

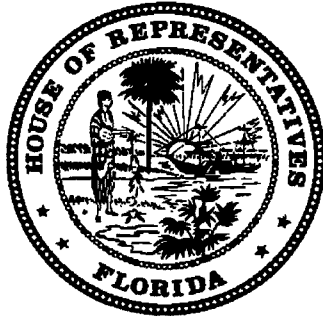


Health Care Appropriations Subcommittee

Meeting Packet

April 8, 2014
9:00 AM—11:00 AM

Webster Hall



AGENDA

Health Care Appropriations Subcommittee

April 8, 2014

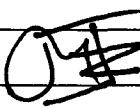

9:00 AM—11:00 AM

Webster Hall

- I. Call to Order
- II. Roll Call
- III. CS/HB 647—Communicable Disease Control by Adkins
- IV. HB 977—Motor Vehicle Insurance & Driver Education for Children in Foster Care by Albritton
- V. CS/HB 1085—Behavioral Analysts by Rooney
- VI. HB 7141—Human Trafficking by Harrell
- VII. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 647 Infectious Disease Control
SPONSOR(S): Health Quality Subcommittee; Adkins
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	10 Y, 0 N, As CS	Guzzo	O'Callaghan
2) Health Care Appropriations Subcommittee		Rodriguez	Pridgeon 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Section 154.001, F.S., provides legislative intent to promote, protect, maintain, and improve the health and safety of all Floridians through a system of coordinated county health department services. The system of county health department services includes environmental health services, communicable disease control services, and primary care services. Communicable disease services are services that protect the health of the general public through the detection, control, and eradication of diseases, which are transmitted primarily by humans.

The powers and duties of the Department of Health (DOH) are enumerated in s. 381.0011, F.S. Current law requires DOH to administer and enforce laws and rules relating to communicable diseases and to provide information to the public on the prevention, control, and cure of diseases, illnesses, and hazards to human health.

The bill revises the legislative intent of county health department services to include the control of communicable diseases and antibiotic-resistant threats.

The bill also revises the statutory duties and powers of DOH to require DOH to document on its website the presence, type, and location of an antibiotic-resistant threat.

Finally, the bill requires DOH to serve as the lead agency for the investigation of antibiotic-resistant threats.

The bill has a significant fiscal impact on state government expenditures within DOH.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Surveillance and Prevention

The Department of Health (DOH) is required to conduct monitoring or surveillance for organisms of public health significance.¹ The organisms of public health significance currently under surveillance are based on the diseases recommended to be nationally notifiable by the Council of State and Territorial Epidemiologists (CSTE) and the Centers for Disease Control and Prevention (CDC).² In order to ensure effective disease control and prevention, disease surveillance by DOH is conducted for organisms regardless of their treatment susceptibility due to the fact that both susceptible and resistant organisms have equal ability to cause severe infection, disability, and be contagious to others. Further, DOH conducts surveillance for both susceptible and resistant organisms to track changes in resistance patterns over time.³

Hospitals, laboratories, and physicians are required to report information to DOH, which DOH uses to produce weekly tables and annual summaries of antimicrobial resistance of the organisms under surveillance. The data is available to the public on a DOH website.⁴ Physicians utilize the established protocols of reporting diseases and conditions of public health significance. All outbreaks are required to be reported via telephone (with a subsequent written report within 72 hours), facsimile, electronic data transfer, or other confidential means of communication to the county health department having jurisdiction for the area in which the office of the reporting practitioner, hospital, laboratory or patient's residence is located. DOH uses established protocols developed by the CDC and the CSTE for reporting cases, outbreaks and other infections to the CDC.⁵

DOH is currently proposing to add requirements for disease reporting to Rule 64D-3.029, F.A.C., for electronic reporting of laboratory results for certain antibiotic resistant organisms. If approved, the revised rule will take effect by the end of 2014.⁶

Currently, health care facilities participating in the Medicare and Medicaid performance programs report specific infections to the CDC via the National Healthcare Safety Network. The reporting requirements include infections due to antibiotic resistant bacteria such as *Staphylococcus aureus* and *Clostridium difficile*, as well as certain procedure and device associated infections. The public can compare hospital performance to national benchmarks for healthcare-associated infections for participating hospitals by accessing the federal website.⁷

Currently, DOH has a Healthcare-associated Infection Prevention Program funded through a federal grant from CDC that is guided by a multi-disciplinary advisory board comprised of key stakeholders, including, but not limited to: the Florida Hospital Association, the Florida Health Care Association, the Florida Association for Directors of Nursing Administration in Long-term Care, the Florida Medical Quality Assurance, Inc., Florida's Infectious Disease Society, and the Agency for Health Care

¹ Section 381.0031(8), F.S.

² Rule 64D-3.029, F.A.C.

³ Florida Department of Health, 2014 Agency Legislative Bill Analysis, January 23, 2014 (on file with subcommittee staff).

⁴ See the Department of Health's Disease Reporting and Surveillance website at <http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/disease-reporting-and-surveillance/index.html> (last visited on March 21, 2014).

⁵ *Supra* fn. 3.

⁶ *Id.*

⁷ *Id.*

Administration. This program works with health care facilities across the continuum to improve infection control policies and practices and to support the implementation of best practices for preventing healthcare-associated infections.⁸

Disease Control Tools

Nationally recognized guidelines are available for health care facilities to improve treatment and control of infections and communicable diseases. The guidelines are available from CDC, Healthcare Infection Control Practices Advisory Committee (HICPAC), the Society for Healthcare Epidemiology of America, and the Infectious Disease Society of America. These nationally recognized groups also provide tools for outbreak response and provide guidance on what should be included in health care facility protocols for responding to an outbreak.⁹

Further, nationally recognized guidelines are available for health care facilities to assist in developing protocols for responding to outbreaks of multi-drug resistant organisms and treatment-resistant bacteria. For example, the CDC has published a toolkit for preventing the spread of certain treatment resistant bacteria and has developed a toolkit and resources for responding to outbreaks. The HICPAC has published research-based guidelines for preventing the spread of multi-drug resistant organisms.¹⁰

Disease Investigation and Outbreak Response

At the local and state level, DOH currently conducts activities tailored to prevention and control of diseases of public health significance. DOH has existing teams of epidemiologists, statisticians and clinicians who utilize the disease monitoring information reported by hospitals, laboratories and physicians to investigate disease cases and outbreaks, document outbreaks per established protocols, and make infection control recommendations to control the spread of disease. Currently, DOH has emergency response teams located across the state to control disease outbreaks deemed significant to public health. The processes and protocols used by DOH disease control emergency response teams are integrated with existing systems for reporting to the CDC.¹¹

Antibiotic Resistance Threats

The CDC report, *Antibiotic Resistance Threats in the United States, 2013*¹² (report) provides an overview of the burden and threats posed by the antibiotic-resistant germs having the most impact on human health.

The CDC conducted an assessment of antibiotic resistance threats and categorized the threat level of each bacteria as urgent, serious, or concerning. In general, threats assigned to the urgent and serious categories require more monitoring and prevention activities, whereas the threats in the concerning category require less. Regardless of category, threat-specific CDC activities are tailored to meet the epidemiology of the infectious agent and to address any gaps in the ability to detect resistance and to protect against infections.¹³

Threat level “urgent” bacteria are immediate public health threats that require urgent and aggressive action. Microorganisms with a threat level of urgent include clostridium difficile, carbapenem-resistant enterobacteriaceae, and drug-resistant *Neisseria gonorrhoeae*.¹⁴

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Centers for Disease Control and Prevention, report entitled *Antibiotic Resistance Threats in the United States, 2013*, April 23, 2013, available at <http://www.cdc.gov/drugresistance/threat-report-2013/> (last visited March 25, 2014).

¹³ *Id.*

¹⁴ *Id.*

Threat level “serious” bacteria are a serious concern and require prompt and sustained action to ensure the problem does not grow. Microorganisms with a threat level of serious include:¹⁵

- Multidrug-resistant Acinetobacter;
- Drug-resistant Campylobacter;
- Fluconazole-resistant Candida (a fungus);
- Extended spectrum β -lactamase producing Enterobacteriaceae;
- Vancomycin-resistant Enterococcus;
- Multidrug-resistant Pseudomonas aeruginosa;
- Drug-resistant non-typhoidal Salmonella;
- Drug-resistant Salmonella Typhi;
- Drug-resistant Shigella;
- Methicillin-resistant Staphylococcus aureus (MRSA);
- Drug-resistant Streptococcus pneumonia; and
- Drug-resistant tuberculosis.

Threat level “concerning” bacteria require careful monitoring and prevention. Microorganisms with a threat level of concerning include Vancomycin-resistant Staphylococcus aureus (VRSA), Erythromycin-resistant Group A Streptococcus, and Clindamycin-resistant Group B Streptococcus.¹⁶

Effect of Proposed Changes

The bill amends s. 154.001, F.S., to revise the legislative intent of county health department services to include the control of communicable diseases and antibiotic-resistant threats.

The bill also amends s. 381.0011, F.S., to revise the statutory duties and powers of DOH to require DOH to provide information to the public relating to the prevention, control, and cure of antibiotic-resistant threats, as defined and prioritized by the CDC in the report entitled “Antibiotic Resistance Threats in the United States, 2013. Further, the bill requires DOH to document on its website the presence, type, and location of an antibiotic-resistant threat.

Finally, the bill requires DOH to serve as the lead agency for the investigation of antibiotic-resistant threats.

B. SECTION DIRECTORY:

Section 1: Amends s. 154.001, F.S., relating to a system of coordinated county health department services; legislative intent.

Section 2: Amends s. 381.0011, F.S., relating to duties and powers of the Department of Health.

Section 3: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

¹⁵ *Id.*

¹⁶ *Id.*

The bill will have a significant fiscal impact on DOH associated with the requirement for DOH to document information on antibiotic-resistant threats on its website and the expansion of DOH's scope to serve as the lead agency for the control of communicable diseases and antibiotic-resistant threats.

The bill revises the statutory duties and powers of DOH to require DOH to provide information to the public relating to the prevention, control, and cure of antibiotic-resistant threats, as defined and prioritized by the CDC in the report entitled "Antibiotic Resistance Threats in the United States, 2013. In order to implement the expansion of DOH's scope, DOH reports that the Merlin disease reporting database (Merlin), utilized by DOH to track and report existing diseases and threats monitored by the department, pursuant to Rule 64D-3.029, F.A.C., would require additional maintenance and modification.¹⁷ DOH estimates the additional cost of updating and maintaining Merlin is \$220,000 for FY 2014-15 and \$110,000 thereafter in subsequent years.¹⁸

Additionally, DOH reports that an additional Senior Epidemiologist position that specializes in antibiotic-resistant threats will be needed to provide technical evaluation of the information reported to Merlin and education to relevant stakeholders, facilities and the public.¹⁹ DOH estimates that the annualized cost (three quarters of the state fiscal year) for the additional full-time equivalent (FTE) position for FY 2014-15 is \$80,997 and \$97,760 thereafter in subsequent years. DOH's cost estimates for the additional Senior Epidemiologist includes fringe benefits, computing equipment and other standard state personnel costs.²⁰

Other costs such as rulemaking and updating information on DOH's existing website may be absorbed within the department's existing budget authority.

In total, the estimated increase in state government expenditures associated with this bill is \$300,997 for FY 2014-15.²¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁷ Florida Department of Health. 2014 Legislative Bill Analysis – CS/HB 647, March 26, 2014. Uploaded to the Agency Bill Analysis Request portal on April 3, 2014. On file with the Florida House of Representatives, Health Care Appropriations Subcommittee (last viewed, April 3, 2014).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULEMAKING AUTHORITY:

No additional rulemaking authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 24, 2014, the Health Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment made the following changes to the bill:

- Removed the requirement to develop an internet website to collect information related to treatment-resistant bacterial infections to be disseminated to the public, and thus removes the requirement for certain licensed health care professionals in Florida to report confirmed treatment-resistant bacterial infections and their location using the website;
- Removed the requirement to create a research panel tasked with making recommendations to state agencies on needed research programs and developing protocols for control of treatment-resistant bacterial infections;
- Removed the requirement to create an interagency task force to identify emergency response protocols for the 29 types of healthcare facilities licensed by the Agency for Health Care Administration;
- Removed the requirement to create a volunteer response team to investigate, and report outbreaks of treatment-resistant bacterial infections to DOH and the Centers for Disease Control and Prevention (CDC);
- Included within a legislative intent provision related to county health departments that they shall be used to control communicable diseases and antibiotic-resistant threats, as defined and prioritized by the CDC;
- Required DOH to provide information to the public relating to "antibiotic-resistant threats," as defined by and prioritized in a named CDC report;
- Required DOH to document on its website the presence, type, and location of antibiotic-resistant threats; and
- Required DOH, in fulfilling its duty to coordinate emergency preparedness and disaster response, to also serve as the lead agency for the investigation of antibiotic-resistant threats.

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A bill to be entitled
An act relating to communicable disease control;
amending s. 154.001; F.S.; providing for coordination
of services relating to control of communicable
diseases and antibiotic-resistant threats by county
health departments; amending s. 381.0011, F.S.;
providing duties of the Department of Health relating
to the dissemination of information regarding
antibiotic-resistant threats; providing an effective
date.

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

Section 1. Section 154.001, Florida Statutes, is amended
to read:

154.001 System of coordinated county health department
services; legislative intent.—It is the intent of the
Legislature to promote, protect, maintain, and improve the
health and safety of all citizens and visitors of this state
through a system of coordinated county health department
services, which shall include the control of communicable
diseases and antibiotic-resistant threats, as defined and
prioritized by the Centers for Disease Control and Prevention
and as specified in s. 381.0011(5). The Legislature recognizes
the unique partnership which necessarily exists between the
state and its counties in meeting the public health needs of the

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2014

state. To strengthen this partnership, the Legislature intends that the public health needs of the several counties be provided through contractual arrangements between the state and each county. The Legislature also recognizes the importance of meeting the educational needs of Florida's public health professionals.

Section 2. Section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health.—It is the duty of the Department of Health to:

(1) Assess the public health status and needs of the state.

(2) Administer and enforce laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and the general health of the people of the state.

(3) Coordinate with federal, state, and local officials for the prevention and suppression of communicable and other diseases, illnesses, injuries, and hazards to human health.

(4) Provide for a thorough investigation and study of the incidence, causes, modes of propagation and transmission, and means of prevention, control, and cure of diseases, illnesses, and hazards to human health.

(5) Provide for the dissemination of information to the public relating ~~relative~~ to the prevention, control, and cure of diseases, illnesses, and hazards to human health, including

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53 antibiotic-resistant threats, as defined and prioritized by the
54 Centers for Disease Control and Prevention in the report
55 entitled "Antibiotic Resistance Threats in the United States,
56 2013." The department shall document on its website the
57 presence, type, and location of an antibiotic-resistant threat.

58 (6) Act as registrar of vital statistics.

59 (7) Manage and coordinate emergency preparedness and
60 disaster response functions to: serve as the lead agency for the
61 investigation of antibiotic-resistant threats included in the
62 report cited in subsection (5); investigate and control the
63 spread of disease; coordinate the availability and staffing of
64 special needs shelters; support patient evacuation; ensure the
65 safety of food and drugs; provide critical incident stress
66 debriefing; and provide surveillance and control of
67 radiological, chemical, biological, and other environmental
68 hazards.

69 Section 3. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 647 (2014)

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 Care Appropriations
Subcommittee

Representative Adkins offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. The Department of Health, as lead agency for
infection control policy, shall convene a study group to
evaluate and make recommendations related to the efficacy of
state surveillance, mandatory reporting, public notification,
prevention, and response activities related to antibiotic-
resistant bacteria. The study group must include, at a minimum,
representatives of facilities licensed under chapter 395,
chapter 400, chapter 429, and part I of chapter 483, health care
practitioners licensed under chapter 458, chapter 459, chapter
464, and chapter 474, the Agency for Health Care Administration,
the Department of Elder Affairs, and the Department of Health.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 647 (2014)

Amendment No. 1

18 At least one member of the study group must be a certified
19 infection control practitioner. Members of the study group may
20 be reimbursed for travel expenses. The study group shall
21 evaluate the list of currently reportable antibiotic-resistant
22 bacteria; reporting procedures, including content and format of
23 the reports; notification procedures, including the modes and
24 the network of distribution; and response procedures, including
25 coordination with other departments and agencies of state
26 government, with county and municipal governments, school
27 boards, the Centers for Disease Control and Prevention,
28 facilities that may be affected by an outbreak, and the public.
29 The study group shall examine ways to expand public access to
30 information that relates to the presence of antibiotic resistant
31 bacterial infections. The study group shall submit a report of
32 its findings and a recommended action plan for implementation,
33 together with any recommended legislation, to the Governor, the
34 President of the Senate, and the Speaker of the House of
35 Representatives no later than January 1, 2015.

36 Section 2. For the 2014-2015 fiscal year, the sum of
37 \$50,000 in nonrecurring funds from the Administrative Trust Fund
38 is appropriated to the Department of Health, for the purpose of
39 implementing the provisions of this act.

40 Section 3. This act shall take effect July 1, 2014.
41
42
43 -----

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 647 (2014)

Amendment No. 1

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to infectious disease control; creating a study group to evaluate activities related to antibiotic-resistant bacteria; specifying appointments; providing duties and responsibilities of the study group; providing for a report and recommendations to be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives; providing an appropriation; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 977 Motor Vehicle Insurance & Driver Education For Children In Foster Care
SPONSOR(S): Albritton
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 744

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	11 Y, 0 N	Entress	Brazzell
2) Health Care Appropriations Subcommittee		Fontaine <i>WFA</i>	Pridgeon <i>[Signature]</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill directs the Department of Children and Families (DCF) to establish a statewide pilot program to pay specified costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a foster child who meets certain qualifications. The bill sets limits of the amount to be paid and requires payment to be made in the order of eligibility until funds are exhausted. The bill requires DCF to contract with a qualified not-for-profit entity to operate and develop procedures for the program and requires an annual report to the Governor and the Legislature.

The bill removes the disability of nonage of minors for foster children for the purpose of obtaining motor vehicle insurance upon issuance of a court order. The bill provides for preferential enrollment in driver education for specified children in the care of the department.

The bill provides for an appropriation of \$1.5 million to DCF.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Foster Children

Young people in the foster care system often face barriers to participating in everyday life experiences common to others their age. These life experiences are important because they are a part of how all children are prepared for the responsibilities they will assume as adults.

Both statute and administrative code support the efforts of teens in foster care to engage in age-appropriate activities.¹ Departmental rules specifically require community-based lead agency service providers to assist teens in foster care who have demonstrated the appropriate level of maturity in obtaining a learner's permit or driver's license and automobile insurance.²

As of January 31, 2014, the Department of Children and Families (DCF) reported that there were 385 15-year-olds, 458 16-year-olds, and 517 17-year-olds in foster care.³ A survey of youth in foster care published in the spring of 2013 indicated:

- 5 percent of 15-year-old respondents (11 children of 243 surveyed) had learner's permits;
- 8 percent of 16-year-olds (25 children of 300 surveyed) had learner's permits;
- 13 percent of 17-year-olds (52 children of 387 surveyed) had learner's permits; and
- 9 percent of the total number of children surveyed (88 of 930 surveyed) had learner's permits.
- 1 percent of 16-year-olds (4 children of 300 surveyed) had driver's licenses;
- 4 percent of 17-year-olds (16 children of 387 surveyed) had driver's licenses; and
- 3 percent of the total number of children surveyed (20 of 687 surveyed) had driver's licenses.⁴

Driver's Licenses

A child who is 15 years of age is authorized to obtain a learner's driver's license (learner's permit) provided he or she meets the school attendance requirements of s. 322.091, F.S., and the application and testing requirements of s. 322.1615, F.S.⁵ Section 322.09, F.S., requires that when a child applies for a learner's permit, the application must be signed by a parent, guardian, or when there is no parent or guardian, some other responsible adult. This same section provides that any negligence or willful misconduct of the child operating a motor vehicle will be imputed to the adult who signed the application.⁶ That adult is jointly and severally liable with the child for any damages caused by the negligent or willful misconduct.⁷

Special Driver's License Provisions for Foster Children and Foster Parents

Among the primary obstacles to these children in care of DCF being able to drive is the potential liability of the foster parents when the children drive vehicles owned by the foster parent and the attendant cost of insurance to protect foster parents from this liability.

¹ See s. 409.145(3), F.S.

² Rule 65C-30.007, F.A.C.

³ The Department of Children and Families Analysis of HB 977, February 1, 2014, on file with committee staff.

⁴ My Services, Answers from Youth in Foster Care, the Department of Children and Families, accessible at: <http://www.dcf.state.fl.us/programs/indliving/docs/MyServicesSpring2013SurveyReport.pdf> (last visited March. 18, 2014).

⁵ S. 322.05, F.S.

⁶ S. 322.09(2), F.S.

⁷ S. 322.09(2), F.S.

In 2001, s. 322.09, F.S., was amended to provide that foster parents or authorized representatives of a residential group home who sign for a foster child's license do not become liable for any damages or misconduct of the child.⁸ While this provision relieves the foster parent of liability resulting directly from the signature on the driver's license application, it does not address any vicarious liability that the foster parent may have as a result of the foster parent's ownership of the vehicle which the child drives (see *Hertz Corp. vs. Jackson*, 617 So.2d 1051 (Fla. 1993)). This liability arises whenever an insured individual allows another to operate his or her motor vehicle and is independent of the provisions of s. 322.09, F.S. Thus, the foster parent who owns the motor vehicle continues to be subject to vicarious liability for the actions of the child while operating the foster parent's vehicle, in the same way the foster parent would be vicariously liable for the actions of any other person operating that vehicle. This vicarious liability is one of the risks for which insurance coverage is purchased.

Also in 2001, s. 627.746, F.S., was created and prohibited a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a foster parent for coverage of a child operating the vehicle while the child is holding a learner's driver's license. This prohibition is only applicable until the child obtains a regular driver's license.⁹

Costs Associated with Obtaining a Driver's License

Driver's education courses are offered free of charge through the public school system but enrollment may be limited. Some school districts offer a summer driver's education course, charging fees from \$50 to \$250.¹⁰ Commercial courses are offered in some jurisdictions at prices ranging from \$300-\$5,000.¹¹

The fee for obtaining a class E (regular) driver's license is \$48.13.¹² In order to obtain a learner's driver's license, the person applying must, among other requirements, have completed a traffic law and substance education course and have successfully completed a written examination.¹³

Emancipation of Minors, Generally

All states have laws dealing with the "emancipation" of minors, which specify when and under what conditions children become independent of their parents for legal purposes.¹⁴ Approximately half of the states regulate emancipation by statutes specifically designed for that purpose.¹⁵ These statutes may specify the conditions required or the procedures for seeking emancipation. Statutes vary considerably from state to state, but under common law, most states allow for the possibility of court-reviewed emancipation.¹⁶ No fixed age of emancipation exists, yet a minor is presumed to become emancipated upon reaching the age of majority.¹⁷ In most states, the age of majority is 18.¹⁸

⁸ Chapter 2001-83, Laws of Fla.

⁹ Chapter 2001-83, Laws of Fla.

¹⁰ Florida Guardian ad Litem, A Voice Heard: Keys to Independence, available at http://guardianadlitem.org/news_main.asp (last visited March 5, 2014).

¹¹ Florida Guardian ad Litem, A Voice Heard: Keys to Independence, available at http://guardianadlitem.org/news_main.asp (last visited March 5, 2014).

¹² S. 322.21, F.S.

¹³ S. 322.1615(1), F.S.

¹⁴ A substantial portion of this paragraph was taken from: Cornell University of Law, Legal Information Institute, *Emancipation of Minors*, available at: http://www.law.cornell.edu/wex/emancipation_of_minors (last visited March 18, 2014).

¹⁵ A substantial portion of this paragraph was taken from: Cornell University of Law, Legal Information Institute, *Emancipation of Minors*, available at: http://www.law.cornell.edu/wex/emancipation_of_minors (last visited March 18, 2014).

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Emancipation is the removal of "disability of nonage." Emancipation is the act by which a person gains all the rights and responsibilities of an adult.¹⁹ An emancipated minor has the legal capacity to act as an adult, be in control of his or her affairs, and be free of the legal control and custody of his or her parents. Emancipated minors lose the right to have their parents provide for them and the protection of the Department of Children and Family Services.²⁰

A circuit court has jurisdiction to remove the disabilities of nonage of a minor who is age 16 or older residing in Florida upon a petition filed by the minor's natural or legal guardian or, if there is none, by a guardian ad litem.²¹ The petition may also be filed by the minor him or herself if the minor is a certified homeless and unaccompanied minor over the age of 16.²² The petition must contain the following information:

- The name, address, residence, and date of birth of the minor;
- The name, address, and current location of each of the minor's parents, if known;
- The name, date of birth, custody, and location of any children born to the minor;
- A statement of the minor's character, habits, education, income, and mental capacity for business, and an explanation of how the needs of the minor with respect to food, shelter, clothing, medical care, and other necessities will be met;
- Whether the minor is a party to or the subject of a pending judicial proceeding in this state or any other jurisdiction, or the subject of a judicial order of any description issued in connection with such pending judicial proceeding; and
- A statement of the reason why the court should remove the disabilities of nonage.²³

In addition, the law provides that:

- If the petition is filed by the natural or legal guardian, the court must appoint an attorney ad litem for the minor child, and the minor child shall be brought before the court to determine if the interest of the minor will be fully protected by the removal of disabilities of nonage;
- If the petition is filed by the guardian ad litem or next friend²⁴, service of process must be perfected on the natural parents;
- If both parents are not jointly petitioning the court for the removal of the disabilities of nonage of the minor, service of process must be made upon the nonpetitioning parent;²⁵

The court is required to consider the petition and receive such evidence as it deems necessary to rule on the petition.²⁶ If the court determines that removal of the disabilities of nonage is in the minor's best interest, it must enter an order to that effect.²⁷ An order removing the disabilities of nonage has the effect of giving the minor the status of an adult for purposes of all criminal and civil laws of the state, and authorizes the minor thereafter to exercise all of the rights and responsibilities of persons who are 18 years of age or older.²⁸ The judgment must be recorded in the county in which the minor resides, and a certified copy must be received as evidence of the removal of disabilities of nonage for all matters in all courts.²⁹

¹⁹ A substantial portion of this paragraph was taken from: Volusia County Law Library, Emancipation in Florida Research Guide, available at: [http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA\[1\].pdf](http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA[1].pdf) (last visited March 18, 2014).

²⁰ A substantial portion of this paragraph was taken from: Volusia County Law Library, Emancipation in Florida Research Guide, available at: [http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA\[1\].pdf](http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA[1].pdf) (last visited March 18, 2014).

²¹ S. 743.015, F.S.

²² S. 743.067, F.S.

²³ S. 743.015(2), F.S.

²⁴ A "next friend" is a person who appears in a lawsuit to act for the benefit of an incompetent or minor plaintiff, but who is not a party to the lawsuit and is not appointed as a guardian, Black's Law Dictionary, 9th Edition, 2009.

²⁵ S. 743.015, F.S.

²⁶ S. 743.015(6), F.S.

²⁷ S. 743.015(6), F.S.

²⁸ S. 743.015(6), F.S.

²⁹ S. 743.015(8), F.S.

Special Provision Relating to Emancipation for Foster Children

Section 39.701(3), F.S., requires that the dependency court hold a judicial review within 90 days following the child's 17th birthday. At this hearing, the court is required to enter an order, separate from the judicial review order, that the disability of nonage for the child has been removed pursuant to s. 743.045, F.S.³⁰

Section 743.045, F.S. provides for the removal of the disability of nonage for foster children over the age of 17 for the purpose of executing contracts for a residential lease. Section 743.046, F.S., which is not referenced in s. 39.701(3), F.S., removes the disability of nonage for foster children over the age of 17 for the purpose of securing utility services at residential property.

Similarly, s. 743.044, F.S., which is also not referenced in s. 39.701(3), removes the disability of nonage for foster children over the age of 16 for the purpose of executing agreements for depository financial services. Each of these special provisions (ss. 743.044, 743.045, and 743.046, F.S.) require the entry of a court order to be effective.

Effect of Proposed Changes

The bill makes a legislative finding that the costs of driver education, driver licensing and costs incidental to licensing, and motor vehicle insurance (insurance) for a child in foster care after the child obtains a driver license creates additional barriers to the child engaging in normal age-appropriate activities and gaining independence and may limit opportunities for the child to obtain employment and completed educational goals.

Pilot Program

The bill requires the Department of Children and Families (DCF) to establish a 3 year pilot program to pay the costs of driver education, driver licensing and costs of driver education, and motor vehicle insurance for children in foster care who have completed a driver education case. The bill states that the pilot program is subject to a legislative appropriation.

The bill requires DCF to pay a caregiver, or an individual or not-for-profit entity approved by the caregiver if the individual or entity add one or more children to the caregivers' or entity's existing motor vehicle insurance policy. The bill specifies that the payment may not exceed the amount of the increase in the cost incurred by the caregiver or entity as a result of adding the children to the policy. The bill requires DCF to make payments to eligible caregivers or entities in the order of eligibility until available funds are exhausted.

The bill requires DCF to contract with a not-for-profit organization to develop procedures for operating and administering the pilot program. The bill specifies that the not-for-profit organization must have a mission to support children aging out of foster care. The bill specifies that in developing procedures and administering the program, the not-for-profit organization, at a minimum, is responsible for:

- Determining eligibility, including responsibilities for the child and caregivers;
- Developing application and payment forms;
- Notifying eligible children, caregivers, group homes, and residential programs of the pilot project; and
- Providing technical assistance to lead agencies, providers, group homes, and residential programs to support the removal of obstacles for children in foster care to drive.

The bill requires DCF to submit a report on the success and outcomes achieved by the pilot program, including a recommendation as to whether the pilot program should be continued, terminated or expanded to the Governor, the Speaker of the House of Representatives, and the President of the

Senate. The report is required to be submitted annually for the duration of the pilot program, with the first report due July 1, 2015.

Disability of Nonage

The bill requires that for purposes of ensuring that a child in foster care is able to secure motor vehicle insurance, the disability of nonage (disability) of minors must be removed in certain cases. This requires the disability to be removed for a child that is 16 years old, has been adjudicated dependent, is residing in an out-of-home placement, and has completed a driver education course.

The bill specifies that a court of competent jurisdiction may issue an order removing the disability and authorizing a child to make and execute all contracts or agreements necessary for obtaining insurance as if the child were otherwise competent to make and execute contracts. The bill specifies that execution of any contract or agreement for insurance must have the same effect as if it were the act of a person who is not a minor. The bill specifies that a child seeking to enter into contracts or agreements or execute other necessary instruments incidental to obtaining motor vehicle insurance must present to the other contracting party an order from a court of competent jurisdiction removing the disability.

Driver Education Course

The bill requires school boards to provide preferential enrollment to a student in DCF custody for a course of study and instruction in safe and lawful operation of a motor vehicle, as long as the student maintains appropriate progress as required by the educational institution.

Appropriation

The bill provides \$1.5 million to be appropriated from the General Revenue Fund to DCF for fiscal year 2014-15 to implement the bill.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 409.1454, F.S., related to motor vehicle insurance for children in foster care.
- Section 2:** Creates s. 743.047, F.S., related to removal of disabilities of minors.
- Section 3:** Amends s. 1003.48, F.S., related to instruction in operation of motor vehicles.
- Section 4:** Creates an unnumbered section of law to provide an appropriation.
- Section 5:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides for a \$1.5 million appropriation to DCF.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill does not appear to impact local government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill contains a \$1.5 million appropriation for implementation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to motor vehicle insurance and driver education for children in foster care; creating s. 409.1454, F.S.; directing the Department of Children and Families to establish a statewide pilot program to pay specified costs of driver education, driver licensing and costs incidental to licensing, and motor vehicle insurance for a child in foster care who meets certain qualifications; requiring the department to contract with a qualified not-for-profit organization to develop procedures for operating and administering the pilot program; requiring the department to submit an annual report with recommendations to the Governor and Legislature; creating s. 743.047, F.S.; removing the disability of nonage of minors for purposes of obtaining motor vehicle insurance; amending s. 1003.48, F.S.; providing for preferential enrollment in driver education courses for children in foster care; providing an appropriation; providing an effective date.

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

Section 1. Section 409.1454, Florida Statutes, is created to read:

409.1454 Motor vehicle insurance for children in foster

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2014

27 | care.-

28 | (1) The Legislature finds that the costs of driver
29 | education, driver licensing and costs incidental to licensing,
30 | and motor vehicle insurance for a child in foster care after the
31 | child obtains a driver license create additional barriers to the
32 | child engaging in normal age-appropriate activities and gaining
33 | independence and may limit opportunities for the child to obtain
34 | employment and complete educational goals. The Legislature also
35 | finds that the completion of a driver education course is
36 | necessary to develop safe driving skills.

37 | (2) Subject to legislative appropriation, the department
38 | shall establish a 3-year pilot program to pay the costs of
39 | driver education, driver licensing and costs incidental to
40 | licensing, and motor vehicle insurance for children in foster
41 | care who have successfully completed a driver education course.

42 | (3) If a caregiver, or an individual or not-for-profit
43 | entity approved by a caregiver, adds one or more children to the
44 | caregiver's or entity's existing motor vehicle insurance policy,
45 | the department shall pay to the caregiver or entity an amount
46 | not to exceed the amount of the increase in the cost incurred by
47 | the caregiver or entity as a result of adding the children to
48 | the policy.

49 | (4) The department shall make payments to eligible
50 | caregivers or entities in the order of eligibility until
51 | available funds are exhausted.

52 | (5) The department shall contract with a not-for-profit

53 organization whose mission is to support children aging out of
54 foster care to develop procedures for operating the pilot
55 program and for administering the pilot program, including, but
56 not limited to:

57 (a) Determining eligibility, including responsibilities
58 for the child and caregivers.

59 (b) Developing application and payment forms.

60 (c) Notifying eligible children, caregivers, group homes,
61 and residential programs of the pilot program.

62 (d) Providing technical assistance to lead agencies,
63 providers, group homes, and residential programs to support the
64 removal of obstacles for children in foster care to drive.

65 (6) The department shall submit to the Governor, the
66 President of the Senate, and the Speaker of the House of
67 Representatives a report on the success and outcomes achieved by
68 the pilot program with a recommendation as to whether the pilot
69 program should be continued, terminated, or expanded. A report
70 shall be submitted annually for the duration of the pilot
71 program with the first report being due on July 1, 2015.

72 Section 2. Section 743.047, Florida Statutes, is created
73 to read:

74 743.047 Removal of disabilities of minors; executing
75 agreements for motor vehicle insurance.—For purposes of ensuring
76 that a child in foster care is able to secure motor vehicle
77 insurance, the disability of nonage of minors shall be removed
78 for a child that has reached 16 years of age, has been

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2014

79 adjudicated dependent, is residing in an out-of-home placement
80 as defined in s. 39.01, and has completed a driver education
81 course. A court of competent jurisdiction may issue an order
82 removing the disability and authorizing a child to make and
83 execute all contracts or agreements necessary for obtaining
84 motor vehicle insurance as if the child were otherwise competent
85 to make and execute contracts. Execution of any contract or
86 agreement for motor vehicle insurance shall have the same effect
87 as if it were the act of a person who is not a minor. A child
88 seeking to enter into contracts or agreements or execute other
89 necessary instruments incidental to obtaining motor vehicle
90 insurance must present to the other contracting party an order
91 from a court of competent jurisdiction removing the disability
92 of nonage of the child under this section.

93 Section 3. Subsection (1) of section 1003.48, Florida
94 Statutes, is amended to read:

95 1003.48 Instruction in operation of motor vehicles.—

96 (1) A course of study and instruction in the safe and
97 lawful operation of a motor vehicle shall be made available by
98 each district school board to students in the secondary schools
99 in the state. The district school board shall provide
100 preferential enrollment to a student in the custody of the
101 Department of Children and Families as long as that student
102 maintains appropriate progress as required by the educational
103 institution. As used in this section, the term "motor vehicle"
104 has ~~shall have~~ the same meaning as provided in s. 320.01(1)(a)

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105 and includes ~~shall include~~ motorcycles and mopeds. Instruction
106 in motorcycle or moped operation may be limited to classroom
107 instruction. The course shall not be made a part of, or a
108 substitute for, any of the minimum requirements for graduation.

109 Section 4. For the 2014-2015 fiscal year, the sum of \$1.5
110 million is appropriated from the General Revenue Fund to the
111 Department of Children and Families for the purposes of
112 implementing this act.

113 Section 5. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 977 (2014)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Health Care Appropriations
2 Subcommittee

3 Representative Albritton offered the following:

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

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 743.047, Florida Statutes, is created
8 to read:

9 743.047 Removal of disabilities of minors; executing
10 agreements for motor vehicle insurance.—For purposes of ensuring
11 that a child in foster care is able to secure motor vehicle
12 insurance, the disability of nonage of minors shall be removed
13 for a child that has reached 16 years of age, has been
14 adjudicated dependent, is residing in an out-of-home placement
15 as defined in s. 39.01, and has completed a driver education
16 course. A court of competent jurisdiction may issue an order
17 removing the disability and authorizing a child to make and

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 977 (2014)

Amendment No. 1

18 execute all contracts or agreements necessary for obtaining
19 motor vehicle insurance as if the child were otherwise competent
20 to make and execute contracts. Execution of any contract or
21 agreement for motor vehicle insurance shall have the same effect
22 as if it were the act of a person who is not a minor. A child
23 seeking to enter into contracts or agreements or execute other
24 necessary instruments incidental to obtaining motor vehicle
25 insurance must present to the other contracting party an order
26 from a court of competent jurisdiction removing the disability
27 of nonage of the child under this section.

28 Section 2. Subsection (1) of section 1003.48, Florida
29 Statutes, is amended to read:

30 1003.48 Instruction in operation of motor vehicles.—

31 (1) A course of study and instruction in the safe and
32 lawful operation of a motor vehicle shall be made available by
33 each district school board to students in the secondary schools
34 in the state. The district school board shall provide
35 preferential enrollment to a student in the custody of the
36 Department of Children and Families as long as that student
37 maintains appropriate progress as required by the educational
38 institution. As used in this section, the term "motor vehicle"
39 has ~~shall have~~ the same meaning as provided in s. 320.01(1)(a)
40 and includes ~~shall include~~ motorcycles and mopeds. Instruction
41 in motorcycle or moped operation may be limited to classroom
42 instruction. The course shall not be made a part of, or a
43 substitute for, any of the minimum requirements for graduation.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 977 (2014)

Amendment No. 1

44 Section 3. This act shall take effect July 1, 2014.

45
46
47 -----

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

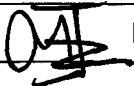
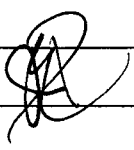
49 Remove everything before the enacting clause and insert:

50 A bill to be entitled

51 An act relating to motor vehicle insurance and driver education
52 for children in foster care; creating s. 743.047, F.S.; removing
53 the disability of nonage of minors for purposes of obtaining
54 motor vehicle insurance; amending s. 1003.48, F.S.; providing
55 for preferential enrollment in driver education courses for
56 children in foster care; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1085 Behavioral Analysts
SPONSOR(S): Health Quality Subcommittee; Rooney, Jr.
TIED BILLS: IDEN./SIM. **BILLS:** SB 1212

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Castagna	O'Callaghan
2) Health Care Appropriations Subcommittee		Rodriguez	Pridgeon 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Section 11.62, F.S., the Sunrise Act, states that a profession or occupation may not be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage, and a profession or occupation may not be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation. The Sunrise Act requires the Legislature to consider several factors when determining whether a profession or occupation should be regulated.

The bill creates regulations for behavior analysts and assistant behavior analyst, under ch. 470, F.S. Qualified individuals in these professions are to be licensed by the Department of Health's (DOH) Division of Medical Quality Assurance (MQA) and regulated by the Board of Applied Behavior Analysis (board).

The bill amends s. 20.43(3)(g), F.S., to add the board to the list of professions regulated by MQA. The board is granted authority to adopt rules related to:

- Standards of practice;
- Competency for licensure and licensure renewal;
- Examinations to test certain persons' competency to practice;
- Supervision requirements; and
- Approval of a successor certification board.

The bill grants DOH rulemaking authority relating to licensure, initial applications, fees, educational requirements and licensure renewal. The bill establishes requirements for licensure of assistant behavior analysts and exempts certain persons from any licensure requirements. The bill also establishes a biennial licensure renewal cycle for behavior analysts and assistant behavior analysts.

The bill subjects an applicant for licensure to background checks and amends s. 456.0135, F.S., to include ch. 470, F.S., in the background screening procedural provisions.

The bill amends s. 456.001, F.S., to include behavior analysts and assistant behavior analysts in the definition of "health care practitioner." The bill provides disciplinary grounds and actions that may be taken against a licensee. The bill provides criminal penalties for those who engage in or assist in the practice of applied behavior analysis without a license.

The bill has a significant fiscal impact on DOH and the Florida Department of Law Enforcement (FDLE), however, expenditures incurred in DOH and FDLE are expected to be offset by revenues collected. The Criminal Justice Impact Conference has not met to estimate the impact of the felony provision created in this bill, however, the Office of Economic and Demographic Research (EDR) provided a preliminary, unofficial estimate of the impact of the bill and determined that the bill creates a likely low volume, unranked third degree felony and it is expected that it will have an insignificant impact on state prison beds. The bill also creates a new second degree misdemeanor and may have a negative impact on local jail beds, but the impact is likely insignificant based on EDRs unofficial analysis.

The bill provides an effective date of January 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1085c.HCAS

DATE: 4/7/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Department of Health, Division of Medical Quality Assurance

Currently, the Division of Medical Quality Assurance (MQA) within the Department of Health (DOH) is responsible for regulating health care practitioners to preserve the health, safety, and welfare of the public. There are 22 boards and six councils under MQA, and MQA licenses seven types of facilities and 200-plus occupations in more than 40 health care professions.¹

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within MQA.² Boards are responsible for approving or denying applications for licensure, establishing continuing medical education requirements, and are involved in disciplinary hearings. Sections 456.072, 456.073, and 456.074 F.S., provide the authority for a board to take disciplinary action against a licensee. The board can take action for any legally sufficient, written, and signed complaint that is filed before it.³

Applied Behavior Analysis

Applied Behavior Analysis (ABA), is practiced by behavior analysts who seek to change the behaviors of their clients. ABA applies behavioral science in real-world settings and can be differentiated from other areas of psychology in that it is focused on analyzing and modifying behavior using principles of learning and positive reinforcement to improve daily life skills in a wide variety of individuals.⁴ Examples of ABA practice include: building the skills and achievements of children in school settings and enhancing the development, abilities, and choices of children and adults with different kinds of emotional and behavioral disabilities.

A growing demand for effective intervention for individuals diagnosed with autism spectrum disorders⁵ and other behavioral and emotional conditions has driven more consumers and employers to seek ABA services. Colleges and universities have responded to these demands by establishing professional training programs in applied behavior analysis.⁶

Behavior analysts work in a wide variety of settings to impact behavior change. Behavior analysts are employed in schools to work with students with emotional and behavioral disorders that affect their

¹ Florida Health Source, Florida Department of Health, *accessible at*: <http://www.flhealthsource.gov/> (Last accessed February 28, 2014).

² Section 456.001, F.S.

³ Section 456.025(3), F.S., provides that a complaint is legally sufficient if it contains the ultimate facts that show a violation of the relevant practice act or any rule adopted by the Department or the relevant board.

⁴ Psychology: Applied Behavior Analysis, Florida State University, *accessible at*: <http://www.pc.fsu.edu/Academics/Graduate-Programs/Psychology-Applied-Behavior-Analysis> (Last accessed March 22, 2014).

⁵ Autism spectrum disorders (ASDs) are a group of developmental disabilities that can cause significant social, communication and behavioral challenges. People with ASDs handle information in their brain differently than other people. ASDs are "spectrum disorders" meaning ASDs affect each person in different ways, and can range from very mild to severe. People with ASDs share some similar symptoms, such as problems with social interaction, but there are differences in when the symptoms start, how severe they are, and the exact nature of the symptoms. Centers for Disease Control and Prevention, "Autism Spectrum Disorder (ASD): Signs and Symptoms," *accessible at*: <http://www.cdc.gov/ncbddd/autism/signs.html> (Last accessed March 22, 2014).

⁶ The Behavior Analysis Certification Board has approved 9 Florida Universities as meeting the requirements for coursework and supervised experience. *Infra* fn. 20.

ability to learn in the classroom. Behavior analysts work in home settings to improve basic behavioral and life skills for those persons with autism and instruct caregivers on ways to effectively reinforce positive, sustainable, behavior change.⁷

Certification of Behavior Analysts

The uneven standard of care used by behavior analysts in the practice of applied behavior analysis led to the formation of the private, nonprofit, Behavior Analyst Certification Board (BACB). BACB teaches methods to best implement ethical and effective behavior analytic interventions based on published research. BACB administers examinations for behavior analyst credentialing several times each year in over 200 sites within the United States. To effectively serve behavior analysis professionals and consumers, BACB has developed:⁸

- Eligibility standards for applicants wishing to take the BACB Certification Examination;
- Renewal and recertification standards to maintain certification;
- Guidelines for responsible conduct for behavior analysts;
- Professional disciplinary standards with appeal procedures;
- A registry of those certified;
- A process to approve university course sequences and practical experience;
- Procedures to approve continuing education providers; and
- Professionally developed and maintained certification examinations.

Since 2008, 13 states⁹ have adopted laws to license behavior analysts in their own right. In all 13 states, BACB certification is accepted as a qualification for licensure.

Under BACB, certification is currently offered at two levels: Board Certified Behavior Analyst (BCBA) and Board Certified Assistant Behavior Analyst (BCABA), these credentialing programs are accredited by the National Commission for Certifying Agencies.

BCBAs are required to have earned at least a Master's degree. BCBAs conduct behavioral assessments, functional analyses and provide behavior analytic interpretations of the results. BCBAs design and supervise behavior analytic interventions.¹⁰ BCABAs are required to have earned at least a Bachelor's degree. BCABAs may conduct descriptive behavioral assessments, interpret the results and design behavior analytic interventions under the supervision of a BCBA.¹¹

Florida Behavior Analysts

Behavior analysts have been trained and certified in Florida since 1983.¹² Behavior analysts are recognized in multiple sections of Florida law.¹³ There are currently 1,793 BCBAs and 604 BCABAs in Florida.

"Florida-certified Behavior Analysts" are a special section of approximately 100 behavior analysts who were certified by the former behavior analyst credentialing body in Florida. All certification

⁷ *Infra* fn. 20.

⁸ About the BACB, Behavior Analysis Certification Board, *accessible at*: <http://www.bacb.com/index.php?page=1> (last accessed March 22, 2014).

⁹ Arizona, Kentucky, Louisiana, Massachusetts, Missouri, Nevada, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Virginia, and Wisconsin have adopted licensure laws.

¹⁰ About BACB credentials, Behavior Analyst Certification Board, *accessible at*: <http://www.bacb.com/index.php?page=4> (last accessed March 22, 2014).

¹¹ *Id.*

¹² *See infra*, fn. 20.

¹³ Behavior analysts are mentioned in ch. 393, F.S., relating to developmental disabilities, ch. 627, F.S., relating to insurance rates and contracts, and ch. 641, F.S., relating to coverage for individuals with developmental disabilities.

responsibilities and certificate-holders of the former Florida Behavior Analysis Certification Program have been transferred to BACB, and the Florida program has closed. Florida program certificate-holders must only use the designation Florida-certified Behavior Analyst.¹⁴

The Florida Association for Behavior Analysis (FABA) has represented Florida behavior analysts for 34 years. FABA was founded to promote the ethical, humane, and effective application of behavior principles in a range of settings across the state. FABA primarily serves to offer continuing education opportunities to BCBAs in Florida and to monitor legislative changes to protect the rights of behavior analysts to practice.¹⁵

An insurance coverage mandate for autism spectrum disorder enacted in Florida in 2008¹⁶ led to the recognition and required certification of behavior analysts providing ABA services for the treatment of autism in Florida.¹⁷ Florida law requires ABA services to be covered by insurance when prescribed by the insurance holder's physician in accordance with a treatment plan.¹⁸ Florida Medicaid covers ABA services for individuals under the age of 21 through a Community Behavioral Health provider, an Early Intervention Services provider, or an iBudget waiver provider. ABA services must be prior approved by Medicaid.¹⁹

Professional Regulation and the Florida Sunrise Act

Generally, there are three different types or levels of regulation:

- Licensure is the most restrictive form of state regulation. Under licensure laws, it is illegal for a person to practice a profession without first meeting all of the standards imposed by the state.
- Certification grants title protection to those who meet training and other standards. Those who do not meet certification standards cannot use the title, but can still perform the services.
- Registration is the least restrictive form of regulation, and usually only requires individuals to file their name, address, and qualifications with a government agency before practicing the occupation.

Section 456.003, F.S., specifies that health care professions may be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

- Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation;
- The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation; and
- Less restrictive means of regulation are not available.

¹⁴ Florida Behavior Analyst Certification Committee, Behavior Analyst Certification Board, *accessible at*: <http://www.bacb.com/index.php?page=100202> (last accessed March 25, 2014).

¹⁵ About FABA, Florida Association for Behavior Analysis *accessible at*: <http://fabaworld.org/aboutfaba.php> (last accessed March 21, 2014).

¹⁶ Section 4, ch. 2008-30, L.O.F.

¹⁷ See s. 641.31098, F.S., relating to insurance coverage for individuals with developmental disabilities, which states that applied behavior analysis services shall be provided by an individual certified pursuant to s. 393.17, F.S., or an individual licensed under chapter 490, F.S., (psychologists) or chapter 491, F.S., (clinical social workers, marriage and family therapists, or mental health counselors).

¹⁸ *Id.*

¹⁹ Email correspondence with the Agency for Health Care Administration, March 18, 2014, (on file with Health Quality Subcommittee).

Section 11.62, F.S., the Sunrise Act, provides legislative intent regarding the regulation of new professions and occupations, stating that:

- No profession or occupation may be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state may be exercised only to the extent necessary for that purpose; and
- No profession or occupation may be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

In determining whether to regulate a profession or occupation, s. 11.62(3), F.S., requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act (Sunrise) requires proponents of regulation to submit information documenting the need for the proposed regulation. A Sunrise questionnaire was submitted by the Florida Association for Behavior Analysis (FABA) to the Legislature. FABA is the only statewide organization representing behavior analysts in Florida. The current membership is between 900-1000 members.

Summary of Sunrise Act Questionnaire and Responses

Substantial Harm or Endangerment

The Sunrise Act Questionnaire²⁰ (Questionnaire) requests whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote.

FABA responded to this question stating that a majority of persons treated by ABA services are highly vulnerable making them susceptible to fraudulent, ineffective practices such as claims of cures, or unethical interventions. Over the past 13 years there have been 26 events of unethical or improper practice that were investigated by BACB in Florida. These violations involved negligence, incompetence, malpractice, or misconduct.²¹

²⁰ The Sunrise Act Questionnaire is a questionnaire developed by Legislative staff to solicit the responses required by the proponents of the new regulation pursuant to s. 11.62(4), F.S.

²¹ Completed Sunrise Questionnaire by the Florida Association for Behavior Analysis, on file with Health Quality Subcommittee staff.

Specialized Skill or Training, and Measurability

The Questionnaire asks whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability.

According to FABA, the initial measure of a behavior analysts' ability to engage in competent practice is the examination for board certification. The exam is in multiple-choice format with specific questions in each of the content areas of BACB's task list. To be eligible for examination, one must have at least a master's degree in behavior analysis or other natural science, education, human services, medicine or a field related to behavior analysis to be approved by BACB.²²

Unreasonable Effect on Job Creation or Job Retention

The Questionnaire asks whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment.

FABA responds that the requirements for licensure under the proposed legislation align with current credentialing requirements required for behavior analysts. Currently, the privatized BACB handles all credentialing responsibilities.²³

Other persons who may implement behavioral interventions and provide counseling services similar to that of BCBAs include schoolteachers, school psychologists, parents, physicians, school faculty, priests, and ministers. These persons are not required to obtain BACB certification.²⁴

Can the Public Be Effectively Protected by Other Means?

The Questionnaire asks whether the public is or can be effectively protected by other means.

FABA represents that currently, the BACB addresses complaints against BCBAs and those who are fraudulently claiming to be board certified. Over the past 13 years there have been 26 events of unethical or improper practice that were investigated by the BACB in the state of Florida. The current BACB requirements for making a complaint are time consuming, requiring consumers to produce written records of correspondence to the behavior analyst, correspondence to fiscal agencies or funding sources, and correspondence with state regulatory agencies (which is currently unavailable in Florida). Due to non-existing licensure for behavior analysts in Florida there are no funds to regulate the profession and, according to FABA, effectively preserve the health and safety of those citizens utilizing ABA services.²⁵

Favorable Cost-effectiveness and Economic Impact

The Questionnaire asks whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

FABA does not anticipate that establishing licensure of this profession will make any changes to the current costs of services for consumers. The fees imposed by initial licensure application and license renewal will help to more effectively regulate the profession and better protect consumers. Application

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

fees are not expected to exceed \$100 and licensure and renewal fees are not expected to exceed \$300.²⁶

Effect of Proposed Changes

The bill creates chapter 470, F.S., to establish new regulation over the health care profession of behavior analysts within MQA.

The bill specifies that the purpose of the practice of applied behavior analysis is to protect the public from harmful conduct of unqualified, unprofessional or unethical applied behavior analysts.

Definitions

The bill defines several terms related to applied behavior analysis including the following:

- “Applied behavior analysis” means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes functional assessment and analysis. The term does not include psychological testing, the diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling.
- “Board” means the Board of Applied Behavior Analysis.
- “Board-certified behavior analyst” means a practitioner who is certified as a Board Certified Behavior Analyst, or is recognized as a “Florida-certified behavior analyst” by the national Behavior Analyst Certification Board, or its successor pursuant to s. 470.42, F.S.
- “Board-certified assistant behavior analyst” means a practitioner who is certified by the national Behavior Analyst Certification Board, or its successor pursuant to s. 470.42, F.S., as a Board Certified Assistant Behavior Analyst.
- “Supervised experience” means an individual has completed the training necessary to satisfy the eligibility requirements for Behavior Analyst Certification Board certification.
- “Licensed behavior analyst” means an individual who is licensed by the Board of Applied Behavior Analysis (board) and meets the requirements of ch. 470, F.S.
- “Licensed assistant behavior analyst” means an individual who is licensed by the board as an assistant behavior analyst, meets the requirements of ch. 470, F.S., and works under the supervision of a licensed behavior analyst.

Board

The bill creates s. 470.415, F.S., to establish and house the Board of Applied Behavior Analysis (board) within MQA. The bill provides that ch. 456, F.S., relating to general requirements for health care practitioners, applies to the board. The board must consist of seven members appointed by the Governor and confirmed by the Senate. Specific membership of the board is as follows:

- Three board-certified behavior analysts; one of whom will be appointed to a one-year term and two who will be appointed to three-year terms.
 - Two of the three board-certified behavior analysts will be selected from a list of six nominations submitted by FABA.
- One health care provider licensed in this state whose practice must be related to the treatment of behavior disorders including autism spectrum disorders and who is to be appointed for a two-year term.
- Two laypersons, who may be a parent or guardian of an individual who is a recipient of ABA services.

²⁶ *Id.*

- One of whom shall serve a one-year term and one of whom shall serve a two-year term.
- One board-certified assistant behavior analyst, who is appointed to a one-year term.

The Governor's appointments of successors shall be for four-year terms and successors, except the laypersons, must be licensed. Members may not serve more than two consecutive terms.

The bill creates s. 470.42, F.S., providing the board authority to adopt rules pursuant to s. 120.536(1), F.S., and s. 120.54, F.S. These rules must include, but are not limited to, rules relating to the following:

- Standards of practice;
- Competency for licensure and licensure renewal;
- Examinations of licensees that may have a mental or physical condition that affects their ability to practice competently;
- Supervision requirements for licensed assistant behavior analysts and those training to be a licensed behavior analyst; and
- Approval of a successor certification board.

The bill amends s. 20.43(3)(g), F.S., to add the professional Board of Applied Behavior Analysis established in ch. 470, F.S., to the list of professions regulated by MQA.

Licensure

The bill grants the Department rulemaking authority to implement rules relating to:

- Licensure and licensure renewal applications and processes, including fees;
- Educational qualifications for licensure; and
- Continuing education requirements, not to exceed 30 hours biennially, for biennial renewal of licensure.

The bill creates s. 470.43, F.S., providing for the initial licensure and renewal of license for certification of behavior analysts and assistant behavior analysts. In order to be licensed, the applicant shall provide evidence that he or she:

- Is a BCBA or BCABA;
- Conducts his or her professional activities in accordance with accepted standards as required by rule;
- Complies with all applicable rules adopted by the board;
- Is supervised by a licensed behavior analyst in a manner consistent with BACB requirements, if the applicant is an assistant behavioral analyst;
- Has paid the licensure fee or the biennial renewal fee; and
- Has passed a criminal background check after submitting fingerprints and a fee to the Florida Department of Law Enforcement (FDLE) pursuant to s. 456.0135, F.S.

The bill amends s. 456.0135, F.S., to include ch. 470, F.S., in the background screening procedural provisions.

The board may issue a license to a person who holds an active license as a behavior analyst or assistant behavior analyst in another state if the person:

- Has submitted proof of licensure and board certification;
- Has passed a criminal background check after submitting fingerprints and a fee to FDLE pursuant to s. 456.0135, F.S.; and
- Has paid the licensure fee.

The bill creates s. 470.44, F.S., providing the board authority to establish, by rule, an application fee not to exceed \$100 and to establish a fee for initial licensure and renewal not to exceed \$300. The revenue from these fees shall be deposited into the Medical Quality Assurance Trust Fund (MQATF) as provided under s. 456.025, F.S.

The bill provides a list of exceptions to the requirement for licensure stating the following persons will not be prohibited, restricted, or subject to the provisions of the bill, provided false representation as a behavior analyst does not occur:

- An individual licensed under ch. 490, F.S., to practice psychology.
- An individual licensed under ch. 491, F.S., as a clinical social worker, marriage and family therapist, or mental health counselor.
- A physician licensed pursuant to chapters 458 or 459, F.S.
- A certified teacher, teaching assistant, or student support professional performing duties under their scope of practice for which he or she was trained and hired.
- A school psychologist certified in school psychology by the Department of Education who performs ABA services as an employee of a public or private educational institution. This exemption does not authorize unlicensed practice that is not performed directly as an employee of an educational institution.
- An individual who teaches ABA or who conducts behavior analytic research if such teaching or research does not involve the delivery of ABA to individuals.
- A college or university student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study and ABA practices are directly supervised under a board certified behavior analyst.
- An unlicensed individual pursuing supervised experimental training to meet eligibility requirements for BACB certification.
- A board certified behavior analyst or an individual licensed to practice ABA in another state who provides ABA services in Florida to a resident of this state for less than 12 days per year.
- A family member of a recipient of ABA services implementing certain ABA procedures with the recipient.
- A behavior analyst who provides general ABA services to organizations if the services do not involve direct services to individuals.
- An employee of a private non-profit organization providing ABA services to youth and families if the services are provided for no charge and the employee is performing duties for which he or she was hired.
- A rabbi, priest, minister, or member of the clergy of a religious denomination or sect if activities are within the scope of performance of his or her regular specialized ministerial duties and for which no separate fee is charged.
- A behavior analyst that practices with non-human clients.

Disciplinary Grounds and Action

This bill amends s. 456.001, F.S., to include behavior analysts and assistant behavior analysts under the definition of health care practitioner. This inclusion requires behavior analysts to follow the criteria other health care practitioners must meet to uphold the appropriate standard of care for the respective profession.

The bill creates s. 470.45, F.S., providing the disciplinary grounds and actions that may be taken against a licensee who violates any of the provisions of s. 456.072(2), F.S.,²⁷ and imposes penalties

²⁷ Pursuant to s. 456.072(2), F.S., some examples of acts that constitute grounds for disciplinary action are: making fraudulent representations related to the practice of the licensee's profession; intentionally violating any rule adopted by the board or the department, as appropriate; and exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

provided under s. 456.072(1), F.S.²⁸ The bill sets limitations on the board regarding disciplinary action that may be taken by specifying that the board may not:

- Place a licensee on probation for more than 5 years;
- Impose a fine that exceeds \$2,500;
- Suspend a license for more than 5 years; or
- Limit or restrict a license for an indefinite period.

The bill creates s. 470.47, F.S., to provide that a person who engages in or assists in the practice of applied behavior analysis without a license commits a felony of the third degree.²⁹ This section also provides title protection for the following: licensed behavior analysts, licensed assistant behavior analysts, or any other title that is substantially similar. False representation of such titles would constitute a misdemeanor of the second degree.³⁰

B. SECTION DIRECTORY:

- | | |
|--------------------|--|
| Section 1. | Creates Chapter 470, F.S., relating to Behavior Analysts. |
| Section 2. | Creates s. 470.40, F.S., relating to the purpose of the act. |
| Section 3. | Creates s. 470.41, F.S., relating to definitions. |
| Section 4. | Creates s. 470.415, F.S., relating to the Board of Applied Behavior Analysis. |
| Section 5. | Creates s. 470.42, F.S., relating to the authority and duties of the Board of Applied Behavioral Analysis. |
| Section 6. | Creates s. 470.43, F.S., relating to licensure and renewal. |
| Section 7. | Creates s. 470.44, F.S., relating to fees. |
| Section 8. | Creates s. 470.45, F.S., relating to disciplinary grounds and actions, and reinstatement. |
| Section 9. | Creates s. 470.47, F.S., relating to violations and penalties. |
| Section 10. | Creates s. 470.48, F.S., relating to exceptions for applicability. |
| Section 11. | Amends s. 20.43, F.S., relating to the Department of Health. |
| Section 12. | Amends s. 456.001, F.S., relating to definitions. |
| Section 13. | Amends s. 456.0135, F.S., relating to background screening provisions. |
| Section 14. | Provides an effective date of January 1, 2015. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has a positive fiscal impact on state revenues deposited into MQATF in DOH and the Operating Trust Fund (OTF) in FDLE. The bill provides that initial application fees for behavior analysts and assistant behavior analysts are to be established by rule, but may not exceed \$100 and initial licensure fees may not exceed \$300. Additionally, the Unlicensed Activity fee (ULA) of \$5 imposed by MQA³¹ will also be assessed upon initial licensure and renewal.

DOH estimates 2,000 new applicants for licensure of behavior analysts and assistant behavior analysts. The total estimated increase in revenue deposited into the MQATF for the first biennium is

²⁸ Pursuant to s. 456.072(1), F.S., some examples of penalties imposed on licensees are: refusal to certify, or to certify with restrictions, an application for a license; suspension or permanent revocation of a license; issuance of a reprimand or letter of concern; and refund of fees billed and collected from the patient or a third party on behalf of the patient.

²⁹ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a fine not to exceed \$5,000. Sections 775.082, 775.083, or 775.084, F.S.

³⁰ A misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. Sections 775.082 and 775.083, F.S.

³¹ Section 455.2281, F.S., refers to unlicensed activity fee which funds regulation of licensed professions, including investigations of persons conducting unlicensed health care activities.

\$745,200.³² The calculation of the estimated increase in state revenues is based on the assumption that the maximum allowable fees, as established in the bill, would be utilized.³³

The bill requires that licensees pass a criminal background check after submitting fingerprints and a fee imposed for the initial screening and retention of fingerprints pursuant to s. 456.0135, F.S. A portion of the fees required by s. 456.0135, F.S. are deposited into OTF in FDLE.³⁴

In total, a potential licensee is responsible for providing \$77.50 to FDLE for the cost of a state and national criminal history record check, state fingerprint retention, lifetime Federal Bureau of Investigation (FBI) enrollment and federal fingerprint retention. The cost for the state and national criminal history record check includes fees that are deposited into OTF and fees that are forwarded to the FBI for federal fingerprint retention. The fee for state retention of fingerprints is deposited into OTF and covers the retention cost for five years. The federal lifetime enrollment fee is forwarded to the FBI.³⁵

Based on the estimated 2,000 new applicants for licensure, \$96,000 in additional revenue would be deposited into OTF in FDLE. OTF is subject to the eight percent surcharge to GR. Therefore, the net increase to OTF would be \$88,320.³⁶

In total, the estimated increase in state revenues associated with this bill is \$833,520.

Summary of Licensee Fees and Estimated Additional State Revenue				
Description	Recipient	Trust Fund	Cost to Licensee	Estimated State Revenue
Initial Application Fee	DOH	MQATF	100.00	200,000
Initial Licensure Fee			300.00	600,000
Unlicensed Activity Fee			5.00	10,000
Subtotal DOH			\$405.00	\$810,000
State and National Criminal History Check	FDLE	OTF	24.00	48,000
State Fingerprint Retention (5 Years)			24.00	48,000
Subtotal FDLE			\$ 48.00	\$ 96,000
Lifetime FBI Enrollment Fee	FBI	N/A Federal	13.00	-
Federal Fingerprint Retention			16.50	-
Subtotal FBI			\$ 29.50	-
Subtotal			\$482.50	\$906,000
Less 8% Service Charge to General Revenue				(72,480)
Total Revenue/Cost to Licensee			\$482.50	\$833,520

Note: Calculations based on estimated number of potential licensees: 2,000.

³² Florida Department of Health. 2014 Legislative Bill Analysis – CS/HB 1085, March 25, 2014. Uploaded to the Agency Bill Analysis Request portal on April 1, 2014. On file with the Florida House of Representatives, Health Care Appropriations Subcommittee (last viewed, April 1, 2014).

³³ *Id.*

³⁴ Florida Department of Law Enforcement. 2014 Legislative Bill Analysis CS/HB 1085, March 27, 2014. Uploaded to the Agency Bill Analysis Request portal on March 27, 2014. On file with the Florida House of Representative, Health Care Appropriations Subcommittee (last viewed, March 31, 2014).

³⁵ *Id.*

³⁶ *Id.*

2. Expenditures:

An additional 2.00 full-time equivalent (FTE) positions and two Other Personal Services (OPS) positions will be required to implement the provisions of the bill.

DOH reports that 1.00 FTE can manage approximately 2,600 active/inactive health care practitioners licensed under ch. 491, F.S. Based on the projected number of Certified Behavior Analyst and Assistant Behavior Analyst licensees (2,000), DOH estimates that one additional recurring Regulatory Specialist II FTE position would be needed to manage the increased number of licensees.³⁷ DOH indicates that one Regulatory Specialist II OPS position will be required to handle the initial nonrecurring influx of applicants.³⁸

Based on actual enforcement data from FY 2012-13, DOH estimates that there could be 30 complaints filed against behavior analyst and/or assistant behavior analyst and 12 of those complaints may be deemed legally sufficient for investigation and prosecution. DOH reports that MQA can manage a workload of 42 cases per FTE position for investigations and 37 cases per FTE position for prosecutions. DOH estimated that two recurring part-time FTE positions are necessary to accommodate the increase in licensees an Investigation Specialist II – 0.50 FTE and a Senior Attorney – 0.50 FTE.³⁹

DOH anticipates approximately 1,200 additional telephone calls may be received in the MQA Communication Center.⁴⁰ It is estimated that one part-time OPS Regulator Specialist II position will be needed to accommodate the increase in communications workload.

DOH estimates the recurring OPS cost, to compensate seven board members for quarterly meetings, is \$3,681 (\$50.00 per member per day per meeting).⁴¹

MQA reports that the board will meet quarterly for two days at each meeting. The average travel cost for professions licensed under chapter 491, F.S., is \$450 per person per day. DOH estimates that the travel cost for two MQA staff and seven board members is \$32,400. The average meeting room and equipment cost is \$1,875 per day for a total of \$15,000. Additional recurring expenditures for travel and meeting costs total \$47,400.⁴²

DOH currently contracts services for processing of initial and renewal applications and related fees. The cost of the contracted service is based on a \$7.69 per application rate. Based on DOH's projection of 2,000 new applications, the estimated additional budget authority for the Contracted Services category is \$15,380.⁴³

DOH acknowledges that there may be other additional costs associated with this bill. However, DOH reports that the following additional expenditures may be absorbed within existing MQA budget authority for the MQATF:⁴⁴

- DOH will update the Customer Oriented Medical Practitioner Administration System (COMPAS) licensure system to accommodate the new certified behavior analyst and assistant behavior analyst license;

³⁷ Florida Department of Health. 2014 Legislative Bill Analysis – CS/HB 1085, March 25, 2014. Uploaded to the Agency Bill Analysis Request portal on April 1, 2014. On file with the Florida House of Representatives, Health Care Appropriations Subcommittee (last viewed, April 1, 2014).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

- DOH will incur an increase in workload associated the development and maintenance of a new website, online renewals, online applications, etc.; and
- DOH will incur nonrecurring costs for rulemaking.

In FY 2014-15, the total estimated expenditures associated with this bill are \$151,452. This estimate reflects the amount for the second half of the state fiscal year pursuant to the bill's effective date of January 1, 2015. The estimated expenditures for FY 2015-16 are \$103,858. The FY 2015-16 amount includes the costs associated with two OPS positions identified above for the first two quarters of the state fiscal year. In total, the cost for the first biennium is \$255,311 with \$64,503 nonrecurring. The following chart provides a categorical summary of additional budget authority required within MQATF to implement this bill based on the projected increase in state expenditures:

Summary of Proposed Additional Budget Authority Medical Quality Assurance Trust Fund					
Category	FTE	Salary Rate	FY 2014-15 Total	FY 2015-16 Total	Total
Salaries & Benefits	2.00	70,359	52,146	52,146	104,292
OPS*			28,012	28,012	56,025
Expenses**			53,802	23,700	77,502
Contracted Services			15,380	-	15,380
HR			2,112	-	2,112
Total	2.00	70,359	151,452	103,858	255,311

*\$26,592 Non Recurring in FY 2014-15 and FY 2015-16

**\$11,319 Non Recurring in FY 2014-15

FDLE reports that the impact of this bill does not necessitate additional FTE or other resources. Revenues generated from fees associated with background screening and fingerprint retention should offset the cost of state expenditures.⁴⁵

The bill creates a new third degree felony for a person who engages in or assists in the practice of applied behavior analysis without a license. The Criminal Justice Impact Conference has not met to estimate the impact of the felony provision created in this bill, however, the EDR provided a preliminary, unofficial estimate of the impact of the bill and determined that the bill creates a likely low volume, unranked third degree felony and it is expected that it will have an insignificant impact on state prison beds.⁴⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁴⁵ Florida Department of Law Enforcement. 2014 Legislative Bill Analysis CS/HB 1085, March 27, 2014. Uploaded to the Agency Bill Analysis Request portal on March 27, 2014. On file with the Florida House of Representative, Health Care Appropriations Subcommittee (last viewed, March 31, 2014).

⁴⁶ The Office of Economic and Demographic Research. March 31, 2014. Email correspondence from Kathleen O. McCharen to Florida House of Representatives, Appropriation Committee Staff dated March 31, 2014 on file with the Health Care Appropriations Subcommittee.

None.

2. Expenditures:

The bill creates a new second degree misdemeanor for a person who falsely represents themselves as a "licensed behavior analyst," "licensed assistant behavior analyst," or any other title that is substantially similar. EDR provided a preliminary and unofficial estimate of the fiscal impact to local government. EDR determined that the bill creates a potentially low volume, second degree misdemeanor and would have an insignificant fiscal impact on local jail beds.⁴⁷

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Behavior analysts and assistant behavior analysts currently certified under the BACB will be required to pay the application and initial licensure fee, and other fees required by the Department to obtain initial licensure. The board may not set an application fee to exceed \$100 and the initial licensure fee may not exceed \$300. Licensees will also be required to pay license renewal fees to maintain licensure. The board may not set the licensure renewal fee above \$300.

A potential licensee is responsible for providing \$77.50 to FDLE for the cost of a state and national criminal history record check, state fingerprint retention, lifetime FBI enrollment and federal fingerprint retention. The fee for state retention of fingerprints covers the licensee for five years.⁴⁸

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. RULEMAKING AUTHORITY:

This bill grants the board rulemaking authority to adopt rules relating to behavior analysts and assistant behavior analysts, which provide for:

- Standards of practice.
- The number of persons that a licensed behavior analyst or licensed assistant behavior analyst may supervise at one time.
- The competency of a person to receive or renew his or her license.

⁴⁷ *Id.*

⁴⁸ Florida Department of Law Enforcement. 2014 Legislative Bill Analysis CS/HB 1085, March 27, 2014. Uploaded to the Agency Bill Analysis Request portal on March 27, 2014. On file with the Florida House of Representative, Health Care Appropriations Subcommittee (last viewed, March 31, 2014).

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- The physical and mental examination of licensed behavior analysts and licensed assistant behavior analysts who may be impaired by reason of a mental, physical, or other condition that impedes their ability to practice competently.
- Approval of a successor certification board.

The bill grants the Department of Health rulemaking authority relating to:

- Licensure and licensure renewal applications, and associated fees.
- Educational qualifications for licensure.
- Continuing education requirements for biennial renewal of licensure.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 24, 2014, the Health Quality Subcommittee adopted a strike-all amendment and passed HB 1085 as a committee substitute (CS). The strike-all amendment:

- Changes the definition of “board certified behavior analyst” to include “Florida-certified behavior analysts” that are recognized by the national Behavior Analyst Certification Board.
- Increases the term limits for members of the Board of Applied Behavior Analysis from 3-year to 4-year terms, which is consistent with other professional boards’ term limits under current law.
- Replaces the term health care provider with “health care practitioner” which is defined in existing law under ch. 456, F.S., to ensure behavior analysts and assistant behavior analysts are subject to the provisions of that chapter.
- Revises rulemaking authority of the board relating to licensure, renewal, and continuing education requirements to align with rulemaking authority granted to other professional boards regulating professions under ch. 456, F.S.
- Adds rulemaking authority for the Department of Health to adopt rules relating to:
 - Licensure and licensure renewal applications, and associated fees.
 - Educational qualifications for licensure.
 - Continuing education requirements for biennial renewal of licensure.
- Clarifies that persons applying to be licensed as a behavior analyst or assistant behavior analyst must apply to the Department of Health not the board.
- Revises licensure requirements to include submission of fingerprints for background checks.
- Revises the reciprocity of licensure provision in the bill to authorize licensure for out-of-state candidates if they are board-certified, hold a license, pass a criminal background check, and pay licensure fees.
- Revises language to remove terms relating to behavior analysis services and replaces them with the defined term “applied behavior analysis.”
- Revises who are exempt from licensure requirements by:
 - Clarifying anyone licensed under chapters 490 (psychologists), 491 (clinical social workers, marriage and family therapists, and mental health counselors), 458 (medical doctors), or 459 (osteopathic doctors), F.S., are exempt from licensure under the act.
 - Clarifying family members are exempt from licensure.
 - Removing Florida-certified behavior analysts to require that they are licensed.
- Amends s. 20.43(3)(g), F.S., to add the professional Board of Applied Behavior Analysis established in ch. 470, F.S., to the list of professions regulated by the Department of Health’s Division of Medical Quality Assurance.

- Amends ch. 456.0135, F.S., to include ch. 470, F.S., in the background screening procedural provisions.
- Changes the effective date from October 1, 2014, to January 1, 2015.

The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

A bill to be entitled

An act relating to behavior analysts; creating chapter 470, F.S.; entitling the chapter; creating s. 470.40, F.S.; providing a purpose; creating s. 470.41, F.S.; defining terms; creating s. 470.415, F.S.; creating the Board of Applied Behavior Analysis; creating s. 470.42, F.S.; specifying the authority and duties of the board; creating s. 470.43, F.S.; providing requirements for licensure and renewal; creating s. 470.44, F.S.; establishing maximum fees for applications, initial licenses, and license renewals; creating s. 470.45, F.S.; providing grounds for disciplinary action by the board; providing for reinstatement of a license; creating s. 470.47, F.S.; providing penalties for practicing applied behavior analysis without a license or wrongfully identifying oneself as a licensed behavior analyst; creating s. 470.48, F.S.; providing exceptions to the chapter; amending s. 20.43, F.S.; establishing The Board of Applied Behavior Analysis within the Division of Medical Quality Assurance; amending s. 456.001, F.S.; including licensed behavior analysts and licensed assistant behavior analysts in the definition of "health care practitioner"; amending s. 456.0135, F.S.; requiring an applicant for licensure under chapter 470, F.S., to submit to certain fingerprinting

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2014

requirements; providing an effective date.

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

Section 1. Chapter 470, Florida Statutes, is created and entitled "Behavior Analysts."

Section 2. Section 470.40, Florida Statutes, is created to read:

470.40 Purpose.—The practice of applied behavior analysis in this state affects the public health, safety, and welfare of its residents, and this act is intended to protect the public from any harmful conduct of unqualified, unprofessional, or unethical applied behavior analysts.

Section 3. Section 470.41, Florida Statutes, is created to read:

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

(1) "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes functional assessment and analysis. The term does not include psychological testing, the diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling.

(2) "Board" means the Board of Applied Behavior Analysis established in s. 470.415, except when the term is used in the

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context of board certification.

(3) "Board-certified behavior analyst" means a practitioner who is certified as a board-certified behavior analyst, or is recognized as a Florida-certified behavior analyst, by the national Behavior Analyst Certification Board (BACB), or its successor pursuant to s. 470.42.

(4) "Board-certified assistant behavior analyst" means a practitioner who is certified by the national Behavior Analyst Certification Board, or its successor pursuant to s. 470.42, as a Board Certified Assistant Behavior Analyst.

(5) "Department" means the Department of Health.

(6) "Licensed behavior analyst" means an individual who is licensed by the board and meets the requirements of this chapter.

(7) "Licensed assistant behavior analyst" means an individual who:

(a) Is licensed by the board as an assistant behavior analyst and meets the requirements of this chapter; and

(b) Works under the supervision of a licensed behavior analyst.

(8) "Supervised experience" means an individual has completed the training necessary to satisfy the eligibility requirements for BACB certification.

Section 4. Section 470.415, Florida Statutes, is created to read:

470.415 Board of Applied Behavior Analysis.—

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79 (1) The Board of Applied Behavior Analysis is created
80 within the department. The board consists of seven members who
81 must be appointed by the Governor and confirmed by the Senate.

82 (2) The initial board members, who are not required to be
83 licensed as a condition of appointment, shall be appointed as
84 follows:

85 (a) Three board-certified behavior analysts, which may
86 include board-certified behavior analysts who are at the
87 doctoral level, two of whom shall be selected from a list of six
88 nominations submitted by the Florida Association for Behavior
89 Analysis. One shall be appointed to a 1-year term, and two shall
90 be appointed to 3-year terms;

91 (b) One board-certified assistant behavior analyst, who
92 shall be appointed to a 1-year term;

93 (c) One health care practitioner licensed in this state,
94 who shall be appointed to a 2-year term. The majority of the
95 appointed health care practitioner's practice must be related to
96 the treatment of behavior disorders, including, but not limited
97 to, autism spectrum disorders; and

98 (d) Two laypersons, who may include a parent or guardian
99 of an individual who is a recipient of applied behavior analysis
100 services, one of whom shall serve a 1-year term, and one of whom
101 shall serve a 2-year term.

102 (3) As the terms of the initial members expire, the
103 Governor shall appoint successors for 4-year terms. Each
104 successor, except for the laypersons, must be licensed. A member

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may not serve more than two consecutive terms.

Section 5. Section 470.42, Florida Statutes, is created to read:

470.42 Authority of the board; board duties; authority of the department.-

(1) The board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it. Such rules must include, but are not limited to, rules relating to all of the following:

(a) Standards of practice for licensed behavior analysts and licensed assistant behavior analysts.

(b) The competency of a person to receive or renew his or her license.

(c) The physical and mental examination of licensed behavior analysts and licensed assistant behavior analysts who may be impaired by reason of a mental, physical, or other condition that impedes their ability to practice competently.

(d) Supervision of licensed assistant behavior analysts or students in training to be licensed behavior analysts, including the number of persons that a licensed behavior analyst or licensed assistant behavior analyst may supervise at one time.

(2) If the Behavior Analyst Certification Board stops certifying practitioners of applied behavior analysis in this state, the board shall approve a successor certification board that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute to certify

131 applied behavior analysts.

132 (3) The department may adopt rules to implement the
133 provisions of this chapter conferring duties upon it. Such rules
134 shall include, but are not limited to, rules relating to the
135 following:

136 (a) Licensure and license renewal applications and
137 processes, including licensure fees.

138 (b) Educational qualifications for licensure.

139 (c) Continuing education requirements, which shall not
140 exceed 30 hours every 2 years as a condition for biennial
141 license renewal.

142 Section 6. Section 470.43, Florida Statutes, is created to
143 read:

144 470.43 Licensure and renewal.—

145 (1) A person applying for an initial or renewal license as
146 a licensed behavior analyst or licensed assistant behavior
147 analyst shall apply to the department on such form and in such
148 manner as the department prescribes. The person shall furnish
149 evidence to the department that he or she:

150 (a) Is a board-certified behavior analyst;

151 (b) Conducts his or her professional activities in
152 accordance with accepted standards as required by rule;

153 (c) Complies with all applicable rules adopted by the
154 board;

155 (d) Has paid the licensure fee or the biennial renewal
156 fee; and

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(e) Has passed a criminal background check after submitting fingerprints and a fee pursuant to s. 456.0135.

(2) A person applying for an initial or renewal license as an assistant behavior analyst shall apply to the department upon such form and in such manner as the department prescribes and shall furnish evidence to the department that such person:

(a) Is a board-certified assistant behavior analyst;

(b) Conducts his or her professional activities in accordance with accepted standards, as required by rule;

(c) Complies with all applicable rules promulgated by the board;

(d) Is supervised by a licensed behavior analyst in a manner consistent with BACB requirements and this chapter;

(e) Has paid the licensure fee or the biennial renewal fee; and

(f) Has passed a criminal background check after submitting fingerprints and a fee pursuant to s. 456.0135.

(3) The board may issue a license to a person who holds an active license as a behavior analyst or assistant behavior analyst in another state and:

(a) Submits proof of licensure and board certification.

(b) Passes a criminal background check after submitting fingerprints and a fee pursuant to s. 456.0135.

(c) Pays the licensure fee.

Section 7. Section 470.44, Florida Statutes, is created to read:

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470.44 Fees.—

(1) The board shall establish by rule a fee not to exceed \$100 for an application and a fee not to exceed \$300 for an initial license or license renewal.

(2) In establishing fees pursuant to subsection (1), the board shall consider the actual costs incurred in carrying out its duties under this chapter.

(3) All moneys collected by the department under this chapter shall be deposited as provided under s. 456.025.

Section 8. Section 470.45, Florida Statutes, is created to read:

470.45 Disciplinary grounds and actions; reinstatement.—

The board may enter an order imposing any of the penalties provided under s. 456.072(2) against a licensee who violates any provision of s. 456.072(1), except that the board may not do any of the following:

(1) Place a licensee on probation for more than 5 years.

(2) Impose a fine that exceeds \$2,500.

(3) Suspend a license for more than 5 years.

(4) Limit or restrict a license for an indefinite period.

Section 9. Section 470.47, Florida Statutes, is created to read:

470.47 Violations and penalties.—

(1) Unless licensed or authorized under this chapter, a person who engages in the practice of applied behavior analysis, assists in the practice of applied behavior analysis, renders

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services designated as applied behavior analysis, or represents himself or herself as a practitioner of applied behavior analysis in this state commits a felony of the third degree, punishable as provided under s. 775.082, s. 775.083, or s. 775.084.

(2) Unless licensed or authorized under this chapter, a person who uses the title "licensed behavior analyst," "licensed assistant behavior analyst," or any other title that is substantially similar commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Section 470.48, Florida Statutes, is created to read:

470.48 Exceptions to applicability.—This chapter does not prohibit or restrict the practice of the following:

(1) An individual licensed under chapter 490 to practice psychology.

(2) A certified teacher authorized to practice in this state who is not a behavior analyst if he or she does not represent himself or herself as a behavior analyst. The services provided by a certified teacher must be within his or her authorized scope of practice and within the scope of his or her education, training, and experience and must be provided in the course of his or her employment in a program approved by the Department of Education. Teaching assistants, other than those engaged in pupil personnel services, and student support professionals are exempt from the requirements of this chapter

if they provide applied behavior analysis services under the supervision of a certified teacher who meets the requirements of this paragraph.

(3) A behavior analyst who practices with nonhuman clients, including, but not limited to, applied animal behaviorists and animal trainers.

(4) An individual who teaches applied behavior analysis or who conducts behavior analytic research if such teaching or research does not involve the delivery of applied behavior analysis.

(5) A matriculated college or university student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum if his or her practice under this subsection is directly supervised by a licensed behavior analyst or an instructor of an accredited course sequence approved by the Behavior Analyst Certification Board (BACB). A student or intern may not represent himself or herself as a professional behavior analyst but may use a title indicating his or her trainee status, such as "behavior analyst student," "behavior analyst intern," or "behavior analyst trainee."

(6) An unlicensed individual pursuing supervised experiential training to meet eligibility requirements for BACB certification if such training is supervised by an individual who is licensed to practice applied behavior analysis and who meets BACB supervisor requirements and if the supervised

261 experience is conducted in accordance with other BACB standards
262 and requirements.

263 (7) A board-certified behavior analyst, a doctoral level
264 board-certified behavior analyst, or an individual licensed to
265 practice applied behavior analysis in another state who resides
266 in another state and provides applied behavior analysis in this
267 state or to a resident of this state for less than 12 days per
268 year.

269 (8) A family member of a recipient of applied behavior
270 analysis services who implements certain procedures with the
271 recipient. Such a family member may not represent himself or
272 herself as a professional behavior analyst.

273 (9) A behavior analyst who provides general behavior
274 analysis services to organizations if the services are for the
275 benefit of the organizations and do not involve direct services
276 to individuals.

277 (10) A physician licensed pursuant to chapter 458 or
278 chapter 459.

279 (11) An individual licensed pursuant to chapter 491 as a
280 clinical social worker, marriage and family therapist, or mental
281 health counselor.

282 (12) A salaried employee of a private, nonprofit
283 organization providing behavior analysis services to children,
284 youth, and families if the services are provided for no charge,
285 the employee is performing duties for which he or she was
286 trained and hired, and the employee does not represent himself

or herself as a professional behavior analyst.

(13) A school psychologist certified in school psychology by the Department of Education who performs behavior analysis services as an employee of a public or private educational institution. Such exemption does not authorize unlicensed practice that is not performed directly as an employee of an educational institution.

(14) A rabbi, priest, minister, or member of the clergy of a religious denomination or sect if engaging in activities that are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate fee is charged, or if such activities are performed, with or without a fee, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect; and if the person rendering service remains accountable to the established authority thereof.

Section 11. Paragraph (g) of subsection (3) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(g) Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

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- 313 1. The Board of Acupuncture, created under chapter 457.
- 314 2. The Board of Medicine, created under chapter 458.
- 315 3. The Board of Osteopathic Medicine, created under
- 316 chapter 459.
- 317 4. The Board of Chiropractic Medicine, created under
- 318 chapter 460.
- 319 5. The Board of Podiatric Medicine, created under chapter
- 320 461.
- 321 6. Naturopathy, as provided under chapter 462.
- 322 7. The Board of Optometry, created under chapter 463.
- 323 8. The Board of Nursing, created under part I of chapter
- 324 464.
- 325 9. Nursing assistants, as provided under part II of
- 326 chapter 464.
- 327 10. The Board of Pharmacy, created under chapter 465.
- 328 11. The Board of Dentistry, created under chapter 466.
- 329 12. Midwifery, as provided under chapter 467.
- 330 13. The Board of Speech-Language Pathology and Audiology,
- 331 created under part I of chapter 468.
- 332 14. The Board of Nursing Home Administrators, created
- 333 under part II of chapter 468.
- 334 15. The Board of Occupational Therapy, created under part
- 335 III of chapter 468.
- 336 16. Respiratory therapy, as provided under part V of
- 337 chapter 468.
- 338 17. Dietetics and nutrition practice, as provided under

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

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339 part X of chapter 468.
 340 18. The Board of Athletic Training, created under part
 341 XIII of chapter 468.
 342 19. The Board of Orthotists and Prosthetists, created
 343 under part XIV of chapter 468.
 344 20. The Board of Applied Behavior Analysis, created under
 345 chapter 470.
 346 21.20. Electrolysis, as provided under chapter 478.
 347 22.21. The Board of Massage Therapy, created under chapter
 348 480.
 349 23.22. The Board of Clinical Laboratory Personnel, created
 350 under part III of chapter 483.
 351 24.23. Medical physicists, as provided under part IV of
 352 chapter 483.
 353 25.24. The Board of Opticianry, created under part I of
 354 chapter 484.
 355 26.25. The Board of Hearing Aid Specialists, created under
 356 part II of chapter 484.
 357 27.26. The Board of Physical Therapy Practice, created
 358 under chapter 486.
 359 28.27. The Board of Psychology, created under chapter 490.
 360 29.28. School psychologists, as provided under chapter
 361 490.
 362 30.29. The Board of Clinical Social Work, Marriage and
 363 Family Therapy, and Mental Health Counseling, created under
 364 chapter 491.

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~~31.30.~~ Emergency medical technicians and paramedics, as provided under part III of chapter 401.

Section 12. Subsection (4) of section 456.001, Florida Statutes, is amended to read:

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

(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 470; chapter 478; chapter 480; part III or part IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

Section 13. 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 464, ~~or~~ s. 465.022, or chapter 470 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

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no board, shall screen the results to determine if an applicant meets licensure requirements. For any subsequent renewal of the applicant's license 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.

(2) All fingerprints submitted to the Department of Law Enforcement as required under subsection (1) shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and (3). The department shall notify the Department of Law Enforcement regarding any person whose fingerprints have been retained but who is no longer licensed.

(3) The costs of fingerprint processing, including the cost for retaining fingerprints, shall be borne by the applicant subject to the background screening.

Section 14. This act shall take effect January 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1085 (2014)

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 Care Appropriations
Subcommittee

Representative Rooney offered the following:

Amendment (with title amendment)

Between lines 405 and 406, insert:

Section 14. For the 2014-2015 fiscal year, the sums of \$113,541 in recurring funds and \$37,911 in nonrecurring funds from the Medical Quality Assurance Trust Fund are appropriated to the Department of Health and 2.00 full-time equivalent positions and associated salary rate of 70,359 are authorized, for the purpose of implementing the regulatory provisions of this act. For the 2015-2016 fiscal year, the sums of \$77,266 in recurring funds and \$26,592 in nonrecurring funds from the Medical Quality Assurance Trust Fund are appropriated to the Department of Health for the purpose of implementing the regulatory provisions of this act.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1085 (2014)

Amendment No. 1

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

Remove line 27 and insert:
requirements; providing an appropriation; providing an effective
date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7141 PCB HFS 14-02 Human Trafficking
SPONSOR(S): Healthy Families Subcommittee; Harrell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1724

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee	13 Y, 0 N	Entress	Brazzell
1) Health Care Appropriations Subcommittee		Fontaine <i>WFA</i>	Pridgeon <i>[Signature]</i>
2) Health & Human Services Committee			

SUMMARY ANALYSIS

Sexual exploitation of a child is defined in s. 39.01(67)(g), F.S., which includes allowing, encouraging, or forcing a child to solicit for or engage in prostitution; engage in a sexual performance, as defined by chapter 827; or participate in the trade of sex trafficking as specified in s. 796.035, F.S. Children experiencing sexual exploitation often become bonded with their exploiters and do not see themselves as victims. These children experience trauma and are exposed to danger, but are often unable to leave their exploiter to seek help. Safe homes provide residential care and services to sexually exploited children.

S. 409.1678, F.S., governs safe homes. The bill changes statutory requirements for safe houses to establish standards for residential treatment of sexually exploited children and authorizes safe foster homes. The bill creates a certification program for safe houses and safe foster homes at the Department of Children and Families (DCF), and requires certification in order for these facilities to accept state funds specifically allocated to care for sexually exploited children. The bill allows DCF to operate one secure safe house as a pilot program, sets requirements for that safe house, provides for judicial oversight, and requires an evaluation of the pilot program.

The bill also makes administrative changes to the requirements for DCF and the community-based care agencies (CBCs) related to sexually exploited children. The bill requires DCF to create or adopt initial screening and assessment instruments for use in identifying and serving sexually exploited children, and allows a child to be placed in a safe house if the assessment instrument determines that is the most appropriate setting and a safe house is available. The bill also requires DCF, the CBCs, and the Department of Juvenile Justice (DJJ) to specially train certain employees to work with sexually exploited children. The bill requires DCF and the CBCs to hold multidisciplinary staffings to coordinate services for sexually exploited children.

The bill requires DCF and the CBCs to plan and to have response protocols in place regarding serving sexually exploited children. The bill also requires DCF, the CBCs, and DJJ to participate on any local task forces related to this population.

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct a study on commercial sexual exploitation of children in Florida and specifies topics for inclusion in the study.

The bill has a negative fiscal impact to the DCF due to the bill's requirements regarding safe home certification and inspection, the creation and evaluation of a pilot program, the development of screening and assessment tools, and administrative modifications related to training and interdepartmental coordination efforts. The House proposed General Appropriations Act provides \$3,000,000 to implement the provisions of the bill as well as provide services to youth expected to be determined as sexually exploited.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Human Trafficking

Florida law defines human trafficking as "soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person."¹ Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.² Trafficking often subjects victims to force, fraud, and coercion.³

There are no definitive statistics on the extent of human trafficking. The U.S. Department of State estimates that as many as 27 million victims are being trafficked worldwide at any given time. They also estimate that there were approximately 40,000 victims being trafficked in the United States in 2012.⁴ Florida is estimated to have the third highest rate of human trafficking in the United States, following New York and California.⁵

Commercial Sex Trafficking of Minors

Human trafficking involving commercial sex is also known as commercial sexual exploitation or commercial sex trafficking. The United States Trafficking Victims Protection Act of 2000 defines sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁶

In cases of commercial sex trafficking of minors, pimps often operate as the primary domestic sex traffickers and target particularly vulnerable youth, such as runaway and homeless youth.⁷ Pimps may engage in a "grooming" process where a child is showered with gifts, treats, and compliments in order to earn his or her trust.⁸ Often the children have low self-esteem and may come from broken families or have past childhood trauma which may include sexual or physical abuse.⁹ This makes the children easier targets because they are emotionally vulnerable, looking for someone to love and care for them. After the pimp earns the child's trust the pimp may engage in physical, sexual, and/or emotional abuse of the child.¹⁰ The effect is to psychologically and emotionally break the child so that he or she becomes completely dependent on the pimp.¹¹ Psychologists and clinicians call this phenomenon "traumatic bonding."¹² This occurs where a person has dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. These situations often include seduction, deception or betrayal, and some form of danger or risk is always present.¹³ While this is a common way that commercial sexual

¹ S. 787.06(2)(d), F.S.

² S. 787.06(1)(a), F.S.

³ *Id.*

⁴ *Trafficking in Persons Report 2013*, U.S. Department of State, accessible at: <http://www.state.gov/j/tip/rls/tiprpt/2013/>, last accessed January 6, 2014.

⁵ Healthy Families Subcommittee Presentation by Professor Terry Coonan, FSU Human Rights Center, January 14, 2014.

⁶ Trafficking Victims Protection Act of 2000, 22 USC 7101.

⁷ Sex Trafficking of Children in the United States, The Polaris Project, accessible at: <http://www.polarisproject.org/what-we-do/policy-advocacy/prosecuting-traffickers/895-sex-trafficking-of-minors> (last accessed March 2, 2014).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

exploitation occurs, some children are commercially sexually exploited by family members or organized networks.¹⁴

The Department of Homeland Security (DHS) reports that each year as many as 100,000-300,000 children in the United States are at risk of being trafficked for commercial sex in the United States.¹⁵

Commercial Sex Trafficking of Minors in Florida

The Department of Children and Families (DCF) verified 182 victims of commercial sex trafficking in FY 2012-13. Of these, nine victims were exploited by their caregiver, and 27 victims were removed from their caregivers. DCF also identified an additional 185 children who may be at risk of becoming commercial sexual exploitation victims.^{16, 17} According to DCF, there are likely many more victims in Florida than have been identified.

Safe Harbor Act

The Florida Safe Harbor Act of 2012 allows sexually exploited children to be treated as dependent children¹⁸ rather than delinquent children.¹⁹ The act amended Florida law to make child prostitution abuse of a child, rather than a criminal act by the child, and allows children who are victims of sexual exploitation to be adjudicated dependent.²⁰

Law enforcement officers are required to deliver a minor taken into custody to the DCF when there is probable cause to believe he or she has been sexually exploited.²¹ Safe houses and short-term safe houses were created by the Safe Harbor Act, and DCF is authorized to place sexually exploited children in these facilities.²²

¹⁴ *Id.*

¹⁵ *Human Trafficking 101 for School Administrators and Staff*, Blue Campaign, The Department of Homeland Security, accessible at: <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCoQFjAA&url=http%3A%2F%2Fwww.dhs.gov%2Fsites%2Fdefault%2Ffiles%2Fpublications%2Fblue-campaign%2FBlue%2520Campaign%2520-%2520Human%2520Trafficking%2520101%2520for%2520School%2520Administrators%2520and%2520Staff.pdf&ei=4DvMUp6oO4vrkQeAsYDoBg&usq=AFQjCNGLuEaOhuEVfzRuCTYISWLOrgTQ7w&sig2=AskcWjhjSulLHF6D7LHrcg>, (last accessed January 7, 2014).

¹⁶ Florida Department of Children and Families Annual Human Trafficking Report 2012-13 Federal Fiscal Year.

¹⁷ To determine whether a child is at risk of becoming a commercial sexual exploitation victim, DCF looked at three additional data sets in their IT system for dependent children (FSFN). The three indicators in FSFN indicate that that the child possibly has involvement in sexual exploitation, is possibly involved in prostitution, or were previously verified as a victim of human trafficking.

¹⁸ A child who is found to be dependent is a child who pursuant to ch. 39, F.S., is found by the court:

- (a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care;
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or
- (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

¹⁹ S. 39.001(4)(b)(2), F.S.

²⁰ S. 39.01(67), F.S.; however, child prostitution is not considered sexual abuse of a child if the child is under arrest or being prosecuted in a delinquency or criminal proceed for a violation in chapter 796 (offenses related to prostitution) or forcing a child to solicit for or engage in prostitution, engage in a sexual performance, as defined by chapter 827, or participate in the trade of sex trafficking as provided in s. 796.035.

²¹ S. 39.401(2)(b), F.S.

²² S. 409.1678, F.S.

Efforts by Department of Children and Families and the Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) conducted a tri-county pilot project implementing a screening tool for commercial sexual exploitation of children in 2012-2013. In total, there were 353 individual youth screened. Of the 353 screenings, 42 youth were verified as victims of commercial sexual exploitation. This means that 11.9% of the youth that had a history of running away (the prerequisite for a screening), and were screened, were ultimately verified by DCF as a sexual exploitation victim.²³

DCF primarily becomes aware of minors who are sexually exploited due to a call to the child abuse hotline or because the child is in the dependency system. As with any allegation of abuse, when allegations of commercial sexual exploitation of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of abuse, abandonment or neglect, an investigation by a child protective investigator is triggered.²⁴ If the allegation is verified and the child has no known parent, legal custodian, or responsible adult relative who is capable of providing the necessary and appropriate supervision and care, DCF may petition to have the child adjudicated dependent.²⁵

Community-based care lead agencies (CBCs) determine placements for children who have been adjudicated dependent.²⁶ According to DCF, CBCs may also provide services to victims of human trafficking who are not adjudicated dependent as a means of preventing future involvement in the child welfare system. DCF has taken steps to strengthen the infrastructure for serving victims of human trafficking, such as training its child protective investigators and participating in regional task forces.

DJJ has also been working to identify and provide services to human trafficking victims. In addition to the pilot project cited above, the agency secretary chairs the Florida Children and Youth Cabinet's Human Trafficking Workgroup.²⁷ The workgroup focuses on identifying ways in which Florida can end child sex trafficking. The workgroup has representation from the Governor's Office of Adoption and Child Protection, DCF, DJJ, the Florida State University Center for the Advancement of Human Rights and other stakeholders. Workgroup members have begun researching best practices throughout the nation as well as monitoring proposed legislation addressing child sex trafficking.²⁸

Human Trafficking Task Forces

Many programs for identifying and providing services for human trafficking victims have emerged through local efforts, which are unique to each community. Human trafficking task forces began as a way to raise awareness, coordinate responses, and share information regarding available services. There are nineteen regional task forces dedicated to fighting human trafficking developed throughout Florida.²⁹ The task forces consist of community members involved in human trafficking issues in that area of the state. This may include law enforcement, providers, schools, and faith based organizations. DCF is involved in the leadership in all task forces. The task forces meet at least monthly and operate according to the community's needs.

Services for Victims of Human Trafficking in Florida

Serving victims of human trafficking presents challenges for a variety of reasons.³⁰ These children often do not see themselves as exploited or victims and thus will not self-identify. Instead, they often develop

²³ Sexual Exploitation of Youth, Department of Juvenile Justice, January 23, 2014.

²⁴ S. 39.201(2)(a), F.S.

²⁵ S. 39.01(15)(g), F.S.

²⁶ E-mail correspondence with the Florida Department of Children and Families, December 20, 2013, on file with subcommittee staff.

²⁷ Florida Children and Youth Cabinet: Human Trafficking Workgroup, accessible at: <http://www.flgov.com/childrens-cabinet-human-trafficking-workgroup/> (last accessed February 2, 2014).

²⁸ *Id.*

²⁹ The task forces are in the following counties: Alachua, Bay, Broward, Collier, Duval, Escambia, Hernando, Lake, Leon, Manatee, Marion, Martin, Miami-Dade, Okaloosa, Orange, Palm Beach, Pinellas, Polk, and St. Johns.

³⁰ Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

a “trauma bond” with the traffickers, and see themselves as a companion to the trafficker.³¹ These children often run away from their placements, including from safe houses.³² In a DJJ pilot program, DJJ found that of 64% of children who were confirmed victims of commercial exploitation had a history of over 5 instances of running away.³³ Victims may also try to recruit other children from their placements to go work for the pimp.³⁴

Services are not consistently available across the state.³⁵ Availability depends on the local response which has emerged to meet the challenge in that area.³⁶ Children’s family situations also vary.³⁷ Some children come from the dependency system, but others have a family which wants to remain involved with them and to help.³⁸ There is also not a standardized assessment tool for identifying victims,³⁹ and due to inconsistent training, the level of awareness of the signs of victimization and appropriate responses varies among personnel.⁴⁰

Residential Services - Safe Houses

The Safe Harbor Act in 2012 provided for “safe houses”. Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁴¹ residential facility.⁴² Safe houses must provide a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children and must have awake staff members 24 hours a day. Safe houses must also hold a license as a family foster home or residential child-caring agency. Each facility must be appropriately licensed in this state as a family foster home or a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation within 1 year after being licensed.⁴³ A safe house serving children who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Miscellaneous expenses associated with caring for these children;
- Provide necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and

³¹ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

³² Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

³³ Sexual Exploitation of Youth, Department of Juvenile Justice, January 23, 2014.

³⁴ Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

³⁵ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ E-mail correspondence with the Department of Children and Families, December 23, 2013, on file with committee staff.

⁴⁰ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

⁴¹ The term “secure” is defined as a facility which is supervised 24 hours a day by staff members who are awake while on duty.

⁴² S. 409.1678 (1)(b), F.S.

⁴³ According to DCF, there are currently no entities that accredit safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

- Ensuring necessary and appropriate health care and dental care.⁴⁴

DCF is required to assess dependent children for placement in a safe house if the child is older than six. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and
- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.⁴⁵ There are currently two safe houses in Florida, with a total of 11 beds statewide. A third safe house is projected to open in 2014 with 7 beds.⁴⁶

Residential Services - Therapeutic Foster Homes

The Citrus Health Network developed the Citrus Helping Adolescents Negatively Impacted by Commercial Exploitation (CHANCE) Program in South Florida.⁴⁷ The program uses therapeutic foster care and a community response team for victims of commercial sexual exploitations.⁴⁸ The program places children in a therapeutic foster home, where only one child is placed.⁴⁹ The parents receive specialized training for this population. Foster parents are required to be available 24 hours per day, 7 days per week, to respond to crises or the need for special therapeutic interventions.⁵⁰ The foster homes are also required to have an advanced alarm system to alert the foster parents of intruders and allow the parents to be aware if the child is leaving the home.⁵¹ The CHANCE program also includes the following intensive clinical and support services:

- Assessment and evaluation of the child and the family;
- Individual therapy 2-5 times per week with a therapist trained in trauma focused-cognitive behavioral therapy and motivational interviewing;
- Family therapy available as necessary;
- Assignment of a life coach who is a survivor of commercial sexual exploitation for each child;
- Assignment of a peer mentor to provider peer support and encouragement;
- Clinical staff available 24/7 for crisis management or supportive intervention;
- Certified behavioral analyst services to address the behavioral needs of this population;
- Targeted case management to facilitate linkage to all appropriate support services;
- Regular monitoring by the treatment team to ensure all service and treatment plan goals are consistently pursued; and
- Group therapy with other survivors of commercial sex exploitation.

The University of South Florida is contracted to conduct an evaluation of the CHANCE program. The evaluation will be available in November 2014.⁵²

⁴⁴ S. 409.1671, F.S.

⁴⁵ S. 39.524, F.S.

⁴⁶ E-mail correspondence with the Florida Department of Children and Families, December 20, 2013, on file with subcommittee staff.

⁴⁷ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

Residential Services - Specialized Group Placements

Specialized group placements are also available to serve commercially sexually exploited children. These group placements do not meet the statutory criteria to be safe houses, but have specialized programs serving sexually exploited children. These facilities may also serve children who have not experienced sexual exploitation. OASIS offers group placements for children served by DCF and DJJ as well as children not involved in either system.⁵³ To participate in its program for sex trafficking victims, the victims must be placed there by their caregivers. This program serves both boys and girls. The OASIS program was funded through a specific legislative line item.⁵⁴ Other providers with specialized programs that are not designated as safe houses include Chrysalis, Images of Glory, and Deveraux.⁵⁵

Other victims of human trafficking have been placed with parents or relatives, in mental health facilities, in substance abuse facilities, in therapeutic foster homes, in foster care, in DJJ detention centers, or remained in their current placement, after identification as a victim.⁵⁶

Non-Residential Services

The CHANCE program serves 17 children not placed in safe houses with wraparound services. These services include assessment and evaluation, treatment and service plan development, 24/7 on-call clinical staff, individualized and family therapy, life coaching, peer mentorship, case management, certified behavioral analyst services, substance abuse treatment, and psychiatric services.⁵⁷ Victims of human trafficking may be offered other services generally available to children in need through the existing service array, such as substance abuse services, mental health services, and educational services.⁵⁸

Residential Programs in Other States

Limited research has been completed nationwide regarding best practices to serve and treat victims of human trafficking. However, there are some residential programs in other states which serve victims of human trafficking.

Wellspring Living (Wellspring) is a residential facility in Georgia, which serves girls ages 12-17 who are victims of human trafficking.⁵⁹ This program is licensed as a "maximum watchful oversight" child care facility.⁶⁰ The facility has security features such as locked doors, unbreakable Plexiglas windows, and a fence surrounding the facility. While this program is a locked facility, it has alarmed doors that the children can open. If the alarmed door is pushed there is a delay for the door to open and alarms inform the program staff that somebody has tried to leave the facility. While Wellspring considers themselves a locked facility, exit can occur without the involvement of facility staff. At Wellspring, girls receive trauma-informed therapies, life skills classes, education,⁶¹ group therapies, family therapy, and other needed services.⁶² Following the program, most girls return to their families or to a foster-home or group home setting. The program is working to develop a study of its effectiveness.

In California, Children of the Night (COTN) is a private, non-profit program for children between the ages of 11 and 17 that receives referrals from across the country and only accepts those children whom it believes are willing to leave prostitution and participate in long-term, comprehensive treatment.

⁵³ E-mail correspondence with the Department of Children and Families, February 24, 2014, on file with subcommittee staff.

⁵⁴ E-mail correspondence with the Department of Children and Families, January 14, 2014, on file with subcommittee staff.

⁵⁵ E-mail correspondence with the Department of Children and Families, February 24, 2014, on file with subcommittee staff.

⁵⁶ Florida Department of Children and Families Annual Human Trafficking Report 2012-13 Federal Fiscal Year.

⁵⁷ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Provider Resource Results*, State of Georgia Out-of-Home Care, accessible at:

https://www.gascore.com/resourceguide/search_results.cfm.

⁶¹ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁶² *Wellspring Living for Girls*, Wellspring Living, accessible at: <https://wellspringliving.org/wellspring-living-for-girls/>.

COTN is a homelike environment with 24 beds.⁶³ The children follow a highly structured program that includes attending an on-site school and a college placement program.⁶⁴ After children complete the comprehensive program of academic and life-skills education, caseworkers are available to provide ongoing case management to graduates.⁶⁵ COTN has existed since its inception through the sole support of private contributions from individuals, corporations, and foundations.⁶⁶

Treatment for Victims of Human Trafficking

Trauma-Focused Cognitive Behavioral Therapy

In the immediate as well as long-term aftermath of exposure to trauma, children are at risk of developing significant emotional and behavioral difficulties.⁶⁷ Trauma-focused cognitive behavioral therapy (TF-CBT) is an evidence-based treatment approach shown to help children, adolescents, and their caregivers overcome trauma-related difficulties.⁶⁸ It is designed to reduce negative emotional and behavioral responses following child sexual abuse, domestic violence, traumatic loss, and other traumatic events.⁶⁹ The treatment is based on learning and cognitive theories, and addresses distorted beliefs and attributions related to the abuse.⁷⁰ TF-CBT provides a supportive environment in which children are encouraged to talk about their traumatic experience.⁷¹ TF-CBT combines elements drawn from:

- Cognitive therapy, which aims to change behavior by addressing a person's thoughts or perceptions, particularly those thinking patterns that create distorted or unhelpful views;
- Behavioral therapy, which focuses on modifying habitual responses (e.g., anger, fear) to identified situations or stimuli; and
- Family therapy, which examines patterns of interactions among family members to identify and alleviate problems.⁷²

TF-CBT is a short-term treatment typically provided in 12 to 18 sessions of 50 to 90 minutes, depending on treatment needs.⁷³ The intervention is usually provided in outpatient mental health facilities, but it has been used in hospital, group home, school, community, residential, and in-home settings.⁷⁴

Recent research findings suggest that TF-CBT is more effective than nondirective or client centered treatment approaches for children who have a history of multiple traumas (e.g., sexual abuse, exposure to domestic violence, physical abuse, as well as other traumas).⁷⁵

Strengths-Based Approach

An individualized, strengths-based approach refers to policies, practice methods, and strategies that identify and draw upon the strengths of children, families, and communities.⁷⁶ Strengths-based practice involves a shift from a deficit approach, which emphasizes problems and pathology, to a positive

⁶³ Children of the Night, accessible at: <https://www.childrenofthenight.org/index.html>, last accessed March 2, 2014.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Trauma-Focused Cognitive Behavioral Therapy for Children Affected by Sexual Abuse or Trauma, The Administration for Children and Families, U.S. Department of Health and Human Services, August 2012, accessible at: <https://www.childwelfare.gov/pubs/trauma/>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *An Individualized, Strengths-Based Approach in Public Child Welfare Driven Systems of Care*, Administration for Children and Families, US Department of Health and Human Services, accessible at:

<https://www.childwelfare.gov/pubs/acloserlook/strengthsbased/strengthsbased1.cfm> (last accessed February 25, 2014).

partnership with the family.⁷⁷ The approach acknowledges each child and family's unique set of strengths and challenges, and engages the family as a partner in developing and implementing the service plan.⁷⁸

Involuntary Examination and Commitment

Current law allows children who have not committed any crimes to be confined to receive treatment and keep those children safe. Under s. 394.463, also known as the Baker Act, children can be involuntarily confined in a hospital or crisis stabilization unit for mental health assessment.⁷⁹ In 2012 there were 25,286 involuntary exams of children between the ages of 4 and 17 in Florida.⁸⁰

The assessment is performed by an expert, a physician or clinical psychologist.⁸¹ If an involuntary examination finds that child needs involuntary inpatient placement (IPP) for treatment, he or she is either retained in the facility where the involuntary exam was performed or transferred to a mental health treatment facility.⁸² The court must hold a hearing within 5 days and find that the child needs IPP in order for the child to continue receiving services.⁸³ The court must review whether or not the child requires involuntary inpatient treatment every six months.⁸⁴

Section 39.407(6), F.S., allows DCF to place children involuntarily in mental health treatment facilities.⁸⁵ At the facility, the dependent children are examined by a psychiatrist or psychologist to determine whether treatment is necessary.⁸⁶ The treatment program must review the appropriateness and suitability of the placement every 30 days to determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program.⁸⁷ The court with jurisdiction over the child must also conduct a hearing to review the status of the child's residential treatment plan every 3 months after the child's admission to the residential treatment program.⁸⁸

Effect of Proposed Changes

Initial Screening and Assessment Instruments

The bill creates s. 409.1754, F.S., related to administrative requirements for serving sexually exploited children. The bill deletes the current assessment process to determine whether a child should be placed in a safe house and requires DCF to develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and identify an appropriate residential environment for sexually exploited children. The bill requires that the assessment instruments include the ability to determine whether placement in a safe house is appropriate. The bill requires that the initial screening and assessment instruments used to determine appropriate residential placement of a sexually exploited child consider:

- Risk of the sexually exploited child running away;
- Risk of the sexually exploited child recruiting other children into the commercial sex trade;
- Level of the sexually exploited child's attachment to his or her exploiter;

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ S. 394.463, F.S.

⁸⁰ *Baker Act Examinations for Youth in Calendar Year 2012*, Annette Christy, Associate Professor, University of South Florida, September 2013.

⁸¹ S. 394.463 (2)(f), F.S.

⁸² S. 394.467 (2), F.S.

⁸³ S. 394.467 (6), F.S.

⁸⁴ S. 394.467 (7)(d), F.S.

⁸⁵ S. 39.407(6), F.S.

⁸⁶ S. 39.407(6 (b)-(c), F.S.

⁸⁷ S. 39.407(6 (f), F.S.

⁸⁸ S. 39.407(6)(h), F.S.

- Level and type of trauma that the sexually exploited child has endured;
- Nature of the child's interactions with law enforcement;
- Length of time that the child was sexually exploited; and
- Extent of any substance abuse by the sexually exploited child.

The bill specifies that that if a safe house placement is determined to be the most appropriate setting using the assessment tool, the child may be placed in a safe house, as long as a placement is available. However, the bill specifies that a child may be placed in another setting if it is more appropriate to his or her needs and the child's behaviors can be managed in those settings in a manner that does not endanger other children, or if a safe house or safe foster home is not available.

The bill requires the initial screening and assessment instruments to be validated if possible and requires the instruments to be used by the DCF, juvenile assessment centers, CBCs, and providers serving sexually exploited children. The bill requires DCF to consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children to develop or adopt the initial screening and assessment instruments. The bill requires DCF to establish rules specifying the initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected through them and specifies that entities are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

DCF and CBC Requirements

The bill requires DCF and CBCs to assign cases where a child is alleged, suspected, or known to have been sexually exploited to child protective investigators (CPIs) and case managers who have received specialized intensive training in investigating cases involving a sexually exploited child. Similarly, the bill requires the Department of Juvenile Justice juvenile probation staff administering the detention risk assessment instrument to have specialized intensive training in identifying and serving sexually exploited children. The bill specifies CPIs and case managers must receive this training prior to accepting any case involving sexually exploited children.

The bill requires DCF and CBCs to conduct regular multidisciplinary staffings for sexually exploited children to ensure that all relevant information is known to all parties and that services are coordinated across systems. The bill requires DCF or the CBC to coordinate these staffings and invite individuals involved in the child's care. The bill specifies that this may include, but is not limited to, staff from the juvenile justice system, the school district, service providers, and victim advocates.

The bill requires each CBC and DCF region to jointly identify the service needs of sexually exploited children and plan for developing sufficient capacity to meet them.

The bill requires each CBC and DCF circuit to establish local protocols and procedures that are responsive to the varying circumstances that sexually exploited children are in. The bill requires the protocols and procedures to address the full continuum of needs of sexually exploited children to the extent of available funding. The bill requires that the protocols and procedures be used by CMs and CPIs when working with a sexually exploited child.

The bill requires the local DCF circuit administrator or his or her designee, the local circuit director of the Department of Juvenile Justice or his or her designee, and the CBC chief operating officer, or his or her designee to participate in any task force, committee, council, advisory group, coalition, or other entity active in the circuit for coordinating responses to address human trafficking or sexual exploitation of children. If no such entity exists, the bill specifies that the local DCF circuit administrator must initiate one.

The bill provides DCF rulemaking authority regarding the administrative requirements.

Safe Houses and Safe Foster Homes

The bill amends the definition of "safe house" as a "group residential placement certified by DCF to care for sexually exploited children," and creates and defines "safe foster home" as "a foster home certified by DCF to care for sexually exploited children." The bill also deletes "short-term safe houses" from statute and adds the term "safe foster home" to s. 797.07, F.S.

The bill also amends the definition of a sexually exploited child to include those children who have not been adjudicated dependent, which permits them to be served by safe houses and safe foster homes.

The bill specifies that safe houses and safe foster homes are required to provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. The bill requires DCF to certify safe homes and safe foster homes.

Certification Requirements

The bill amends the current requirements for safe houses, and creates requirements for safe foster homes, in order to be certified by DCF. The bill requires that safe houses and safe foster homes be licensed as residential child-caring agencies or licensed family foster homes, respectively, and that safe houses have awake staff on duty 24 hours a day.

The bill requires that safe houses and safe foster homes house a single sex, group children with similar chronological ages or levels of maturity together, and treat and care for these children in a manner that separates them from children with other needs. The bill specifies that safe houses and safe foster homes may care for other populations, as long as those populations do not interact with the sexually exploited children. The bill requires that safe houses and safe foster homes use trauma-informed and strength based approaches to care, to the extent possible and appropriate.

The bill requires that safe houses and safe foster homes provide appropriate security through facility design, hardware, technology, staffing, and siting, including but not limited to using external video monitoring or alarmed doors, or being situated in a remote location. The bill specifies that sexually exploited children must be allowed to exit the safe house or safe foster home if they choose.

Services

The bill requires safe houses and safe foster homes to provide services tailored to the needs of sexually exploited children and to determine these needs on a case-by-case basis. The bill specifies that in addition to the services required for traditional foster homes and child caring facilities, safe houses and safe foster homes also coordinate the following services:

- A comprehensive assessment of the service needs of each resident;
- Victim-witness counseling;
- Family counseling;
- Behavioral health services;
- Treatment and intervention for sexual assault;
- Life skills services;
- Mentoring by a survivor of sexual exploitation, if available and appropriate;
- Substance abuse screening, and where necessary, access to treatment;
- Planning services for the successful transition of residents back to the community;
- Activities for sexually exploited children residing in the safe house, scheduled in a manner that provides them with a full schedule; and
- Any additional services determined by DCF.

The bill requires foster parents of safe foster homes to complete intensive training regarding the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those

needs using strength-based and trauma-informed approaches. The bill requires DCF to specify this training by rule. The bill also allows DCF to establish additional criteria in rule for the certification of safe houses and safe foster homes.

The bill requires that safe houses and safe foster homes reapply for certification and be inspected annually. The bill allows DCF to place a moratorium on referrals and revoke the certification of a safe house or safe foster home if it does not meet the requirements of certification.

The bill specifies that in order to accept state funds specifically allocated to provide services to sexually exploited children, the residential facility must be certified as a safe house or safe foster home.

Secure Safe House Pilot Program

The bill authorizes DCF to facilitate the development of one secure safe house on a pilot basis in order to evaluate the therapeutic benefits of a secure residential setting within the broader array of residential and community-based services available to meet the needs of sexually exploited children. The bill specifies that the secure safe house is intended for those sexually exploited children with the greatest needs and for whom no less restrictive placement has been or will be effective in addressing the effects of severe abuse, violence, trauma, or exploiter control endured by the child. The bill specifies that the setting is only available to sexually exploited children who have been, or are in the process of being, adjudicated dependent. The bill specifies that children can remain in the secure safe house from five days to up to 10 months.

The bill requires DCF to select the region where the secure safe house can be sited and to collaborate with the local CBC to design the pilot project. The bill specifies that the secure safe house must be a certified safe house, have no more than 15 beds, and have security features to prevent any entry into or exit from the facility or its grounds without the involvement of staff. The bill specifies that these features may include, but are not limited to, walls, fencing, gates, and locking doors.

The bill requires that the facility staff, the child, the child's parent or guardian, and the case manager develop a plan regarding how the child will be cared for at least thirty days prior to leaving the facility.

Placement in the Secure Safe House and Due Process

The bill specifies that sexually exploited dependent children may be placed in the secure safe house from any region of Florida and that DCF, in consultation with the CBCs serving the children, must approve all placements in the secure safe house. The bill also provides that a child may only be placed in the secure safe house if he or she has intensive needs, mental health issues, or other factors which prevent the child from being safely cared for in a less restrictive setting.

The bill specifies that in addition to the other criteria required to be used to determine whether safe house placement is appropriate for a child, a child's lack of willingness to participate in less intensive programs and lack of treatment progress in less restrictive placements must also be considered. The bill specifies that DCF may establish additional criteria for placement in the secure safe house.

The bill allows a dependent child to be taken to a secure safe house for evaluation of the appropriateness of placement for treatment if:

- There is probable cause that the child has been sexually exploited;
- The child meets the criteria to be placed in a safe house;
- The child recently engaged in behaviors that subject the child to victimization, violence, emotional harm, serious bodily harm, or health risks that endanger the child, posing a real and present threat of substantial harm to the child's well-being;
- There is a substantial likelihood that without care or treatment the child will endanger or cause serious bodily harm to others, as evidenced by previous behavior; and

- Less restrictive placement alternatives are unlikely to be effective in keeping the child from engaging in the behaviors specified above, as determined by a DCF or CBC employee.

The bill allows a DCF official to initiate an evaluation of a child if the child is the subject of an open investigation or under the supervision of the court, as long as the child meets the criteria for evaluation specified above. The bill allows a CPI, law enforcement officer, case manager, or other qualified individual to transport the child to the secure safe house for assessment and stabilization.

The bill allows the secure safe house to admit the child for assessment and stabilization pending the filing and adjudication of a petition by DCF alleging the need for a change in placement. The bill requires the secure safe house to provide notice regarding the child's admittance for assessment to the child's parent or guardian, case manager, and guardian ad litem (GAL). The bill specifies that if the child does not have a GAL and a lawyer, the court must appoint them.

The bill requires a psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker at the secure safe house to evaluate the child. The bill specifies that this professional must have experience working with sexually exploited children. The bill requires the evaluation be conducted as soon as it is appropriate to do so, given the child's emotional, mental, and physical condition and that facility staff continue evaluating the child throughout the placement for evaluation in the secure safe house. The bill permits the staff to access and request relevant information, including, the child's case file, and allows the child's parent or guardian, foster parent, case manager, and GAL to provide any information they believe is relevant to the evaluation. The bill requires that the evaluation be based on whether the child meets criteria for admission to the secure safe house.

If the evaluator determines that a secure safe house would not best meet the child's needs, DCF must place the child in the least restrictive setting which is appropriate for the child's needs. If the evaluator determines that placement in the secure safe house would best meet the child's needs, DCF must petition the court within 24 hours for placement, and the secure safe house must admit the child for placement pending a judicial determination. If the evaluator determines that additional evaluation is required before a determination may be made, DCF must petition the court within 24 hours to extend the placement for evaluation purposes up to 30 days or until a determination may be made regarding the need for extended secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

The bill requires DCF to provide all evaluations to the child's parent or guardian, case manager, and GAL.

The bill specifies that if the evaluation results in a determination that placement for treatment in a secure safe house would best meet the child's needs, DCF may file a petition for placement in dependency court. The bill requires DCF to provide notice to the child's parents. The bill specifies that if the child's parents consent to the placement, the court must enter an order placing the child in the secure safe house for up to 45 days, pending review by the court. The bill also specifies that if the child's parents refuse or are unable to consent, within 24 hours of the filing of the petition, the court must hear all parties in person or by counsel, or both. The bill specifies that if the court concludes that the child meets the criteria for placement in the secure safe house, it must order that the child be placed in the secure safe house for a period of up to 45 days, pending review by the court.

The bill requires the secure safe house to review the child's progress toward the treatment goals and assess whether the child's needs can be met in a less restrictive treatment program. This review and assessment must be done every 20 days, commencing upon the beginning of treatment according to the treatment plan. The bill requires the secure safe house to submit a report of its findings to the child's parent or guardian, the GAL, the case manager, DCF, and the court. The bill specifies that DCF may not reimburse a secure safe house until the secure safe house has submitted every written report that is due.

The bill requires the court to conduct an initial review of the status of the child's treatment plan no later than 35 days after the child's placement in the secure safe house. The bill also requires the court to review the child's treatment plan 20 days after the initial review and then every 60 days thereafter, until the child no longer requires placement in the secure safe house, or until the child has resided in the secure safe house for 10 months. The bill specifies that if the child has resided in the secure safe house for 9 months, a court hearing must be held to determine an appropriate setting and appropriate services for the child after 10 months.

The bill requires the child's continued placement in a secure safe house to be a subject of judicial review at any time that a judicial review is held pursuant to s. 39.701, F.S. The bill specifies that if, at any time, the court determines that the child has not been sexually exploited or that the placement in the safe house is no longer appropriate, the court must order DCF to place the child in the least restrictive setting that is best suited to meet the child's needs. The bill requires DCF to place the child in another setting when continued placement in the secure safe house is no longer appropriate.

Services in the Secure Safe Home

The bill requires the secure safe house to prepare an individualized treatment plan for the child within 10 days after placement for treatment. The bill requires the treatment plan to be approved by DCF and to address the preliminary residential treatment and comprehensive discharge, identifying care appropriate for the child upon completion of residential treatment.

The bill requires the child to be involved in the preparation of the plan to the maximum feasible extent, consistent with the child's ability to do so. The bill requires the GAL, child's parents, guardian, or foster parents, and staff from the child's home school district to be involved with the child's treatment and discharge planning needs. The bill authorizes other individuals to participate in plan development, as appropriate. The bill requires the secure safe house to provide a copy and an explanation of the plan to the child, the child's parent or guardian, the GAL, the case manager, and the court.

Pilot Program Evaluation

The bill requires DCF to contract for an evaluation of the secure safe house. The bill specifies that the evaluation must address the effectiveness in facilitating the rehabilitation of sexually exploited children. The bill specifies that the evaluation must describe the program model and facility design, assess the effectiveness of the facility in meeting the treatment and security needs of sexually exploited children, analyze its cost-effectiveness, and provide recommendations regarding the continued operation of the pilot program and any changes or enhancements. The bill specifies that the evaluation must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2018.

OPPAGA Study

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study on commercial sexual exploitation of children in Florida. The bill requires the study to assess the extent of sexual exploitation of children in Florida, including the prevalence in various regions of the state, estimates of the number of youth who have been sexually exploited, and service gaps for treating this population. The bill requires the study to analyze the operation of safe houses in Florida and address the effectiveness of safe houses and safe foster homes in addressing the safety, therapeutic, health, and emotional needs of sexually exploited children, including the nature and appropriateness of subsequent placements, extent of sexual exploitation post-placement, and educational attainment.

The bill requires OPPAGA to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2017.

The bill requires DCF to establish rules regarding the initial screening and assessment instruments and the training for staff of safe houses and foster parents in safe foster homes. The bill provides DCF rulemaking authority regarding additional criteria for certification of safe houses and safe foster homes.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 409.1754, F.S., relating to sexually exploited children.
- Section 2:** Amends s. 409.1678, F.S., relating to specialized residential options for children who are victims of sexual exploitation.
- Section 3:** Amends s. 39.524, F.S., relating to safe-harbor residential placement.
- Section 4:** Creates s. 39.4072, F.S., relating to evaluation for secure safe house placement of a dependent sexually exploited child.
- Section 5:** Creates s. 39.4074, F.S., relating to placement in a secure safe house of a dependent sexually exploited child.
- Section 6:** Amends s. 39.401, F.S., relating to taking a child alleged to be dependent into custody.
- Section 7:** Amends s. 796.07, F.S., relating to prohibiting prostitution and related acts.
- Section 8:** Amends s. 985.115, F.S., relating to release or delivery from custody.
- Section 9:** Creates an unnumbered section of law relating to the Office of Program Policy Analysis and Government Accountability.
- Section 10:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The total, estimated cost to DCF is \$2,806,623 as outlined below. There may be other indeterminate costs to the department and are discussed in the *Fiscal Comments* section⁸⁹.

- Currently, DCF licenses foster homes as part of the department's routine regulatory operations. The bill creates a unique designation for licensed foster homes that provide safe home services. The department's certification of safe homes provides a workload increase of approximately \$265,788 to fund three full-time equivalent positions.
- The bill allows DCF to develop a pilot program to evaluate the effectiveness of one secure safe home offering the security requirements and therapeutic services outlined in the bill. DCF has estimated the maximum cost to be \$2,222,850 to contract for such a facility using the Statewide Inpatient Psychiatric Service (SIPP) per diem rate. This rate would be charged by vendors for the therapeutic services provided in the pilot program and is subject to negotiation. The estimate is based upon the following assumptions using the maximum SIPP rate, but may be lower if a less costly rate is applied:

$$\$406 \text{ per day (S.I.P.P. per diem)} \times 15 \text{ children} \times 365 \text{ days} = \$2,222,850$$

Also, the pilot may include no more than 15 children, thereby decreasing this estimate if there are fewer participants. The required evaluation of the pilot is expected to cost \$222,285, based upon department estimates.

⁸⁹ Data used to support the Expenditures and Fiscal Comments sections was obtained from the bill analysis provided by the Department of Children and Families, dated March 6, 2014, and on file with staff of the Health Care Appropriations Subcommittee.
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DATE: 4/3/2014

- The bill includes judicial review when an evaluation indicates sexual exploitation and requires continued legal involvement through the course of treatment if the child is placed in a secure facility. The department's Children's Legal Services would assume the responsibility and requires an additional attorney to fulfil this workload increase in the amount of \$95,700, based upon department estimates.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Certain provisions of the bill may have an indeterminate fiscal impact to DCF as follows:

- The bill requires the development or adoption of an assessment tool specifically designed to recognize sexual exploitation in children, and that the selection of such tool be a collaborative effort among DCF and other state agencies. There is insufficient, existing data on such assessments upon which a cost estimate can be developed.
- The bill requires specialized training be provided to DCF child protective investigators and CBC case managers. The cost for developing the curriculum and providing the instruction is indeterminate as it is unknown if such material currently exists.
- Other administrative costs related to the required participation in multidisciplinary meetings and development of local procedures and protocols relevant to working with sexually exploited youth. Transportation costs for the secure, initial placement of the child may be required, but is unknown at the time. Modifications to the Florida Safe Family Network (FSFN) data management system may be warranted to accommodate additional information from the CBCs specific to this population.

The House proposed General Appropriations Act provides \$3,000,000 to the CBC lead agencies to fund additional direct services for this population. The GAA specifies that the allocation of these funds be based upon an evaluation of the areas of greatest need, and that a report containing the distribution methodology, the number of children served, and other relevant findings be made available by January 1, 2015.

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:

The due process clauses of the U.S. and Florida Constitutions prohibit a state from depriving any person, including a minor, of life, liberty or property without due process of law.⁹⁰ Secure placements affect the constitutionally-protected liberty interests of a minor. A minor must therefore be provided with due process before his or her liberty interests may be overridden. The U.S. Supreme Court has established three requirements which must be met before a state can override a minor's liberty interests.⁹¹

- (1) An inquiry must be performed by a neutral fact-finder, which is not required to be in the form of a judicial inquiry;
- (2) The inquiry must probe the child's background using all available resources, including an interview with the minor; and
- (3) There must be periodic review by a neutral fact-finder.

The state bears the burden of establishing each of these requirements by clear and convincing evidence.⁹² The state must additionally establish that the secure placement serves a compelling state interest which is being accomplished through the least intrusive means possible.⁹³

The bill addresses these issues by:

- Establishing criteria that must be met to place a child for evaluation or treatment;
- Requiring an evaluation by a trained professional of whether the child meets criteria for placement in the safe house;
- Providing for the evaluator to access information about the child to inform the evaluation;
- Providing for court involvement in placing the child for evaluation and then for treatment; and
- Requiring ongoing review by the court of the child's progress and the appropriateness of the placement.

Additionally, the bill requires the appointment of both a guardian ad litem and a lawyer to represent the child during the process.

B. RULE-MAKING AUTHORITY:

The bill requires DCF to establish rules regarding the initial screening and assessment instruments and the training for staff of safe houses and foster parents in safe foster homes. The bill provides DCF rulemaking authority regarding additional criteria for certification of safe houses and safe foster homes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁹⁰ U.S.C.A. Const. Amend. 14; Article 1, section 9, Florida Constitution. *M.W. v. Davis*, 756 So.2d 90, 97 (Fla. 2000). This includes rights to both substantive and procedural due process. Substantive due process protects the full panoply of individual rights from unwarranted encroachment by the government while procedural due process serves as a vehicle to ensure fair treatment through the proper administration of justice where substantive rights are at issue

⁹¹ *Parham v. J.R.*, 442, U.S. 584, 99 S.Ct. 2493, 61 L.Ed.2d 101 (1979); these requirements were adopted in Florida in *M.W. v. Davis*, 756 So.2d 90, 97 (Fla. 2000).

⁹² *State v. Westerheide*, 831 So.2d 93 (Fla. 2002)

⁹³ *Florida Dept. of Children and Families v. F.L.*, 880 So.2d 602 (Fla. 2004).

1 A bill to be entitled

2 An act relating to human trafficking; creating s.
3 409.1754, F.S.; requiring the Department of Children
4 and Families, in consultation with other agencies,
5 organizations, and individuals, to employ screening
6 and assessment instruments to determine appropriate
7 services for sexually exploited children; providing
8 criteria for placement of such children in safe houses
9 or safe foster homes; permitting certain agencies to
10 use additional assessment instruments; requiring
11 certain employees of the department, community-based
12 care lead agencies, and staff administering the
13 detention risk assessment instrument to receive
14 specialized training; requiring the department and
15 lead agencies to hold multidisciplinary staffings
16 under certain conditions; requiring the department and
17 lead agencies to develop specific plans and protocols;
18 directing the department, the Department of Juvenile
19 Justice, and lead agencies to participate in
20 coalitions, task forces, or similar organizations to
21 coordinate local responses to human trafficking;
22 requiring the department to initiate a local task
23 force under certain circumstances; amending s.
24 409.1678, F.S.; providing definitions; requiring the
25 department to certify safe houses and safe foster
26 homes and certain residential facilities; providing

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27 requirements for certification as a safe house or safe
28 foster home; requiring the department to inspect safe
29 houses and safe foster homes; requiring training for
30 persons providing services in safe houses and safe
31 foster homes; providing rulemaking authority to the
32 department; authorizing the department to develop a
33 secure safe house pilot program; providing
34 requirements for the pilot program; requiring the
35 department to submit a report to the Governor and
36 Legislature; providing for service providers to obtain
37 federal or local funding under certain conditions;
38 providing for scope of availability of services;
39 amending s. 39.524, F.S.; providing for review of safe
40 harbor placement of a child in a safe house or safe
41 foster home; revising criteria for placement;
42 authorizing placement in settings other than safe
43 houses and safe foster homes under certain conditions;
44 creating s. 39.4072, F.S.; providing legislative
45 findings; specifying persons authorized to transport a
46 child to a secure safe house for evaluation; providing
47 criteria for determination that a child shall be
48 placed in a secure safe house; specifying persons
49 authorized to conduct evaluations for placement;
50 requiring the department to provide a copy of
51 evaluations to specified persons; creating s. 39.4074,
52 F.S.; authorizing the department to file a petition

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

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for placement in a secure safe house if the child meets certain criteria; providing for court determination and judicial review; requiring a secure safe house to submit periodic reports regarding a child's progress in treatment to the department; amending ss. 39.401, 796.07, and 985.115, F.S.; conforming references; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study and submit a report to the Governor and Legislature; providing an effective date.

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

Section 1. Section 409.1754, Florida Statutes, is created to read:

409.1754 Sexually exploited children; screening and assessment; training; case management; task forces.—

(1) SCREENING AND ASSESSMENT.—

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children when developing or adopting initial screening and assessment instruments. Initial

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79 screening and assessment instruments shall assess the
80 appropriate placement of a sexually exploited child, including
81 whether placement in a safe house or safe foster home is
82 appropriate, and shall consider, at a minimum, the following
83 factors:

- 84 1. Risk of the child running away.
- 85 2. Risk of the child recruiting other children into the
86 commercial sex trade.
- 87 3. Level of the child's attachment to his or her
88 exploiter.
- 89 4. Level and type of trauma that the child has endured.
- 90 5. Nature of the child's interactions with law
91 enforcement.
- 92 6. Length of time that the child was sexually exploited.
- 93 7. Extent of any substance abuse by the child.
- 94 (b) The initial screening and assessment instruments shall
95 be validated, if possible, and must be used by the department,
96 juvenile assessment centers as provided in s. 985.135, and
97 community-based care lead agencies.
- 98 (c) The department shall adopt rules that specify the
99 initial screening and assessment instruments to be used and
100 provide requirements for their use and for the reporting of data
101 collected through their use.
- 102 (d) The department, the Department of Juvenile Justice,
103 and community-based care lead agencies may use additional
104 assessment instruments in the course of serving sexually

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exploited children.

(2) TRAINING; CASE MANAGEMENT; TASK FORCES.-

(a)1. The department and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to have been sexually exploited are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a sexually exploited child.

2. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving sexually exploited children.

(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings relating to services provided for sexually exploited children to ensure that all parties possess relevant information and services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.

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131 (c)1. Each region of the department and each community-
132 based care lead agency shall jointly assess local service
133 capacity to meet the specialized service needs of sexually
134 exploited children and establish a plan to develop the necessary
135 capacity. Each plan shall be developed in consultation with
136 local law enforcement officials, local school officials, runaway
137 and homeless youth program providers, local probation
138 departments, children's advocacy centers, guardians ad litem,
139 public defenders, state attorneys' offices, safe houses, and
140 child advocates and service providers who work directly with
141 sexually exploited children.

142 2. Each region of the department and each community-based
143 care lead agency shall establish local protocols and procedures
144 for working with sexually exploited children which are
145 responsive to the individual circumstances of each child. The
146 protocols and procedures shall take into account the varying
147 types and levels of trauma endured; whether the sexual
148 exploitation is actively occurring, occurred in the past, or is
149 inactive but likely to recur; and the differing community
150 resources and degrees of familial support that are available.
151 Child protective investigators and case managers must use these
152 protocols and procedures when working with a sexually exploited
153 child.

154 (3)(a) To the extent that funds are available, the local
155 regional director may provide training to local law enforcement
156 officials who are likely to encounter sexually exploited

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157 | children in the course of their law enforcement duties. Training
158 | shall address the provisions of this section and how to identify
159 | and obtain appropriate services for sexually exploited children.
160 | The local circuit administrator may contract with a not-for-
161 | profit agency with experience working with sexually exploited
162 | children to provide the training. Circuits may work
163 | cooperatively to provide training, which may be provided on a
164 | regional basis. The department shall assist circuits to obtain
165 | available funds for the purpose of conducting law enforcement
166 | training from the Office of Juvenile Justice and Delinquency
167 | Prevention of the United States Department of Justice.

168 | (b) Circuit administrators or their designees, chief
169 | probation officers of the Department of Juvenile Justice or
170 | their designees, and the chief operating officers of community-
171 | based care lead agencies or their designees shall participate in
172 | any task force, committee, council, advisory group, coalition,
173 | or other entity in their service area that is involved in
174 | coordinating responses to address human trafficking or sexual
175 | exploitation of children. If such entity does not exist, the
176 | circuit administrator for the department shall initiate one.

177 | Section 2. Section 409.1678, Florida Statutes, is amended
178 | to read:

179 | (Substantial rewording of section. See
180 | s. 409.1678, F.S., for present text.).
181 | 409.1678 Specialized residential options for children who
182 | are victims of sexual exploitation.—

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

(a) "Safe foster home" means a foster home certified by the department under this section to care for sexually exploited children.

(b) "Safe house" means a group residential placement certified by the department under this section to care for sexually exploited children.

(c) "Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(67)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(a) A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by the department. A residential facility accepting state funds appropriated to provide services to sexually exploited children or child victims of sex trafficking must be certified by the department as a safe house or a safe foster home. An entity may not use the designation "safe house" or "safe foster home" and hold itself out as serving sexually exploited children unless the entity is certified under this section.

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209 (c) To be certified, a safe house must hold a license as a
 210 residential child-caring agency, as defined in s. 409.175, and a
 211 safe foster home must hold a license as a family foster home, as
 212 defined in s. 409.175. A safe house or safe foster home must
 213 also:

214 1. Use strength-based and trauma-informed approaches to
 215 care, to the extent possible and appropriate.

216 2. Serve exclusively one sex.

217 3. Group sexually exploited children by age or maturity
 218 level.

219 4. Care for sexually exploited children in a manner that
 220 separates those children from children with other needs. Safe
 221 houses and safe foster homes may care for other populations if
 222 the children who have not experienced sexual exploitation do not
 223 interact with children who have experienced sexual exploitation.

224 5. Have awake staff members on duty 24 hours a day, if a
 225 safe house.

226 6. Provide appropriate security through facility design,
 227 hardware, technology, staffing, and siting, including, but not
 228 limited to, external video monitoring or door exit alarms, a
 229 high staff-to-client ratio, or being situated in a remote
 230 location that is isolated from major transportation centers and
 231 common trafficking areas. However, such security must allow
 232 sexually exploited children to exit the safe house if they
 233 choose.

234 7. Meet other criteria established by department rule,

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which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of sexually exploited children and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes must provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
 2. Family counseling.
 3. Behavioral health care.
 4. Treatment and intervention for sexual assault.
 5. Education tailored to the child's individual needs, including remedial education if necessary.
 6. Life skills training.
 7. Mentoring by a survivor of sexual exploitation, if available and appropriate for the child.
 8. Substance abuse screening and, when necessary, access to treatment.
 9. Planning services for the successful transition of each child back to the community.
 10. Activities structured in a manner that provides sexually exploited children with a full schedule.
- (e) The community-based care lead agencies shall ensure

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261 that foster parents of safe foster homes and staff of safe
262 houses complete intensive training regarding, at a minimum, the
263 needs of sexually exploited children, the effects of trauma and
264 sexual exploitation, and how to address those needs using
265 strength-based and trauma-informed approaches. The department
266 shall specify the contents of this training by rule and may
267 develop or contract for a standard curriculum. The department
268 may establish by rule additional criteria for the certification
269 of safe houses and safe foster homes that shall address the
270 security, therapeutic, social, health, and educational needs of
271 sexually exploited children.

272 (f) The department shall inspect safe houses and safe
273 foster homes before certification and annually thereafter to
274 ensure compliance with the requirements of this section. The
275 department may place a moratorium on referrals and may revoke
276 the certification of a safe house or safe foster home that fails
277 at any time to meet the requirements of, or rules adopted under,
278 this section.

279 (g) The certification period for safe houses and safe
280 foster homes shall run concurrently with the terms of their
281 licenses.

282 (3) SECURE SAFE HOUSE PILOT PROGRAM.—

283 (a) The department may facilitate the development of one
284 secure safe house on a pilot basis to evaluate the therapeutic
285 benefits of a secure residential setting within the broader
286 array of residential and community-based services available to

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287 meet the needs of sexually exploited children. The secure safe
288 house is intended for those sexually exploited children with the
289 greatest needs, for whom no less restrictive placement has been
290 or will be effective in addressing the effects of severe abuse,
291 violence, trauma, or exploiter control that the child endured.
292 The setting is only available to a sexually exploited child:

293 1. Who is the subject of an open investigation due to an
294 allegation of abuse, neglect, or exploitation or has been
295 adjudicated dependent.

296 2. Who has been placed in accordance with ss. 39.4072 and
297 39.4074.

298 3. Whose needs cannot be met in less restrictive
299 placements.

300 (b) The secure safe house must be a certified safe house
301 and may have no more than 15 beds. The department shall select
302 the region where the secure safe house shall be sited. The
303 department shall collaborate with the local community-based care
304 lead agency to design the pilot program, including, but not
305 limited to, selection of the location, selection of the
306 provider, the facility's security features, referral processes,
307 and services provided within the secure safe house.

308 (c) A child from any region of the state may be placed in
309 the secure safe house pursuant to ss. 39.4072 and 39.4074. The
310 department, in consultation with the community-based care lead
311 agencies serving the children, shall approve all placements of
312 children in the facility. In addition to the criteria in s.

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313 409.1754(1) and any other criteria determined by the department
314 pursuant to that subsection, the following criteria, at a
315 minimum, shall also be used to determine whether a child
316 qualifies for placement in the secure safe house:

317 1. Lack of willingness to participate in less intensive
318 programs.

319 2. Lack of treatment progress in less restrictive
320 placements if the child has been placed elsewhere.

321 (d) The secure safe house shall include features that
322 prevent entry into or exit from the facility or its grounds
323 without the involvement of staff, including, but not limited to,
324 walls, fencing, gates, and locking doors.

325 (e) A child may be placed in the secure safe house for a
326 minimum of 5 days and a maximum of 10 months. Pursuant to s.
327 39.4074(2), the secure safe house shall regularly review and
328 report on the child's progress, and during judicial reviews, the
329 court shall determine whether continued placement in the secure
330 safe house is appropriate. The department shall place the child
331 in another setting when continued placement in the secure safe
332 house is no longer appropriate.

333 (f) The department shall contract for an evaluation of the
334 effectiveness of the secure safe house pilot program in
335 facilitating the rehabilitation of sexually exploited children.
336 The evaluation report shall be submitted to the Governor, the
337 President of the Senate, and the Speaker of the House of
338 Representatives by February 1, 2018. The evaluation report

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shall, at a minimum, describe the program model and facility design, assess the effectiveness of the facility in meeting the treatment and security needs of sexually exploited children, analyze the cost-effectiveness of the pilot program, and provide recommendations regarding the continued operation of the pilot program and any changes or enhancements.

(4) (a) This section does not prohibit any provider of services for sexually exploited children from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(b) The lead agency shall ensure that all children residing in safe houses or safe foster homes have a case manager and a case plan, whether or not the child is a dependent child.

(5) The services specified in this section may, to the extent possible provided by law and with authorized funding, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

Section 3. Section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

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(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in s. 39.01(67)(g) must be assessed for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). ~~The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports, psychological testing or evaluation that has occurred, current and historical information from the guardian ad litem, if one has been assigned, current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child, and any other information concerning the availability and suitability of safe-house placement.~~ If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs and the child's behaviors can be managed so as not to endanger other children served in that setting, or if a safe house or safe foster home in unavailable. ~~As used in this section, the term "available" as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.~~

(2) The results of the assessment described in s.

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409.1754(1) ~~subsection (1)~~ and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(3)(a) By December 1 of each year, the department shall report to the Legislature on the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed.

(b) The department shall maintain data specifying the number of children who were referred to a safe house or safe foster home for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

Section 4. Section 39.4072, Florida Statutes, is created to read:

39.4072 Evaluation for secure safe house placement.-

(1) LEGISLATIVE FINDINGS.-The Legislature finds that victims of child sexual exploitation as defined in s. 39.01(67)(g) often exhibit behaviors that place them and others

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417 in danger. The Legislature finds that when sexually exploited
418 children repeatedly run away from their homes or residential
419 placements to unsafe placements, engage in commercial sexual
420 activity as defined in s. 787.06(2)(b), or seek to maintain a
421 relationship with their exploiters, these children and other
422 children are in danger of being sexually exploited and
423 physically abused, which can lead to grave emotional and
424 physical harm.

425 (2) CRITERIA.—A child may be taken to a secure safe house
426 for evaluation of the appropriateness of placement for treatment
427 in a secure safe house as provided in this section if there is
428 probable cause that the child has been sexually exploited as
429 defined in s. 39.01(67)(g), and:

430 (a) The child meets the criteria in s. 409.1678(3) for
431 safe house placement.

432 (b) The child recently engaged in behaviors that subject
433 the child to victimization, violence, emotional harm, serious
434 bodily harm, or health risks that endanger the child, posing a
435 real and present threat of substantial harm to the child's well-
436 being. Such behaviors include, but are not limited to,
437 repeatedly running away from home or residential placement to an
438 unsafe situation, engaging in commercial sexual activity as
439 defined in s. 787.06(2)(b), and seeking to maintain a
440 relationship with the child's trafficker despite attempts to
441 separate the child from the trafficker.

442 (c) There is a substantial likelihood that without care or

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443 treatment, the child will endanger or cause serious bodily harm
444 to others, as evidenced by previous behavior, including
445 recruiting other children into the commercial sex trade or using
446 coercion such as violence, illegal substances, or other means to
447 compel their participation in such trade.

448 (d) Less restrictive placement alternatives are unlikely
449 to be effective in keeping the child from engaging in behaviors
450 described in paragraphs (b) and (c), as determined by the
451 department or community-based care lead agency.

452 (3) EVALUATION.—

453 (a) An official of the department may initiate an
454 evaluation of a child who is the subject of an open
455 investigation or under the supervision of the court if the
456 criteria in subsection (2) are met. A child protective
457 investigator, law enforcement officer, case manager, or other
458 qualified individual may transport the child to the secure safe
459 house, which may admit the child for assessment and
460 stabilization pending the filing and adjudication of a petition
461 by the department, as provided in s. 39.522(1), alleging a need
462 for a change in placement. The secure safe house shall provide
463 notice regarding the child's admittance for assessment for
464 secure safe house placement to the child's parent or guardian,
465 case manager, and guardian ad litem. If the child does not have
466 a guardian ad litem and an attorney, the court shall appoint
467 them.

468 (b) A psychiatrist, clinical psychologist, licensed mental

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469 health counselor, or licensed clinical social worker at the
470 secure safe house who has training in working with sexually
471 exploited children shall conduct an initial evaluation of the
472 child as soon as appropriate to do so given the child's
473 emotional, mental, and physical condition. The child may be
474 provided with medical screening and treatment pursuant to s.
475 39.407. The secure safe house may initiate appropriate
476 therapeutic services to stabilize and treat the child.

477 (c) Facility staff shall continue to evaluate the child
478 throughout his or her placement for evaluation in the secure
479 safe house and may access the child's case file and other
480 relevant records and request information from other individuals
481 involved in the child's life. The child's parent or guardian,
482 case manager, and guardian ad litem may provide any information
483 they believe is relevant to the evaluation. The evaluation of
484 the child shall be based on whether the child meets the criteria
485 established under s. 409.1678(3) for admission to the secure
486 safe house, and the criteria in paragraphs (2)(a) and (b).

487 (d) Within 5 days after the child is admitted to the
488 secure safe house for evaluation, the psychiatrist, clinical
489 psychologist, licensed mental health counselor, or licensed
490 clinical social worker shall determine, based on the evaluation,
491 whether the secure safe house would best meet the child's needs
492 or additional evaluation is required before a conclusion can be
493 reached.

494 1. If the secure safe house would not best meet the

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child's needs, the department shall place the child in the least restrictive setting that is appropriate for the child's needs.

2. If placement in the secure safe house for treatment would best meet the child's needs, the department shall petition the court for placement under s. 39.4074 within 24 hours after the determination is made, and the secure safe house shall admit the child pending a judicial determination.

3. If additional evaluation is required before a determination may be made regarding the child's need for secure safe house placement for treatment, the department shall petition the court within 24 hours after the initial evaluation is conducted to extend the placement of the child for evaluation purposes for up to 30 days or until a determination is made regarding the need for secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

(f) The department shall provide all evaluations to the child's parent or guardian, case manager, and guardian ad litem.

Section 5. Section 39.4074, Florida Statutes, is created to read:

39.4074 Placement in a secure safe house.—

(1) PETITION FOR PLACEMENT.—If an evaluation pursuant to s. 39.4072(3) results in a determination that placement for treatment in a secure safe house would best meet the child's needs, the department may file a petition for placement in dependency court. The department shall provide notice to the

521 child's parents as required under s. 39.502(1). If the child's
522 parents consent to such placement, the court shall enter an
523 order placing the child in the secure safe house for up to 45
524 days, pending review by the court as provided in this section.
525 If the child's parents refuse or are unable to consent, the
526 court shall hear all parties in person or by counsel, or both,
527 within 24 hours after the filing of the petition. If the court
528 concludes that the child meets the criteria for placement in the
529 secure safe house as provided in s. 39.4072(2), the court shall
530 order the child to be placed in the secure safe house for up to
531 45 days, pending review by the court.

532 (2) TREATMENT PLAN AND JUDICIAL REVIEW.—

533 (a) Within 10 days after placement of a child for
534 treatment in a secure safe house, the secure safe house must
535 prepare an individualized treatment plan that addresses both
536 preliminary residential treatment and comprehensive discharge
537 and identifies care appropriate for the child upon completion of
538 residential treatment. The plan must be approved by the
539 department. The child must be involved in the preparation of the
540 plan to the maximum extent feasible, consistent with the child's
541 ability to do so. The child's parent or guardian, guardian ad
542 litem, and staff from the child's home school district must be
543 involved with planning the child's treatment and discharge.
544 Other individuals may also participate in development of the
545 plan, as appropriate. A secure safe house shall provide a copy
546 and an explanation of the plan to the child, the child's parent

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547 or guardian, the guardian ad litem, and the case manager. The
548 department shall also provide the plan to the court.

549 (b) At 20-day intervals, commencing when treatment begins
550 according to the treatment plan, the secure safe house must
551 review the child's progress toward treatment goals and assess
552 whether the child's needs could be met in a less restrictive
553 treatment program. The secure safe house must submit a report of
554 its findings to the child's parent or guardian, guardian ad
555 litem, case manager, the department, and the court. The
556 department may not reimburse a secure safe house until the
557 secure safe house has submitted every written report that is
558 due.

559 (c) The court shall conduct an initial review of the
560 status of the child's treatment plan no later than 35 days after
561 the child's placement for treatment in the secure safe house.
562 For any child in a secure safe house at the time a judicial
563 review is held pursuant to s. 39.701, the child's continued
564 placement in a secure safe house must be a subject of the
565 judicial review. If, at any time, the court determines that the
566 child has not been sexually exploited or that the child has been
567 sexually exploited but is not appropriate for placement in a
568 secure safe house, the court shall order the department to place
569 the child in the least restrictive setting that is best suited
570 to meet the child's needs.

571 (d) After the initial review, the court must review the
572 child's treatment plan every 60 days until the child no longer

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requires placement in the secure safe house or until the child
has resided in the secure safe house for 10 months. When the
child has resided in the secure safe house for 9 months, a court
hearing shall be held to determine an appropriate setting and
appropriate services for the child.

Section 6. Paragraph (b) of subsection (2) and paragraph
 (b) of subsection (3) of section 39.401, Florida Statutes, are
 amended to read:

39.401 Taking a child alleged to be dependent into
 custody; law enforcement officers and authorized agents of the
 department.—

(2) If the law enforcement officer takes the child into
 custody, that officer shall:

(b) Deliver the child to an authorized agent of the
 department, stating the facts by reason of which the child was
 taken into custody and sufficient information to establish
 probable cause that the child is abandoned, abused, or
 neglected, or otherwise dependent. For such a child for whom
 there is also probable cause to believe he or she has been
 sexually exploited, the law enforcement officer shall deliver
 the child to the department. ~~The department may place the child~~
~~in an appropriate short-term safe house as provided for in s.~~
~~409.1678 if a short-term safe house is available.~~

For cases involving allegations of abandonment, abuse, or
 neglect, or other dependency cases, within 3 days after such

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release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care ~~or in a short-term safe house if the child is a sexually exploited child,~~ or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child. Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138. In addition, the department may authorize placement

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of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

Section 7. Subsection (6) of section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Family Services for the sole purpose of funding safe houses and safe foster homes ~~short-term safe houses~~ as provided in s. 409.1678.

Section 8. Paragraph (b) of subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255 or s. 985.26, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(b) Contingent upon specific appropriation, to a shelter

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approved by the department or to an authorized agent ~~or short-term safe house under s. 39.401(2)(b).~~

Section 9. The Office of Program Policy Analysis and Government Accountability shall conduct a study on commercial sexual exploitation of children in Florida. The study shall assess the extent of commercial sexual exploitation of children, including, but not limited to, its prevalence in various regions of the state. The study shall also identify specialized services needed by sexually exploited children and any gaps in the availability of such services by region, including, but not limited to, residential services and specialized therapies. The study shall analyze the effectiveness of safe houses, safe foster homes, and other residential options for serving sexually exploited children in addressing their safety, therapeutic, health, educational, and emotional needs, including, but not limited to, the nature and appropriateness of subsequent placements, extent of sexual exploitation postplacement, and educational attainment. By July 1, 2017, the Office of Program Policy Analysis and Government Accountability shall report its findings 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, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7141 (2014)

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 Care Appropriations Subcommittee

Representative Harrell offered the following:

Amendment (with title amendment)

Between lines 671 and 672, insert:

Section 10. For fiscal year 2014-2015, The Department of Children and Families may request a budget amendment pursuant to chapter 216, Florida Statutes, to transfer no more than \$3,000,000 in general revenue funds between Specific Appropriations 323 through 342 of the 2014-2015 General Appropriations Act (House Bill 5001) in order to implement the provisions of this act. Three full-time equivalent positions with associated salary rate of 116,427 are established to implement the provisions of this act.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7141 (2014)

Amendment No. 1

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

Remove line 62 and insert:
and Legislature; providing for a transfer of general revenue
funds and establishment of positions; providing an effective
date.