proposed Changes

Designated Behavioral Health Teaching Hospitals

HB 1617 creates the behavioral health teaching hospital designation for hospitals in Florida. Specifically, the bill authorizes a hospital that partners with a university school of medicine to apply to AHCA for designation as a behavioral health teaching hospital. To this end, the hospital receives the designation if they meet the all of the following criteria:

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[47] Chapter 19-323, Laws of Washington State. https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/1593-S2.SL.pdf?q=20240209102341 (last visited Feb. 9, 2024).

[48] The University of Washington, *Executive Summary: UW Behavioral Health Teaching Facility/Project Definition Report* (Oct. 23, 2020), https://facilities.uw.edu/files/media/uw-bhtf-project-definition-executive-summary_2020_1130.pdf (last visited Feb. 9, 2024); Hannelore Sudermann, *Crisis State*, The University of Washington Magazine, (Sept. 2021) https://magazine.washington.edu/feature/mental-health-needs-have-washington-in-a-state-of-crisis/ (last visited Feb. 9, 2024).

[49] Neuromodulation is the process by which certain brain areas are activated electrically so that they may influence other brain areas to reduce the tendency for seizures. Department of Neurology, *Neuromodulation*, The University of Florida, https://neurology.ufl.edu/divisions/epilepsy/neuromodulation-vns-rns-dbs/ (last visited Feb. 9, 2024); see also College of Medicine, *FSU Neuromodulation Lab*, The Florida State University, https://med.fsu.edu/kozellab/fsu-neuromodulation (last visited Feb 9, 2024).

[50] The University of Washington, *Executive Summary: UW Behavioral Health Teaching Facility/Project Definition Report* (Oct. 23, 2020), https://facilities.uw.edu/files/media/uw-bhtf-project-definition-executive-summary_2020_1130.pdf (last visited Feb. 9, 2024).

[51] *About Tampa General Hospital*, Tampa General Hospital, https://www.tgh.org/about-tgh (last visited Dec. 21, 2023).

[52] The Florida House of Representatives, *Conference Report on Senate Bill 2500*, p. 124-25, Line Item 474B, (May 2023) https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=CRA_.pdf&DocumentType=Amendments&BillNumber=2500&Session=2023 (last visited Dec. 21, 2023).

[53] The Florida House of Representatives, *Appropriations Project Request – Fiscal Year 2023-24: HSE Form # 1969 Tampa General Behavioral Health Hospital*, p. 3 (Feb. 13, 2023) https://www.myfloridahouse.gov/api/document/apr?sessionid=99&name=1969AR.pdf (last visited Dec. 21, 2023).

[54] *Id.*

- Offers a psychiatric residency program accredited through the Residency Review Committee of the Accreditation Council of Graduate Medical Education;
- Offers a postdoctoral clinical psychology fellowship program accredited by the Amercian Psychological Association.
- Develop and maintain a consultation agreement with the Louis de la Parte Florida Mental Health Institute at the University of South Florida, including with the Florida Center for Behavioral Health Workforce;
- Develop a plan with the partner, the university school of medicine, to:
    - Promote a coordinated system of care of persons with behavioral health needs;
    - Develop and offer integrated workforce development programs; and
    - Coordinate and promote innovative partnerships that integrate the colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines with existing local and regional programs, clinics, and resources.

The bill requires that hospitals applying for designation as a behavioral health teaching hospital designation to apply and submit documentation in a manner determined by AHCA.

<u>The Florida Center for Behavioral Health Workforce</u>

The bill creates the Florida Center for Behavioral Health Workforce (Center) within the Louis de la Parte Florida Mental Health Institute at the University of South Florida. The bill establishes the Center to address issues of workforce supply and demand in the behavioral health professions, including the issues of recruitment, retention, and workforce resources.

Goals of the Center

The bill creates three primary goals for the Center. The first goal relates to the development strategic statewide plan for the behavioral health workforce. Specifically, the bill advises the Center to:

- Conduct a statistically valid biennial data-driven analysis of the supply-demand of the behavioral health workforce.
- Develop recommendations and strategies to increase behavioral health faculty and educational supervision, to support behavioral health faculty development, and to promote advanced behavioral health education.
- Develop best practices in the academic preparation and continuing education needs of qualified behavioral health educators.
- Collect data on behavioral health faculty, employment, distribution, and retention.
- Pilot innovative projects to support the recruitment, distribution, and retention of qualified behavioral health faculty employment and advancement.
- Encourage and coordinate the development of academic-practice partnerships, to support behavioral health faculty development and advancement.
- Develop distance learning infrastructure for behavioral health education.
- Advance faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

The second goal relates to the enhancement and promotion of behavioral health professionals in Florida. Specially, the bill advises the Center to develop and promote:

- Behavioral health excellence programs.
- Reward, recognition, and renewal activities.
- Media and image-building efforts.

The third goal relates to the convention of various groups representative of the behavioral health professions, healthcare providers, business and industry, consumers, lawmakers, and educators. Specifically, the bill advises the Center to host these conventions to:

- Review and comment on data analysis prepared for the Center.
- Recommend systemic changes, including strategies for implementation of recommended changes.
- Evaluate and report the results of these efforts to the Legislature and other entities

Data Access

The bill authorizes the Center to request any information held by any licensing board of the Florida Department of Health (DOH) regarding a behavioral health professional licensed in Florida or licensed via a multistate license as authorized by a professional multistate licensure compact. The bill allows the Center to also request any information reported to any DOH licensing board by the employers of such behavioral health professionals. If the Center requests this category of information from a licensing board, the board must give the Center the information. However, DOH licensing boards may not share a behavioral health professional's personal identifying information.

Florida Behavioral Health Professions Scholarship and Grant Program

The bill requires the Center to administer the Florida Behavioral Health Professions Scholarship and Grant Program, which the bill simultaneously creates. The bill advises the scholarships are for students enrolled in educational programs, including practicums, internships, and rotations, at designated behavioral teaching hospitals in Florida. The bill advises the grants are to support the establishment of the students' educational programs. The bill subjects the scholarship and grant program to Legislative appropriation. To administer the scholarship and grant program, the bill requires the Center to:

- Coordinate, facilitate, and oversee statewide implementation of the scholarship and grant program.
- Consult and collaborate with designated behavioral health teaching hospitals and affiliated universities to identify eligible educational programs to offer the scholarship program.
- Establish requirements, timelines, and processes for eligibility and application for scholarships and grants.
- Administer scholarship funds. The General Appropriations Act sets the annual amount of the scholarship for eligible students.
- Administer grant funds, subject to specific authorization by the General Appropriations Act.
- Report on the implementation and administration of the scholarship and grant program by planning, advising, and evaluating approved degree and certification programs and the performance of students.

The bill requires the Center to identify indicators for the satisfactory progress of 1) students enrolled in educational programs at designated behavioral health teaching hospitals and 2) the performance of those educational programs.

Reporting

The bill requires the Center to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that details the activities of the Center in pursuit of its goals and in the execution of its duties. The bill makes the annual report due by January 10 each year.

The bill requires the Center to submit a second annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that summarizes, at a minimum, 1) the status of the statewide coordination and implementation of education programs at designated behavioral health teaching hospitals in Florida and 2) the status of the Florida Behavioral Health Professions Scholarship and Grant Program. The bill makes the first annual report of this kind due by October 1, 2025, and the following annual reports are due by each October 1 every year after 2025.

The bill requires the Center to submit a third annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that makes statutory and budgetary recommendations for improving the implementation and delivery of the Florida Behavioral Health

Professions Scholarship and Grant Program. The Center must collaborate with the Board of Governors (BOG), the State Board of Education, and other stakeholders to develop this annual report. The bill makes this particular annual report due by December 1 each year.

The bill requires the BOG to expeditiously adopt any necessary regulations and rules, as applicable, in consultation with the Center, to allow the Center to perform its responsibilities beginning in in the 2025-2026 fiscal year.

The bill requires the State Board of Education to expeditiously adopt any necessary regulations and rules, as applicable, in consultation with the Center, to allow the Center to perform its responsibilities beginning in in the 2025-2026 fiscal year.

Studies

The bill requires DCF to coordinate with the Center in contracting for two studies.

First, the bill requires DCF to contract with a vendor to study Florida's behavioral health system. Specifically, DCF's vendor must:

- Analyze Florida's behavioral health workforce and behavioral health education and training.
- Evaluate best practices to establish behavioral health teaching hospitals.
- Offer policy recommendations for recruiting, training, and retaining an integrated behavioral health workforce.

Second, the bill requires DCF's vendor to study Florida's involuntary commitment system, with a focus on inpatient bed capacity. Specifically, DCF's vendor must:

- Study bed capacity in the forensic and civil involuntary commitment settings and the policies and processes for involuntary commitment.
- Evaluate the fiscal costs of the requirement imposed on designated behavioral health teaching hospitals to maintain civil commitment beds.
- Offer policy recommendations for ensuring sufficient involuntary commitment bed capacity.
- Offer recommendations for promoting coordination between Florida's involuntary commitment system, behavioral health teaching hospitals, and other integrated health programs.

The bill provides an effective date of July 1, 2024, except for the provision related to the DCF studies, which is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Creates Part VI of Chapter 395, F.S., to be entitled "Behavioral Health Teaching Hospitals."
Section 2: Creates s. 395.901, F.S., relating to definitions.
Section 3: Creates s. 395.902, F.S., relating to designated behavioral health teaching hospitals.
Section 4: Amends s. 1004.44, F.S., relating to Louis de la Parte Florida Mental Health Institute.
Section 5: Creating an unnumbered section of law, relating to a two-part study.
Section 6: Providing effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

The bill has a significant, indeterminate, negative fiscal impact on state government. The Florida House of Representatives has not made an appropriation for the bill.

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:

AHCA has sufficient rulemaking authority to implement the provisions of this bill.

BOG has sufficient rulemaking authority to implement the provisions of this bill.

The State Board of Education has sufficient rulemaking authority to implement the provisions of this bill.

DCF has sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to behavioral health teaching hospitals; creating part VI of ch. 395, F.S., entitled "Behavioral Health Teaching Hospitals"; creating s. 395.901, F.S.; defining the terms "agency" and "behavioral health teaching hospital"; providing legislative findings and intent; creating s. 395.902, F.S.; specifying the manner in which hospitals may seek designation as a behavioral health teaching hospital; specifying criteria that a hospital must meet to receive such designation; amending s. 1004.44, F.S.; establishing the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute for a specified purpose; specifying the primary goals of the center; requiring the center to establish and maintain a database on the supply and demand of behavioral health professionals in this state for a specified purpose; authorizing the center to request, and requiring certain boards to provide, certain information regarding behavioral health professionals licensed or practicing in this state; requiring the center to submit an annual report of certain information to the Governor and the Legislature; establishing the Florida Behavioral Health Professions Scholarship and Grants Program,

subject to an appropriation, to be administered by the center; providing purposes of the program; specifying the center's duties in administering the program; requiring the center, in collaboration with the Board of Governors and the State Board of Education, to identify certain indicators for measuring progress and performance of the educational programs at designated behavioral health teaching hospitals in this state; requiring the center to provide an annual report to the Governor, the Legislature, the Chancellor of the State University System, and the Commissioner of Education; providing requirements for the report; requiring the center, in collaboration with the Board of Governors, the State Board of Education, and other stakeholders, to submit statutory and budget recommendations to the Governor and the Legislature by a specified date each year; requiring the Board of Governors and the State Board of Education, in consultation with the center, to adopt any necessary regulations and rules in an expeditious manner; requiring the Department of Children and Families, in coordination with the Louis de la Parte Florida Mental Health Institute, to contract for a two-part study of the state's behavioral health system; specifying requirements for the study; providing effective dates.

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

Section 1. Part VI of chapter 395, Florida Statutes, consisting of ss. 395.901 and 395.902, Florida Statutes, is created and entitled "Behavioral Health Teaching Hospitals."

Section 2. Section 395.901, Florida Statutes, is created to read:

395.901 Behavioral health teaching hospitals.—

(1) DEFINITIONS.—As used in this part, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Behavioral health teaching hospital" means a community-based hospital licensed under this chapter which has partnered with a university school of medicine and offers integrated behavioral health education as specified in s. 395.902.

(2) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that there is a critical shortage of behavioral health professionals and recognizes the urgent need to expand the existing behavioral health workforce, prepare for an aging workforce, incentivize entry into behavioral health professions, and train a modernized workforce in innovative integrated care.

(b) The Legislature finds there is a specific need to

support a behavioral health education system that not only trains the next generation of professionals in innovative and integrated care for those with behavioral health needs, but also works to modernize the state's overall behavioral health system of care.

(c) Therefore, the Legislature intends to identify and designate multiple behavioral health teaching hospitals that work to provide the necessary research, education, and services to not only enhance this state's behavioral health workforce, but to make that workforce and system of care the national standard. The Legislature intends to partner with the University of South Florida and Tampa General Hospital to establish a pilot designated behavioral health teaching hospital to develop and implement a statewide model, and further intends to create the Behavioral Health Workforce Center within the university's Louis de la Parte Florida Mental Health Institute to address issues of workforce supply and demand in behavioral health professions, including issues of recruitment, retention, and workforce resources.

(d) The Legislature intends for designated behavioral health teaching hospitals to:

1. Focus on state-of-the-art behavioral health research.

2. Provide leading-edge education and training for this state's behavioral health workforce in innovative and integrated care.

3. Collaborate with other college and university schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines to promote and enhance a modernized behavioral health system of care.

4. Develop, implement, and promote public-private partnerships throughout this state to support and enhance the intent of this part.

5. Provide inpatient and outpatient behavioral health care and support the state in providing treatment and care for those whose need and acuity has resulted in the need for long-term voluntary or involuntary civil commitment.

Section 3. Section 395.902, Florida Statutes, is created to read:

395.902 Designated behavioral health teaching hospitals.—

(1) A hospital that partners with a university school of medicine may seek designation as a behavioral health teaching hospital by submitting an application and required documentation to the agency in a manner determined by the agency.

(2) To be designated as a behavioral health teaching hospital, a hospital must meet all of the following criteria:

(a) Offer a psychiatric residency program accredited through the Residency Review Committee of the Accreditation Council of Graduate Medical Education.

(b) Offer a postdoctoral clinical psychology fellowship program accredited by the American Psychological Association.

(c) Develop and maintain a consultation agreement with the Louis de la Parte Florida Mental Health Institute as established in s. 1004.44, including with the Florida Center for Behavioral Health Workforce.

(d) As part of its partnership with a university school of medicine, develop a plan that meets all of the following criteria:

1. Promotes a coordinated system of care which offers inpatient and outpatient treatment and services for individuals with behavioral health needs, including, but not limited to, prevention, community inpatient care, crisis stabilization, short-term residential treatment, screening, therapeutic and supportive services, and long-term care.

2. Develops and offers integrated workforce development programs, including, but not limited to, practicums and internships for clinical and nonclinical behavioral and physical health professions.

3. Coordinates and promotes innovative partnerships that integrate colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines with existing local and regional programs, clinics, and resources.

Section 4. Subsections (6), (7), and (8) are added to section 1004.44, Florida Statutes, to read:

1004.44 Louis de la Parte Florida Mental Health

Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(6)(a) There is established, within the institute, the Florida Center for Behavioral Health Workforce to address issues of workforce supply and demand in behavioral health professions, including issues of recruitment, retention, and workforce resources.

(b) The primary goals for the center are to:

1. Develop a strategic statewide plan for the behavioral health workforce in this state by:

a. Conducting a statistically valid biennial data-driven analysis of the supply and demand of the behavioral health workforce. To achieve such goal, the center must:

(I) Establish and maintain a database on the supply and demand of behavioral health professionals in this state, to include current supply and demand; and

(II) Analyze the current and future supply and demand in the state.

b. Developing recommendations and strategies to increase behavioral health faculty and educational supervision, support behavioral health faculty development, and promote advanced behavioral health education.

c. Developing best practices in the academic preparation and continuing education needs of qualified behavioral health educators.

d. Collecting data on behavioral health faculty, employment, distribution, and retention.

e. Piloting innovative projects to support the recruitment, development, and retention of qualified behavioral health faculty and clinical preceptors.

f. Encouraging and coordinating the development of academic-practice partnerships, to support behavioral health faculty employment and advancement.

g. Developing distance learning infrastructure for behavioral health education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

2. Enhance and promote behavioral health professionals in this state by developing and promoting:

a. Behavioral health excellence programs;

b. Reward, recognition, and renewal activities; and

c. Media and image-building efforts.

3. Convene various groups representative of behavioral health professions, other health care providers, business and industry, consumers, lawmakers, and educators to:

a. Review and comment on data analysis prepared for the center;

b. Recommend systemic changes, including strategies for implementation of recommended changes; and

c. Evaluate and report the results of these efforts to the

Legislature and other entities.

(c) The center may request from any board as defined in s. 456.001, and the board must provide to the center upon its request, any information held by the board regarding a behavioral health professional licensed in this state or holding a multistate license pursuant to a professional multistate licensure compact or information reported to the board by employers of such behavioral health professionals, other than personal identifying information.

(d) By January 10 of each year, the center shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties under paragraph (b).

(7)(a) There is established a Florida Behavioral Health Professions Scholarship and Grants Program, subject to an appropriation by the Legislature, to be administered by the Florida Center for Behavioral Health Workforce. The purpose of the program is to provide scholarships to students enrolled in educational programs, including practicums, internships, and rotations, at designated behavioral health teaching hospitals in this state and provide grants to support establishment of such educational programs.

(b) The center must, at a minimum, do all of the following to administer the Florida Behavioral Health Professions

Scholarship and Grants Program:

1. Coordinate, facilitate, and oversee statewide implementation of the Florida Behavioral Health Professions Scholarship and Grants Program.

2. Consult and collaborate with designated behavioral health teaching hospitals and affiliated universities to identify eligible educational programs to offer the scholarship program.

3. Establish requirements, timelines, and processes for eligibility and application for scholarships and grants.

4. Administer scholarship funds. The annual amount of the scholarship to be provided to an eligible student must be the amount specified in the General Appropriations Act.

5. Administer grant funds. The grants must be used for the implementation and operation of educational programs, including practicums, internships, and rotations, at designated behavioral health teaching hospitals in this state. Funds appropriated to the center may be used for such grants only as specifically authorized in the General Appropriations Act.

6. Report on the implementation and administration of this subsection by planning, advising, and evaluating approved degree and certificate programs and the performance of students and programs pursuant to paragraph (c).

(c)1. The center, in collaboration with the Board of Governors and the State Board of Education, shall identify

indicators for the satisfactory progress of students enrolled in educational programs, including practicums, internships, and rotations, at designated behavioral health teaching hospitals in this state and for the performance of such programs.

2. By October 1, 2025, and each year thereafter, the center shall provide to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chancellor of the State University System, and the Commissioner of Education a report summarizing, at a minimum, the status of the statewide coordination and implementation of educational programs, including practicums, internships, and rotations, at designated behavioral health teaching hospitals in this state and the Florida Behavioral Health Professions Scholarships and Grants Program, including, but not limited to, the:

a. Number of applications approved and denied and the reasons for each denial.

b. Number and value of all scholarships awarded to students.

c. Projected number of students who may be eligible to enroll in educational programs, including practicums, internships, and rotations, at designated behavioral health teaching hospitals in this state within the next academic year.

3. The center, in collaboration with the Board of Governors, the State Board of Education, and other stakeholders, by December 1 of each year, shall submit to the Governor, the

President of the Senate, and the Speaker of the House of Representatives statutory and budget recommendations for improving the implementation and delivery of scholarships and grants.

(8) The Board of Governors and the State Board of Education, in consultation with the center, shall expeditiously adopt any necessary regulations and rules, as applicable, to allow the center to perform its responsibilities under subsections (6) and (7) beginning in the 2025-2026 fiscal year.

Section 5. Effective upon this act becoming a law, the Department of Children and Families, in coordination with the Louis de la Parte Florida Mental Health Institute, must contract for a two-part study of Florida's behavioral health system.

(1) The first part of the study must be a study of Florida's behavioral health system in general, including, but not limited to, all of the following:

(a) An analysis of Florida's behavioral health workforce and behavioral health education and training.

(b) An evaluation of how to best promote, integrate, and incentivize the establishment of behavioral health teaching hospitals, as detailed in this act.

(c) Policy recommendations for recruiting, training, and retaining an integrated behavioral health workforce.

(2) The second part of the study must be a detailed analysis of Florida's involuntary commitment system, including,

but not limited to, all of the following:

(a) Involuntary commitment bed capacity, in both forensic and civil involuntary commitment settings.

(b) Involuntary commitment policies and processes.

(c) Policy recommendations for ensuring sufficient involuntary commitment bed capacity.

(d) An evaluation of maintaining civil commitment beds as a requirement for designation as a behavioral health teaching hospital, to include potential costs related to capital outlay, enhanced bed rate, and staffing requirements.

(e) Recommendations for promoting coordination between Florida's involuntary commitment system, behavioral health teaching hospitals, and other integrated health programs.

Section 6. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Garrison offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Part VI of chapter 395, Florida Statutes, consisting of ss. 395.901 and 395.902, Florida Statutes, is created and entitled "Behavioral Health Teaching Hospitals."

Section 2. Section 395.901, Florida Statutes, is created to read:

395.901 Definitions; findings; intent.—

(1) DEFINITIONS.-As used in this part, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: substance use disorders, mental health disorders, or co-occurring disorders.

(c) "Behavioral health professions" means licensed or certified professionals serving the needs of patients with behavioral health disorders including, but not limited to, psychiatrists, psychologists, psychiatric advanced practice registered nurses, social workers, counselors and therapists, licensed under chapters 458, 459, 490, 464, 491, respectively.

(d) "Behavioral health teaching hospital" means a hospital licensed under this chapter and designated by the agency under s. 395.902.

(e) "Department" means the Department of Children, and Families.

(2) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that there is a critical shortage of behavioral health professionals and recognizes the urgent need to expand the existing behavioral health workforce, prepare for an aging workforce, incentivize entry into behavioral health professions, and train a modernized workforce in innovative integrated care.

(b) The Legislature finds there is a specific need to support a behavioral health education system that not only trains the next generation of professionals in innovative and

integrated care for those with behavioral health needs, but also works to modernize the state's overall behavioral health system of care.

(c) The Legislature intends to identify and designate multiple behavioral health teaching hospitals that work to provide the necessary research, education, and services to enhance the state's behavioral health workforce and make that workforce and system of care the national standard.

(d) The Legislature intends to create the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute to address issues of workforce supply and demand in behavioral health professions, including issues of recruitment, retention, and workforce resources.

(e) The Legislature intends for designated behavioral health teaching hospitals to:

1. Conduct state-of-the-art behavioral health research.

2. Provide leading-edge education and training in innovative and integrated care for the state's behavioral health workforce.

3. Collaborate with other university colleges and schools of nursing, psychology, social work, pharmacy, public health, and other relevant disciplines to promote and enhance a modernized behavioral health system of care.

4. Develop, implement, and promote public-private partnerships throughout this state to support and enhance the intent of this part.

5. Partner with the state to provide behavioral health care, address regional and system-wide behavioral health needs, and support the state in providing treatment and care for those whose need and acuity has resulted in the need for long-term voluntary services or involuntary civil commitment.

Section 3. Section 395.902, Florida Statutes, is created to read:

395.902 Behavioral health teaching hospitals.—

(1) A licensed hospital may apply to the agency for designation as a behavioral health teaching hospital by submitting an application and documentation establishing eligibility in a manner determined by the agency.

(2) To be designated as a behavioral health teaching hospital, a hospital must:

(a) Operate as a teaching hospital, as defined in s. 408.07.

(b) Offer a psychiatric residency program accredited through the Residency Review Committee of the Accreditation Council of Graduate Medical Education, and an accredited postdoctoral clinical psychology fellowship program.

(c) Provide behavioral health services.

(d) Affiliate with a university in this state to create and maintain integrated workforce development programs for students of the university's colleges or schools of medicine, nursing, psychology, social work, and public health related to the entire continuum of behavioral health care, including, at a minimum, screening, therapeutic and supportive services, community outpatient care, crisis stabilization, short-term residential treatment, and long-term care.

(e) Develop a plan to create and maintain integrated workforce development programs with the affiliated university's colleges or schools and to supervise clinical care provided by students participating in those programs.

(3) A designated behavioral health teaching hospital must:

(a) Within 90 days after designation, develop, and thereafter maintain, a consultation agreement with the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute to establish best practices related to integrated workforce development programs for the behavioral health professions.

(b) Collaborate with the department and regional managing entities as defined in s. 394.9082 to identify gaps in the regional continuum of behavioral health care that are appropriate for the behavioral health teaching hospital to address, either independently or in collaboration with other organizations providing behavioral health services, and which

will facilitate implementation of the plan developed under paragraph (2)(e).

(c) Within 90 days after designation, enter into an agreement with the department to provide state treatment facility beds, when determined necessary by the department.

(d) Provide data related to the hospital's integrated workforce development programs and the services provided by the hospital to the agency, the department, or the Office of Reimagining Education and Career Help, as determined by the agency, department or office.

(4) Upon designating a behavioral health teaching hospital pursuant to s. 395.902, the agency shall, subject to legislative appropriation, award the hospital:

(a) Funding for up to 10 newly created resident positions through the Slots for Doctors Program established in s. 409.909.

(b) Funding through the Training, Education, and Clinicals in Health (TEACH) Funding Program established in s. 409.91256 to offset the costs of maintaining integrated workforce development programs.

(5) A designated behavioral health teaching hospital must report to the agency and department by December 1 annually the current status of the designated behavioral health teaching hospital program, including, but not limited to the:

(a) Number of psychiatric residents.

(b) Number of postdoctoral clinical psychology fellows.

(c) Status and details of the consultation agreement with and Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute.

(d) Implementation status of the plan required by paragraph (2)(e).

(e) Activities, agreements, and accomplishments of the collaboration required by paragraph (3)(b).

(f) Number of bed days and patients served under paragraph (3)(c).

(6) A behavioral health teaching hospital designation is valid for two years. To renew the designation, the hospital must submit an application for renewal to the agency on a form established by the agency at least 90 days prior to the expiration of the designation. The renewal process is subject to the time periods and tolling provisions of s. 120.60. The agency may deny, revoke, or suspend a designation at any time if a behavioral health teaching hospital is not in compliance with the requirements of this section.

(7) There is established within the agency a grant program for the purpose of funding designated behavioral health teaching hospitals, subject to legislative appropriation. Grant funding may be used for operations and expenses, and fixed capital outlay, including, but not limited to, facility renovation and upgrades.

(a) Beginning October 1, 2024, and subject to the availability of funds, the agency shall hold an annual open application period to receive applications from designated behavioral health teaching hospitals on a form established by the agency. Applicants must include a detailed spending plan with the application.

(b) The agency, in consultation with the department, shall evaluate and rank grant applications based on the quality of the plan submitted under paragraph (2)(e), or the quality of plan implementation, as applicable, related to achieving the purposes of the behavioral health teaching hospital program, and make recommendations for grant awards and distribution of available funding for such awards. The agency shall submit the evaluation and grant award recommendations to the President of the Senate and the Speaker of the House of Representatives within 90 days of the end of the application period.

(c) Notwithstanding ss. 216.181 and 216.292, Florida Statutes, the agency may submit budget amendments, subject to the notice, review, and objection procedures of s. 216.177, Florida Statutes, requesting the release of the funds to make awards. The agency is authorized to submit budget amendments relating to capital improvement projects under the grant program only within 90 days after the close of the open application period.

(8) Notwithstanding s. 216.301 and pursuant to s. 216.351, the balance of any appropriation from the General Revenue Fund for the program which is not disbursed but which is obligated pursuant to contract or committed to be expended by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

(9) The agency may adopt rules necessary to implement this section.

Section 4. Subsections (6) and (7) are added to section 1004.44, Florida Statutes, is amended to read:

1004.44 Louis de la Parte Florida Mental Health Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(6)(a) There is established within the institute the Florida Center for Behavioral Health Workforce. The purpose of the center is to support an adequate, highly skilled, resilient, and innovative workforce that meets the current and future human resources needs of the state's behavioral health system in order to provide high-quality care, services, and supports to Floridians with, or at risk of developing, behavioral health conditions through original research, policy analysis, evaluation, and development and dissemination of best practices. The goals of the center are, at a minimum, to research the state’s current behavioral health workforce and future needs;

expand the number of clinicians, professionals, and other workers involved in the behavioral health workforce; and enhance the skill level and innovativeness of the workforce. The center shall, at a minimum:

1. Describe and analyze the current workforce and project possible future workforce demand, especially in critical roles, and develop strategies for addressing any gaps. The center's efforts may include, but need not be limited to, producing a statistically valid biennial analysis of the supply and demand of the behavioral health workforce.

2. Work to expand pathways to behavioral health professions through enhanced educational opportunities and improved faculty development and retention. The center's efforts may include, but need not be limited to:

a. Identifying best practices in the academic preparation and continuing education of behavioral health professionals.

b. Facilitating and coordinating the development of academic-practice partnerships that support behavioral health faculty employment and advancement.

c. Developing and implementing innovative projects to support the recruitment, development, and retention of behavioral health educators, faculty, and clinical preceptors.

d. Developing distance learning infrastructure for behavioral health education and the evidence-based use of technology, simulation, and distance learning techniques.

3. Promote behavioral health professions. The center's efforts may include, but need not be limited to:

a. Conducting original research on the factors affecting recruitment, retention, and advancement of the behavioral health workforce, such as by designing and implementing a longitudinal study of the state's behavioral health workforce.

b. Developing and implementing innovative projects to support the recruitment, development, and retention of behavioral health workers.

(c) The center may:

1. Convene groups, including but not limited to, behavioral health clinicians, professionals, and workers; employers of these individuals; other health care providers; individuals with behavioral health conditions and their families; business and industry leaders; policymakers; and educators to assist it in its work.

2. Request from any board as defined in s. 456.001, and the board must provide to the center upon its request, any information held by the board regarding a behavioral health professional licensed in this state or holding a multistate license pursuant to a professional multistate licensure compact or information reported to the board by employers of such behavioral health professionals, other than personal identifying information.

(d) By January 10 of each year, the center shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties under paragraph (b). The report submitted in 2025 shall include an initial statewide strategic plan for meeting the goals in subsection (2), which shall be updated in each subsequent report.

(7) The Board of Governors and the State Board of Education, in consultation with the center, shall expeditiously adopt any necessary regulations and rules, as applicable, to allow the center to perform its responsibilities beginning in the 2025-2026 fiscal year.

Section 5. Effective upon this act becoming a law, the Department of Children and Families must contract for a study of the current and projected future demand for inpatient treatment services for adults and children with serious mental illness, the state's current and projected future ability to meet that demand, and recommendations for enhancing the availability of inpatient treatment services and for providing alternatives to such services. The study must consider the demand for both civil and forensic inpatient placements. The study must be completed by January 31, 2025, and at a minimum:

(1) Describe, by state treatment facility, the current number and allocation of beds for inpatient treatment between

forensic and civil placements, number of individuals admitted and discharged annually, types and frequency of diagnoses, and lengths of stay.

(2) Describe, by department region, the current number and allocation of beds in receiving facilities for inpatient treatment between forensic and civil placements, number of individuals admitted and discharged annually, types and frequency of diagnoses, and lengths of stay.

(3) Specify:

(a) the current and projected future demand for civil and forensic inpatient placements at state treatment facilities and at receiving facilities, by region.

(b) any gaps in current and future availability of these services compared to current service availability.

(c) the number of inpatient beds needed by facility type, region of state, and placement type, to meet current and projected future demand.

(4) Describe policy recommendations for ensuring sufficient bed capacity for longer-term involuntary treatment, either at the state treatment facilities or receiving facilities, and enhancing services that could prevent the need for involuntary inpatient placements.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert:
An act relating to behavioral health teaching hospitals; creating part VI of chapter 395, F.S., entitled "Behavioral Health Teaching Hospitals"; creating s. 395.901, F.S.; defining the terms "agency", "behavioral health", "behavioral health professions", "behavioral health teaching hospital", and "Department"; providing legislative findings and intent; creating s. 395.902, F.S.; specifying the manner in which hospitals may seek designation as a behavioral health teaching hospital; specifying criteria that a hospital must meet to receive such designation; specifying criteria that a hospital must meet to maintain such designation; requiring the agency to award a hospital certain funds upon designation, subject to appropriation; requiring a designated behavioral health teaching hospital to submit an annual report; providing a term of years for the designation and a process for a hospital to renew the designation; authorizing the agency to deny, revoke, or suspend the designation; establishing a grant program for the purpose of funding designated behavioral health teaching hospitals; providing an administrative process to receive, evaluate, and rank applications that request grant funds; authorizing the agency to submit a budget amendment to the Legislature requesting the release of grant funds to make awards; providing

a carry forward term of years for obligated funds not disbursed in the same year in which the funds were appropriated; authorizing the agency to adopt rules; amending s. 1004.44, F.S.; establishing the Florida Center for Behavioral Health Workforce within the Louis de la Parte Florida Mental Health Institute and the University of South Florida for specified purpose; specifying the goals for the center; requiring the center to describe and analyze the current workforce, project future workforce demand, and develop strategies to address gaps; requiring the center to expand pathways to the behavioral health professions; requiring the center to promote the behavioral health professions; specifying the minimum requirements of the center; authorizing the center to convene certain groups; authorizing the center to request, and requiring certain boards to provide, certain information regarding behavioral health professionals licensed or practicing in this state; requiring the center to submit an annual report; requiring the Board of Governors and the State Board of Education to adopt any necessary regulations and rules in an expeditious manner; requiring the Department of Children and Families to contract for a study of the current and projected future demand for inpatient treatment services, the state’s current and projected future ability to meet that demand, and to make certain recommendations; specifying requirements for the study; providing effective dates.

HB 7023

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7023 PCB CFS 24-02 Pub. Rec. and Meetings/Mental Health and Substance Abuse
SPONSOR(S): Children, Families & Seniors Subcommittee, Maney and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Children, Families & Seniors Subcommittee	16 Y, 0 N	Curry	Brazzell
1) Ethics, Elections & Open Government Subcommittee	16 Y, 0 N	Rando	Toliver
2) Health & Human Services Committee		Curry	Calamas

SUMMARY ANALYSIS

The Baker Act provides legal procedures for voluntary and involuntary mental health examination and treatment, while the Marchman Act addresses substance abuse through a comprehensive system of prevention, detoxification, and treatment services.

Currently, all Baker Act petitions for voluntary and involuntary mental health treatment, court orders, and related records filed with a court are confidential and exempt from public record requirements. Similarly, all Marchman Act petitions for involuntary assessment and stabilization, court orders, and related records are confidential and exempt from public record requirements. Under both Acts, the clerk of court is prohibited from posting personal identifying information on the court docket or in publicly accessible files and may only release confidential and exempt documents to specified individuals. Current law retroactively applies the exemption to all documents filed under both Acts to a specified date, but does not expressly apply the exemption to pending or filed appeals.

The bill makes hearings under the Baker Act and under Parts IV and V of the Marchman Act confidential, absent a judicial finding of good cause or the respondent's consent.

The bill expands the exemption from public record requirements to include a respondent's name, at trial and on appeal, and applications for voluntary mental health examinations or treatment and substance abuse treatment. The bill also adds service providers to the list of individuals to whom the clerk of court may disclose confidential and exempt pleadings and other documents. In addition to applying to documents that were previously filed with a court, these new exemptions also apply to appeals pending or filed on or after July 1, 2024.

The bill creates a narrow exception that allows courts to use a respondent's name in certain instances.

The bill provides that the public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2029, unless the saved from repeal through reenactment by the Legislature. The bill also provides the constitutionally required public necessity statements.

The bill may have an indeterminate, but likely insignificant, negative fiscal impact on the State Courts System.

This bill provides an effective date of July 1, 2024.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government

The Florida Constitution sets forth the state's public policy regarding access to government records and meetings.[1] Every person is guaranteed a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.[2] All meetings of any collegial public body of the executive branch of state government or any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, must be open and noticed to the public.[3] The Legislature, however, may provide by general law an exemption[4] from public record or meeting requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.[5]

Pursuant to the Open Government Sunset Review Act,[6] a new public record or meeting exemption or substantial amendment of an existing exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.[7]

Public Records

Current law also addresses the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.[8] Furthermore, the Open Government Sunset Review Act provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."[9] An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.[10]

Public Meetings

Current law also addresses public policy regarding access to government meetings, further requiring all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken to be open to the

[1] Art. I, s. 24, FLA. CONST.
[2] Art. I, s. 24(a), FLA. CONST.
[3] Art. I, s. 24 (b), FLA. CONST.
[4] A public record exemption means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., s. 286.011, F.S., or s. 24, Art. I of the Florida Constitution. *See* s. 119.011(8), F.S.
[5] Art. I, s. 24(c), FLA. CONST.
[6] S. 119.15, F.S.
[7] S. 119.15(3), F.S.
[8] *See* s. 119.01, F.S.
[9] S. 119.15(6)(b), F.S.
[10] *Id.*

public at all times, unless the meeting is exempt.[11] The board or commission must provide reasonable notice of all public meetings.[12] Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.[13] Minutes of a public meeting must be promptly recorded and open to public inspection.[14] Failure to abide by public meeting requirements will invalidate any resolution, rule, or formal action adopted at a meeting.[15] A public officer or member of a governmental entity who violates public meeting requirements is subject to civil and criminal penalties.[16]

Mental Health and Mental Illness

Mental health is a state of well-being in which the individual is able to cope with the normal stresses of life, realize his or her abilities, can work productively and fruitfully, and is able to contribute to his or her community.[17] The primary indicators used to evaluate an individual's mental health are:[18]

- **Emotional well-being**- Perceived life satisfaction, happiness, cheerfulness, peacefulness;
- **Psychological well-being**- Self-acceptance, personal growth, including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and
- **Social well-being**- Social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, and sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.[19] Thus, mental health refers to an individual's mental state of well-being, whereas mental illness signifies an alteration of that well-being. Mental illness affects millions of people in the United States each year. Nearly one in five adults lives with a mental illness.[20] An estimated 49.5% of adolescents aged 13-18 have a mental illness.[21]

The Baker Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.[22] The Act provides legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.[23]

Voluntary Admissions

Under current law, an adult may apply for voluntary admission to a facility for observation, diagnosis, or treatment by giving their express and informed consent.[24] The facility may admit the adult if it finds

[11] S. 286.011(1), F.S.
[12] *Id.*
[13] S. 286.011(6), F.S.
[14] S. 286.011(2), F.S.
[15] S. 286.011(1), F.S.
[16] S. 286.011(3), F.S.
[17] World Health Organization, *Mental Health: Strengthening Our Response,* https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response (last visited Jan. 24 , 2024).
[18] Centers for Disease Control and Prevention, *Mental Health Basics*, http://medbox.iiab.me/modules/en-cdc/www.cdc.gov/mentalhealth/basics.htm (last visited Jan. 24, 2024).
[19] *Id*.
[20] National Institute of Mental Health (NIH), *Mental Illness*, https://www.nimh.nih.gov/health/statistics/mental-illness (last visited Jan. 24, 2024).
[21] *Id*.
[22] Ss. 394.451-394.47892, F.S.
[23] S. 394.459, F.S.
[24] S. 394.4625, F.S.

evidence of mental illness, the adult to be competent to provide express and informed consent, and that the adult is suitable for treatment.

A facility may also receive a minor for observation, diagnosis, or treatment if the minor's guardian applies for admission.[25] If the facility finds there is evidence of mental illness, and the minor is suitable for treatment at that facility, then they can admit the minor, but only after a clinical review to verify the voluntariness of the minor's assent.[26]

A voluntary patient who is unwilling or unable to provide express and informed consent to mental health treatment must either be discharged or transferred to involuntary status.[27] Additionally, facilities must discharge a patient within 24 hours if he or she is sufficiently improved such that admission is no longer appropriate, consent is revoked, or discharge is requested, unless the patient is qualified for and is transferred to involuntary status.[28]

Involuntary Examination

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[29] An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:[30]

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; **and**
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; **or**
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

The involuntary examination may be initiated in one of three ways:[31]

- A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony. The order of the court shall be made a part of the patient's clinical record.
- A law enforcement officer must take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, receiving facility for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient's clinical record.
- A physician, a physician assistant, clinical psychologist, psychiatric nurse, an advanced practice registered nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. The report and certificate shall be made a part of the patient's clinical record.

Involuntary patients must be taken to either a public or private facility which has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving

[25] *Id*.
[26] *Id*.
[27] S. 394.4625(1)(e), F.S.
[28] S. 394.4625(2), F.S.
[29] Ss. 394.4625 and 394.463, F.S.
[30] S. 394.463(1), F.S.
[31] S. 394.463(2)(a), F.S.

facilities is to receive and hold, or refer, as appropriate, involuntary patients under emergency conditions for psychiatric evaluation and to provide short-term treatment or transportation to the appropriate service provider.[32] The examination period must be for up to 72 hours.[33] A minor patient must be examined by the receiving facility within 12 hours following his or her arrival at the facility.[34]

Involuntary Outpatient Services

A person may be ordered to involuntary outpatient services[35] upon a finding of the court that by clear and convincing evidence:[36]

- The person is 18 years of age or older;
- The person has a mental illness;
- The person is unlikely to survive safely in the community without supervision, based on a clinical determination;
- The person has a history of lack of compliance with treatment for mental illness;
- The person has:
    - At least twice within the immediately preceding 36 months been involuntarily admitted to a receiving or treatment facility, or has received mental health services in a forensic or correctional facility; or
    - Engaged in one or more acts of serious violent behavior toward self or others, or attempts at serious bodily harm to himself or herself or others, within the preceding 36 months;
- The person is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment plan and either he or she has refused voluntary placement for treatment or he or she is unable to determine for himself or herself whether placement is necessary;
- In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being;
- It is likely that the person will benefit from involuntary outpatient services; and
- All available, less restrictive alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate or unavailable.

A petition for involuntary outpatient services may be filed by a receiving or treatment facility's administrator.[37] The petition must allege and sustain each of the criterion for involuntary outpatient services and be accompanied by a certificate recommending involuntary outpatient services by a qualified professional and a proposed treatment plan.[38]

The petition for involuntary outpatient services must be filed in the county where the patient is located, unless the patient is being placed from a state treatment facility, in which case the petition must be filed in the county where the patient will reside.[39] When the petition has been filed, the clerk of the court shall provide copies of the petition and the proposed treatment plan to DCF, the managing entity, the patient, the patient's guardian or representative, the state attorney, and the public defender or the patient's private counsel.[40]

[32] S. 394.455(39), F.S.
[33] S. 394.463(2)(g), F.S.
[34] *Id.*
[35] Current statute uses both "services" and "placement". For the purposes of the analysis, the term "services" will be used.
[36] S. 394.4655(2), F.S.
[37] S. 394.4655(4)(a), F.S.
[38] S. 394.4655(4)(b), F.S.
[39] S. 394.4655(4)(c), F.S.
[40] *Id.*

Once a petition for involuntary outpatient services has been filed with the court, the court must hold a hearing within five working days, unless a continuance is granted.[41] The state attorney for the circuit in which the patient is located is required to represent the state, rather than the petitioner, as the real party in interest in the proceeding.[42] The court must, within one court working day of the filing of the petition appoint the public defender to represent the person who is the subject of the petition, unless that person is otherwise represented by counsel.[43]

At the hearing on involuntary outpatient services, the court shall consider testimony and evidence regarding the patient's competence to consent to treatment; if the court finds that the patient is incompetent to consent to treatment, it shall appoint a guardian advocate.[44] If the court concludes that the patient meets the criteria for involuntary outpatient services, it must issue an order for involuntary outpatient services.[45] The order must specify the duration of involuntary outpatient services, up to 90 days, and the nature and extent of the patient's mental illness.[46] The order of the court and the treatment plan shall be made part of the patient's clinical record.[47]

If, at any time before the conclusion of the initial hearing on involuntary outpatient services, it appears to the court that the person does not meet the criteria for involuntary outpatient services but, instead, meets the criteria for involuntary inpatient placement, the court may order the person admitted for involuntary inpatient examination.[48]

Involuntary Inpatient Placement

A person may be placed in involuntary inpatient placement for treatment upon a finding of the court by clear and convincing evidence that:

- He or she is mentally ill and because of his or her mental illness:
    - He or she has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment; or is unable to determine for himself or herself whether placement is necessary; **and**
    - He or she is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; **or**
    - There is substantial likelihood that in the near future he or she will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; and
- All available less restrictive treatment alternatives which would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.[49]

A receiving or treatment facility's administrator must file a petition for involuntary inpatient placement in the court in the county where the patient is located.[50] Upon filing, the clerk of the court must provide copies to DCF, the patient, the patient's guardian or representative, and the state attorney and public defender of the judicial circuit in which the patient is located.[51]

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[41] S. 394.4655(7)(a)1., F.S.
[42] *Id.*
[43] S. 394.4655(5), F.S.
[44] S. 394.4655(7)(d), F.S.
[45] S. 394.4655(7)(b)1., F.S.
[46] *Id.*
[47] *Id.*
[48] S. 394.4655(7)(c), F.S. Additionally, if the person instead meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to the Marchman Act, the court may order the person to be admitted for involuntary assessment pursuant to the statutory requirements of the Marchman Act.
[49] S. 394.467(1), F.S.
[50] S. 394.467(2)-(3), F.S.
[51] S. 394.467(3), F.S.

The court proceedings for involuntary inpatient placement closely mirror those for involuntary outpatient services.[52] However, unlike an order for involuntary outpatient services, which statute makes part of the patient's clinical record, nothing in the laws governing involuntary inpatient placement makes the court's order part of the patient's clinical record.

Confidentiality of Service Provider Records in Baker Act Proceedings in Florida

In 2019, the Legislature created a public record exemption for certain information filed with a court under the Baker Act.[53] Specifically, all petitions for voluntary and involuntary admissions for mental health treatment, court orders, and related records that are filed with or by a court under the Baker Act are confidential and exempt[54] from public record requirements. However, the clerk of the court may disclose the pleadings and other documents to:[55]

- The petitioner;
- The petitioner's attorney;
- The respondent;
- The respondent's attorney;
- The respondent's guardian or guardian advocate, if applicable;
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate;
- The respondent's treating health care practitioner;
- The respondent's health care surrogate or proxy;
- DCF, without charge;
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from DCF; or
- A person or entity authorized to view records upon a court order for good cause.

Currently, a respondent's name, at trial and on appeal, and applications for voluntary and involuntary admission for mental health examinations are not part of the public record exemption, meaning this information is subject to public disclosure under current law.

However, the clerk of court is prohibited from publishing personal identifying information on a court docket or in a publicly accessible file.[56] This means that a court may not use a respondent's name to schedule and adjudicate cases, which includes transmitting a copy of any court order to the parties.

The 2019 public necessity statement[57] for the exemption provides that the Legislature finds that:[58]

> A person's mental health is … an intensely private matter. The public stigma associated with a mental health condition may cause persons in need of treatment to avoid seeking treatment and related services if the record of such condition is accessible to the public. Without treatment, a person's condition may worsen, the person may harm himself or herself or others, and the person may become a financial burden on the state. The content of such records or personal identifying information should not be made public merely because they are filed with or by a

[52] *See* s. 394.467(6)-(7), F.S.
[53] Ch. 2019-51, Laws of Fla., codified as s. 394.464, F.S.
[54] There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Op. Att'y Gen. Fla. 04-09 (2004).
[55] S. 394.464(1), F.S.
[56] S. 394.464(3), F.S.
[57] Art. I, s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying the exemption."
[58] Ch. 2019-51, Laws of Fla.

> court or placed on a docket. Making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other record is published, defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive, personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and comply with mental health treatment services.

The exemption applies to all documents filed with a court before, on, or after July 1, 2019.[59] Current law does not expressly apply the exemption to pending or filed appeals.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2024, unless reenacted by the Legislature.[60]

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[61] Substance use disorders occur when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.[62] Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.[63] Brain imaging studies of persons with substance use disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.[64]

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, a diagnosis of substance use disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.[65] The most common substance use disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.[66]

The Marchman Act

In the early 1970s, the federal government furnished grants for states "to develop continuums of care for individuals and families affected by substance abuse."[67] The grants provided separate funding streams and requirements for alcoholism and drug abuse.[68] In response, the Florida Legislature enacted ch. 396, F.S., (alcohol) and ch. 397, F.S. (drug abuse).[69] In 1993, legislation combined chapters 396 and 397, F.S., into a single law, entitled the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).[70] The Marchman Act supports substance abuse prevention and remediation through a system of prevention, detoxification, and treatment services to assist individuals at risk for or affected by substance abuse.

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[59] S. 394.464(5), F.S.
[60] S. 394.464(6), F.S.
[61] *World Health Organization, Substance Abuse*, http://www.who.int/topics/substance_abuse/en/ (last visited Jan. 24, 2024).
[62] Substance Abuse and Mental Health Services Administration, *Substance Use Disorders,* http://www.samhsa.gov/disorders/substance-use (last visited Jan. 24, 2024).
[63] National Institute on Drug Abuse*, Drugs, Brains, and Behavior: The Science of Addiction*, https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction (last visited Jan. 24, 2024).
[64] *Id.*
[65] *Supra*, note 62.
[66] *Id*.
[67] Darran Duchene & Patrick Lane, *Fundamentals of the Marchman Act,* Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Program, *available at* http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/ (last visited Jan. 24, 2024).
[68] *Id.*
[69] *Id*.
[70] Chapter 93-39, L.O.F., codified in Chapter 397, F.S. Reverend Hal S. Marchman was an advocate for persons who suffer from alcoholism and drug abuse. *Supra* note 67.

An individual may receive services under the Marchman Act through either voluntary or involuntary admission.

Voluntary Admissions

The Marchman Act encourages individuals to seek voluntary substance abuse impairment services within the existing financial and space capacities of a service provider. Any individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.[71]

Under the Marchman Act, a minor's consent to services has the same force and effect as an adult's.[72]

Involuntary Admissions

The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis.[73] There are five involuntary admission procedures that can be broken down into two categories: non-court involved admissions and court involved admissions. Regardless of the nature of the proceedings, an individual meets the criteria for an involuntary admission under the Marchman Act when there is good faith reason to believe the individual is substance abuse impaired and, because of such impairment, has lost the power of self-control with respect to substance use; and either has inflicted, attempted or threatened to inflict, or unless admitted, is likely to inflict physical harm on himself or herself or another; or the person's judgment has been so impaired because of substance abuse that he or she is incapable of appreciating the need for substance abuse services and of making a rational decision in regard to substance abuse services.[74]

Non-Court Involved Involuntary Admissions

The three types of non-court procedures for involuntary admission for substance abuse treatment under the Marchman Act are:

- **Protective Custody**: This procedure is used by law enforcement officers when an individual is substance-impaired or intoxicated in public and is brought to the attention of the officer.[75]
- **Emergency Admission**: This procedure permits an individual who appears to meet the criteria for involuntary admission to be admitted to a hospital, an addiction receiving facility, or a detoxification facility for emergency assessment and stabilization. Individuals admitted for involuntary assessment and stabilization under this provision must have a physician's certificate for admission, demonstrating the need for this type of placement and recommending the least restrictive type of service that is appropriate to the needs of the individual.[76]
- **Alternative Involuntary Assessment for Minors**: This procedure provides a way for a parent, legal guardian, or legal custodian to have a minor admitted to an addiction receiving facility to assess the minor's need for treatment by a qualified professional.[77]

[71] S. 397.601, F.S.
[72] S. 397.601(4)(a), F.S.
[73] *See* ss. 397.675 – 397.6978, F.S.
[74] S. 397.675, F.S.
[75] Ss. 397.6771 – 397.6772, F.S. A law enforcement officer may take the individual to his or her residence, to a hospital, a detoxification center, or addiction receiving facility, or in certain circumstances, to jail. Minors, however, cannot be taken to jail.
[76] S. 397.679, F.S.
[77] S. 397.6798, F.S.

Court Involved Involuntary Admissions

The two court-involved Marchman Act procedures are involuntary assessment and stabilization, which provides for short-term court-ordered substance abuse services, and involuntary services,[78] which provides for long-term court-ordered substance abuse treatment.

Involuntary Assessment and Stabilization

Involuntary assessment and stabilization involves filing a petition with the clerk of court.[79] Once the petition is filed with the clerk of court, the court issues a summons to the respondent and the court must schedule a hearing to take place within 10 days, or can issue an ex parte order immediately.[80]

After hearing all relevant testimony, the court determines whether the respondent meets the criteria for involuntary assessment and stabilization and must immediately enter an order that either dismisses the petition or authorizes the involuntary assessment and stabilization of the respondent.[81]

If the court determines the respondent meets the criteria, it may order him or her to be admitted for a period of 5 days[82] to a hospital, licensed detoxification facility, or addictions receiving facility, for involuntary assessment and stabilization.[83] During that time, an assessment is completed on the individual.[84] The written assessment is then sent to the court. Once the written assessment is received, the court must either: [85]

- Release the individual and, if appropriate, refer the individual to another treatment facility or service provider, or to community services;
- Allow the individual to remain voluntarily at the licensed provider; or
- Hold the individual if a petition for involuntary services has been initiated.

Involuntary Services

If the individual has previously been subject to at least one of the four other involuntary admissions procedures within a specified period, a court may require the individual to be admitted for treatment for a longer period through involuntary services.[86]

Similar to a petition for involuntary assessment and stabilization, a petition for involuntary services must contain identifying information for all parties and attorneys and facts necessary to support the petitioner's belief that the respondent is in need of involuntary services.[87] A hearing on a petition for

[78] The term "involuntary services" means "an array of behavioral health services that may be ordered by the court for a person with substance abuse impairment or co-occurring substance abuse impairment and mental health disorders." S. 397.311(22), F.S. SB 12 (2016), ch. 2016-241, Laws of Fla., renamed "involuntary treatment" as "involuntary services" in ss. 397.695 – 397.6987, F.S., however some sections of the Marchman Act continue to refer to "involuntary treatment." For consistency, this analysis will use the term "involuntary services."
[79] S. 397.6811, F.S.
[80] S. 397.6815, F.S. Under the ex parte order, the court may order a law enforcement officer or other designated agent of the court to take the respondent into custody and deliver him or her to the nearest appropriate licensed service provider.
[81] S. 397.6818, F.S.
[82] If a licensed service provider is unable to complete the involuntary assessment and, if necessary, stabilization of an individual within 5 days after the court's order, it may, within the original time period, file a request for an extension of time to complete its assessment. The court may grant additional time, not to exceed 7 days after the date of the renewal order, for the completion of the involuntary assessment and stabilization of the individual. The original court order authorizing the involuntary assessment and stabilization, or a request for an extension of time to complete the assessment and stabilization that is timely filed, constitutes legal authority to involuntarily hold the individual for a period not to exceed 10 days in the absence of a court order to the contrary. S. 397.6821, F.S.
[83] S. 397.6811, F.S. The individual may also be ordered to a less restrictive component of a licensed service provider for assessment only upon entry of a court order or upon receipt by the licensed service provider of a petition.
[84] S. 397.6819, F.S. The licensed service provider must assess the individual without unnecessary delay using a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before the end of the assessment period.
[85] S. 397.6822, F.S. The timely filing of a Petition for Involuntary Services authorizes the service provider to retain physical custody of the individual pending further order of the court.
[86] S. 397.693, F.S.
[87] S. 397.6951, F.S.

involuntary services must be held within five days unless the court grants a continuance.[88] If the court finds that the conditions for involuntary substance abuse treatment have been proven, it may order the respondent to receive involuntary services for a period not to exceed 90 days.[89] However, substance abuse treatment facilities other than addictions receiving facilities are not locked; therefore, individuals receiving treatment in such unlocked facilities under the Marchman Act may voluntarily leave treatment at any time, and the only legal recourse is for a judge to issue a contempt of court charge and impose brief jail time.[90]

Confidentiality of Service Provider Records in Marchman Act Proceedings in Florida

In 2017, the Legislature created a public record exemption for certain information filed with a court under the Marchman Act.[91] Specifically, all petitions for involuntary assessment and stabilization, court orders, and related records that are filed with or by a court under the Marchman Act are confidential and exempt from public record requirements. However, the clerk of the court may disclose the pleadings and other documents to:[92]

- The petitioner;
- The petitioner's attorney;
- The respondent;
- The respondent's attorney;
- The respondent's guardian or guardian advocate, if applicable;
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate;
- The respondent's treating health care practitioner;
- The respondent's health care surrogate or proxy;
- DCF, without charge;
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from DCF; or
- A person or entity authorized to view records upon a court order for good cause.

Under current law, a respondent's name, at trial and on appeal, and applications for voluntary and involuntary substance abuse treatment are not part of the public record exemption. However, as in the Baker Act, the clerk of court is prohibited from publishing personal identifying information on a court docket or in a publicly accessible file.[93]

The 2017 public necessity statement for the exemption provides that the Legislature finds that:[94]

> A person's health and sensitive, personal information regarding his or her actual or alleged substance abuse impairment are intensely private matters. The media have obtained, and published information from, such records without the affected person's consent. The content of such records or personal identifying information should not be made public merely because they are filed with or by a court or placed on a docket. Making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other record is published,

[88] S. 397.6955, F.S.
[89] S. 397.697(1), F.S. If the need for services is longer, the court may order the respondent to receive involuntary services for a period not to exceed an additional 90 days.
[90] *Supra,* note 67. If the respondent leaves treatment, the facility will notify the court and a status conference hearing may be set. If the respondent does not appear at this hearing, a show cause hearing may be set. If the respondent does not appear for the show cause hearing, the court may find the respondent in contempt of court.
[91] Ch. 2017-25, Laws of Fla., codified as s. 397.6760, F.S.
[92] S. 397.6760(1), F.S.
[93] S. 397.6760(3), F.S.
[94] Ch. 2017-25, Laws of Fla.

defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive, personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and comply with substance abuse treatment services.

The exemption applies to all documents filed with a court before, on, or after July 1, 2017.[95] Current law does not expressly apply the exemption to pending or filed appeals.

Effect of the Bill

The bill makes hearings under the Baker Act and under Parts IV and V of the Marchman Act confidential, absent a judicial finding of good cause or the respondent's consent.

The bill expands the public record exemption for Baker petitions for voluntary or involuntary admissions to include a respondent's name, at trial and on appeal, and all applications for such admissions. The bill also requires that admissions for mental health examinations be kept confidential and exempt from public record requirements.

The bill expands the public record exemption for certain Marchman Act petitions for involuntary assessments and stabilization to include voluntary assessments. The information held confidential and exempt is expanded to include a respondent's name, at trial and on appeal, and all applications for substance abuse treatment or assessment and stabilizations. The bill also expands the scope of the exemption to cover information filed with a court under Part IV of the Marchman Act.

The bill also adds service providers to the list of individuals to whom the clerk of court may disclose confidential and exempt pleadings and other documents.

The bill maintains the current prohibition against a clerk of court publishing personal identifying information on a court docket or in a publicly accessible file, but creates a narrow exception that allows courts to use a respondent's name to schedule and adjudicate cases. In addition to applying to documents that were previously filed with a court, these new exemptions also apply to appeals pending or filed on or after July 1, 2024.

The bill provides statements of public necessity as required by the Florida Constitution, specifying that the exemptions protect sensitive personal information, the release of which could cause unwarranted damage to the reputation of an individual.

The bill provides that the public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2029, unless the saved from repeal through reenactment by the Legislature.

This bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 394.464, F.S., relating to court records; confidentiality.
Section 2: Amends s. 397.6760, F.S., relating to records; confidentiality.
Section 3: Provides statements of public necessity.
Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[95] S. 397.6760(5), F.S.

1. Revenues:

   None.

2. Expenditures:

   The bill has an indeterminate, but likely insignificant, negative fiscal impact on the State Courts System.[96]

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 require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Vote Requirement

   Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record exemption or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

   Public Necessity Statement

   Article I, section 24(c) of the Florida Constitution requires a public necessity statement for each newly created or expanded public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it includes statements of public necessity. The statements provide that the Legislature finds, in part, that the mental health or substance abuse impairments of a person are medical conditions, which are intensely private matters that should be protected from public disclosure.

[96] Office of the State Courts Administrator, Agency Analysis of HB 1157, p. 2 (Jan. 21, 2022).

Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires a newly created or expanded public record exemption or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes hearings under the Baker Act and under Parts IV and V of the Marchman Act confidential and expands current exemptions from public record requirements to include a respondent's name, at trial and on appeal, and applications for voluntary mental health examinations or treatment and substance abuse, none of which appear broader than necessary to accomplish their purpose.

B. RULE-MAKING AUTHORITY:

The bill does not create new, or expand existing rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public records and meetings; amending ss. 394.464 and 397.6760, F.S.; specifying that all hearings relating to mental health and substance abuse, respectively, are confidential and closed to the public; providing exceptions; exempting certain information from public records requirements; expanding a public records exemption to include certain petitions and applications; authorizing disclosure of certain confidential and exempt documents to certain service providers; authorizing courts to use a respondent's name for certain purposes; revising applicability to include certain appeals; revising the date for future legislative review and repeal of the exemption; providing public necessity statements; providing an effective date.

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

Section 1. Section 394.464, Florida Statutes, is amended to read:

394.464 Court proceedings and records; confidentiality.—

(1) Absent a judicial finding of good cause or the respondent's consent, all hearings under this part are confidential and closed to the public.

(2)(a) ~~(1)~~ The respondent's name, at trial and on appeal, and all petitions or applications for voluntary and involuntary admission for mental health examination or treatment, court orders, and related records that are filed with or by a court under this part are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Pleadings and other documents made confidential and exempt by this section may be disclosed by the clerk of the court, upon request, to any of the following:

1. ~~(a)~~ The petitioner.

2. ~~(b)~~ The petitioner's attorney.

3. ~~(c)~~ The respondent.

4. ~~(d)~~ The respondent's attorney.

5. ~~(e)~~ The respondent's guardian or guardian advocate, if applicable.

6. ~~(f)~~ In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.

7. ~~(g)~~ The respondent's treating health care practitioner and service provider.

8. ~~(h)~~ The respondent's health care surrogate or proxy.

9. ~~(i)~~ The Department of Children and Families, without charge.

10. ~~(j)~~ The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children

and Families.

11.~~(k)~~ A person or entity authorized to view records upon a court order for good cause. In determining if there is good cause for the disclosure of records, the court must weigh the person or entity's need for the information against potential harm to the respondent from the disclosure.

(b)~~(2)~~ This subsection ~~section~~ does not preclude the clerk of the court from submitting the information required by s. 790.065 to the Department of Law Enforcement.

(c)~~(3)~~ The clerk of the court may not publish personal identifying information on a court docket or in a publicly accessible file, but the court may use a respondent's name to schedule and adjudicate cases, which includes the transmission of any court order to the parties or the service provider.

(d)~~(4)~~ A person or entity receiving information pursuant to this subsection ~~section~~ shall maintain that information as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e)~~(5)~~ The exemption under this subsection ~~section~~ applies to all documents filed with a court before, on, or after July 1, 2019, and appeals pending or filed on or after July 1, 2024.

(f)~~(6)~~ This subsection ~~section~~ is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029 ~~2024~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Section 397.6760, Florida Statutes, is amended to read:

397.6760 Court proceedings and records; confidentiality.—

(1) Absent a judicial finding of good cause or the respondent's consent, all hearings under this part or part IV are confidential and closed to the public.

(2)(a) The respondent's name, at trial and on appeal, and all petitions or applications for voluntary and involuntary substance abuse treatment or assessment and stabilization, court orders, and related records that are filed with or by a court under this part or part IV are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Pleadings and other documents made confidential and exempt by this section may be disclosed by the clerk of the court, upon request, to any of the following:

1.~~(a)~~ The petitioner.

2.~~(b)~~ The petitioner's attorney.

3.~~(c)~~ The respondent.

4.~~(d)~~ The respondent's attorney.

5.~~(e)~~ The respondent's guardian or guardian advocate, if applicable.

6.~~(f)~~ In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.

7.~~(g)~~ The respondent's treating health care practitioner and service provider.

8.~~(h)~~ The respondent's health care surrogate or proxy.

9.~~(i)~~ The Department of Children and Families, without charge.

10.~~(j)~~ The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

11.~~(k)~~ A person or entity authorized to view records upon a court order for good cause. In determining if there is good cause for the disclosure of records, the court must weigh the person or entity's need for the information against potential harm to the respondent from the disclosure.

(b)~~(2)~~ This subsection ~~section~~ does not preclude the clerk of the court from submitting the information required by s. 790.065 to the Department of Law Enforcement.

(c)~~(3)~~ The clerk of the court may not publish personal identifying information on a court docket or in a publicly accessible file, but the court may use a respondent's name to schedule and adjudicate cases, which includes the transmission of any court order to the parties or the service provider.

(d)~~(4)~~ A person or entity receiving information pursuant to this subsection ~~section~~ shall maintain that information as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e)~~(5)~~ The exemption under this subsection ~~section~~ applies

to all documents filed with a court before, on, or after July 1, 2017, and appeals pending or filed on or after July 1, 2024.

(f) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. (1) The Legislature finds that it is a public necessity that court hearings under part I of chapter 394 and parts IV and V of chapter 397, Florida Statutes, be made confidential and closed to the public unless the court finds good cause to open a hearing to the public or the respondent consents to a hearing being open to the public. The mental health or substance abuse impairments of a person are medical conditions that should be protected from public disclosure. A person's health and sensitive personal information regarding his or her mental health or substance abuse impairment are intensely private matters. Making hearings where such impairments, conditions, and personal information may be communicated as confidential and closed to the public will protect such persons from the release of sensitive personal information that could damage their and their families' reputations. Allowing public hearings relating to such information defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and

comply with mental health or substance abuse treatment services.

(2) The Legislature finds that it is a public necessity that voluntary applications or petitions for involuntary examination or treatment, court orders, and related records that are filed with or by a court or relevant service provider under part I of chapter 394 and parts IV and V of chapter 397, Florida Statutes, respectively, and the personal identifying information of a person with a potential mental, emotional, or behavioral disorder or a substance abuse disorder which is published on a court docket and maintained by the clerk of the court under part I of chapter 394 and parts IV and V of chapter 397, Florida Statutes, or with the relevant service provider be made confidential and exempt from disclosure under s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The mental health or substance abuse impairments of a person are medical conditions that should be protected from public disclosure. A person's health and sensitive personal information regarding his or her mental health or substance abuse impairment are intensely private matters. Making such applications, petitions, orders, records, and personal identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive personal information that could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other

record is published, defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and comply with mental health or substance abuse treatment services.

Section 4. This act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Maney offered the following:

Amendment (with title amendment)

Remove line 181 and insert:

Section 4. This act shall take effect on the same date that HB 7021 or similar legislation takes effect, if such legislation is adopted in the same legislative session or extension thereof and becomes a law.

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

Remove line 16 and insert:

necessity statements; providing a contingent effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHS 24-02 Health Care Expenses
SPONSOR(S): Health & Human Services Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The United States spends more per person on health care than any other high-income country in the world and spending has continued to increase over the past few decades.

Health care prices are a primary driver of health care spending. One study found that commercial health spending per enrollee increased by 21.8% between 2015 and 2019. The rising prices of health care services accounted for approximately two-thirds of that growth, with prices for prescription drugs, provider services (e.g., physical examinations, screenings and procedures) and inpatient and outpatient care rising by 18.3%.

Medical costs can result in overwhelming debts to patients, and in some cases, bankruptcy. Nationwide, over 100 million have some form of medical debt. Four in ten U.S. adults have some form of health care debt. About half of adults – including three in ten who do not currently have health care debt – are vulnerable to falling in the debt, saying they would be unable to pay a $500 unexpected medical bill without borrowing money. While about a third of adults with health care debt owe less than $1,000, even small amounts of debt can have significant financial consequences for some.

PCB HHS 24-02 increases patient access to health care cost information, and offers a measure of protection from unreasonable and burdensome medical debt. The various provisions apply to hospitals, ambulatory surgical centers, health insurers, and HMOs. The bill brings provisions from recent federal law and regulation into state law; in doing so, the bill requires compliance by facilities and insurers as a condition of state licensure, thus ensuring that these provisions will be fully adopted and adequately enforced in Florida. Specifically, the bill:

- Requires hospitals and ambulatory surgical centers (ASCs) to post a consumer-friendly list of standard charges for at least 300 shoppable health care services on a facility website, consistent with federal rule.
- Requires hospitals and ambulatory surgical centers to automatically provide patients with personalized pre-treatment estimates on the costs of care within certain timeframes.
- Requires a health plan, upon receipt of a facility cost estimate, to develop an advanced explanation of benefits, in accordance with the federal No Surprises Act of 2020.
- Prohibits hospitals and ASCs from taking actions to collect medical debt in certain circumstances.
- Requires hospitals and ASCs to establish an internal grievance process for patients to dispute charges.
- Increases exemptions from attachment, garnishment, or other legal process to include a single motor vehicle and personal property of a debtor of a value up to $10,000 when debt is incurred as a result of medical services provided in a licensed hospital facility, and establishes a 3-year statute of limitations on bringing legal action to collect medical debt.
- Specifies that shared savings incentives offered by health plans are to be counted as medical expenses for rate development and rate filing purposes, consistent with recent federal regulations.

The bill has no fiscal impact on state or local government.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

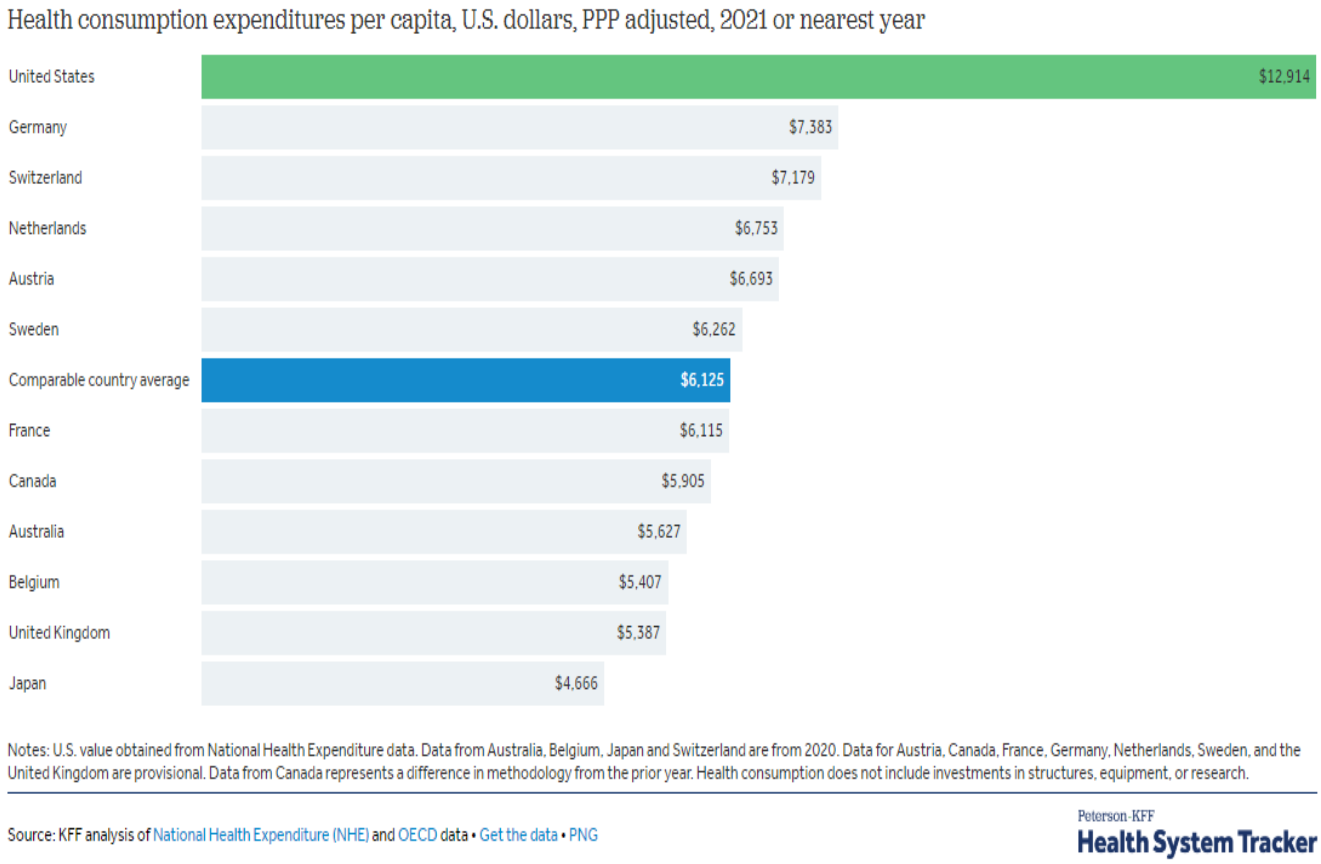
A. EFFECT OF PROPOSED CHANGES:

Background

Health Care Spending

Health spending in the United States has exploded in the last 50 years, totaling $74.1 billion in 1970, increasing to $1.4 trillion by 2000, then tripling in 2021 to $4.3 trillion.[1] Total national health expenditures grew by $175 billion in 2022 from 2021 with hospital expenditures and retail prescription drugs accounting for approximately one-third of the spending growth.[2]

The United States spends more per person on health care than any other high-income country in the world and spending has continued to increase over the past few decades. Health spending per person in the U.S. was $12,914 in 2021 and increased for 2022 to $13,493, more than $5,000 greater than any other high income nation.[3]

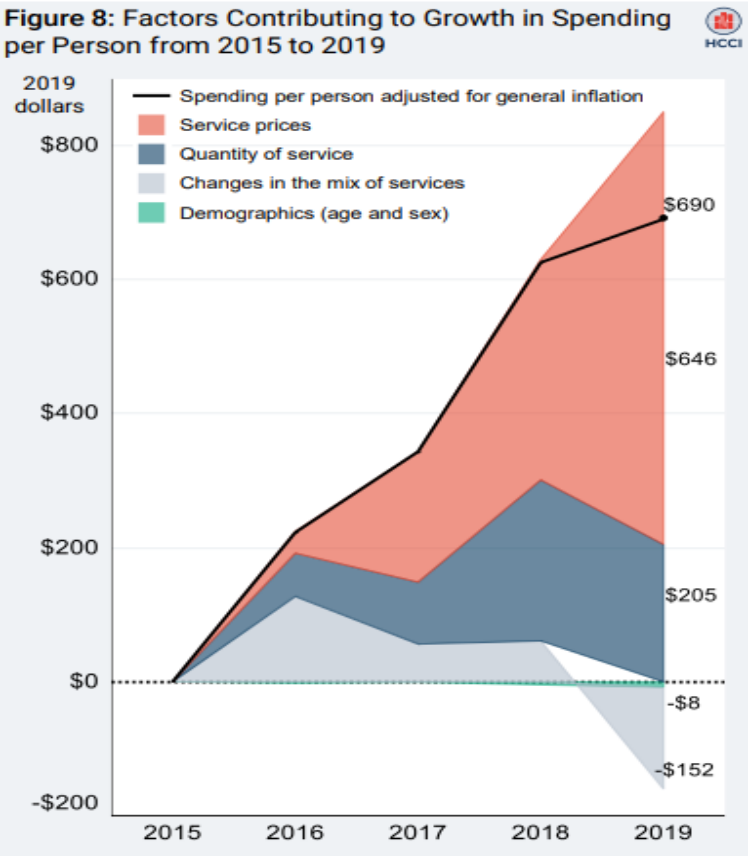


[1] Peterson-Kaiser Family Foundation, Health System Tracker, *Health Spending – How has U.S. spending on healthcare changed over time?*, December 15, 2023, available at https://www.healthsystemtracker.org/chart-collection/u-s-spending-healthcare-changed-time/#Total%20national%20health%20expenditures,%20US%20$%20Billions,%201970-2022 https://healthsystemtracker.org/chart-collection/u-s-spending-healthcare-changed-time/ (Last visited on February 18, 2024).

[2] *Id.*

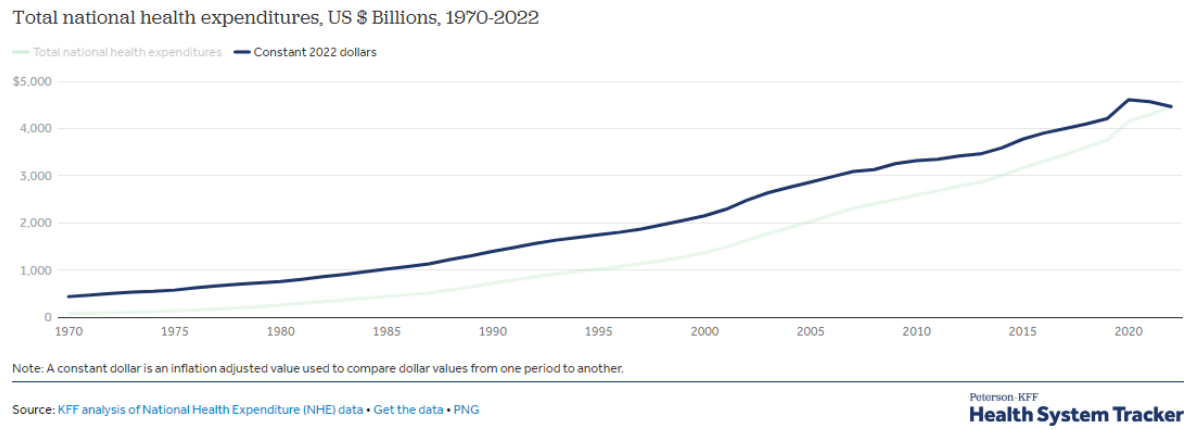
[3] Peterson-Kaiser Family Foundation, Health System Tracker, *Health Spending – How does health spending in the U.S. compare to other countries?*, February 9, 2023, available at (https://www.healthsystemtracker.org/chart-collection/health-spending-u-s-compare-countries/ (Last visited January 22, 2024). The average amount spent on health per person in comparable countries – $6,125 – is less than half of what the U.S. spends.

The Organization for Economic Cooperation Development estimated that total spending in 2019 in its member countries averaged 8.8 percent of their gross domestic product (GDP), compared with 16.8 percent in the U.S.[4] One study found that United States commercial health spending per enrollee increased by 61.6 percent from 2008 to 2022, faster than both Medicaid and Medicare which rose at 40.8 percent and 21.7 percent, respectively, for the same time period.[5] The rising prices of health care services accounted for approximately two-thirds of that growth, with prices for prescription drugs, provider services (physical examinations, screenings and procedures) and inpatient and outpatient care rising by 18.3 percent.[6] The following chart details the factors contributing to the growth in spending, per capita, in the United States.[7]



The following chart illustrates the rate of growth in total national health expenditures from 1970 to 2022.[8]

[4] Emma Wagner, et. al., Peterson-KFF Health System Tracker, *How does health spending in the U.S. compare to other countries? (January 23, 2024),* available at https://www.healthsystemtracker.org/chart-collection/health-spending-u-s-compare-countries/#GDP%20per%20capita%20and%20health%20consumption%20spending%20per%20capita,%202022%20(U.S.%20dollars,%20PPP%20adjusted) (Last visited February 19, 2024).
[5] *Supra,* note 1.
[6] *Id.*
[7] *Id.*
[8] *Id.*



Health Insurance Expenditures

As a percentage of the country's total expenditures, that number has slowed in recent decades, from a high of 12 percent in the 1970s to the current 9.6 percent for the 2020-2022 period; however, health care spending still consistently exceeds growth in the country's gross domestic product (GDP).[9]

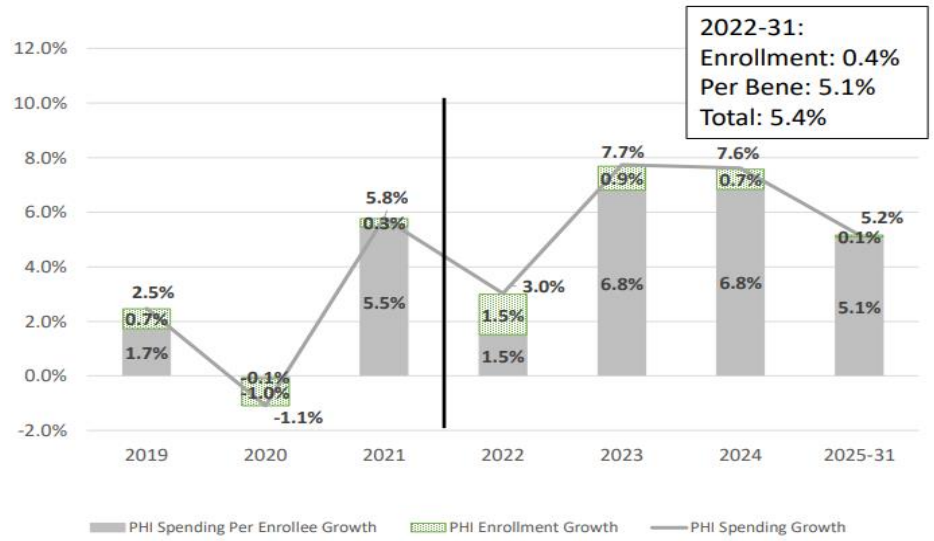
Private insurance expenditures have also been growing at a faster pace than either Medicaid or Medicare spending. In 1970, private health insurance expenditures represented 20.4 percent of total health spending; whereas, for 2022, the percentage had grown to 28.9 percent.[10] Additionally, per enrollee spending by private insurers increased by 61.6 percent from 2008 to 2022, a rate that was faster than the per enrollee spending for public programs such as Medicare and Medicaid. From 2021 to 2022, the rate for private insurers was 4.3 percent while Medicaid rose by 2.2 percent and Medicare by 3.8 percent.[11]

Per enrollee spending for those with private health insurance in 2023 to 2024 is expected to increase at a faster pace than in 2022 due to an increase in health care utilization and health care costs. This growth in the private health insurance market, according to a report by the Office of the Chief Actuary at the Centers for Medicare and Medicaid Services (CMS),[12] is tied to increased enrollment in the Marketplace[13] while additional subsidies were available under the American Rescue Plan Act of 2021 (ARP).[14] Beginning in 2021, the ARP legislation expanded the number of individuals eligible for certain premium tax credits and also provided certain eligible individuals with increased premium tax credits for the purchase of Marketplace coverage.

The CMS Actuary's report shows an average predicted growth rate in national health expenditures (NHE) of 5.4 percent which would outpace the expected average GDP growth rate for the same time period of 4.6 percent.[15]

[9] *Id*.
[10] *Id.*
[11] *Id.*
[12] Centers for Medicare and Medicaid Services, *National Health Expenditures Projections 2022-31: Growth to Stabilize Once Public Health Emergency Ends*, June 14, 2023, Slide 10, available at *https://www.cms.gov/files/document/release-presentation-slides-national-health-expenditure-projections-2022-31-growth-stabilize-once.pdf* (Last visited February 18, 2024).
[13] The Marketplace refers to the federal marketplace, which may also be called the exchange, created by the Patient Protection and Affordable Care Act (PPACA). The purpose of the marketplace is to offer consumers the opportunity to compare a variety of health insurance plans with varying costs and benefits but which meet certain minimum requirements and to purchase such plans with premium tax credits and subsidies, if eligible.
[14] American Rescue Plan of 2021, Pub. Law 117-2 (March 11, 2021).
[15] *Id* at slide 4.

The chart below illustrates the average annual growth in enrollment per beneficiary spending, and total spending, by the designated time period for private health insurance coverage.[16]



NOTE: Average annual growth rates are from previous year shown.
SOURCE: Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statistics Group.

The reductions shown above for the outlier years of 2025 through 2031 are tied to the expiration of the Marketplace subsidies. These subsidies exist in current law, and when those subsidies expire, the CMS Actuary's office projects an associated enrollment drop of 10 percent or two million beneficiaries in directly purchased health insurance coverage.[17]

Health Care Price Transparency

As consumers bear a greater share of health care costs, and more consumers participate in high deductible health plans (HDHP), consumers need clear, factual and easy to access information about the cost and quality of health care. Such information is essential for consumers if they are to make value-driven health care decisions. To promote consumer involvement and provider accountability, health care pricing and other data needs to be free, timely, reliable, and reflect individual health care needs and insurance coverage.

Price transparency often refers to the availability of provider-specific information on the cost for a specific health care service or set of services to consumers and other interested parties.[18] Price can also be defined as an estimate of a consumer's complete cost for a health care service or bundle of services that reflects any negotiated discounts; is inclusive of all other service or services to the consumer, including hospital, physician, and lab fees; and, identifies a consumer's out-of-pocket cost.[19] Further, price transparency is the easy availability of information, including price disclosure match with quality data, which enables patients and other care purchasers to identify, compare, and choose providers that meet the consumer's desired level of quality and value.[20]

Employee Out of Pocket Costs

As health care costs continue to rise, most health insurance buyers are asking their consumers to take on a greater share of their costs, increasing both premiums and other out-of-pocket expenses, such as higher copayments or deductibles. According to the *2023 Kaiser Family Foundation Employer Health*

[16] *Supra,* note 12.
[17] *Id.*
[18] Government Accounting Office, *Meaningful Price Information is Difficult for Consumers to Obtain Prior to Receiving Care*, September 2011, pg. 2, available at https://www.gao.gov/products/gao-11-791 (Last visited January 22, 2024).
[19] *Id.*
[20] Healthcare Financial Management Association, *Price Transparency in Health Care: Report from the HFMA Price Transparency Task Force*, pg. 2, available at: https://www.hfma.org/wp-content/uploads/2022/10/Price20Transparency20Report.pdf (Last visited February 18, 2024).

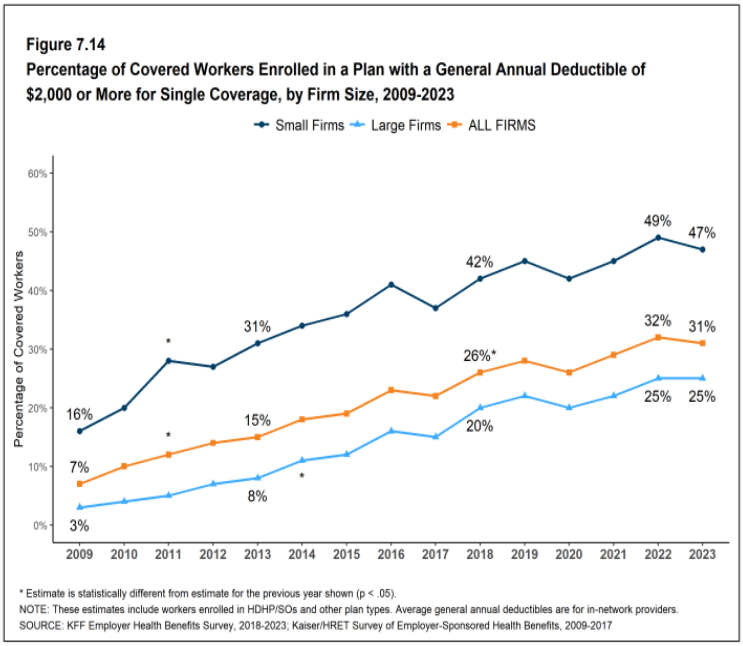
Benefits Survey, 30 percent of Americans with private insurance were enrolled in a HDHP in 2023.[21] Additionally, employees in most firms, 77 percent, do not have a choice of health plans or benefit options, including 26 percent who are in firms where the only offer is a high deductible plan with savings option (HDHP/SO).

Most covered workers face additional out-of-pocket costs when they use health care services, such as co-payments or coinsurance for physician visits and hospitalizations. For 2023, 90 percent of covered workers had a general annual deductible[22] for single coverage that must be met before most services are paid for by their health plan.[23] Ten years ago, the percentage of covered workers with a general annual deductible was 78 percent and 85 percent five years ago.[24]

Among covered workers with a general annual deductible, the 2023 average deductible amount for single coverage across all plan types was $1,735 which is similar to the average amount for 2022 of $1,763.[25] Deductibles can differ greatly by a number of factors, including firm size, region, or whether a plan incorporates other cost sharing provisions. Looking at costs by firm size in 2023; the average amount for single coverage was $2,434 in small firms and $1,478 in large firms.[26]

The 2023 plan deductible averages reflect moderate reductions from the average deductibles for small and large group plans in 2022 which were $2,543 and $1,493, respectively. Seventy-four percent of covered workers in small firms are in a plan with a deductible of at least $1,000 for single coverage compared to 58 percent in large firms;[27] a similar pattern exists for those in plans with a deductible of at least $2,000 (47 percent for small firms vs. 25 percent for large firms).

The chart below shows the percent of workers enrolled in employer-sponsored insurance with an annual deductible of $1,000 or more for single coverage by employer size for 2009 through 2023.[28]



[21] The Henry J. Kaiser Family Foundation, *2023 Employer Health Benefits Survey,* October 18, 2023, p. 79, available at https://www.kff.org/report-section/ehbs-2023-section-4-types-of-plans-offered/ (Last visited February 19, 2024).
[22] The term "general annual deductible" means a deductible which applies to both medical and pharmaceutical benefits and which must be met by the insured individual before most services are covered by the health plan. *See* The Henry J. Kaiser Family Foundation, *2023 Employer Health Benefits Survey, October 18, 2023, p.106,* available at: https://www.kff.org/report-section/ehbs-2023-section-4-types-of-plans-offered/ (Last visited February 19, 2024).
[23] *Id.*
[24] *Id.*, and FIG. 7.2 at p.108.
[25] *Id.*
[26] *Id.,* at 107-108.
[27] *Id.,* at 115 and FIG. 7.13.
[28] *Id.*, at116 and FIG.7.14.

From 2013 to 2023, the average premium contribution required of covered workers with family coverage increased 19 percent and if broken down by just the last five years, the average worker contribution towards family health insurance coverage has increased by 22 percent compared to a 27 percent in workers' wages and 21 percent inflation.[29] Employer contributions to coverage vary widely based on the type of coverage and plan. For small plans, 30 percent of employers pay the entire premium for individual coverage of their workers whereas this is only the case with six percent of large firm employers. For family coverage, however, only small firm employees contribute more than half the premium costs for family coverage, compared to eight percent of covered workers in large firms.[30]

For workers in a HDHP, they may receive contributions from their employer into a savings account which may be used to reduce cost sharing amounts or to cover items not included in the employer's benefit package. In 2023, seven percent of covered workers with a HDHP with a health reimbursement arrangement (HRA)[31] and four percent of covered workers in a Health Savings Account (HSA) – qualified HDHP received an employer contribution to their accounts that was greater than or equal to their annual deductible.[32] An HRA is defined by the Internal Revenue Service (IRS) as an account-based group health plan provided by an employer to provide for the reimbursement of medical expenses under IRS Code section 213(d) and is subject to maximum, fixed-dollar amounts for reimbursements within a specified period, usually a plan year.[33]

For those employees with an HDHP and an HRA, 12 percent of those workers received an employer contribution that if the amount had been applied to the worker's annual deductible, the remaining deductible would be less than $1,000.[34] HSA-qualified HDHPs are required by federal law to have an annual out of pocket maximum of no more than $7,500 for single coverage and $15,000 for family coverage. For HDHPs with an HRA option that are not grandfathered plans, the out of pocket maximum in 2023 was $9,100 for single coverage and $18,200 for family coverage. The average out of pocket maximum for 2023 was $5,456 for HDHP/HRAs and $4,415 for HSA-qualified HDHPs.[35]

Such funding arrangements are more likely to be found in firms with more than 200 workers (57 percent) than smaller firms (29 percent).[36] Enrollment has increased over the past 10 years in HDHP/SOs growing from 10 percent of covered workers in 2013 to 29 percent in 2023.[37]

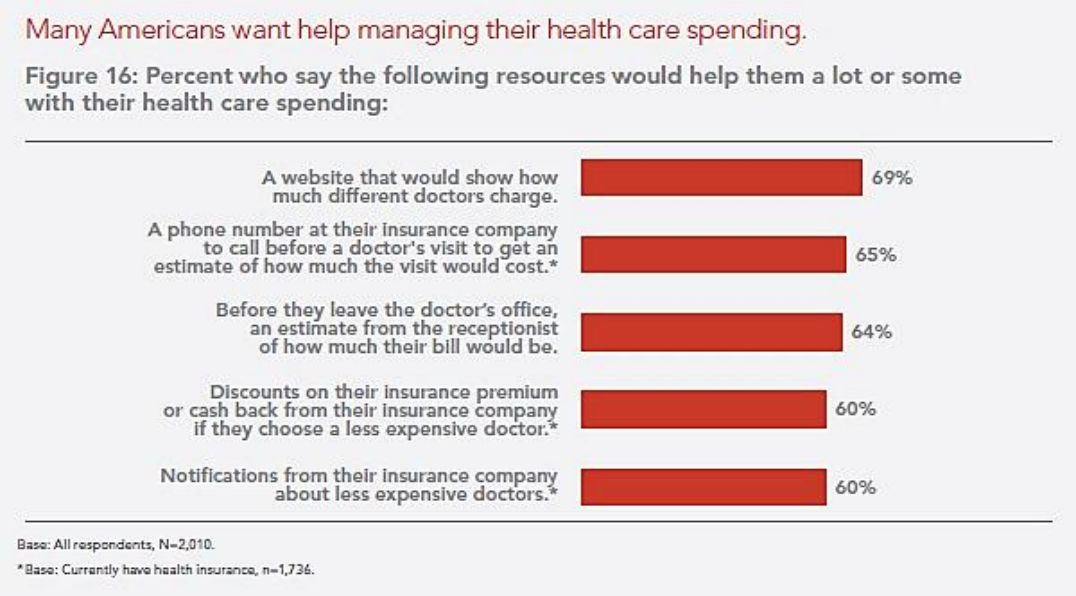
As the percentage of insured individuals taking on greater shares of their health care costs increases, the necessity for easy to access, accurate, and timely information on the availability, cost, and quality of health care services becomes more evident. If consumers are to make informed decisions about their health care and how to spend their health care funds, consumers need obtainable and readable data before and after the delivery of health care services.

National Price Transparency Studies

To explore how expanding price transparency efforts could produce significant cost savings for the healthcare system, the Gary and Mary West Health Policy Center funded an analysis, "Healthcare Price Transparency: Policy Approaches and Estimated Impacts on Spending." As noted by the authors, American consumers have historically found it difficult to comparison shop for health care services as information about pricing and service delivery is buried in secrecy and shrouded in medical jargon once

[29] *Id*. at 7.
[30] *Id*. at 9.
[31] A high deductible health plan with a savings option (HDHP/SOs) are health plans which have a deductible of at least $1,000 for individual coverage and $2,000 for family coverage which are paired with a health reimbursement account (HRA), or a high deductible health plan that is considered by federal requirements to be a qualified HDHP. Funds in these savings accounts are pre-tax dollars which may be used to cover out-of-pocket medical expenses and other plan cost sharing.
[32] *Supra*, note 21, at 12.
[33] *Health Reimbursement Arrangements and Other Account Based Group Health Plans*, Supplementary Information – Final Rule, 84 Fed.Reg.119, 28887 (June 20, 2019), available at https://www.govinfo.gov/content/pkg/FR-2019-06-20/pdf/2019-12571.pdf (Last visited January 22, 2024).
[34] *Supra*, note 21, at 12.
[35] *Supra*, note 21, at 147.
[36] *Supra*, note 21, at 140.
[37] *Supra*, note 21, at 142.

information is uncovered by the consumer.[38] As Americans take on more of their health care costs, research suggests that they are looking for more and better price information.[39]



One study in 2014, which included a survey of more than 2,000 adults from across the country, found that 56 percent of Americans actively searched for price information before obtaining health care, including 21 percent who compared the price of health care services across multiple providers.[40] The chart below illustrates the finding that, as a consumer's health plan deductible increases, the consumer is more likely to seek out price information.[41]

Individuals who compared prices stated that research affected their health care choices and saved them money.[42] In addition, the study found that most Americans do not equate price with quality of

[38] White, C., Ginsburg, P., et al., Gary and Mary West Health Policy Center, *Healthcare Price Transparency: Policy Approaches and Estimated Impacts on Spending*, May 2014, p. 3, available at https://www.westhealth.org/wp-content/uploads/2015/05/Price-Transparency-Policy-Analysis-FINAL-5-2-14.pdf (Last visited February 18, 2024).
[39] Public Agenda and Robert Wood Johnson Foundation, *How Much Will It Cost? How Americans Use Prices in Health Care*, March 2015, page 34, available at https://www.publicagenda.org/reports/how-much-will-it-cost-how-americans-use-prices-in-health-care/ (Last visited February 18, 2024).
[40] *Id.*, at 3.
[41] *Id.*, at 13.
[42] *Id.*, at 4.

care. Seventy-one percent do not believe higher price reflects higher level care quality and 63 percent do not believe that lower price is indicative of lower level care quality.[43] Consumers enrolled in HDHP and consumer-directed health plans are more price-sensitive than consumers with plans with less out of pocket obligations. Accordingly, these consumers find an estimate of their individual out-of-pocket costs more useful than any other kind of health care price transparency tool.[44] Another study found that when they have access to well-designed reports on price and quality, 80 percent of health care consumers will select the highest value health care provider.[45]

Florida Price Transparency: Florida Patient's Bill of Rights and Responsibilities

In 1991, the Legislature enacted the Florida Patient's Bill of Rights and Responsibilities (Patient's Bill of Rights).[46] The statute established the right of patients to expect medical providers to observe standards of care in providing medical treatment and communicating with their patients.[47] The standards of care include, but are not limited to, the following aspects of medical treatment and patient communication:

- Individual dignity;
- Provision of information;
- Financial information and the disclosure of financial information;
- Access to health care;
- Experimental research; and
- Patient's knowledge of rights and responsibilities.

A patient has the right to request certain financial information from health care providers and facilities.[48] Specifically, upon request, a health care provider or health care facility must provide a person with a reasonable estimate of the cost of medical treatment prior to the provision of treatment.[49] Estimates must be written in language "comprehensible to an ordinary layperson."[50] The reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges as the patient's needs or medical condition warrant.[51] A patient has the right to receive a copy of an itemized bill upon request and to receive an explanation of charges upon request.[52]

Currently, under the Patient's Bill of Rights financial information and disclosure provisions:

- A request is necessary before a health care provider or health care facility must disclose to a Medicare-eligible patient whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility.
- A request is necessary before a health care provider or health care facility is required to furnish a person an estimate of charges for medical services before providing the services. The Florida Patient's Bill of Rights and Responsibilities does not require that the components making up the estimate be itemized or that the estimate be presented in a manner that is easily understood by an ordinary layperson.
- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the website of the Agency for Health Care Administration (AHCA).
- The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary.

[43] *Id.,* at 14.
[44] American Institute for Research, *Consumer Beliefs and Use of Information About Health Care Cost, Resource Use, and Value*, Robert Wood Johnson Foundation, October 2012, pg. 4, available at https://www.air.org/sites/default/files/Resource-rwjf402126.pdf (air.org)(Last visited January 22, 2024).
[45] Hibbard, JH, et al., *An Experiment Shows That a Well-Designed Report on Costs and Quality Can Help Consumers Choose High-Value Health Care*, Health Affairs 2012; 31(3): 560-568 ,available at https://www.healthaffairs.org/doi/10.1377/hlthaff.2011.1168 (Last visited January 22, 2024).
[46] S. 1, Ch. 91-127, Laws of Fla. (1991); s. 381.026, F.S.
[47] S. 381.026(3), F.S.
[48] S. 381.026(4)(c), F.S.
[49] S. 381.026(4)(c)3., F.S.
[50] *Id.*
[51] *Id*.
[52] S. 381.026(4)(c)5., F.S.

- A patient has the right to receive an itemized bill upon request.

Health care providers and health care facilities are required to make available to patients a summary of their rights. The applicable regulatory board or AHCA may impose an administrative fine when a provider or facility fails to make available to patients a summary of their rights.[53]

The Patient's Bill of Rights also authorizes, but does not require, primary care providers[54] to publish a schedule of charges for the medical services offered to patients.[55] The schedule must include certain price information for at least the 50 services most frequently provided by the primary care provider.[56] The law also requires the posting of the schedule in a conspicuous place in the reception area of the provider's office and at least 15 square feet in size.[57] A primary care provider who publishes and maintains a schedule of charges is exempt from licensure fees for a single renewal of a professional license and from the continuing education requirements for a single two-year period.[58]

The law also requires urgent care centers to publish a schedule of charges for the medical services offered to patients.[59] This applies to any entity that holds itself out to the general public, in any manner, as a facility or clinic where immediate, but not emergent, care is provided, expressly including offsite facilities of hospitals or hospital-physician joint ventures; and licensed health care clinics that operate in three or more locations. The schedule requirements for urgent care centers are the same as those established for primary care providers.[60] The schedule must describe each medical service in language comprehensible to a layperson. This provision prevents a center from using medical or billing codes, Latin phrases, or technical medical jargon as the only description of each medical service. An urgent care center that fails to publish and post the schedule of charges is subject to a fine of not more than $1,000 per day (until the schedule is published and posted).[61]

Florida Price Transparency: Health Care Facilities

Under s. 395.301, F.S., a health care facility must comply, within 7 days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The estimate may represent the average charges for that diagnosis related group[62] or the average charges for that procedure. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the estimate as required may be fined $500 for each instance of the facility's failure to provide the requested information.

Also pursuant to s. 395.301, F.S., a licensed facility must notify each patient during admission and at discharge of his or her right to receive an itemized bill upon request. If requested, within seven days of discharge or release, the licensed facility must provide an itemized statement, in language comprehensible to an ordinary layperson, detailing the specific nature of charges or expenses incurred by the patient. This initial bill must contain a statement of specific services received and expenses incurred for the items of service, enumerating in detail the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged

[53] S. 381.0261, F.S.
[54] S. 381.026(2)(d), F.S.; defines primary care providers to include allopathic physicians, osteopathic physicians, and nurses who provide medical services that are commonly provided without referral from another health care provider, including family and general practice, general pediatrics, and general internal medicine.
[55] S. 381.026(4)(c)3., F.S.
[56] *Id.*
[57] *Id*.
[58] S. 381.026(4)(c)4., F.S.
[59] S. 395.107(1), F.S.
[60] S. 395.107(2), F.S.
[61] S. 395.107(6), F.S.
[62] Diagnosis related groups (DRGs) are a patient classification scheme which provides a means of relating the type of patients a hospital treats (i.e., its case mix) to the costs incurred by the hospital. DRGs allow facilities to categorize patients based on severity of illness, prognosis, treatment difficulty, need for intervention and resource intensity. For more information, see https://www.cms.gov/icd10m/version37-fullcode-cms/fullcode_cms/Design_and_development_of_the_Diagnosis_Related_Group_(DRGs).pdf (last viewed January 22, 2024).

by the licensed facility. The patient or patient's representative may elect to receive this level of detail in subsequent billings for services.

Current law also directs these health care facilities to publish information on their websites detailing the cost of specific health care services and procedures, as well as information on financial assistance that may be available to prospective patients. The facility must disclose to the consumer that these averages and ranges of payments are estimates, and that actual charges will be based on the services actually provided.[63] Under s. 408.05, F.S., AHCA contracts with a vendor to collect and publish this cost information to consumers on an internet site.[64] Hospitals and other facilities post a link to this site - https://pricing.floridahealthfinder.gov/ - to comply with the price transparency requirements. The cost information is searchable, and based on descriptive bundles of commonly performed procedures and services. The information must, at a minimum, provide the estimated average payment received and the estimated range of payment from all non-governmental payers for the bundles available at the facility.[65]

The law also establishes the right of a patient to request a personalized estimate on the costs of care from health care practitioners who provide services in a licensed hospital facility or ambulatory surgical center.[66]

Regulation of Health Care Facilities and Providers

Oversight of Florida's health care facilities and health care providers is often a joint effort by the Agency for Health Care Administration (AHCA) and the Department of Health (department), depending upon the regulatory issue. The AHCA regulates and monitors health care facilities under ch. 395, Part I, F.S., including those defined under s. 395.301, F.S. The definition of a health care facility includes, but is not limited to hospitals, ambulatory surgical centers, and urgent care facilities. As the regulatory entity for enforcement of , the AHCA has the ability, within statutory guidelines, to fine entities for failure to adhere to the law or take other administrative actions, as permitted.

The AHCA 's Bureau of Facility Regulation (bureau) is responsible for the licensure of facilities, registration, and federal certification requirements for 27 different facilities and providers. The bureau implements statutory standards, targets, and guidelines, conducts surveillance, performs assessments and audits, conducts audits, and enforces sanctions and other regulatory actions when necessary.[67]

The Department of Health (department) designates eligible facilities as trauma centers, either as a level I, level II, or a pediatric trauma center if the facility meets the statutory requirements outlined in ch. 395, Part II, F.S., and in ch. 64J—2, F.A.C. Hospitals must complete applications with the department for the appropriate trauma level being sought and certify as to the availability of certain types of providers, provide a description of the trauma team, and satisfy quality management protocols.[68]

The department also licenses and regulates health practitioners for the preservation of the health, safety, and welfare of the public. The department must investigate complaints and reports about health care practitioners which are licensed by the department and may take administrative actions against a practitioner to enforce state laws or regulations.[69]

Federal Price Transparency Laws and Regulations

[63] S. 395.301, F.S.
[64] S. 408.05(3)(c), F.S.
[65] *Id.*
[66] S. 456.0575(2), F.S.
[67] Agency for Health Care Administration, State of Agency Organization and Operation (Revised Feb. 14. 2014), Division of Health Quality Assurance, Bureau of Health Facility Regulation, available at https://ahca.myflorida.com/content/download/4859/file/OrganizationAndOperationStatementRevised.pdf (Last visited February 19. 2024).
[68] Florida Department of Health, *Trauma Center Designation, Application Process, available athttps://www.floridahealth.gov/licensing-and-regulation/trauma-system/trauma-center-designation.html* (Last visited February 19, 2024).
[69] Florida Department of Health, Licensing and Regulation, Enforcement, available at https://www.floridahealth.gov/licensing-and-regulation/enforcement/index.html?utm_source=floridahealth.gov%26utm_medium=text-

Congress and federal regulatory agencies took steps in 2019 to improve the quantity and quality of health care cost information available to patients. Federal price transparency laws and regulations; however, does not cover all types of health care facilities. For example, federal transparency requirements excluded certain facilities leaving requirements and compliance to the States.

Hospital Facility Transparency

On November 15, 2019, the CMS finalized regulations[70] changing payment policies and rates for services furnished to Medicare beneficiaries in hospital outpatient departments. In doing so, CMS also established new requirements for hospitals to publish standard charges for a wide range of health care services offered by such facilities. Specifically, the regulations require hospitals to make public both a machine-readable file (MRF) of standard charges and a consumer-friendly presentation of prices for at least 300 shoppable health care services. The regulations became effective on January 1, 2021.[71]

The regulations define a shoppable service as one that can be scheduled in advance, effectively giving patients the opportunity to select the venue in which to receive the service. This is a more expansive designation of shoppable services than currently exists in Florida law. For each shoppable service, a hospital must disclose several pricing benchmarks to include:

- The gross charge;
- The payer-specific negotiated charge;
- A de-identified minimum negotiated charge;
- A de-identified maximum negotiated charge; and,
- The discounted cash price.

This information should provide a patient with both a reasonable point estimate of the charge for a shoppable service, and also a range in which the actual charge can be expected to fall.

Compliance Reports

The penalty for facility noncompliance under the federal regulations is a maximum fine of $300 per day.[72] Very early indications suggested that there were varying levels of compliance with the new rules among hospital facilities and many facilities complaining about the high cost of implementation.[73] At least one patient advocacy group has consistently posted much lower compliance rates by hospitals in its semi-annual reports which highlight the status of each hospital.[74]

A 2021 review of more than 3,500 hospitals found that 55 percent of hospitals were not compliant with the rule and had not posted price information for commercial plans or had not posted any prices at all.[75] Further, an August 2022 review of 2,000 hospitals found that 16 percent complied with all transparency requirements.[76] Nearly 84 percent of hospitals failed to post MRF containing standard charges, and

link%26utm_campaign=mqa%26utm_term=medical+quality+assurance+file+complaint%26utm_content=https://www.floridahealth.gov/licensing-and-regulation/ (Last visited February 19, 2024).

[70] Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and available at: Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019)(codified at 45 CFR Part 180).

[71] *Id.*

[72]. 45 CFR s. 180.90. The maximum daily fine will be adjusted annually by the Office of Management and Budget.

[73] Dave Muoio, *Hospital, payer price transparency compliance improves, but new requirements are kicking in this year (January 4, 2024), Fierce Healthcare*, available at Hospital, payer price transparency improves across 2023: report finds (fiercehealthcare.com) (Last visited February 18, 2024).

[74] *See Florida Fifth Semi-Annual Hospital Price Transparency Report,* http(s://www.patientrightsadvocate.org/s/FL-Florida-Fifth-Semi-Annual-Hospital-Price-Transparency-Compliance-Report.pdf *(Patientsrightsadvocate.org;)* (Last visited February 18, 2024).

[75] John Xuefeng Jiang, et al., *Factors associated with compliance to the hospital price transparency final rule: A national landscape study*, Journal of General Internal Medicine (2021), available at https://link.springer.com/article/10.1007/s11606-021-07237-y (last viewed on January 4, 2024).

[76] Patients' Rights Advocates, *Third semi-annual hospital transparency compliance report, 2022*, available at https://www.patientrightsadvocates.org/august-semi-annual-compliance-report-2022 (last revisited January 5, 2024).

roughly 78 percent of hospitals did not provide a consumer-friendly shoppable services display.[77] Another review of more than 6,400 hospitals showed wide-spread non-compliance with the federal transparency rule- more than 63 percent of hospitals were not in compliance as of the report date.[78] According to that same review, only 38 percent of Florida hospitals were in compliance.[79]

The first fines were not levied by federal CMS until almost 18 months after the rule's effective date. When levied against Northside-Atlanta, the total amount of those fines is less than 0.1 percent of Northside Hospital system's total gross revenues[80]. That assessment is still shown as under review on the CMS enforcement website.

A year ago, CMS reported an improving compliance rate as high as 70 percent by hospitals; however, CMS has also issued a very high volume of warning letters and corrective actions plans.[81] In April 2023, CMS reported the issuance of over 730 warning letters and 269 requests for corrective action plans.[82] More recently, a data transparency vendor reviewed the 2023 compliance rate by facilities and found at least 90 percent of facilities had submitted some of the listed mandated services via the required MRF requirement. The MRF contains a facility's cash, list, and negotiated rates for a significant number of the facility's services.[83] The same report also updated the number of warning letters in the past year to a cumulative of 1,000 letters and issuance of 14 civil penalties.[84]

As mentioned above, CMS maintains a website with a list of facilities assessed civil monetary penalties for non-compliance, the non-compliance notices, and the status of any facilities which have requested a review of an enforcement activity.[85] The Office of the Inspector General at HHS has announced its plans to review and audit HHS' monitoring and enforcement of the law and regulations. The Inspector General will review HHS' controls and randomly sample hospitals to determine if those controls are sufficient and issue a report later in 2024.[86]

Health Insurer Transparency

On October 29, 2020, the federal Departments of HHS, Labor, and Treasury finalized regulations[87] imposing new transparency requirements on issuers of individual and group health insurance plans.

Estimates

Central to the new regulations is a requirement for health plans to provide an estimate of an insured's cost-sharing liability for covered items or services furnished by a particular provider. Under the final rule, health insurance plans must disclose cost-sharing estimates at the request of an enrollee and publicly release negotiated rates for in-network providers, historical out-of-network allowed amounts and billed charges, and drug pricing information. The rule's goal is to enable insured patients to

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[77] *Id.*
[78] Foundation for Government Accountability, *How America's Hospitals Are Hiding the Cost of Health Care*, pg. 3, August 2022, available at https://www.TheFGA.org/paper/americas-hospitals-are-hiding-the-cost-of-health-care. (last viewed on January 4, 2024). As of the date of the report, only two hospitals to date had been fined for noncompliance with the transparency rule, both of which were in Georgia's Northside Hospital System.
[79] *Id*. at 4.
[80] *Id*. at 4.
[81] American Bar Ass'n., *CMS States 70% of Hospitals Are Now Complying With Hospital Price Transparency Rules (April 23, 2023),* available at: *https://www.americanbar.org/groups/health_law/section-news/2023/february/cms-states-hospitals-are-now-complying-with-hospital-price-transparency-rules/* (Last visited February 18, 2024).
[82] Centers for Medicare and Medicaid Services, *Hospital Transparency Enforcement Update (April 23, 2023),* available at https://www.cms.gov/newsroom/fact-sheets/hospital-price-transparncy-enforcement-update (Last visited February 18, 2024).
[83] *Supra,* note 76.
[84] *Id.*
[85] Centers for Medicare and Medicaid Services, *CMS Enforcement Actions,* available at : https://www.cms.gov/priorities/key-initiatives/hospital-price-transparency/enforcement-actions (Last visited: February 18, 2024).
[86] Department of Health and Human Services, Office of the Inspector General, *Hospital Price Transparency, available at: https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000728.asp* (Last visited February 18, 2024).
[87] Transparency in Coverage, 85 FR 73158 (November 12, 2020)(codified at 29 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 147, and 45 CFR Part 158).

estimate their out-of-pocket costs *before* receiving health care to encourage shopping and price competition amongst providers.[88]

Each health plan will be required to establish an online shopping tool that will allow insureds to see the negotiated rate between their provider and their plan, as well as a personalized estimate of their out-of-pocket cost for 500 of the most shoppable items and services. This requirement is scheduled to take effect on January 1, 2023. Beginning in 2024, health plans must provide personalized cost-sharing information to patients across the full range of covered health care services.[89]

Medical Loss Ratio

The regulations also clarify the treatment of shared savings expenses under medical loss ratio (MLR) calculations required by PPACA. The MLR refers to the percentage of insurance premium payments that are actually spent on medical claims by an insurer. In general, MLR requirements are intended to promote efficiency among insurers.[90] The PPACA established minimum MLR requirements for group and individual health insurance plans.[91] Under the PPACA, large group plans must dedicate at least 85 percent of premium payments to medical claims, while small group and individual market plans must dedicate at least 80 percent of premium payments to medical claims.[92] Further, the law requires a health plan that does not meet these standards to provide annual rebates to individuals enrolled in the plan.[93]

The regulations finalized in October 2020 specify that expenses by a health plan in direct support of a shared savings program shall be counted as medical expenditures.[94] Thus, a health plan providing shared savings to members will receive an equivalent credit towards meeting the MLR standards established by PPACA. In theory, this policy should provide an additional incentive for insurers who have not already done so to adopt shared savings programs.

The Federal *No Surprises Act*

On December 27, 2020, Congress enacted the *No Surprises Act* (Act) as part of the Consolidated Appropriations Act of 2021.[95] The Act included a wide-range of provisions aimed at protecting patients from surprise billing practices and ensuring that patients have access to accurate information about the costs of care. Most sections of the Act went into effect on January 1, 2022, and the Departments of Health and Human Services, Treasury, and Labor were tasked with issuing regulations and guidance to implement a number of the provisions.[96] Additional public notice requirements become effective July 1, 2024 resulting in further hospital charge information being posted for easily accessible viewing.

Estimates – Facilities

In the realm of price transparency, the Act establishes the concept of an "advanced explanation of benefits" that combines information on charges provided by a hospital facility with patient-specific cost information supplied by a health insurance plan. The process is triggered when a patient schedules a service at a hospital facility or requests cost information on a specific set of services. A hospital facility must share a "good faith estimate" of the total expected charges for scheduled items or services, including any expected ancillary services, with a health plan (if the patient is insured) or individual (if the patient is uninsured).[97]

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[88] Trump Administration Finalizes Transparency Rule for Health Insurers," Health Affairs Blog, November 1, 2020. Available at https://www.healthaffairs.org/do/10.1377/hblog20201101.662872/full/ (Last visited January 22, 2024).
[89] 45 CFR Part 180.
[90] "Explaining Health Care Reform: Medical Loss Ratio (MLR)", Henry J Kaiser Family Foundation, February 29, 2012. Available at https://www.kff.org/health-reform/fact-sheet/explaining-health-care-reform-medical-loss-ratio-mlr/ (Last visited January 22, 2024).
[91] PPACA, s. 1001; 42 U.S.C. 300gg-18.
[92] Sections 627.6405, 641.31097, F.S.
[93] *Id.*
[94] 45 CFR Part 158.
[95] P.L. 116-260. The *No Surprises Act* is found in Division BB of the Act.
[96] *Id.*
[97] P.L. 116-260, Division BB, Section 112.

Estimates – Health Plans

Once the "good faith estimate" has been shared with a patient's health plan, the plan must then develop a more detailed and "advanced explanation of benefits." This personalized cost estimate must include the following:

- An indication of whether the facility participates in the patient's health plan network. If the facility is non-participating, information on how the patient can receive services from a participating provider;
- The good-faith estimate prepared by the hospital facility based on billing/diagnostic codes;
- A good-faith estimate of the amount to be covered by the health plan;
- A good-faith estimate of the amount of the patient's out-of-pocket costs;
- A good-faith estimate of the accrued amounts already met by the patient towards any deductible or out-of-pocket maximum under the patient's health plan;
- A disclaimer indicating whether the services scheduled are subject to medical management techniques (i.e., medical necessity determinations, prior authorization, step therapy, etc.); and,
- A disclaimer that the information provided is only an estimate of costs and may be subject to change.[98]

Furthermore, the Act directed the Secretary of HHS to establish by January 1, 2022, a "patient-provider dispute resolution process" to resolve any disputes concerning bills received by uninsured individuals or individuals with insurance who received care not covered by insurance that substantially differ from a provider's good faith estimate provided prior to the service being rendered.[99] If one of the providers or facilities billed $400 more than the good faith estimate, the patient may dispute the bill through an independent third party.[100] To be considered, a patient must begin the dispute process within 120 days of receipt of the initial bill. The new requirements placed on hospitals and health plans by the Act are cumulatively intended to provide patients with increased certainty about the total and out-of-pocket costs associated with health care services. In turn, patients may be more equipped to seek out cost-effective care and avoid unforeseen costs that can lead to financial strain.

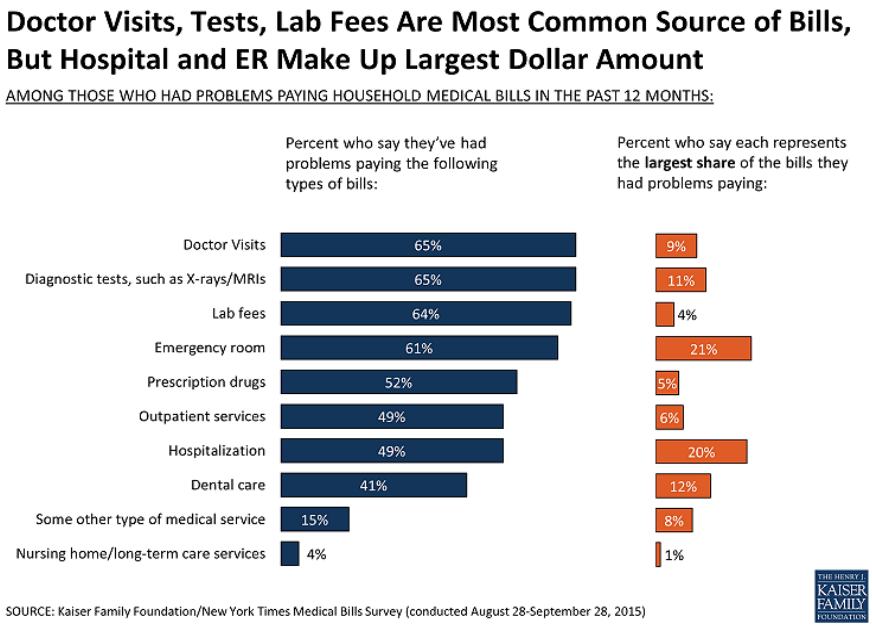
Medical Debt

Medical costs can result in overwhelming debts to patients, and in some cases, bankruptcy. Nationwide, over 100 million have some form of medical debt.[101] A 2007 study suggested that illness and medical bills contributed to 62.1 percent of all personal bankruptcies filed in the United States during that year.[102] A more recent analysis, which considered only the impact of hospital charges, found that four percent of U.S. bankruptcies among non-elderly adults resulted from hospitalizations.[103] Four in ten U.S. adults have some form of health care debt,[104] including one in eight people who reported health care debts of at least $10,000 or more in a 2022 Kaiser Family Foundation poll.[105]

About half of adults – including three in ten who do not currently have health care debt – are vulnerable to falling in the debt, saying they would be unable to pay a $500 unexpected medical bill without borrowing money.[106] While about a third of adults with health care debt owe less than $1,000, even

[98] P.L. 116-260, Division BB, Section 111.
[99] *Supra*, note 80.
[100] Centers for Medicare and Medicaid Services, *The No Surprises Act protects people from unexpected medical bills, https://www.cms.gov/medical-bill-rights (Last visited February 18, 2024).*
[101] Kaiser Health News, *Diagnosis: Debt – 100 Million People in America Are Saddled with Health Care Debt*, June 16, 2022, available at https://khn.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/ (Last visited January 22, 2024).
[102] David U. Himmelstein, et al. *"Medical Bankruptcy in the United States, 2007: Results of a National Study." American Journal of Medicine* 2009; 122: 741-6, available at https://pubmed.ncbi.nlm.nih.gov/19501347/ (Last visited February 18, 2024) .
[103] Carlos Dobkin, et al. *"Myth and Measurement: The Case of Medical Bankruptcies." New England Journal of Medicine* 2018; 378:1076-1078, available at https://www.nejm.org/doi/full/10.1056/NEJMp1716604 (Last visited February 19, 2024).
[104] Lopes, L., Kearney, A., et al, *Health Care Debt in the U.S.: The Broad Consequences of Medical and Dental Bills*, June 16, 2022 (using results from the Kaiser Family Foundation Health Care Debt Survey), available at https://www.kff.org/health-costs/report/kff-health-care-debt-survey/ (Last visited January 22, 2024).
[105] *Id.*
[106] *Id.*

small amounts of debt can have significant financial consequences for some.[107] Though a third of those with current debt expect to pay it off within a year and about a quarter expect to pay it within one to two years, nearly one in five adults with health care debt think they will never be able to pay it off.[108]



Even when medical costs do not result in personal bankruptcy, the debts often weigh heavily on the financial health of patients and their families. According to the Kaiser Family Foundation, about a quarter of U.S. adults ages 18-64 say they or someone in their household had problems paying or having an inability to pay medical bills in the past 12 months.[109] About three in ten survey respondents reported medical debt of $5,000 or more, with 13 percent of respondents indicating medical debt in excess of $10,000. Even patients with lower amounts of medical debt reported that the outstanding bills led to financial distress, in light of other financial commitments and/or limited income.[110]

Among those who reported problems paying medical bills, 66 percent said the bills were the result of a one-time or short-term medical expense such as a hospital stay or an accident, while 33 percent cited bills for treatment of chronic conditions that had accumulated over time. Respondents to the Kaiser survey reported a wide range of illnesses and injuries that led to an accumulation of medical debt. The largest share (36 percent) named a specific disease, symptom, or condition like heart disease or gastrointestinal problems, followed by issues related to chronic pain or injuries (16 percent), accidents and broken bones (15 percent), surgery (10 percent), dental issues (10 percent), and infections like pneumonia and flu (9 percent).[111]

More than two thirds of hospitals sue or take other legal action against patients with outstanding bills. Nearly 25 percent sell patient medical debt to collection agencies which pursue patients for years on unpaid bills. Further, one in five providers deny nonemergency care to people with outstanding medical debt.

Further polling results contained in the 2022 Kaiser report also showed that families who had experienced medical debt problems were also more likely to ask about the cost of a medical service or doctor's office visit beforehand than someone who had not had such difficulties (49 percent compared to 34 percent). Such families were also much more likely to shop around for services for the best price (34 percent compared to 17 percent) and to attempt to negotiate a lower rate before receiving a health

[107] *Id.*
[108] *Id.*
[109] The Henry J. Kaiser Family Foundation, *"The Burden of Medical Debt: Results from the Kaiser Family Foundation/New York Times Medical Bills Survey."* January 5, 2016, available at https://www.kff.org/health-costs/report/the-burden-of-medical-debt-results-from-the-kaiser-family-foundationnew-york-times-medical-bills-survey/(Last visited January 22, 2024).
[110] *Id.*
[111] *Id.*

care service (22 percent compared to six percent). Impacted families with medical debt also reported a higher rate of being asked to pay for health care services up front before services would be delivered.[112]

Personal Credit Ratings

Recognizing the inherent difficulties associated with medical debt, the three major credit rating companies in July 2023 agreed to exclude from an individual's credit report medical debts that have been paid off and unpaid medical debts less than $500. This action followed a 2015 settlement agreement with several state Attorney Generals which had established a minimum time period of 180 days before a medical debt could be reported to a credit agency.[113] The national credit reporting companies announced that this time period would be expanded voluntarily to one year in 2022.

With the 2023 agreement and the $500 capped medical debt collection, regulators expect the majority of medical debt will fall under this dollar threshold. However, geographic differences in the average amount of medical debt exist across the county, including in neighborhoods that are majority Black or Hispanic, and in areas with lower median incomes.[114]

When a person first takes out a line of credit as an individual—a first credit card or a loan to pay for college, for example—this begins a personal credit history and the process of building a personal credit score. This score is linked to a person's Social Security Number.

From then on, the score reflects one's personal financial history. If a person always pays bills on time, does not use too much of the available credit at once, and avoids negative information like foreclosures and charge-offs, the person will develop a good personal credit score, also known as a FICO score. If, instead, one carries a balance on lines of credit, fails to develop a diverse mix of credit sources—different credit cards, an automobile loan, and a mortgage, for example—and accrues many "hard inquiries" on your credit score (which occurs when upon application for a new source of credit), the FICO score will be low. Personal credit scores generally range 350-800 with 800 being a "perfect" score.

In 2018-2020, more than a quarter of the nation's largest hospitals and health systems pursued nearly 39,000 legal actions regarding consumer medical debt.[115]

Medical Debt Collection Process

Current law provides a court process for the collection of lawful debts, including medical debts. A creditor may sue a debtor and, if the creditor prevails, the creditor may receive a final judgment awarding monetary damages. If the debtor does not voluntarily pay the judgment, the creditor has several legal means to collect on the debt, including:

- Wage garnishment.
- Garnishment of money in a bank account.
- Directing the sheriff to seize assets, sell them, and give the proceeds to the creditor.

In order to protect debtors from being destitute, current law provides that certain property is exempt from being taken by a creditor. The Florida Constitution provides that the debtor's homestead and

[112] *Id.,* at 23.
[113] Consumer Financial and Protection Bureau, *Paid and Low-Balance Medical Collections on Consumer Credit Reports,* July 27, 2022, available at https://www.consumerfinance.gov/data-research/research-reports/paid-and-low-balance-medical-collections-on-consumer-credit-reports/ (Last visited January 22, 2024).
[114] *Id.*
[115] Using data from Johns Hopkins University, study authors analyzed the top 100 hospitals in the U.S. (by revenue) to measure debt collection methods and frequency, average charges markups and billing scores, and compare that data to safety grades and charity care ratings, by hospital type (government, nonprofit and for-profit). *See:* Michelle McGhee and Will Chase, *How America's top hospitals hound patients with predatory billing,* AXIOS, (July 2021), available at https://www.axios.com/hospital-billing (Last visited February 19, 2024). Twelve Florida hospitals were included in the analysis, with a wide range of scores in each category.

$1,000 of personal property is exempt.[116] Statutory law provides numerous categories of exempt property, and federal law also provides certain exemptions that apply in all of the states.[117]

In addition to the protection from creditors contained in the Florida Constitution, chapter 222, F.S., protects other personal property from certain claims of creditors and legal process: garnishment of wages for a head of family;[118] proceeds from life insurance policies;[119] wages or unemployment compensation payments due certain deceased employees;[120] disability income benefits;[121] assets in qualified tuition programs; medical savings accounts; Coverdell education savings accounts; hurricane savings accounts;[122] $1,000 interest in a motor vehicle; professionally prescribed health aids; certain refunds or credits from financial institutions; and $4,000 interest in personal property, if the debtor does not claim or receive the benefits of a homestead exemption under the State Constitution.[123]

Bankruptcy is a means by which a person's assets are liquidated in order to pay the person's debts under court supervision. The United States Constitution gives Congress the right to uniformly govern bankruptcy law.[124] Bankruptcy courts are operated by the federal government. A debtor (the bankrupt person) is not required to give up all of his or her assets in bankruptcy. Certain property is deemed "exempt" from the bankruptcy case, and may be kept by the debtor without being subject to creditor claims. The Bankruptcy Code provides for exempt property in a bankruptcy case.[125] In general, a debtor may choose to utilize the exempt property listing in state law or the exempt property of the Bankruptcy Code. However, federal law allows a state to opt-out of the federal law and thereby insist that debtors only utilize state law exemptions.[126] Florida, like most states, has made the opt-out election to prohibit the use of the federal exemptions and require that debtors may only use state law exemptions.[127]

Statutes of Limitations

A statute of limitations bars a lawsuit's filing after a certain amount of time elapses following an injury.[128] This time period typically begins to run when a cause of action accrues (that is, on the date of the injury), but may also begin to run on the date the injury is discovered or on which it would have been discovered with reasonable efforts.[129] In other words, a statute of limitations bars the available civil remedy if a lawsuit is not timely filed after an injury.

Chapter 95, F.S., contains the bulk of Florida's statutes of limitations. Specifically, s. 95.11, F.S., details a variety of statutes of limitation for legal actions other than for recovery of real property. Some of the limitations require legal actions to be commenced as follows:

- WITHIN TWENTY YEARS.—An action on a judgment or decree of a court of record in this state.[130]
- WITHIN FIVE YEARS.—
    - An action on a judgment or decree of any court, not of record, of this state or any court of the United States, any other state or territory in the United States, or a foreign country.
    - A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of s. 95.11(5)(e), s. 255.05(10), s. 337.18(1),

[116] Art. X, s. 4(a), Fla. Const.
[117] For example, the federal ERISA law provides that most retirement plans are exempt from creditor claims.
[118] S. 222.11, F.S.
[119] S. 222.13, F.S.
[120] S. 222.15, F.S.
[121] S. 222.18, F.S.
[122] S. 222.22, F.S.
[123] S. 222.25, F.S.
[124] Art. 1, s. 8, cl. 4, U.S. Const.
[125] 11 U.S.C. s. 522.
[126] 11 U.S.C. s. 522(b).
[127] S. 222.20, F.S.
[128] Legal Information Institute, Statute of Limitations, https://www.law.cornell.edu/wex/statute_of_limitations (Last visited January 22, 2024).
[129] *Id.*
[130] S. 95.11(1), F.S.

or s. 713.23(1)(e), and except for an action for a deficiency judgment governed by s. 95.11(5)(h), F.S.
    - An action to foreclose a mortgage.
    - An action alleging a willful violation of s. 448.110, F.S.
    - Notwithstanding s. 95.11(b), F.S., an action for breach of a property insurance contract, with the period running from the date of loss.[131]
- WITHIN FOUR YEARS.—
    - An action relating to the determination of paternity, with the time running from the date the child reaches the age of majority.
    - An action founded on the design, planning, or construction of an improvement to real property, with the time running from the date the authority having jurisdiction issues a temporary certificate of occupancy, a certificate of occupancy, a certificate of completion, or the date of abandonment of construction if not completed, whichever is earliest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within seven years after the date the authority having jurisdiction issues a temporary certificate of occupancy, a certificate of occupancy, or a certificate of completion, than as to the construction which is within the scope of such building permit and certificate, the correction of defects to completed work or repair of completed work, whether performed under warranty or otherwise, does not extend the period of time within which an action must be commenced. If a newly constructed single-dwelling residential building is used as a model home, the time begins to run from the date that a deed is recorded first transferring title to another party. Notwithstanding any provision of this section to the contrary, if the improvement to real property consists of the design, planning, or construction of multiple buildings, each building must be considered its own improvement for purposes of determining the limitations period set forth in this paragraph. An action to recover public money or property held by a public officer or employee, or former public officer or employee, and obtained during, or as a result of, his or her public office or employment.
    - An action for injury to a person founded on the design, manufacture, distribution, or sale of personal property that is not permanently incorporated in an improvement to real property, including fixtures.
    - An action founded on a statutory liability.
    - An action for trespass on real property.
    - An action for taking, detaining, or injuring personal property.
    - An action to recover specific personal property.
    - A legal or equitable action founded on fraud.
    - A legal or equitable action on a contract, obligation, or liability not founded on a written instrument, including an action for the sale and delivery of goods, wares, and merchandise, and on store accounts.
    - An action to rescind a contract.
    - An action for money paid to any governmental authority by mistake or inadvertence.
    - An action for a statutory penalty or forfeiture.
    - An action for assault, battery, false arrest, malicious prosecution, malicious interference, false imprisonment, or any other intentional tort, except as provided in subsections (4), (5), and (7).
    - Any action not specifically provided for in these statutes.
    - An action alleging a violation, other than a willful violation, of s. 448.110. F.S.[132]
- WITHIN TWO YEARS.—
    - An action founded on negligence.
    - An action for professional malpractice, other than medical malpractice, whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due

[131] S. 95.11(2), F.S.
[132] S. 95.11(3), F.S.

diligence. However, the limitation of actions herein for professional malpractice shall be limited to persons in private with the professional.
    - An action for medical malpractice[133] shall be commenced within two years from the time the incident giving rise to the action occurred or within two years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than four years from the date of the incident or occurrence out of which the cause of action accrued, except that this four year period shall not bar an action brought on behalf of a minor on or before the child's eighth birthday. The limitation of actions shall be limited to the health care provider and persons in privity with the provider of health care. In those actions in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the injury the period of limitations is extended forward two years from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in no event to exceed seven years from the date the incident giving rise to the injury occurred, except that this seven-year period shall not bar an action brought on behalf of a minor on or before the child's eighth birthday. This paragraph shall not apply to actions for which ss. 766.301-766.316 provide the exclusive remedy. An action to recover wages or overtime or damages or penalties concerning payment of wages and overtime.
    - An action for wrongful death.
    - An action founded upon a violation of any provision of chapter 517, F.S. with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than five years from the date such violation occurred.
    - An action for personal injury caused by contact with or exposure to phenoxy herbicides while serving either as a civilian or as a member of the Armed Forces of the United States during the period January 1, 1962, through May 7, 1975; the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence.
    - An action for libel or slander.[134]
- WITHIN ONE YEAR.—
    - An action for specific performance of a contract.
    - An action to enforce an equitable lien arising from the furnishing of labor, services, or material for the improvement of real property.
    - An action to enforce rights under the Uniform Commercial Code—Letters of Credit, chapter 675, F.S.
    - An action against any guaranty association and its insured, with the period running from the date of the deadline for filing claims in the order of liquidation.
    - Except for actions governed by ss. 255.05(10), 337.18(1), or 713.23(1)(e), F.S., an action to enforce any claim against a payment bond on which the principal is a contractor, subcontractor, or sub-subcontractor as defined in s. 713.01, F.S., for private work as well as public work, from the last furnishing of labor, services, or materials or from the last furnishing of labor, services, or materials by the contractor if the contractor is the principal on a bond on the same construction project, whichever is later.
    - Except for actions described in s. 95.11(8), F.S., , a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed by or on behalf of a prisoner as defined in s. 57.085, F.S.
    - Except for actions described in s. 95.11(8), F.S., an action brought by or on behalf of a prisoner, as defined in s. 57.085, F.S., relating to the conditions of the prisoner's confinement.
    - An action to enforce a claim of a deficiency related to a note secured by a mortgage against a residential property that is a one-family to four-family dwelling unit. The

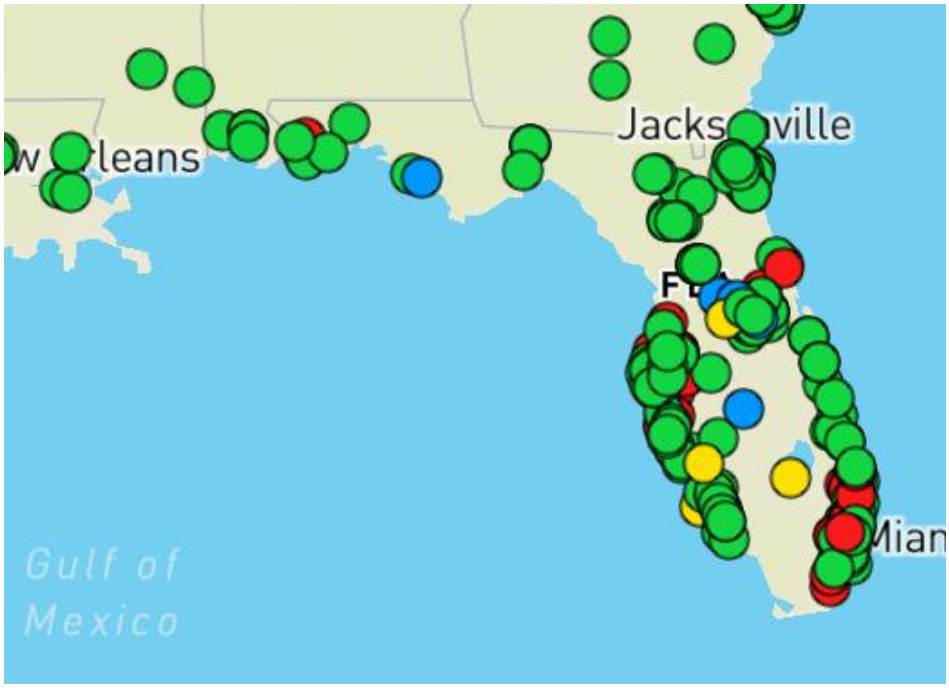
[133] An "action for medical malpractice" is defined as a claim in tort or in contract for damages because of the death, injury, or monetary loss to any person arising out of any medical, dental, or surgical diagnosis, treatment, or care by any provider of health care. *See s. 95.11(4)(c), F.S.*
[134] S. 95.11(4), F.S.

limitations period shall commence on the day after the certificate is issued by the clerk of court or the day after the mortgagee accepts a deed in lieu of foreclosure.[135]

Direct Health Care Agreements

Created in Florida law by the 2018 Legislature,[136] *direct health care agreements*, are non-insurance contracts between certain, statutorily designated health care providers or groups of providers and patients. Such agreements are not subject to the Florida Insurance Code and are not regulated by the Department of Financial Services or the Office of Insurance Regulation.

The direct provider arrangement eliminates third party payors and instead creates a contractual relationship between the health care provider and the patient usually with a small monthly fee (usually around $70 per individual) for access to the designated scope of benefits. Nationally, the Direct Primary Care Coalition reports over 1,600 associated practices.[137] On the map below, each green dot equals a pure direct primary care model, a red dot is a hybrid model, and a blue dot equals an onsite model. A provider with a hybrid model may have a mix of both direct primary care patients as well as other patients.



The agreement between the parties must adhere to specific statutory requirements to be a valid agreement. To be valid, the agreement must:

- Be in writing.
- Be signed by the health care provider or an agent of the health care provider and the patient, the patient's legal representative, or the patient's employer.
- Allow a party to terminate the agreement by giving the other party at least 30 days' advance written notice. The agreement may provide for immediate termination due to a violation of the physician-patient relationship or a breach of the terms of the agreement.
- Describe the scope of health care services that are covered by the monthly fee.
- Specify the monthly fee and any fees for health care services not covered by the monthly fee.
- Specify the duration of the agreement and any automatic renewal provisions.

[135] S. 95.11(5), F.S.
[136] Ch. Law 2018-89, L.O.F.
[137] Direct Primary Care Coalition, *Direct Primary Care Mapper,* available at https://mapper.dpcfrontier.com/ (Last visited January 22, 2024).

- Offer a refund to the patient, the patient's legal representative, or the patient's employer of monthly fees paid in advance if the health care provider ceases to offer health care services for any reason.
- Contain, in contrasting color and in at least 12-point type, the following statement on the signature page: "*This agreement is not health insurance and the health care provider will not file any claims against the patient's health insurance policy or plan for reimbursement of any health care services covered by the agreement. This agreement does not qualify as minimum essential coverage to satisfy the individual shared responsibility provision of the Patient Protection and Affordable Care Act, 26 U.S.C. s. 5000A. This agreement is not workers' compensation insurance and does not replace an employer's obligations under chapter 440.*"[138]

Patients who seek services under these agreements may see health care providers for any services for which the provider is licensed and has the competency and training to provide.[139] Currently, direct health care arrangements are limited to those providers who are defined as a "health care provider", under s. 624.27, F.S., and licensed as one of the following:

- Chapter 458 (medical doctors);
- Chapter 459 (osteopathic doctors);
- Chapter 460 (chiropractic physicians);
- Chapter 461 (podiatrists);
- Chapter 464 (nursing, including advanced or specialized nursing practice, advanced practice registered nurse, licensed practice nurse, or registered nurse);
- Chapter 466 (dental or dental hygienist); or
- A health care group practice, who provides health care services to patients.[140]

Health Care Price Transparency and Medical Debt

The bill increases patient access to health care cost information, and offers a measure of protection from unreasonable and burdensome medical debt. The various provisions apply to hospitals, ambulatory surgical centers, health insurers, and HMOs. The bill brings provisions from recent federal law and regulation into the Florida Statutes; in doing so, the bill requires compliance by facilities and insurers as a condition of state licensure, thus ensuring that these provisions will be fully adopted and adequately enforced in Florida.[141]

Facility Price Transparency

Facility Billing Estimates

The bill requires that all patients receive cost-of-care information prior to receiving scheduled, nonemergency treatment in hospitals and ambulatory surgical centers, and from physicians providing services in those facilities.

At present, licensed facilities are required to provide a customized estimate of "reasonably anticipated charges" to a patient for treatment of the patient's specific condition, *upon request of the patient*. The bill makes these personalized estimates mandatory, rather than dependent on patient requests. A facility must submit the estimate of charges to a patient's health plan at least three business days before a service is to be furnished, according to the following schedule:

- In the case of a service scheduled less than 10 business days in advance, no later than one business day after the service is scheduled.
- In the case of a service scheduled 10 or more business days in advance, no later than three business days after a service is scheduled.

[138] S. 624.67(4)(a)-(h), F.S.
[139] S. 624.67(1)(c), F.S.
[140] S. 624.27(1)(b), F.S.
[141] SS. 395.003, 395.301, 408.802, 624.401, and 641.22, F.S.

By requiring facilities to provide a good-faith estimate of charges to each patient in advance of treatment, the bill mirrors the requirements of the federal No Surprises Act (Act).[142] Compliance with the Act was required by January 1, 2022. The bill subjects ASCs to these requirements, which the federal Act does not; to that end, the bill makes its provisions applicable to ASCs beginning January 1, 2026. This grants the ASCs additional time to implement the bill requirements, which the hospitals already had.

Shoppable Services

The bill requires each licensed hospital and ambulatory surgical center (ASC) to post a consumer-friendly list of standard charges for at least 300 shoppable health care services on a facility website. A facility that provides less than 300 distinct services will be required to post standard charges for each service it does provide.

The bill requires facilities to post pricing information for shoppable services in accordance with the definition of "standard charges" established in federal rule.[143] This information extends beyond the traditional concept of charges to include negotiated and actual prices paid for selected services. For each shoppable service, a hospital or ASC must disclose the following pricing benchmarks:

- The gross charge;
- The payer-specific negotiated charge;
- A de-identified minimum negotiated charge;
- A de-identified maximum negotiated charge; and,
- The discounted cash price.

This bill is intended to mirror the shoppable services requirement included in the hospital facility transparency regulations finalized by the CMS in 2019. The bill requires facilities to disclose the relevant cost information as a condition of state licensure, which should result in uniform compliance among facilities.

Facility Medical Debt Collection

The bill prohibits hospitals and ASCs from engaging in any "extraordinary collection actions" against a patient prior to determining whether that patient is eligible for financial assistance, before providing an itemized bill, during an ongoing grievance process, prior to billing any applicable insurance coverage, for 30 days after notifying a patient in writing that a collections action will commence, and while the patient is negotiating in good faith the final amount of the bill or is complying with the terms of a payment plan with the facility. For purposes of the provision, "extraordinary collection action" means any action that requires a legal or judicial process, including:

- Placing a lien on an individual's property;
- Foreclosing on an individual's real property;
- Attaching or seizing an individual's bank account or any other personal property;
- Commencing a civil action against an individual;
- Causing an individual's arrest; or,
- Garnishing an individual's wages.

The bill also establishes a new set of debt collection exemptions in chapter 222, F.S. that apply explicitly to debt incurred as a result of medical services provided in hospitals, ambulatory surgical centers, or urgent care centers. Under current law, this type of medical debt is subject to the uniform exemptions that apply to all types of debt and are described above. The bill increases the ceiling on the debt collection exemptions, when the debt results from services provided in a hospital facility or ambulatory surgical center, as follows:

[142] The *No Surprises Act* was enacted as part of the Consolidated Appropriations Act of 2021; (Pub. Law 116-260).
[143] *Supra*, note 43.

- To $10,000 interest in a single motor vehicle (versus the current law exemption of $1,000);
- To $10,000 interest in personal property, provided that a debtor does not claim the homestead exemption under s. 4, Art. X of the state constitution (versus the current law exemption of $4,000).

The bill also requires each hospital and ASC to establish an internal grievance process allowing a patient to dispute any charges that appear on an itemized statement or bill. When a patient initiates a grievance, the facility must then provide an initial response to that patient within 7 business days.

Lastly, the bill creates a three-year statute of limitations for any legal action related to medical debt for services rendered by a facility licensed under chapter 395, F.S., such as hospitals, ambulatory surgical centers, and urgent care centers. The statute of limitations begins running on the date that the facility refers the debt to a third-party collection entity.

Insurer Price Transparency

Shared Savings Programs

The bill establishes an accounting standard to remove a barrier to shared savings incentive programs. It specifies that insurer shared savings payments to patients shall be counted as medical expenses for rate development and rate filing purposes.[144] This change aligns Florida law with the federal regulations that became final in 2020.[145]

Advanced Explanation of Benefits

The bill requires health plans to issue an advance explanation of benefits statement when a covered patient schedules a service in a hospital or ambulatory surgical center. This requirement builds on the facility charges estimate provision in the bill. Once a facility notifies a health plan that a patient has scheduled a medical service, the health plan must prepare a personalized estimate of costs for the patient in accordance with the federal No Surprises Act. A health plan must provide an advanced explanation of benefits to the patient according to the following schedule:

- In the case of a service scheduled less than 10 business days in advance, no later than 1 business day after receiving the estimate of charges from the facility;
- In the case of a service scheduled 10 or more business days in advance, no later than 3 business days after receiving the estimate of charges from the facility.

Health insurers and HMOs were required comply with the federal Act by January 1, 2022.

Cash Price Communication

Under the Public Health Services Act, section 2799A-9(a)(2), health insurance issuers that offer individual health insurance coverage are prohibited from entering into an agreement with a health care provider, network or association of providers, or other service provider offering access to a network of providers that would directly or indirectly restrict the issuer from—

(1) Providing provider-specific price or quality of care information, through a consumer engagement tool or any other means, to referring providers, enrollees, or individuals eligible to become enrollees of the plan or coverage; or
(2) Sharing, for plan design, plan administration, and plan, financial, legal, and quality improvement activities, data described in (1) with a business associate, consistent with the privacy regulations promulgated pursuant to section 264(c) of HIPAA, GINA, and the ADA.[146]

[144] Current law indicates that a shared savings incentive offered by a health plan is "not an administrative expense for rate development or rate filing purposes," but does not affirmatively categorize the expense. SS. 627.6387, 627.6648, and 641.31076, F.S.
[145] *Supra*, note 47.
[146] Centers for Medicare and Medicaid Services, *Gag Clause Prohibition Attestation Compliance,* https://www.cms.gov/marketplace/about/oversight/other-insurance-protections/gag-clause-prohibition-compliance-attestation (last viewed January 22, 2024).

These regulations further restrict group health plans and health plan issuers from restricting the release of provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, participants, beneficiaries, or enrollees, or individuals eligible to become participants, beneficiaries, or enrollees of the plan or coverage.[147]

The first attestation of compliance from health plans and issuers was due on December 31, 2023 and will be due annually thereafter.

B. SECTION DIRECTORY:

Section 1: Amends s. 95.11, F.S., relating to limitations other than for the recovery of real property.
Section 2: Creates s. 222.26, F.S., relating to additional exemptions from legal process concerning medical debt.
Section 2: Amends s. 395.301, F.S., relating to price transparency; itemized patient statement or bill; patient admission status notification.
Section 3: Creates s. 395.3011, F.S., relating to billing and collection activities.
Section 4: Amends s. 624.27, F.S., relating to direct health care agreements; exemption from code.
Section 4: Amends s. 641.31076, F.S., relating to shared savings incentive program.
Section 5: Amends s. 627.6387, F.S., relating to shared savings incentive program.
Section 6: Amends s. 627.6648, F.S., relating to shared savings incentive program.
Section 7: Amends s. 475.01, F.S., relating to definitions.
Section 8: Amends s. 475.611, F.S., relating to definitions.
Section 9: Amends s. 517.191, F.S., relating to injunction to restrain violations; civil penalties; enforcement by Attorney General.
Section 10: Amends s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.
Section 11: Amends s. 787.061, F.S., relating to civil actions by victims of human trafficking.
Section 12: Creates an unnumbered section of law, relating to ambulatory surgical centers.
Section 12: Provides an effective date of July 1, 2024.

[147] *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase costs for facilities licensed under ch. 395, F.S., by requiring them to issue cost estimates for all non-emergency patients, but only if the facilities are out of compliance with the current federal requirement to provide these estimates.

Facilities may forego revenues due to the bill's limits on the use of extraordinary collection activities; however, some facilities may already be providing similar due process for patients, such that the bill will have little impact on them.

The bill may have a negative, but indeterminate, fiscal impact on health insurers and HMOs, due to the costs of producing advanced explanations of benefits for insureds and subscribers, triggered by the estimates provided by facilities, but only if these health plans are out of compliance with the current federal requirement to provide these to subscribers.

Additionally, the bill's increased dollar limit on personal property exemptions under ch. 222, F.S., may reduce revenues for medical service providers or their collection agents.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill or current law provide sufficient authority to all impacted state agencies and boards necessary to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to health care expenses; amending s. 95.11, F.S.; establishing a 3-year statute of limitations for an action to collect medical debt for services rendered by a health care provider or facility; creating s. 222.26, F.S.; providing additional personal property exemptions from legal process for medical debts resulting from services provided in certain licensed facilities; amending s. 395.301, F.S.; requiring a licensed facility to post on its website a consumer-friendly list of standard charges for a minimum number of shoppable health care services; providing definitions; requiring a licensed facility to provide an estimate to a patient or prospective patient and the patient's health insurer within specified timeframes; requiring a licensed facility to establish an internal grievance process for patients to dispute charges; requiring a facility to make available information necessary for initiating a grievance; requiring a facility to respond to a patient grievance within a specified timeframe; requiring licensed a facility to disclose specified information relating to cost sharing obligations to certain persons; providing a penalty; providing a definition; requiring each health insurer to provide

an insured with an advanced explanation of benefits after receiving a patient estimate from a facility for scheduled services; providing requirements for the advanced explanation of benefits; prohibiting a health insurer from disclosing specified information relating to discounted cash prices to certain persons; defining the term "discounted cash price"; amending s. 627.6387, F.S.; revising definitions; requiring, rather than authorizing, a health insurer to offer a shared savings incentive program for specified purposes; requiring a health insurer to notify an insured that participation in such program is voluntary and optional; amending ss. 627.6648 and 641.31076, F.S.; providing that a shared savings incentive offered by a health insurer or health maintenance organization constitutes a medical expense for rate development and rate filing purposes; creating s. 395.3011, F.S.; defining the term "extraordinary collection action"; prohibiting certain collection activities by a licensed facility; creating s. 627.446, F.S.; conforming cross-references; amending ss.475.01, 475.611,517.191, 768.28, and 787.061 F.S.; providing a delayed application date; conforming to changes made by the act; providing an effective date.

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

Section 1. Subsections (4) through (12) of section 95.11, Florida Statutes, are renumbered as subsections (5) through (13), respectively, paragraph (b) of subsection (2), paragraph (n) of subsection (3), paragraphs (f) and (g) of present subsection (5), and present subsection (10) are amended, and a new subsection (4) is added to that section, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of paragraph (6)(e) ~~paragraph (5)(e)~~, s. 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an action for a deficiency judgment governed by paragraph (6)(h) ~~paragraph (5)(h)~~.

(3) WITHIN FOUR YEARS.—

(n) An action for assault, battery, false arrest, malicious prosecution, malicious interference, false imprisonment, or any other intentional tort, except as provided in subsections (5), (6), and (8) ~~subsections (4), (5), and (7)~~.

(4) WITHIN THREE YEARS.—An action to collect medical debt for services rendered by a facility licensed under chapter 395, provided that the period of limitations shall run from the date on which the facility refers the medical debt to a third party for collection.

(6) ~~(5)~~ WITHIN ONE YEAR.—

(f) Except for actions described in subsection (9) ~~(8)~~, a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed by or on behalf of a prisoner as defined in s. 57.085.

(g) Except for actions described in subsection (9) ~~(8)~~, an action brought by or on behalf of a prisoner, as defined in s. 57.085, relating to the conditions of the prisoner's confinement.

(11) ~~(10)~~ FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph (5)(e) ~~paragraph (4)(e)~~, an action for wrongful death seeking damages authorized under s. 768.21 brought against a natural person for an intentional tort resulting in death from acts described in s. 782.04 or s. 782.07 may be commenced at any time. This subsection shall not be construed to require an arrest, the filing of formal criminal charges, or a conviction for a violation of s. 782.04 or s. 782.07 as a condition for filing a civil action.

Section 2. Section 222.26, Florida Statutes, is created to

read:

222.26 Additional exemptions from legal process concerning medical debt.—If a debt is owed for medical services provided by a facility licensed under chapter 395, the following property is exempt from attachment, garnishment, or other legal process in an action on such debt:

(1) A debtor's interest, not to exceed $10,000 in value, in a single motor vehicle as defined in s. 320.01(1).

(2) A debtor's interest in personal property, not to exceed $10,000 in value, if the debtor does not claim or receive the benefits of a homestead exemption under s. 4, Art. X of the State Constitution.

Section 2. Paragraphs (b), (c), and (d) of subsection (1) of section 395.301, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, subsection (6) is renumbered as subsection (8), present paragraph (b) of subsection (1) is amended, a new paragraph (b) is added to subsection (1), and new subsections (6) and (7) are added to that section, to read:

395.301 Price transparency; itemized patient statement or bill; patient admission status notification.—

(1) A facility licensed under this chapter shall provide timely and accurate financial information and quality of service measures to patients and prospective patients of the facility, or to patients' survivors or legal guardians, as appropriate.

Such information shall be provided in accordance with this section and rules adopted by the agency pursuant to this chapter and s. 408.05. Licensed facilities operating exclusively as state facilities are exempt from this subsection.

(b) Each licensed facility shall post on its website a consumer-friendly list of standard charges for at least 300 shoppable health care services. If a facility provides fewer than 300 distinct shoppable health care services, it shall make available on its website the standard charges for each service it provides. As used in this paragraph, the term:

1. "Shoppable health care service" means a service that can be scheduled by a healthcare consumer in advance. The term includes, but is not limited to, the services described in s. 627.6387(2)(e) and any services defined in regulations or guidance issued by the United States Department of Health and Human Services.

2. "Standard charge" has the same meaning as that term is defined in regulations or guidance issued by the United States Department of Health and Human Services for purposes of hospital price transparency.

(c)~~(b)~~1. ~~Upon request, and~~ Before providing any nonemergency medical services, each licensed facility shall provide in writing or by electronic means a good faith estimate of reasonably anticipated charges by the facility for the treatment of a ~~the~~ patient's or prospective patient's specific

condition. Such estimate must be provided to the patient or prospective patient upon scheduling a medical service. The facility ~~must provide the estimate to the patient or prospective patient within 7 business days after the receipt of the request and~~ is not required to adjust the estimate for any potential insurance coverage. The facility must provide the estimate to the patient's health insurer, as defined in s. 627.446(1), and the patient at least 3 business days before a service is to be provided, but no later than 1 business day after the service is scheduled or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after the service is scheduled. The estimate may be based on the descriptive service bundles developed by the agency under s. 408.05(3)(c) unless the patient or prospective patient requests a more personalized and specific estimate that accounts for the specific condition and characteristics of the patient or prospective patient. The facility shall inform the patient or prospective patient that he or she may contact his or her health insurer ~~or health maintenance organization~~ for additional information concerning cost-sharing responsibilities.

2. In the estimate, the facility shall provide to the patient or prospective patient information on the facility's financial assistance policy, including the application process, payment plans, and discounts and the facility's charity care policy and collection procedures.

3. The estimate shall clearly identify any facility fees and, if applicable, include a statement notifying the patient or prospective patient that a facility fee is included in the estimate, the purpose of the fee, and that the patient may pay less for the procedure or service at another facility or in another health care setting.

4. ~~Upon request,~~ The facility shall notify the patient or prospective patient of any revision to the estimate.

5. In the estimate, the facility must notify the patient or prospective patient that services may be provided in the health care facility by the facility as well as by other health care providers that may separately bill the patient, if applicable.

~~6. The facility shall take action to educate the public that such estimates are available upon request.~~

6.~~7.~~ Failure to timely provide the estimate pursuant to this paragraph shall result in a daily fine of $1,000 until the estimate is provided to the patient or prospective patient and the health insurer. The total fine per patient estimate may not exceed $10,000.

~~The provision of an estimate does not preclude the actual charges from exceeding the estimate.~~

(6) Each facility shall establish an internal process for reviewing and responding to grievances from patients. Such

process must allow patients to dispute charges that appear on the patient's itemized statement or bill. The facility shall prominently post on its website and indicate in bold print on each itemized statement or bill the instructions for initiating a grievance and the direct contact information required to initiate the grievance process. The facility must provide an initial response to a patient grievance within 7 business days after the patient formally files a grievance disputing all or a portion of an itemized statement or bill.

(7) Each licensed facility shall disclose to a patient, prospective patient, or a patient's legal guardian whether a cost-sharing obligation for a particular covered health care service or item exceeds the charge that applies to an individual who pays cash or the cash equivalent, for the same health care service or item in the absence of health insurance coverage. Failure to provide a disclosure in compliance with this subsection may result in a fine not to exceed $500 per incident.

Section 3. Section 395.3011, Florida Statutes, is created to read:

395.3011 Billing and collection activities.—

(1) As used in this section, the term "extraordinary collection action" means any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the facility's financial assistance policy:

(a) Selling the individual's debt to another party.

(b) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(c) Deferring, denying, or requiring a payment before providing medically necessary care because of the individual's nonpayment of one or more bills for previously provided care covered under the facility's financial assistance policy.

(d) Actions that require a legal or judicial process, including, but not limited to:

1. Placing a lien on the individual's property;

2. Foreclosing on the individual's real property;

3. Attaching or seizing the individual's bank account or any other personal property;

4. Commencing a civil action against the individual;

5. Causing the individual's arrest; or

6. Garnishing the individual's wages.

(2) A facility may not engage in an extraordinary collection action against an individual to obtain payment for services:

(a) Before the facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care provided and, if eligible, before a decision is made by the facility on the patient's application for such financial assistance.

(b) Before the facility has provided the individual with

an itemized statement or bill.

(c) During an ongoing grievance process as described in s. 395.301(6) or an ongoing appeal of a claim adjudication.

(d) Before billing any applicable insurer and allowing the insurer to adjudicate a claim.

(e) For 30 days after notifying the patient in writing, by certified mail, or by other traceable delivery method, that a collection action will commence absent additional action by the patient.

(f) While the individual:

1. Negotiates in good faith the final amount of a bill for services rendered; or

2. Complies with all terms of a payment plan with the facility.

Section 4. Paragraph (b) of subsection (1) of section 624.27, Florida Statutes, is amended to read:

624.27 Direct health care agreements; exemption from code.—

(1) As used in this section, the term:

(b) "Health care provider" means a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or chapter 466, chapter 490, or chapter 491, or a health care group practice, who provides health care services to patients.

Section 4. Paragraph (a) of subsection (4) of section

641.31076, Florida Statutes, is amended to read:

641.31076 Shared savings incentive program.—

(4) A shared savings incentive offered by a health maintenance organization in accordance with this section:

(a) Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical expense for such purposes.

Section 5. Paragraphs (b) and (c) of subsection (2), subsection (3), and paragraph (a) of subsection (4) of section 627.6387, Florida Statutes, are amended to read:

627.6387 Shared savings incentive program.—

(2) As used in this section, the term:

(b) "Health insurer" means an authorized insurer offering health insurance as defined in s. 627.446 ~~s. 624.603.~~

(c) "Shared savings incentive" means a voluntary and optional financial incentive that a health insurer provides ~~may provide~~ to an insured for choosing certain shoppable health care services under a shared savings incentive program which ~~and~~ may include, but is not limited to, the incentives described in s. 626.9541(4)(a).

(3) A health insurer must ~~may~~ offer a shared savings incentive program to provide incentives to an insured when the insured obtains a shoppable health care service from the health insurer's shared savings list. An insured may not be required to participate in a shared savings incentive program. A health

insurer ~~that offers a shared savings incentive program~~ must:

(a) Establish the program as a component part of the policy or certificate of insurance provided by the health insurer and notify the insureds and the office at least 30 days before program termination.

(b) File a description of the program on a form prescribed by commission rule. The office must review the filing and determine whether the shared savings incentive program complies with this section.

(c) Notify an insured annually and at the time of renewal, and an applicant for insurance at the time of enrollment, of the availability of the shared savings incentive program, ~~and~~ the procedure to participate in the program, and that participation by the insured is voluntary and optional.

(d) Publish on a web page easily accessible to insureds and to applicants for insurance a list of shoppable health care services and health care providers and the shared savings incentive amount applicable for each service. A shared savings incentive may not be less than 25 percent of the savings generated by the insured's participation in any shared savings incentive offered by the health insurer. The baseline for the savings calculation is the average in-network amount paid for that service in the most recent 12-month period or some other methodology established by the health insurer and approved by the office.

(e) At least quarterly, credit or deposit the shared savings incentive amount to the insured's account as a return or reduction in premium, or credit the shared savings incentive amount to the insured's flexible spending account, health savings account, or health reimbursement account, or reward the insured directly with cash or a cash equivalent.

(f) Submit an annual report to the office within 90 business days after the close of each plan year. At a minimum, the report must include the following information:

1. The number of insureds who participated in the program during the plan year and the number of instances of participation.

2. The total cost of services provided as a part of the program.

3. The total value of the shared savings incentive payments made to insureds participating in the program and the values distributed as premium reductions, credits to flexible spending accounts, credits to health savings accounts, or credits to health reimbursement accounts.

4. An inventory of the shoppable health care services offered by the health insurer.

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical

expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 6. Paragraph (a) of subsection (4) of section 627.6648, Florida Statutes, is amended to read:

627.6648 Shared savings incentive program.—

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 7. Paragraphs (a) and (j) of subsection (1) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.—

(1) As used in this part:

(a) "Broker" means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration

therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~. Where the term "appraise" or "appraising" appears in the definition of the term "broker," it specifically excludes those appraisal services which must be performed only by a

state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II. The term "broker" also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker. The term "broker" also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

(j) "Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~.

Section 8. Paragraph (h) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

(1) As used in this part, the term:

(h) "Appraiser" means any person who is a registered trainee real estate appraiser, a licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~.

Section 9. Subsection (7) of section 517.191, Florida

Statutes, is amended to read:

517.191 Injunction to restrain violations; civil penalties; enforcement by Attorney General.—

(7) Notwithstanding s. 95.11(5)(f) ~~s. 95.11(4)(f)~~, an enforcement action brought under this section based on a violation of any provision of this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Section 10. Subsection (14) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(14) Every claim against the state or one of its agencies or subdivisions for damages for a negligent or wrongful act or omission pursuant to this section shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction within 4 years after such claim accrues; except that an action for contribution must be commenced within the limitations provided in s. 768.31(4), and an action for damages arising from medical malpractice or

wrongful death must be commenced within the limitations for such actions in s. 95.11(5) ~~s. 95.11(4)~~.

Section 11. Subsection (4) of section 787.061, Florida Statutes, is amended to read:

787.061 Civil actions by victims of human trafficking.—

(4) STATUTE OF LIMITATIONS.—The statute of limitations as specified in s. 95.11(8) or (10) ~~s. 95.11(7) or (9)~~, as applicable, governs an action brought under this section.

Section 12. The changes made to this act to sections 395.301 and 627.446 do not apply to ambulatory surgical centers, as defined in section 395.002, until January 1, 2026.

Section 12. This act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Health & Human Services Committee

Representative Grant offered the following:

Amendment

Between lines 282 and 283, insert:

Section 1. Section 627.446, Florida Statutes, is created to read:

627.446 Advanced explanation of benefits.—

(1) As used in this section, the term "health insurer" means a health insurer issuing individual or group coverage or a health maintenance organization issuing coverage through an individual or a group contract.

(2) Each health insurer shall prepare an advanced explanation of benefits upon receiving a patient estimate from a facility pursuant to s. 395.301(1). The health insurer must

provide the advanced explanation of benefits to the insured no later than 1 business day after receiving the patient estimate from the facility or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after receiving such estimate.

(3) At a minimum, the advanced explanation of benefits must include detailed coverage and cost-sharing information pursuant to the No Surprises Act, Title I of Division BB of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHS -24-03 Cancer Funding
SPONSOR(S): Health & Human Services Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Cancer is the general term for a group of more than 100 diseases characterized by the uncontrolled growth and spread of abnormal cells. Cancer is the second most common cause of death in the United States, exceeded only by heart disease. Cancer is the second leading cause of death in Florida and Florida has the second-highest number of newly-diagnosed cancer cases in the U.S.

The Casey DeSantis Cancer Research Program's goal is to enhance the quality and competitiveness of cancer care in Florida, further a statewide biomedical research strategy directly responsive to the health needs of Florida's citizens, and capitalize on the potential educational opportunities available to students. Florida-based cancer centers are eligible to join if they are recognized by the National Cancer Institute.

Established in 2023, the Florida Cancer Innovation Fund funds cancer research and innovation. The Fund's mission is to encourage collaboration between oncologists, researchers, and cancer facilities.

PCB HHS 24-03 revises the purpose of the Casey DeSantis Cancer Research Program (Program) to include promoting the provision of high-quality, innovative health care for persons undergoing cancer treatment in Florida.

The bill creates the Cancer Connect Collaborative council (collaborative) to advise the Department of Health (DOH) and the legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The collaborative is tasked with administering the Cancer Innovation Fund; the collaborative will review all submitted grant application and make recommendations to DOH for awarding grants to support innovative cancer research and treatment models. The bill requires the collaborative to prioritize applications seeking to expand the reach of innovative cancer treatment models into underserved areas in the state. The bill also requires the collaborative to develop a long-range comprehensive plan for the Program.

The bill has an insignificant, negative fiscal impact on DOH, which current resources are adequate to absorb, and no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Cancer is the general term for a group of more than 100 diseases. Cancers start because abnormal cells grow out of control. Untreated cancers can cause serious illness and death. Cancer affects one in three people in the United States.[1]

About 2,001,140 new cancer cases are expected to be diagnosed in the United States in 2024, with approximately 160,680 of those occurring in Florida.[2] In 2024, around 611,720 Americans are expected to die of cancer, with approximately 48,110 of those occurring in Florida.[3] Cancer is the second most common cause of death in the United States, exceeded only by heart disease.[4] Cancer is the second leading cause of death in Florida.[5] Florida has the second-highest number of newly-diagnosed cancer cases in the U.S., despite being the third-largest state in terms of population.[6]

The National Cancer Institute

The National Cancer Institute (NCI) is the federal government's principal agency for cancer research and training.[7] One function of the NCI is to designate cancer centers by recognizing an institution for the type and breadth of research conducted in addition to the leadership and resources that the cancer center offers. Such designation is nationally recognized as a marker of high-quality cancer care and research. The NCI designates institutions as:[8]

- Comprehensive Cancer Centers – focused on substantial transdisciplinary research that bridges all cancer-related research areas;
- Cancer Centers – focused on one research area such as clinical, prevention, cancer control or population science research; or
- Basic Laboratory Cancer Centers - focused on laboratory research and work collaboratively with other Institutions.

Currently there are two NCI-designed comprehensive cancer centers in Florida: Mayo Clinic Cancer Center Jacksonville, Florida, (in addition to facilities in Arizona and Minnesota); and, H. Lee Moffitt

[1] American Cancer Society, *What is Cancer*, available at https://www.cancer.org/cancer/understanding-cancer/what-is-cancer.html (last visited February 19, 2024).
[2] American Cancer Society, *Cancer Facts and Figures 2024*, available at https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/annual-cancer-facts-and-figures/2024/2024-cancer-facts-and-figures-acs.pdf (last visited February 19, 2024).
[3] *Id.*
[4] *Id.*
[5] Florida Department of Health, *Cancer*, available at https://www.floridahealth.gov/diseases-and-conditions/cancer/index.html#:~:text=Since%202014%2C%20cancer%20has%20been,one%20disease%20but%20many%20diseases. (last visited February 19, 2024).
[6] Florida Department of Health, *The Florida Breast Cancer Early Detection and Treatment Referral Program Report*, available at https://www.floridahealth.gov/diseases-and-conditions/cancer/breast cancer/_documents/2020FloridaBreastCancerEarlyDetectionandTreatmentReferralProgram.pdf (last visited February 19, 2024).
[7] National Cancer Institute, *National Cancer Institute Overview and Mission*, available at https://www.cancer.gov/about-nci/overview (last visited February 19, 2024).
[8] National Cancer Institute, *NCI-Designated Cancer Centers*, available at https://www.cancer.gov/research/infrastructure/cancer-centers (last visited February 19, 2024).

Cancer Center. The University of Miami Sylvester Comprehensive Cancer Center and the University of Florida Health Cancer center are NCI- designated cancer centers.[9]

The Casey DeSantis Cancer Research Program

In 2014, the Legislature created the Florida Consortium of National Cancer Institute Centers Program, renamed the Casey DeSantis Cancer Research Program (DeSantis program) in 2022.[10] Established to: enhance the quality and competitiveness of cancer care in Florida; further a statewide biomedical research strategy directly responsive to the health needs of Florida's citizens; and, capitalize on potential educational opportunities available to students, the program funds Florida-based,[11] NCI-designated cancer centers according to a statutory formula.[12]

A participating cancer center's annual allocation is determined by multiplying the funds appropriated for the DeSantis program in the General Appropriations Act by an allocation fraction calculation determined by the Department of Health (DOH).[13] DOH must calculate a participating cancer center's allocation fraction on or before September 15 each year using a specific statutory formula.[14] The program sets a floor of funding at $16 million in cases where a participating cancer center's allocation equals less. The difference is made up using funds proportionally redistributed from other participating cancer centers' allocations.[15]

A participating cancer center's allocation fraction calculation is determined by DOH using a tier-weighted formula that factors in a cancer center's reportable cancer cases; peer-review costs; and biomedical education and training.[16] The tier designations that weight DOH's annual allocation calculation are based on the participating cancer center's NCI-designation status. The program's three tier designations are:[17]

- Tier 1: Florida-based NCI-designated comprehensive cancer centers;
- Tier 2: Florida-based NCI-designated cancer centers; and
- Tier 3: Florida-based cancer centers seeking NCI-designation as well as meeting additional criteria related to their research and biomedical education.

Currently, three cancer centers participate in the program:

- H. Lee Moffitt Cancer Center, which is an NCI-designated comprehensive cancer center;
- Sylvester Comprehensive Cancer Center at the University of Miami, which is an NCI-designated cancer center; and
- The University of Florida Health Cancer Center, which is an NCI- designated cancer center.

Participating cancer centers are required to work with DOH to prepare and submit a report to the Cancer Control and Research Advisory Council which includes specific metrics relating to cancer mortality and external funding for cancer-related research in the state.[18] If a participating cancer center does not endorse this report or produce an equivalent independent report, the cancer center

[9] National Cancer Institute, *NCI-Designated Cancer Centers*, "Find a Cancer Centers" directory, available at https://www.cancer.gov/research/infrastructure/cancer-centers/find (last visited February 19, 2024).
[10] S. 381.915, F.S.
[11] "Florida-based" means that a cancer center's actual or sought designated status is or would be recognized by the NCI as primarily located in Florida and not in another state. S. 381.915(3)(c), F.S.
[12] S. 381.915(6), F.S. Distributions pursuant to the DeSantis program are subject to annual appropriation by the Legislature.
[13] *Id.*
[14] S. 381.915(3), F.S.
[15] *Supra*, note 12.
[16] S. 381.915(5), F.S.
[17] S. 381.915(4), F.S.
[18] S. 381.915(8), F.S.

shall be suspended from the DeSantis program for one year.[19] Among other elements, the report must include an analysis of specific trending age-adjusted cancer mortality rates in the state for: lung cancer; pancreatic cancer; sarcoma; melanoma; leukemia and myelodysplastic syndromes; brain cancer; and, breast cancer.[20]

Biomedical Research in Florida

The Biomedical Research Trust Fund consists of funds appropriated by the Legislature for the James and Esther King Biomedical Research Program, the Casey DeSantis Cancer Research Program, and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley program) as specified in ss. 215.5602, 381.915, and 381.922, F.S., respectively. Currently, $37.3 million is annually appropriated from the Biomedical Research Trust Fund for these programs.

The James and Esther King program within DOH provides an annual and perpetual source of funding in order to support research initiatives that address the health care problems in Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.[21]

The Bankhead-Coley program within DOH advances progress towards cures for cancer through grants awarded though a peer-reviewed, competitive process. Emphasis is given to efforts that significantly expand cancer research capacity in the state.[22]

Florida Cancer Innovation Fund

Established by the Legislature in 2023, the Florida Cancer Innovation Fund funds cancer research and innovation.[23] The Cancer Innovation Fund's mission is to encourage collaboration between oncologists, researchers, and cancer facilities. The fund is administered by DOH. In Fiscal year 2023-2024, the Legislature appropriated $20 million for the fund.[24] The current House budget for Fiscal year 2024-2025 appropriates $60 million to the fund.[25]

The Executive Office of the Governor established the Florida Cancer Connect Collaborative as a "team of medical professionals to analyze and rethink Florida's approach to combatting cancer".[26] The collaborative meets to discuss the availability of cancer treatment data, processes for sharing treatment best practices, innovative cancer technologies, and funding recommendations.[27]

Effect of the Bill

PCB HHS 24-03 revises the purpose of the DeSantis program to include promoting the provision of high-quality, innovative health care for persons undergoing cancer treatment in Florida.

Cancer Connect Collaborative Council

The bill creates the Cancer Connect Collaborative council (collaborative) to advise DOH and the legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer

[19] *Id.*
[20] S. 381.915(8)(a), F.S.
[21] S. 215.5602(1), F.S.
[22] S. 381.922(2), F.S.
[23] Florida Department of Health, *Florida Cancer Innovation Fund*, available at https://www.floridahealth.gov/provider-and-partner-resources/research/florida-cancer-innovation-fund/index.html (last visited February 19, 2024).
[24] Conference Report on SB 2500, General Appropriations Act for Fiscal Year 2023-2024, Item 465.
[25] HB 5001, House Fiscal Year 2024-2025 General Appropriations Act, Item 457B.
[26] Florida Cancer Connect, *Cancer Connect Collaborative*, available at https://flcancerconnect.com/collaborative/ (last visited February 21, 2024).
[27] *Id.*

facilities, and treatments for cancer patients. The collaborative is authorized to make recommendations on proposed legislation, rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

The bill also establishes meeting and membership requirements for the collaborative. The collaborative must meet as necessary, but at least quarterly, at the call of the chair. The members include the Surgeon General, serving as a nonvoting member, and the chair and the following voting members:

- Two members appointed by the Governor, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives. The appointments should prioritize members with experience in:
    - A health care profession specializing in oncology care or research;
    - The development of preventive and therapeutic treatments to control cancer;
    - The development of innovative research into the causes of cancer, effective treatments, or cures for cancer; or
    - Management-level experience with a cancer center licensed under chapter 395.
- One member who is a resident of Florida who can represent the interests of the cancer patients.

The bill requires the collaborative to develop a long-range comprehensive plan for the DeSantis program. The collaborative must request input from cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers to develop the program. The plan must include:

- Expansion of grant fund opportunities to include a broader pool of Florida-based cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers to receive funding through the Cancer Innovation Fund.
- An evaluation to determine metrics that focus on patient outcomes, quality of care, and efficacy of treatment.

Cancer Innovation Fund

The bill also tasks the collaborative with administering the Cancer Innovation Fund. The collaborative will review all submitted grant application and make recommendations to DOH for awarding grants to support innovative cancer research and treatment models. The bill requires the collaborative to prioritize applications seeking to expand the reach of innovative cancer treatment models into underserved areas in the state.

The collaborative must submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2024.

The bill also requires DOH, in conjunction with participating cancer centers, to submit an annual report to the Cancer Control and Research Advisory Council and the collaborative on metrics relating to cancer mortality and external funding for cancer-related research in Florida. DOH must also submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than September 15 of each year.

The bill requires each allocation agreement issued by DOH relating to cancer center payments to include:

- A line-item budget narrative documenting the annual allocation of funds to a cancer center.
- A cap on the annual award of 15 percent for administrative expenses.

- A requirement for the cancer center to submit quarterly reports of all expenditures made by the cancer center with funds received through the Casey DeSantis Cancer Research Program.
- A provision to allow DOH and other state auditing bodies to audit all financial records, supporting documents, statistical records, and any other documents pertinent to the allocation agreement.
- A provision requiring the annual reporting of outcome data and protocols used in achieving those outcomes.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.015, F.S., relating to Casey DeSantis Cancer Research Program
Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The cost of the administrative functions of the collaborative, and the additional DOH report, can be absorbed by DOH within existing resources.

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

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

A bill to be entitled

An act relating to cancer funding; amending s. 381.915, F.S.; revising the purpose of the Casey DeSantis Cancer Research Program; revising duties of the Department of Health under the program; creating the Cancer Connect Collaborative, a council, within the department for a specified purpose; authorizing the collaborative to make certain recommendations on state policy relating to cancer research or treatment; providing for membership and meetings of the collaborative; requiring the collaborative to develop a long-range comprehensive plan for the program; requiring the collaborative to solicit input from certain stakeholders in the development of the plan; requiring the collaborative to submit the plan to the Governor and the Legislature by a specified date; specifying required components of the plan; requiring the department to provide administrative support and staff to the collaborative; requiring the collaborative to administer the Cancer Innovation Fund; requiring the collaborative to review grant applications and make recommendations to the department for awarding grants upon the appropriation of funds to the fund; requiring the department to make the final grant allocation award; requiring the

collaborative to prioritize certain applications for grant funding; revising the frequency with which the department, in conjunction with participating cancer centers, must submit a specified report to the Cancer Control and Research Advisory Council and the collaborative; requiring the department to submit the report, and any equivalent independent reports, to the Governor and the Legislature by a specified date each year; revising requirements of such reports; beginning on a specified date, requiring that each allocation agreement issued by the department relating to certain cancer center payments include specified elements; providing an effective date.

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

Section 1. subsections (8), (9), and (10) of section 381.915, Florida Statutes, are redesignated as subsections (10), (12), and (13), new subsections (8) and (9) and subsection (11) are added to that section, and subsection (2) of that section is amended, to read:

381.915 Casey DeSantis Cancer Research Program.—

(2) The Casey DeSantis Cancer Research Program is established to enhance the quality and competitiveness of cancer care in this state, further a statewide biomedical research strategy directly responsive to the health needs of Florida's

citizens, ~~and~~ capitalize on the potential educational opportunities available to its students, and promote the provision of high-quality, innovative health care for persons undergoing cancer treatment in this state. The department shall:

(a) Make payments to cancer centers recognized by the National Cancer Institute (NCI) at the National Institutes of Health as NCI-designated cancer centers or NCI-designated comprehensive cancer centers, and cancer centers working toward achieving NCI designation. The department shall distribute funds to participating cancer centers on a quarterly basis during each fiscal year for which an appropriation is made.

(b) Make cancer innovation grant funding available through the Cancer Innovation Fund administered by the Cancer Connect Collaborative under subsection (9) to health care providers and facilities that demonstrate excellence in patient-centered cancer treatment or research.

(8) The Cancer Connect Collaborative, a council as defined in s. 20.03, is created within the department to advise the department and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The collaborative may make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

(a) The Surgeon General shall serve as an ex officio, nonvoting member and shall serve as the chair.

(b) The collaborative shall be composed of the following voting members, to be appointed by September 1, 2024:

1. Two members appointed by the Governor, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives, based on the criteria of this subparagraph. The appointing officers shall make their appointments prioritizing members who have the following experience or expertise:

a. The practice of a health care profession specializing in oncology clinical care or research;

b. The development of preventive and therapeutic treatments to control cancer;

c. The development of innovative research into the causes of cancer, the development of effective treatments for persons with cancer, or cures for cancer; or

d. Management-level experience with a cancer center licensed under chapter 395.

2. One member who is a resident of this state who can represent the interests of cancer patients in this state, appointed by the Governor.

(c) The terms of appointees under paragraph (b) shall be for 2 years unless otherwise specified. However, to achieve staggered terms, the initial appointees under that paragraph shall serve 3 years for their first term. These appointees may be reappointed for no more than four consecutive terms.

(d) Any vacancy occurring on the collaborative must be filled in the same manner as the original appointment. Any

member who is appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor.

(e) Members whose terms have expired may continue to serve until replaced or reappointed, but for no more than 6 months after the expiration of their terms.

(f) Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(g) The collaborative shall meet as necessary, but at least quarterly, at the call of the chair. A majority of the members of the collaborative constitutes a quorum, and a meeting may not be held with less than a quorum present. In order to establish a quorum, the collaborative may conduct its meetings through teleconference or other electronic means. The affirmative vote of a majority of the members of the collaborative present is necessary for any official action by the collaborative.

(h) The collaborative shall develop a long-range comprehensive plan for the Casey DeSantis Cancer Research Program. In the development of the plan, the collaborative must solicit input from cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers. The collaborative shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2024. The plan must include, but need not be limited to, all of the following components:

1. Expansion of grant fund opportunities to include a broader pool of Florida-based cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers to receive funding through the Cancer Innovation Fund.

2. An evaluation to determine metrics that focus on patient outcomes, quality of care, and efficacy of treatment.

3. A compilation of best practices relating to cancer research or treatment.

(i) The department shall provide reasonable and necessary support staff and materials to assist the collaborative in the performance of its duties.

(9) The collaborative shall administer the Cancer Innovation Fund. During any fiscal year for which funds are appropriated to the fund, the collaborative shall review all submitted grant applications and make recommendations to the department for awarding grants to support innovative cancer research and treatment models, including emerging research and treatment trends and promising treatments that may serve as catalysts for further research and treatments. The department shall make the final grant allocation awards. The collaborative shall give priority to applications seeking to expand the reach of innovative cancer treatment models into underserved areas of this state.

(10) Beginning July 1, 2025 ~~2017~~, and each year ~~every 3 years~~ thereafter, the department, in conjunction with participating cancer centers, shall submit a report to the

Cancer Control and Research Advisory Council and the collaborative on specific metrics relating to cancer mortality and external funding for cancer-related research in this ~~the~~ state. If a cancer center does not endorse this report or produce an equivalent independent report, the cancer center is ineligible to receive ~~shall be suspended from the~~ program funding for 1 year. The department must submit this annual report, and any equivalent independent reports, to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than September 15 of each year the report or reports are submitted by the department. The report must include:

(a) An analysis of trending age-adjusted cancer mortality rates in the state, which must include, at a minimum, overall age-adjusted mortality rates for cancer statewide and age-adjusted mortality rates by age group, geographic region, and type of cancer, which must include, at a minimum:

1. Lung cancer.
2. Pancreatic cancer.
3. Sarcoma.
4. Melanoma.
5. Leukemia and myelodysplastic syndromes.
6. Brain cancer.
7. Breast cancer.

(b) Identification of trends in overall federal funding, broken down by institutional source, for cancer-related research in the state.

(c) A list and narrative description of ~~collaborative grants and~~ interinstitutional collaboration among participating cancer centers, which may include grants received by participating cancer centers in collaboration, a comparison of such ~~collaborative~~ grants in proportion to the grant totals for each cancer center, a catalog of retreats and progress seed grants using state funds, and targets for collaboration in the future and reports on progress regarding such targets where appropriate.

(11) Beginning July 1, 2024, each allocation agreement issued by the department relating to cancer center payments under subsection (2) must include all of the following:

(a) A line-item budget narrative documenting the annual allocation of funds to a cancer center.

(b) A cap on the annual award of 15 percent for administrative expenses.

(c) A requirement for the cancer center to submit quarterly reports of all expenditures made by the cancer center with funds received through the Casey DeSantis Cancer Research Program.

(d) A provision to allow the department and other state auditing bodies to audit all financial records, supporting documents, statistical records, and any other documents pertinent to the allocation agreement.

(e) A provision requiring the annual reporting of outcome data and protocols used in achieving those outcomes.

(12) ~~(9)~~ This section is subject to annual appropriation by the Legislature.

(13) ~~(10)~~ The department may adopt rules to administer this section.

Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHS 24-04 Related to Sickle Cell Disease
SPONSOR(S): Health & Human Services Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Sickle cell disease (SCD) is the most common inherited blood disorder in the United States, affecting approximately 100,000 Americans. SCD affects mostly, but not exclusively, Americans of African ancestry. SCD is a group of inherited disorders in which abnormal hemoglobin cause red blood cells to buckle into the iconic sickle shape; the deformed red blood cells damage blood vessels and over time contribute to a cascade of negative health effects beginning in infancy, such as intense vaso-occlusive pain episodes, strokes, organ failure, and recurrent infections. The severity of complications generally worsens as people age, but treatment and prevention strategies can mitigate complications and lengthen the lives of people with SCD.

Treatment for SCD has improved significantly in recent decades. Appropriate pharmaceutical treatments and evidence-based management protocols have the capacity to significantly improve the quality of life for people with SCD. In spite of the improvements in treatments for SCD, there significant underutilization among patients, due in part to gaps in understanding of the disease and its treatments among health care practitioners.

In 2023, the Legislature directed the Department of Health (DOH) to partner with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry to track outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant. Adults identified as carrying a sickle cell hemoglobin variant are not eligible to participate in the registry.

The bill creates the Sickle Cell Disease Research and Treatment Grant Program (Program) within DOH. The Program will award grants to community-based sickle cell disease treatment and research centers to fund the operation of Centers of Excellence for the treatment of sickle cell disease and the development of a health care workforce that is prepared to address the unique needs of patients with sickle cell disease.

The bill expands the existing sickle cell registry to allow adults with sickle cell disease to, at their discretion, opt into the registry.

The bill has a significant, negative fiscal impact on state government. *See Fiscal Comments*. The bill has no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sickle Cell Disease

Sickle cell disease (SCD) is the most common inherited blood disorder in the United States, affecting approximately 100,000 Americans.[1] SCD affects mostly, but not exclusively, Americans of African ancestry.[2] SCD is a group of inherited disorders in which abnormal hemoglobin cause red blood cells to buckle into the iconic sickle shape; the deformed red blood cells damage blood vessels and over time contribute to a cascade of negative health effects beginning in infancy, such as intense vaso-occlusive pain episodes, strokes, organ failure, and recurrent infections.[3]

The severity of complications from SCD generally worsen as people age, but treatment and prevention strategies can mitigate complications and lengthen the lives of people with SCD.[4] SCD was historically perceived as a childhood disease due to high rates of childhood mortality, however, more than 90 percent of those living with the disease today are expected to survive into adulthood.[5] Roughly 60 percent of individuals with SCD in the US today are adults, but the life expectancy of individuals with SCD remains approximately 22 years shorter than the general population.[6]

Management of SCD

SCD management primarily focuses on treating and preventing complications caused by the disease such as acute pain episodes, infection, stroke, vision loss, and severe anemia. The most well-researched treatments for SCD relate to mitigating the risk of infection and stroke in children. There is a lack of research-driven data specific to adult populations with SCD.[7]

Stroke is one of the most common and devastating complications of SCD.[8] Blood transfusions may be used to treat acute episodes of elevated stroke risk, or through chronic transfusion therapy which reduces a person's overall stroke risk as well as preventing painful vaso-occlusive events.[9] Chronic

[1] National Heart, Lung, and Blood Institute, *What is Sickle Cell Disease?* Available at https://www.nhlbi.nih.gov/health/sickle-cell-disease (last visited January 30, 2024).
[2] Centers for Disease Control and Prevention, *Data & Statistics on Sickle Cell Disease*. Available at https://www.cdc.gov/ncbddd/sicklecell/data.html (last visited January 30, 2024).
[3] Centers for Disease Control and Prevention, *What is Sickle Cell Disease?* Available at https://www.cdc.gov/ncbddd/sicklecell/facts.html (last visited January 24, 2024). See also, AHCA (2023) *Florida Medicaid Study of Enrollees with Sickle Cell Disease*. Available at https://ahca.myflorida.com/content/download/20771/file/Florida_Medicaid_Study_of_Enrollees_with_Sickle_Cell_Disease.pdf (last visited January 24, 2024).
[4] Centers for Disease Control and Prevention, *Complications of Sickle Cell Disease*. Available at https://www.cdc.gov/ncbddd/sicklecell/complications.html (last visited January 24, 2024).
[5] DiMartino, L. D., Baumann, A. A., Hsu, L. L., Kanter, J., Gordeuk, V. R., Glassberg, J., Treadwell, M. J., Melvin, C. L., Telfair, J., Klesges, L. M., King, A., Wun, T., Shah, N., Gibson, R. W., Hankins, J. S., & Sickle Cell Disease Implementation Consortium (2018). *The sickle cell disease implementation consortium: Translating evidence-based guidelines into practice for sickle cell disease.* American journal of hematology, 93(12), E391–E395. https://doi.org/10.1002/ajh.25282.
[6] Lubeck D, Agodoa I, Bhakta N, et al. (2019) *Estimated Life Expectancy and Income of Patients With Sickle Cell Disease Compared With Those Without Sickle Cell Disease*. JAMA Netw Open. 2019;2(11):e1915374. doi:10.1001/jamanetworkopen.2019.15374. Available at https://jamanetwork.com/journals/jamanetworkopen/article-abstract/2755485 (last visited January 30, 2024).
[7] Adams-Graves, P. & Bronte-James, L. *Recent Treatment Guidelines for Managing Adult Patients with Sickle Cell Disease: Challenges in Access to Care, Social Issues, and Adherence*. (2016). Expert Review of Hematology, 9:6, 511-614. http://dx.doi.org/10.1080/17474086.2016.1180242
[8] U.S. Department of Health and Human Services, National Heart, Lung, and Blood Institute. *Evidence-Based Management of Sickle Cell Disease: Expert Panel Report* (2014). Available at https://www.nhlbi.nih.gov/health-topics/evidence-based-management-sickle-cell-disease (last visited January 31, 2024).
[9] Brandow, A.M., Panepinto, J.A. (2010). *Hydroxyurea Use in Sickle Cell Disease: The Battle with Low Prescription Rates, Poor Patient Compliance, and Fears of Toxicities*. Expert Reviews: Hematology. DOI: 10.1586/EHM.10.22

transfusion therapy has been shown to improve health-related quality of life in children with SCD.[10] There are, however, risks associated with frequent blood transfusions and chronic transfusion therapy can be logistically and financially difficult for caregivers to manage.[11] A transcranial Doppler ultrasound (TCD), is a specialized ultrasound device capable of detecting elevated stroke risk.[12] For children ages 2-16 with SCD who have a heightened risk of stroke, annual TCD screening is recommended by the American Society of Hematology to monitor stroke risk and prevent stroke.[13]

People with SCD are generally at a higher risk of severe bacterial infections due to poor spleen function, but fatality is especially high among young children and infants who lack the immune response necessary to combat infection. Defective or reduced spleen function begins early in the first year of life for infants with SCD.[14] To protect against life-threatening pneumococcal bacterial infection, daily oral penicillin is the standard of care for children from infancy through age five.[15]

In addition to daily oral penicillin and routine screening to monitor stroke risk in children, there are other pharmaceutical treatments available to manage the symptoms of SCD, reduce the long-term health impacts of the disease, and improve quality of life for children and adults with SCD. Hydroxyurea is an oral medication taken once daily which has been proven to be effective at reducing a person's pain episodes, mitigating stroke risk, and preventing organ damage.[16] Hydroxyurea is generally safe for both children and adults and is recommended for patients with certain forms of SCD experiencing "frequent pain episodes" or acute chest syndrome.[17]

Opioids are commonly used to treat the severe acute pain that results from vaso-occlusive episodes. Opioids are not recommended for treatment of the chronic pain that is associated with SCD due to the significant risks of overdose and addiction associated with frequent opioid use. Opioids are, however, very effective for managing acute severe pain in acute settings and as such the National Heart Lung and Blood Institute recommends rapid initiation of opioids for patients visiting the emergency department for a vaso-occlusive pain episode.[18]

More recent pharmaceutical developments for the treatment of SCD include L-glutamine, Voxelotor, and Crizanlizumab. L-glutamine in an essential amino acid which was approved by the FDA in 2017 for the treatment of SCD in adults and children over five years of age. The mechanism of action of L-glutamine is not well understood, however, it has been shown to reduce a patient's number of sickle cell crisis episodes.[19] Voxelotor and Crizanlizumab are two disease modifying drugs approved by the FDA in 2019. The drugs may be beneficial for different subgroups of SCD patients for whom other treatments have proven insufficient or ineffective. Voxelotor and Crizanlizumab act through different

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[10] Beverung, L.M., Strouse, J.J., Hulbert, M.L. (2015) *Health-related Quality of Life in Children with Sickle Cell Anemia: Impact of Blood Transfusion Therapy*. American Journal of Hematology. http://doi.org/10/1002/ajh.2387

[11] *Supra*, note 12.

[12] Runge, A., Brazel, D., Pakbaz, Z. (2022). *Stroke in Sickle Cell Disease and the Promise of Recent Disease Modifying Agents*. Journal of the Neurological Sciences. http://doi.org/10.1016/j.jns.2022.120412

[13] DeBaun, M., et al. *American Society of Hematology 2020 guidelines for sickle cell disease: prevention, diagnosis, and treatment of cerebrovascular disease in children and adults*. (2020). *Blood Advances*; 4 (8): 1554–1588. doi: https://doi.org/10.1182/bloodadvances.2019001142

[14] U.S. Department of Health and Human Services, National Heart, Lung, and Blood Institute. *Evidence-Based Management of Sickle Cell Disease: Expert Panel Report* (2014). Available at https://www.nhlbi.nih.gov/health-topics/evidence-based-management-sickle-cell-disease (last visited January 31, 2024).

[15] AHCA (2023) *Florida Medicaid Study of Enrollees with Sickle Cell Disease*. Available at https://ahca.myflorida.com/content/download/20771/file/Florida_Medicaid_Study_of_Enrollees_with_Sickle_Cell_Disease.pdf (last visited January 24, 2024). Amoxicillin may also be prescribed for this purpose. In patients with a known or suspected penicillin allergy, erythromycin is prescribed.

[16] *Id.*

[17] U.S. Department of Health and Human Services, National Heart, Lung, and Blood Institute. *Evidence-Based Management of Sickle Cell Disease: Expert Panel Report* (2014). Available at https://www.nhlbi.nih.gov/health-topics/evidence-based-management-sickle-cell-disease (last visited January 31, 2024).

[18] *Id. See also*, Smeltzer, M.P., Howell, K.E., Treadwell, M. (2021). *Identifying barriers to evidence-based care for sickle cell disease: results from the Sickle Cell Disease Implementation Consortium cross-sectional survey of healthcare providers in the USA*. BMJ Open 2021. DOI: 10.1136/bmjopen-2021-050880

[19] Quinn C. T. (2018). *l-Glutamine for sickle cell anemia: more questions than answers*. Blood, 132(7), 689–693. https://doi.org/10.1182/blood-2018-03-834440. *See also*, Ballas S. K. *The Evolving Pharmacotherapeutic Landscape for the Treatment of Sickle Cell Disease* (2020). Mediterranean Journal of Hematology and Infectious Diseases, 12(1), e2020010. https://doi.org/10.4084/MJHID.2020.010

mechanisms, but both mitigate the harmful effects of damaged red blood cells in the body. There is ongoing research into their impact on other SCD morbidities.[20]

Curative Treatments for SCD

On December 8, 2023, the FDA approved the first two gene therapies for the treatment of SCD. The products, Casgevy and Lyfgenia, are cell-based gene therapies approved for the treatment of SCD in patients 12 years of age or older. Both products are made from the patients' own blood stem cells, which are modified, and administered to the patient as a one-time, single-dose infusion as part of a hematopoietic (blood) stem cell transplant. Prior to treatment, a patients' stem cells are collected, and then the patient must undergo high-dose chemotherapy, a process that removes cells from the bone marrow so they can be replaced with the modified cells.[21]

The recently FDA-approved gene therapies have not reached full market availability, but the costs are anticipated to be as high as $2 to million per patient.[22] It is yet to be determined how insurance companies or Medicaid will cover the treatment.[23]

Prior to the approval of these gene therapy treatments, the only treatment for SCD with curative potential was a matched/related hematopoietic stem cell transplant (HSCT). HSCT has been shown to be highly effective as a cure, though outcomes are more favorable when the transplant is performed before age 16 and with a matched sibling donor.[24] While highly curative, HSCT poses significant risks including transplant rejection that can result in the patient's death.[25] The procedure is infrequently performed due to the high cost,[26] the limited number of capable transplant centers, the strenuous preparation regimen and significant risks,[27] and the need for a genetically matched donor.[28]

Barriers to Care for SCD

While SCD is the most common inherited blood disorder in the US and is often diagnosed at birth through newborn screening programs,[29] patients with SCD often experience significant barriers to accessing appropriate care. Barriers to care include lack of insurance, unmet transportation needs, and provider inexperience and lack of knowledge about SCD. There is a limited number of knowledgeable health care professionals with expertise in the management of SCD, and mistrust among patients and bias among providers continue to affect access to and quality of care.[30]

Recent decades have brought major scientific advancements in understanding the biological mechanisms of SCD, the development of new pharmaceutical treatments, the establishment of evidence-based treatment protocols, and methods for mitigating the risk of catastrophic

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[20] *Supra*, note 12.
[21] US Food & Drug Administration, *FDA Approves First Gene Therapies to Treat Patients with Sickle Cell Disease* (2023). Available at https://www.fda.gov/news-events/press-announcements/fda-approves-first-gene-therapies-treat-patients-sickle-cell-disease (last visited January 30, 2024).
[22] National Heart, Lung, and Blood Institute. *FDA approval of gene therapies for sickle cell disease: Q&A with NHLBI Director Dr. Gary Gibbons and NHLBI's Division of Blood Diseases and Resources Director Dr. Julie Panepinto* (2023). Available at https://www.nhlbi.nih.gov/news/2023/fda-approval-gene-therapies-sickle-cell-disease-dr-gibbons-dr-panepinto (last visited January 30, 2024).
[23] MacMillan, C., *Casgevy and Lyfgenia: Two Gene Therapies Approved for Sickle Cell Disease* (2023). Yale Medicine. Available at https://www.yalemedicine.org/news/gene-therapies-sickle-cell-disease (last visited January 30, 2023).
[24] Gluckman, E., Cappelli, B., Bernaudin, F., et al. (2017). *Sickle cell disease: an international survey of results of HLA-identical sibling hematopoietic stem cell transplantation*. Blood, 129(11), 1548–1556. https://doi.org/10.1182/blood-2016-10-745711
[25] Ashorobi D, Bhatt R. *Bone Marrow Transplantation in Sickle Cell Disease*. (2022). In: StatPearls. Treasure Island (FL): StatPearls Publishing. Available at https://www.ncbi.nlm.nih.gov/books/NBK538515/ (last visited January 31, 2024).
[26] *Supra*, note 17. HSCT is estimated to cost approximately $1 million to $2 million per person.
[27] *Supra*, note 17.
[28] Salcedo, J., Bulovic, J., & Young, C. *Cost-effectiveness of a Hypothetical Cell or Gene Therapy Cure for Sickle Cell Disease* (2021). Scientific Reports. https://doi.org/10.1038/s41598-021-90405-1
[29] Centers for Disease Control and Prevention. *Newborn Screening (NBS) Data* (2023). Available at https://www.cdc.gov/ncbddd/hemoglobinopathies/scdc-state-data/newborn-screening/index.html#:~:text=Newborn%20screening%20(NBS)%20for%20sickle,SCD%20living%20in%20a%20state. (last visited January 20, 2024).
[30] Sickle Cell Disease Coalition, *State of Sickle Cell Disease: 2020 Report Card* (2020). Available at http://www.scdcoalition.org/pdfs/SCD%20Report%20Card%202020.pdf (last visited January 31, 2024).

complications.[31] Collectively, these advancements provide the means for significantly improving the quality of life for many patients with SCD; however, few of these interventions are utilized to their full potential.

The nature of SCD inherently leads to a greater use of health care services compared to the general population, but gaps in access to appropriate care are common and lead to unmitigated health crises and a greater consumption of costly emergency medical services.[32] Health care practitioners who have not specialized in the treatment of SCD express discomfort in prescribing essential treatments for SCD,[33] and a lack of knowledge regarding recent treatment developments.[34]

Access to adequate care is especially challenging for young adults transitioning from pediatric to adult care settings.[35] While SCD has historically been associated with childhood mortality, more than 90 percent of those living with the disease are expected to survive into adulthood today.[36] The system of care for SCD has developed with a focus on pediatric patients; as a result, patients with SCD are more likely to receive well-managed preventative care as children through specialized pediatric programs. Patients aging out of pediatric care and transitioning into adult care are less likely to have access to consistent and appropriate SCD care, which leads to higher rates of emergency department reliance than other age groups.[37]

SCD care in emergency settings presents additional challenges. Patients with SCD who present to emergency care settings in the midst of vaso-occusive pain crises may have their behavior perceived as drug seeking and have their pain severity doubted and undertreated.[38] Educational gaps and biases among providers, staff, and patients create barriers to communication and trust, and erode the provider–patient relationship, which can result in inadequate or inappropriate treatment of patients.[39]

Florida's Medicaid SCD Population

In 2022, the Legislature directed the Agency for Health Care Administration (AHCA) to conduct a study assessing Florida's population of Medicaid enrollees with SCD and their utilization of specific health care services.[40] The Florida Medicaid Study of Enrollees with Sickle Cell Disease (the study) analyzed data from 2018 through 2021 and found that Florida's rate of Medicaid enrollees with SCD was twice

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[31] American Society of Hematology. *ASH Sickle Cell Disease Initiative: Sickle Cell Disease Timeline*. Available at https://www.hematology.org/advocacy/sickle-cell-disease-initiative/scd-timeline (last visited January 30, 2024).
[32] DiMartino, L. D., Baumann, A. A., Hsu, L. L., Kanter, J., Gordeuk, V. R., Glassberg, J., Treadwell, M. J., Melvin, C. L., Telfair, J., Klesges, L. M., King, A., Wun, T., Shah, N., Gibson, R. W., Hankins, J. S., & Sickle Cell Disease Implementation Consortium (2018). *The sickle cell disease implementation consortium: Translating evidence-based guidelines into practice for sickle cell disease.* American Journal of Hematology, 93(12), E391–E395. https://doi.org/10.1002/ajh.25282. *See also*, Brousseau, D.C., Owens, P.L., Mosso, A.L., Panepinto, J.A., Steiner, C.A. *Acute Care Utilization and Rehospitalizations for Sickle Cell Disease* (2010). JAMA. 2010;303(13):1288–1294. doi:10.1001/jama.2010.378
[33] Lanzkron S, Haywood C Jr, Hassell KL, Rand C. *Provider barriers to hydroxyurea use in adults with sickle cell disease: a survey of the sickle cell disease adult provider network*. (2008) Journal of the National Medical Association. 100(8): 968-973. https://doi.org/10.1016/S0027-9684(15)31419-X
[34] Robinson, K., Esgro, R., Cooper, S., LoPresti, M., & Carson, B. *Identifying and Addressing Knowledge and Confidence Gaps Regarding the Management of Patients with Sickle Cell Disease Via Engaging Continuing Medical Education*. (2023). *Blood,* 142 (Supplement 1): 7228. doi: https://doi.org/10.1182/blood-2023-177576
[35] Hemker, B., Brouseau, D., Yan, K., Hoffmann, R., & Panepinto. *When Children with Sickle Cell Disease Become Adults: Lack of Outpatient Care Leads to Increased Use of the Emergency Department* (2011). American Journal of Hematology. 86:10, 863-865. https://doi.org/10.1002/ajh.22106
[36] *Id*.
[37] Blinder, M. A., Duh, M. S., Sasane, M., Trahey, A., Paley, C., & Vekeman, F. *Age-Related Emergency Department Reliance in Patients with Sickle Cell Disease* (2015). The Journal of Emergency Medicine, 49(4), 513–522.e1. https://doi.org/10.1016/j.jemermed.2014.12.080
[38] DiMartino, L. D., Baumann, A. A., Hsu, L. L., Kanter, J., Gordeuk, V. R., Glassberg, J., Treadwell, M. J., Melvin, C. L., Telfair, J., Klesges, L. M., King, A., Wun, T., Shah, N., Gibson, R. W., & Hankins, J. S. *The sickle cell disease implementation consortium: Translating evidence-based guidelines into practice for sickle cell disease* (2018). American Journal of Hematology, 93(12), E391–E395. https://doi.org/10.1002/ajh.25282
[39] Glassberg, G., *Improving Emergency Department-Based Care of Sickle Cell Pain* (2017). Hematology. American Society of Hematology. Education Program, 2017(1), 412–417. https://doi.org/10.1182/asheducation-2017.1.412
[40] AHCA (2023) *Florida Medicaid Study of Enrollees with Sickle Cell Disease*. Available at https://ahca.myflorida.com/content/download/20771/file/Florida_Medicaid_Study_of_Enrollees_with_Sickle_Cell_Disease.pdf (last visited January 30, 2024).

that of the national average,[41] with approximately 7,328 Medicaid enrollees with SCD per year. The study found that Florida's Medicaid SCD population was predominantly female (58%), young (median age 18), and Black (63%).

The study showed that nearly all of the Medicaid SCD population received treatment from a physician at least once during the study period. 85 percent of Medicaid SCD patients were evaluated or treated in an outpatient clinic setting, 61 percent were treated in an emergency room (ER) at least once, and 52 percent were admitted for inpatient care in a hospital. Individuals who received treatment in an ER had an average of 4.5 visits to the ER during the four-year study period.

The study showed that routine screenings and preventative treatments were broadly underutilized by the Medicaid SCD population. Only 41 percent of children in the Medicaid SCD population had at least one TCD screening for stroke risk during the four-year study period; this is significantly less than the recommended annual screening for children with SCD.[42] Data on blood transfusions, which are commonly used to reduce stroke risk when elevated risk is detected by TCD, were not included in the study.

The study showed that penicillin was the most commonly prescribed medication for Medicaid SCD patients. The study showed that 58 percent of eligible individuals were being prescribed penicillin, but there remains a persistent gap between use and recommended care. Other medications for treating SCD symptoms and complications were prescribed with even less frequency. Hydroxyurea[43] and L-glutamine were prescribed to only 22 percent and 2 percent of eligible SCD Medicaid patients respectively. The newer disease-modifying drugs, Voxelotor and Crizanlizumab were each prescribed to less than 1 percent of the eligible Medicaid SCD population.

Sickle Cell Disease Registry

Sickle cell disease presents unique challenges to medical researchers; patient data is scare, small sample sizes limit research possibilities, and mistrust of the medical establishment is common among patients with sickle cell disease leads. Patient registries are a means of overcoming some of the research limitations that exist due to the nature of rare diseases generally and sickle cell disease specifically. Patient registries are organized systems that allow for the use of observational study methods to collect uniform data and evaluate specified outcomes for a population defined by a particular disease.[44]

In 2023, the Legislature directed the Department of Health (DOH) to partner with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry to track outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant.[45] DOH has since contracted with the Foundation for Sickle Cell Research for the implementation of the registry.[46] Under current law, only newborns who have been detected as carrying a sickle cell hemoglobin variant through the Newborn Screening Program are included in the registry. Parents may choose to have their child removed from the registry by submitting a form provided by DOH.[47] There is not a mechanism under current law for adults with SCD to be included in the registry.

Current law also directs the newborn's primary care physician to provide the parent or guardian of the newborn with information regarding the availability and benefits of genetic counseling.

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[41] Centers for Medicare and Medicaid Services (2021), *Medicaid and CHIP Sickle Cell Disease Report, T-MSIS Analytic Files (TAF) 2017*. Available at https://www.medicaid.gov/medicaid/quality-of-care/downloads/scd-rpt-jan-2021.pdf (last visited January 31, 2024).
[42] *Supra*, note 17.
[43] AHCA cites high-cost as a potential barrier to the utilization of hydroxyurea by patients, however, hydroxyurea is on Florida's preferred drug list for patients with SCD, which significantly reduces the cost for Medicaid patients.
[44] Hageman, I.C., van Rooij, I.A., de Blaauw, I., et al. *A systematic overview of rare disease patient registries: challenges in design, quality management, and maintenance* (2023). Orphanet Journal of Rare Diseases 18, 106. https://doi.org/10.1186/s13023-023-02719-0
[45] S. 383.147, F.S.
[46] Department of Health. *Contract Summary: Contract # CMO28*. On file with the Healthcare Regulation Subcommittee.
[47] S. 383.147, F.S.

Effect of the Bill

Sickle Cell Disease Research and Treatment Grant Program

The bill creates the Sickle Cell Disease Research and Treatment Grant Program (Program) within DOH. The Program will fund projects that improve the quality and accessibility of health care that is available to people living with SCD in Florida. The Program seeks to:

- Improve the health outcomes and quality of life for Floridians with SCD;
- Expand access to high-quality, specialized care for SCD; and
- Improve awareness and understanding among health care practitioners of current best practices for the treatment and management of SCD.

The Office of Minority Health and Health Equity, within DOH, will award grants to community-based sickle cell disease medical treatment and research centers for projects which support the cultivation of a health care workforce that is educated and familiar with the unique needs of patients with SCD, and the growth and development of SCD Centers of Excellence.

Under the bill, a SCD Center of Excellence is a health care facility which is dedicated to the treatment of patients with sickle cell disease. A Center of Excellence provides evidence-based, comprehensive, patient-centered coordinated care for SCD patients.

The bill requires DOH to:

- Publicize the availability of funds and establish an application process for grant proposals;
- Initiate a call for applications no later than July 15, 2024;
- Develop uniform data reporting requirements in order to evaluate the performance of grant recipients and the improvement of health outcomes; and
- Develop a monitoring process to evaluate progress toward meeting grant objectives.

DOH must also submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General by March 1 of each year. The report must include the status and progress of each project supported by the Program in the previous calendar year, and include the following components for each project:

- A summary of the project and the project outcomes or expected project outcomes
- The status of the project, including whether it has concluded or the estimated date of completion;
- The amount of the grant awarded and the estimated or actual cost of the project;
- The source and amount of any federal, state, or local government grants or donations or private grants or donations funding the project; and
- A list of all entities involved in the project.

The bill specifies that no more that 5 percent of grant funds may be used by a grant recipient toward administrative expenses. The bill also grants that the balance of any appropriation from the General Revenue Fund for the program which has not been disbursed, but which is obligated under a contract or committed to be expended June 30th of the Fiscal Year, may be carried forward for up to five years after the effective date of the original appropriation.

The bill authorizes DOH to adopt rules as necessary to implement the provisions of the bill.

Sickle Cell Disease Registry

The bill revises the registry to clarify the role of screening providers, DOH, and primary care physicians in the processes in current law. The bill transfers the responsibility of informing parents of the availability and benefits of genetic counseling from the infant's primary care physician to DOH.

The bill also creates a process by which adults with SCD who are Florida residents to choose to be included in the registry. The bill directs DOH to prescribe by rule the process for an adult to opt into the registry.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 381.814, F.S., relating to the Sickle Cell Disease Research and Treatment Grant Program.
Section 2: Amends s. 383.147, F.S., relating to newborn and infant screenings for sickle cell hemoglobin variants; registry.
Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have a significant, negative impact on state government. The House of Representatives has allocated $10 million in the 2024-2025 General Appropriations Act to fund sickle cell treatment and research.[48]

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

2. Other:

[48] HB 5001 (2024), Section 3 430A, pg. 102. Available at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=Orig_GAA.pdf&DocumentType=Bill&BillNumber=5001&Session=2024 (last visited February 19, 2024).

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to sickle cell disease; creating s. 381.814; creating the Sickle Cell Disease Research and Treatment Grant Program within the department for a specified purpose; specifying the types of projects that are eligible for grant funding; amending s. 383.147, F.S.; revising sickle cell disease and sickle cell trait screening requirements; requiring screening providers to notify a newborn's parent or guardian, rather than the newborn's primary care physician, of certain information; authorizing certain persons other than newborns who have been identified as having sickle cell disease or carrying a sickle cell trait to choose to be included in the registry; providing an effective date.

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

Section 1. Section 381.814, Florida Statutes, is created to read:

381.814 Sickle Cell Disease Research and Treatment Grant Program.-- The Sickle Cell Disease Research and Treatment Grant Program is created within the Department of Health.

(1) Definitions.- As used in this section:

(a) "Center of Excellence" means a health care facility dedicated to the treatment of patients with sickle cell disease and provides evidence-based, comprehensive, patient-centered coordinated care.

(b) "Department" means the department of health.

(c) "Health care practitioner" has the same meaning as provided in s. 456.001(4).

(d) "Program" means the Sickle Cell Disease Research and Treatment Grant Program.

(e) "Sickle cell disease" means the group of hereditary blood disorders caused by an abnormal type of hemoglobin resulting in malformed red blood cells with impaired function. For the purposes of this section, sickle cell disease includes both symptomatic manifestations of sickle cell disease and asymptomatic sickle cell trait.

(2) The purpose of the program is to fund projects that improve the quality and accessibility of health care available for persons living with sickle cell disease in this state, as well as advance the collection and analysis of comprehensive data to support research of sickle cell disease. The long-term goals of the program are to:

(a) Improve the health outcomes and quality of life for Floridians with sickle cell disease.

(b) Expand access to high-quality, specialized care for sickle cell disease.

(c) Improve awareness and understanding among health care practitioners of current best practices for the treatment and management of sickle cell disease.

(3) Funds appropriated to the program shall be awarded by the Office of Minority Health and Health Equity, within the department, to community-based sickle cell disease medical treatment and research centers operating in Florida.

(4) The Office of Minority Health and Health Equity shall award grants under the program to community-based sickle cell disease medical treatment and research centers to fund projects specific to sickle cell disease in the following project areas.

(a) *Sickle cell disease workforce development and education*. Such projects include, but are not limited to, facility-based education programs, continuing education curriculum development, and outreach and education activities with the local health care practitioner community. Workforce development and education projects must be based on current evidence-based clinical practice guidelines for sickle cell disease.

(b) *Sickle Cell Disease Treatment Centers of Excellence.* Such projects include, but are not limited to, operational support for existing centers of excellence, facility enhancement of existing centers of excellence, and the establishment of new centers of excellence.

(5) The department shall:

(a) Publicize the availability of funds and establish an application process for submitting a grant proposal, and initiate a call for applications no later than July 15, 2024.

(b) Develop uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes.

(c) Develop a monitoring process to evaluate progress toward meeting grant objectives.

(6) The department shall submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General by March 1 of each year, and publish the report on the department's website. The report shall include the status and progress for each project supported by the program during the previous calendar year. The report shall include, at a minimum, recommendations for improving the program and the following components for each project supported by the program:

(a) A summary of the project and the project outcomes or expected project outcomes.

(b) The status of the project, including whether it has concluded or the estimated date of completion.

(c) The amount of the grant awarded and the estimated or actual cost of the project.

(d) The source and amount of any federal, state, or local government grants or donations or private grants or donations funding the project.

(e) A list of all entities involved in the project.

(7) The department may adopt rules as necessary to implement the provisions of this section.

(8) The recipient of a grant awarded under the program may not use more than 5 percent of grant funds for administrative expenses. Notwithstanding s. 216.301 and pursuant to s. 216.351, the balance of any appropriation from the General Revenue Fund for the program which is not disbursed but which is obligated pursuant to contract or committed to be expended by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Section 2. Section 383.147, Florida Statutes, is amended to read:

383.147 ~~Newborn and infant screenings for~~ Sickle cell disease and sickle cell trait ~~hemoglobin variants;~~ registry.—

(1) If ~~a screening provider detects that~~ a newborn ~~or an infant,~~ as ~~those terms are~~ defined in s. 383.145(2)~~,~~ is identified as having sickle cell disease or sickle cell trait through the newborn screening program as described in s. 383.14, the department ~~carrying a sickle cell hemoglobin variant, it~~ must:

(a) Notify the parent or guardian of the newborn and provide information regarding the availability and benefits of genetic counseling ~~primary care physician of the newborn or infant and~~

(b) Submit the results of such screening ~~to the Department of Health~~ for inclusion in the sickle cell registry established under paragraph (2)(a). ~~The primary care physician must provide to the parent or guardian of the newborn or infant information regarding the availability and benefits of genetic counseling.~~

(2)(a) The Department of Health shall contract with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry for individuals ~~newborns and infants~~ who are identified as carrying a sickle cell disease or sickle cell trait ~~hemoglobin variant~~. The sickle cell registry must track sickle cell disease outcome measures, except as provided in paragraph (1)(b). A parent or guardian of a newborn or an infant in the registry may request to have his or her child removed from the registry by submitting a form prescribed by the department by rule.

(b) In addition to newborns identified and included in the registry under subsection (1), other persons living in this state who have been identified with sickle cell disease or sickle cell trait may choose to be included in the registry by providing the department with notification as prescribed by rule.

(c) ~~(b)~~ The Department of Health shall also establish a system to ensure that the community-based sickle cell disease medical treatment and research center notifies the parent or guardian of a child who has been included in the registry that a follow-up consultation with a physician is recommended. Such notice must be provided to the parent or guardian of such child at least once during early adolescence and once during late adolescence. The department shall make every reasonable effort to notify persons included in the registry who are 18 years of age that they may request to be removed from the registry by submitting a form prescribed by the department by rule. The department shall also provide to such persons information regarding available educational services, genetic counseling, and other beneficial resources.

(3) The Department of Health shall adopt rules to implement this section.

Section 3. This act shall take effect upon becoming law.