



Health & Human Services Committee

Thursday, January 25, 2018
11:00 AM – 12:00 PM
Morris Hall (17 HOB)

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Committee

Start Date and Time: Thursday, January 25, 2018 11:00 am
End Date and Time: Thursday, January 25, 2018 12:00 pm
Location: Morris Hall (17 HOB)
Duration: 1.00 hrs

Consideration of the following bill(s):

CS/HB 417 Pub. Rec./Child Advocacy Center Personnel and Child Protection Team Members by Oversight, Transparency & Administration Subcommittee, Jenne
HB 1009 Closing Gap Grant Program by Brown

Consideration of the following proposed committee bill(s):

PCB HHS 18-01 -- Optometry

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Wednesday, January 24, 2018.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, January 24, 2018.

NOTICE FINALIZED on 01/23/2018 4:18PM by Iseminger.Bobbye

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 417 Pub. Rec./Child Advocacy Center Personnel and Child Protection Team Members
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Jenne
TIED BILLS: IDEN./SIM. **BILLS:** SB 1212

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|-------------------|--|
| 1) Health Quality Subcommittee | 12 Y, 0 N | Langston | McElroy |
| 2) Oversight, Transparency & Administration Subcommittee | 13 Y, 0 N, As CS | Toliver | Harrington |
| 3) Health & Human Services Committee | | Langston <i>W</i> | Calamas <i>CC</i> |

SUMMARY ANALYSIS

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements child protective investigation efforts in cases of child abuse and neglect. CPTs provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment.

Child advocacy centers (CACs) are community-based, child-focused facilities where child victims of abuse or neglect are interviewed, and may receive medical exams, therapy, and other critical services.

HB 417 exempts from public records requirements the home addresses, telephone numbers, dates of birth, and photographs of:

- Certain current or former directors, managers, supervisors, and clinical employees of a CAC;
- CPT employees whose duties are related to certain types of CPT investigations or that provide services as part of a multidisciplinary case review team; and
- Spouses and children of the above CAC and CPT personnel.

The bill also exempts the places of employment of spouses and children of these personnel as well as the names and locations of schools and day care facilities attended by these children.

The bill provides a statement of public necessity as required by the Florida Constitution.

The bill also provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill may have a minimal fiscal impact on state or local governments. See Fiscal Comments.

The bill provides an effective date of July 1, 2018.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

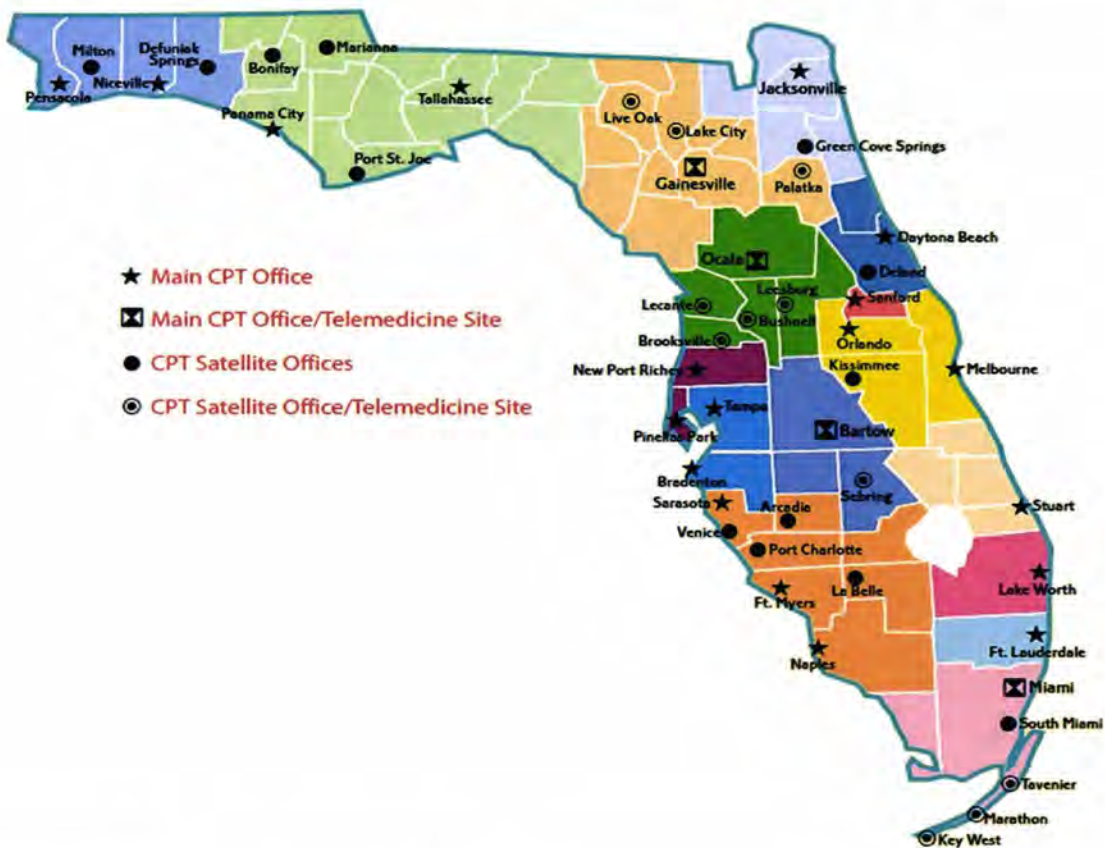
A. EFFECT OF PROPOSED CHANGES:

Present Situation

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the Department of Children and Families (DCF) and local sheriffs' offices in cases of child abuse and neglect.¹ CPTs provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.² The Department of Health (DOH) Children's Medical Services program contracts for CPT services with local community-based programs.³

CPTs are divided into 15 circuits across the state and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.⁴ Each circuit is supervised by one or more child protection team medical directors, depending on its size and the subdivision of the particular circuit.⁵



¹ S. 39.01(13), F.S.; see also Florida Department of Health, Children's Medical Services. *Child Protection Teams* http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited January 23, 2018).

² Florida Department of Health, Children's Medical Services. *Child Protection Teams* http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited January 23, 2018).

³ S. 39.303, F.S.

⁴ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last accessed January 23, 2018).

⁵ *Id.*

Certain reports of child abuse, abandonment, and neglect to the DCF central abuse hotline must be referred to CPTs:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child five years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.⁶

Each CPT must be capable of providing the following services:

- Medical diagnosis and evaluation;
- Child forensic interviews;
- Child and family assessments;
- Multidisciplinary staffings;
- Psychological and psychiatric evaluations;
- Community awareness campaigns; and
- Expert court testimony.⁷

CPT staff also provide training services for child protection investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community.⁸

Child Advocacy Centers

Child advocacy centers (CACs) are community-based, child-focused facilities where child victims of abuse or neglect are interviewed and may receive medical exams, therapy, and other critical services.⁹ CACs bring together professionals to confer and conclude about investigations, treatment, and prosecution of child abuse cases.¹⁰ The primary goal of a CAC is to minimize the level of trauma experienced by child victims, improve prosecutions, and provide efficient and thorough provision of necessary services to the child victim and the child's family.¹¹ CACs provide services such as:

- Forensic interviews conducted in a non-threatening, child-friendly environment;
- Crisis intervention and emotional support for victims and non-offending family members;
- Counseling for victims and non-offending family members;
- Medical evaluations and services;
- Multidisciplinary review of cases by a team of professionals, such as law enforcement officials, CPTs, prosecutors, medical professionals, mental health professionals, victim assistance staff, and child advocates;
- Evidence-based prevention and intervention programs to reduce the likelihood of child maltreatment and to provide safe and caring homes for children; and

⁶ S. 39.303(4), F.S.

⁷ S. 39.303(3), F.S.

⁸ S. 39.303(3)(h), F.S.

⁹ Department of Health, *Agency Legislative Bill Analysis for 2018 House Bill 417*, (October 31, 2017) (on file with Health and Human Services Committee staff).

¹⁰ Florida Network of Child Advocacy Centers, *What is a CAC?*, <http://www.fncac.org/what-cac> (last visited January 23, 2018).

¹¹ *Id.*

- Professional training and community education to effectively respond to child abuse.¹²

The Florida Network of Children's Advocacy Centers (FNCAC) is the statewide membership organization representing all local CACs in Florida.¹³ Membership in FNCAC¹⁴ requires that each CAC:

- Be a private, nonprofit incorporated agency or a governmental entity;
- Be a child protection team, or by written agreement incorporate the participation and services of a child protection team;
- Have a neutral, child-focused facility where interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse;
- Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity;
- Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires;
- Provide case tracking of child abuse cases seen through the center;
- Provide referrals for medical exams and mental health therapy;
- Provide training for various disciplines in the community that deal with child abuse; and
- Have an interagency commitment covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.¹⁵

The Nancy J. Cotterman Center, a CAC in Broward County,¹⁶ has received three public records requests for information relating to its CPT and CAC personnel.¹⁷

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings.¹⁸ The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹⁹ The public also has a right to notice of, and access to meetings of any collegial public body of the executive branch of state government or of any local government at which official acts are to be taken or at which public business is to be transacted or discussed.²⁰ The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.²¹

Florida law specifies the conditions under which public access must be provided to government records and meetings.²² The Public Records Act²³ guarantees every person's right to inspect and copy any

¹² *Id.*

¹³ Florida Network of Child Advocacy Centers, *About Us*, <https://www.fncac.org/about-us> (last visited January 23, 2018).

¹⁴ There are currently 27 CACs in Florida. *Id.*

¹⁵ Section 39.3035(1), F.S.

¹⁶ Broward.org, *Community Partnerships: Nancy J. Cotterman Center*,

<http://www.broward.org/HumanServices/CommunityPartnerships/NancyJCottermanCenter/Pages/Default.aspx> (last visited January 23, 2018).

¹⁷ Email from Miriam Firpo-jimenez, RE: NJCC Public Records Exemption Question (Nov. 9, 2017) (on file with Health and Human Services Committee staff).

¹⁸ FLA. CONST., art. I, s. 24.

¹⁹ FLA. CONST., art. I, s. 24(a).

²⁰ FLA. CONST., art. I, s. 24(b).

²¹ *Id.*

²² Ch. 119, F.S.

²³ *Id.*

state or local government public record.²⁴ The Sunshine Law²⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be noticed and open to the public.²⁶

The Legislature may create an exemption to public records or open meetings requirements.²⁷ An exemption must specifically state the public necessity justifying the exemption²⁸ and must be tailored to accomplish the stated purpose of the law.²⁹ There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be confidential and exempt.³⁰

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public record or open meeting exemptions.³¹ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment.³² The Legislature must reenact the exemption in order to save it from repeal.³³

The OGSR provides that a public record or open meeting exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary³⁴ to meet one of the following purposes:

- Allow the state or its political subdivision to effectively and efficiently administer a program, the administration of which would be significantly impaired without the exemption; or
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only personal identifying information may be exempted under this provision; or
- Protect trade or business secrets.³⁵

²⁴ "Public record" means "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." S. 119.011(12), F.S. "Agency" means "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." S. 119.011(2), F.S. The Public Records Act does not apply to legislative or judicial records, *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992), however, the Legislature's records are public pursuant to s. 11.0431, F.S.

²⁵ S. 286.011, F.S.

²⁶ S. 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

²⁷ FLA. CONST., art. I, s. 24(c).

²⁸ *Id.*

²⁹ *Id.*

³⁰ A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See *WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-692 (1985).

³¹ S. 119.15, F.S. An exemption is considered to be substantially amended if it expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

³² S. 119.15(3), F.S.

³³ *Id.*

³⁴ S. 119.15(6)(b), F.S.

³⁵ *Id.*

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.³⁶

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then neither a public necessity statement nor a two-thirds vote is required. If the Legislature allows an exemption to sunset, the previously exempt records will retain their exempt status unless provided for by law.³⁸

Effect of Proposed Changes

HB 417 exempts from public records requirements the home addresses, telephone numbers, dates of birth, and photographs of:

- Current or former directors, managers, supervisors, and clinical employees of a CAC that meet the requirements of s. 39.3035, F.S.;
- CPT employees whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, or child exploitation or to provide services as part of a multidisciplinary case review team; and
- Spouses and children of the above CAC and CPT personnel.

Additionally, the bill exempts the places of employment of spouses and children of these personnel and the names and locations of schools and day care facilities attended by the children of those personnel.

The bill provides a public necessity statement as required by the Florida Constitution, specifying that CAC and CPT personnel and their families may be in danger of physical and emotional harm from disgruntled individuals who may react inappropriately and violently to actions taken by such personnel. The bill further provides that the risk continues after the personnel no longer holds a position at a CAC or CPT. The bill finds that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

The bill also provides that the public record exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 2: Provides a statement of public necessity.

Section 3: Provides an effective date.

³⁶ *Id.*

³⁷ FLA. CONST., art. I, s. 24(c).

³⁸ S. 119.15(7), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could have a minimal fiscal impact on state agencies because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. In addition, agencies could incur costs associated with redacting the exempt information prior to releasing a record. These costs would be absorbed within existing resources, as they are part of the day-to-day responsibilities of agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement:

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; therefore, it requires a two-thirds vote for final passage.

Public Necessity Statement:

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; therefore, it includes a public necessity statement.

Breadth of Exemption:

Article I, section 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill seeks to prevent the disclosure certain identifying information of certain CPT and CAC personnel and their families to protect their safety. Thus, the bill does not appear to be in conflict with the constitutional requirement that an exemption be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment made three changes to the bill. The amendment:

- Removes references to “social security numbers” as there is a general public record exemption for social security numbers for all current and former agency personnel in s. 119.071(4)(a), F.S.
- Removes the requirement that personnel submit a written request in order to use the exemption.
- Alters the public necessity statement to more closely mirror the substance of the bill by adding the qualifying phrase “whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, or child exploitation or to provide services as a part of a multidisciplinary case review team” in reference to child protection team members.

This analysis is drafted to the committee substitute as passed by the Oversight, Transparency & Administration Subcommittee.

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A bill to be entitled
 An act relating to public records; amending s.
 119.071, F.S.; providing an exemption from public
 records requirements for certain identifying and
 location information of child advocacy center
 personnel or child protection team members, and their
 spouses and children; providing for retroactive
 application; providing for future legislative review
 and repeal of the exemption; providing a statement of
 public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section
 119.071, Florida Statutes, is amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term "telephone
 numbers" includes home telephone numbers, personal cellular
 telephone numbers, personal pager telephone numbers, and
 telephone numbers associated with personal communications
 devices.

2.a. The home addresses, telephone numbers, dates of
 birth, and photographs of active or former sworn or civilian law

26 enforcement personnel, including correctional and correctional
27 probation officers, personnel of the Department of Children and
28 Families whose duties include the investigation of abuse,
29 neglect, exploitation, fraud, theft, or other criminal
30 activities, personnel of the Department of Health whose duties
31 are to support the investigation of child abuse or neglect, and
32 personnel of the Department of Revenue or local governments
33 whose responsibilities include revenue collection and
34 enforcement or child support enforcement; the names, home
35 addresses, telephone numbers, photographs, dates of birth, and
36 places of employment of the spouses and children of such
37 personnel; and the names and locations of schools and day care
38 facilities attended by the children of such personnel are exempt
39 from s. 119.07(1) and s. 24(a), Art. I of the State
40 Constitution. This sub-subparagraph is subject to the Open
41 Government Sunset Review Act in accordance with s. 119.15 and
42 shall stand repealed on October 2, 2022, unless reviewed and
43 saved from repeal through reenactment by the Legislature.

44 b. The home addresses, telephone numbers, dates of birth,
45 and photographs of current or former nonsworn investigative
46 personnel of the Department of Financial Services whose duties
47 include the investigation of fraud, theft, workers' compensation
48 coverage requirements and compliance, other related criminal
49 activities, or state regulatory requirement violations; the
50 names, home addresses, telephone numbers, dates of birth, and

51 places of employment of the spouses and children of such
52 personnel; and the names and locations of schools and day care
53 facilities attended by the children of such personnel are exempt
54 from s. 119.07(1) and s. 24(a), Art. I of the State
55 Constitution. This sub-subparagraph is subject to the Open
56 Government Sunset Review Act in accordance with s. 119.15 and
57 shall stand repealed on October 2, 2021, unless reviewed and
58 saved from repeal through reenactment by the Legislature.

59 c. The home addresses, telephone numbers, dates of birth,
60 and photographs of current or former nonsworn investigative
61 personnel of the Office of Financial Regulation's Bureau of
62 Financial Investigations whose duties include the investigation
63 of fraud, theft, other related criminal activities, or state
64 regulatory requirement violations; the names, home addresses,
65 telephone numbers, dates of birth, and places of employment of
66 the spouses and children of such personnel; and the names and
67 locations of schools and day care facilities attended by the
68 children of such personnel are exempt from s. 119.07(1) and s.
69 24(a), Art. I of the State Constitution. This sub-subparagraph
70 is subject to the Open Government Sunset Review Act in
71 accordance with s. 119.15 and shall stand repealed on October 2,
72 2022, unless reviewed and saved from repeal through reenactment
73 by the Legislature.

74 d. The home addresses, telephone numbers, dates of birth,
75 and photographs of current or former firefighters certified in

76 compliance with s. 633.408; the names, home addresses, telephone
 77 numbers, photographs, dates of birth, and places of employment
 78 of the spouses and children of such firefighters; and the names
 79 and locations of schools and day care facilities attended by the
 80 children of such firefighters are exempt from s. 119.07(1) and
 81 s. 24(a), Art. I of the State Constitution. This sub-
 82 subparagraph is subject to the Open Government Sunset Review Act
 83 in accordance with s. 119.15, and shall stand repealed on
 84 October 2, 2022, unless reviewed and saved from repeal through
 85 reenactment by the Legislature.

86 e. The home addresses, dates of birth, and telephone
 87 numbers of current or former justices of the Supreme Court,
 88 district court of appeal judges, circuit court judges, and
 89 county court judges; the names, home addresses, telephone
 90 numbers, dates of birth, and places of employment of the spouses
 91 and children of current or former justices and judges; and the
 92 names and locations of schools and day care facilities attended
 93 by the children of current or former justices and judges are
 94 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 95 Constitution. This sub-subparagraph is subject to the Open
 96 Government Sunset Review Act in accordance with s. 119.15 and
 97 shall stand repealed on October 2, 2022, unless reviewed and
 98 saved from repeal through reenactment by the Legislature.

99 f. The home addresses, telephone numbers, dates of birth,
 100 and photographs of current or former state attorneys, assistant

101 state attorneys, statewide prosecutors, or assistant statewide
102 prosecutors; the names, home addresses, telephone numbers,
103 photographs, dates of birth, and places of employment of the
104 spouses and children of current or former state attorneys,
105 assistant state attorneys, statewide prosecutors, or assistant
106 statewide prosecutors; and the names and locations of schools
107 and day care facilities attended by the children of current or
108 former state attorneys, assistant state attorneys, statewide
109 prosecutors, or assistant statewide prosecutors are exempt from
110 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

111 g. The home addresses, dates of birth, and telephone
112 numbers of general magistrates, special magistrates, judges of
113 compensation claims, administrative law judges of the Division
114 of Administrative Hearings, and child support enforcement
115 hearing officers; the names, home addresses, telephone numbers,
116 dates of birth, and places of employment of the spouses and
117 children of general magistrates, special magistrates, judges of
118 compensation claims, administrative law judges of the Division
119 of Administrative Hearings, and child support enforcement
120 hearing officers; and the names and locations of schools and day
121 care facilities attended by the children of general magistrates,
122 special magistrates, judges of compensation claims,
123 administrative law judges of the Division of Administrative
124 Hearings, and child support enforcement hearing officers are
125 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

126 Constitution. This sub-subparagraph is subject to the Open
 127 Government Sunset Review Act in accordance with s. 119.15 and
 128 shall stand repealed on October 2, 2022, unless reviewed and
 129 saved from repeal through reenactment by the Legislature.

130 h. The home addresses, telephone numbers, dates of birth,
 131 and photographs of current or former human resource, labor
 132 relations, or employee relations directors, assistant directors,
 133 managers, or assistant managers of any local government agency
 134 or water management district whose duties include hiring and
 135 firing employees, labor contract negotiation, administration, or
 136 other personnel-related duties; the names, home addresses,
 137 telephone numbers, dates of birth, and places of employment of
 138 the spouses and children of such personnel; and the names and
 139 locations of schools and day care facilities attended by the
 140 children of such personnel are exempt from s. 119.07(1) and s.
 141 24(a), Art. I of the State Constitution.

142 i. The home addresses, telephone numbers, dates of birth,
 143 and photographs of current or former code enforcement officers;
 144 the names, home addresses, telephone numbers, dates of birth,
 145 and places of employment of the spouses and children of such
 146 personnel; and the names and locations of schools and day care
 147 facilities attended by the children of such personnel are exempt
 148 from s. 119.07(1) and s. 24(a), Art. I of the State
 149 Constitution.

150 j. The home addresses, telephone numbers, places of

151 employment, dates of birth, and photographs of current or former
 152 guardians ad litem, as defined in s. 39.820; the names, home
 153 addresses, telephone numbers, dates of birth, and places of
 154 employment of the spouses and children of such persons; and the
 155 names and locations of schools and day care facilities attended
 156 by the children of such persons are exempt from s. 119.07(1) and
 157 s. 24(a), Art. I of the State Constitution. This sub-
 158 subparagraph is subject to the Open Government Sunset Review Act
 159 in accordance with s. 119.15 and shall stand repealed on October
 160 2, 2022, unless reviewed and saved from repeal through
 161 reenactment by the Legislature.

162 k. The home addresses, telephone numbers, dates of birth,
 163 and photographs of current or former juvenile probation
 164 officers, juvenile probation supervisors, detention
 165 superintendents, assistant detention superintendents, juvenile
 166 justice detention officers I and II, juvenile justice detention
 167 officer supervisors, juvenile justice residential officers,
 168 juvenile justice residential officer supervisors I and II,
 169 juvenile justice counselors, juvenile justice counselor
 170 supervisors, human services counselor administrators, senior
 171 human services counselor administrators, rehabilitation
 172 therapists, and social services counselors of the Department of
 173 Juvenile Justice; the names, home addresses, telephone numbers,
 174 dates of birth, and places of employment of spouses and children
 175 of such personnel; and the names and locations of schools and

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

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

189 m. The home addresses, telephone numbers, dates of birth,
 190 and photographs of current or former investigators or inspectors
 191 of the Department of Business and Professional Regulation; the
 192 names, home addresses, telephone numbers, dates of birth, and
 193 places of employment of the spouses and children of such current
 194 or former investigators and inspectors; and the names and
 195 locations of schools and day care facilities attended by the
 196 children of such current or former investigators and inspectors
 197 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 198 Constitution. This sub-subparagraph is subject to the Open
 199 Government Sunset Review Act in accordance with s. 119.15 and
 200 shall stand repealed on October 2, 2022, unless reviewed and

201 saved from repeal through reenactment by the Legislature.
 202 n. The home addresses, telephone numbers, and dates of
 203 birth of county tax collectors; the names, home addresses,
 204 telephone numbers, dates of birth, and places of employment of
 205 the spouses and children of such tax collectors; and the names
 206 and locations of schools and day care facilities attended by the
 207 children of such tax collectors are exempt from s. 119.07(1) and
 208 s. 24(a), Art. I of the State Constitution. This sub-
 209 subparagraph is subject to the Open Government Sunset Review Act
 210 in accordance with s. 119.15 and shall stand repealed on October
 211 2, 2022, unless reviewed and saved from repeal through
 212 reenactment by the Legislature.
 213 o. The home addresses, telephone numbers, dates of birth,
 214 and photographs of current or former personnel of the Department
 215 of Health whose duties include, or result in, the determination
 216 or adjudication of eligibility for social security disability
 217 benefits, the investigation or prosecution of complaints filed
 218 against health care practitioners, or the inspection of health
 219 care practitioners or health care facilities licensed by the
 220 Department of Health; the names, home addresses, telephone
 221 numbers, dates of birth, and places of employment of the spouses
 222 and children of such personnel; and the names and locations of
 223 schools and day care facilities attended by the children of such
 224 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 225 the State Constitution. This sub-subparagraph is subject to the

226 Open Government Sunset Review Act in accordance with s. 119.15
 227 and shall stand repealed on October 2, 2019, unless reviewed and
 228 saved from repeal through reenactment by the Legislature.

229 p. The home addresses, telephone numbers, dates of birth,
 230 and photographs of current or former impaired practitioner
 231 consultants who are retained by an agency or current or former
 232 employees of an impaired practitioner consultant whose duties
 233 result in a determination of a person's skill and safety to
 234 practice a licensed profession; the names, home addresses,
 235 telephone numbers, dates of birth, and places of employment of
 236 the spouses and children of such consultants or their employees;
 237 and the names and locations of schools and day care facilities
 238 attended by the children of such consultants or employees are
 239 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 240 Constitution. This sub-subparagraph is subject to the Open
 241 Government Sunset Review Act in accordance with s. 119.15 and
 242 shall stand repealed on October 2, 2020, unless reviewed and
 243 saved from repeal through reenactment by the Legislature.

244 q. The home addresses, telephone numbers, dates of birth,
 245 and photographs of current or former emergency medical
 246 technicians or paramedics certified under chapter 401; the
 247 names, home addresses, telephone numbers, dates of birth, and
 248 places of employment of the spouses and children of such
 249 emergency medical technicians or paramedics; and the names and
 250 locations of schools and day care facilities attended by the

251 children of such emergency medical technicians or paramedics are
 252 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 253 Constitution. This sub-subparagraph is subject to the Open
 254 Government Sunset Review Act in accordance with s. 119.15 and
 255 shall stand repealed on October 2, 2021, unless reviewed and
 256 saved from repeal through reenactment by the Legislature.

257 r. The home addresses, telephone numbers, dates of birth,
 258 and photographs of current or former personnel employed in an
 259 agency's office of inspector general or internal audit
 260 department whose duties include auditing or investigating waste,
 261 fraud, abuse, theft, exploitation, or other activities that
 262 could lead to criminal prosecution or administrative discipline;
 263 the names, home addresses, telephone numbers, dates of birth,
 264 and places of employment of spouses and children of such
 265 personnel; and the names and locations of schools and day care
 266 facilities attended by the children of such personnel are exempt
 267 from s. 119.07(1) and s. 24(a), Art. I of the State
 268 Constitution. This sub-subparagraph is subject to the Open
 269 Government Sunset Review Act in accordance with s. 119.15 and
 270 shall stand repealed on October 2, 2021, unless reviewed and
 271 saved from repeal through reenactment by the Legislature.

272 s. The home addresses, telephone numbers, dates of birth,
 273 and photographs of current or former directors, managers,
 274 supervisors, and clinical employees of a child advocacy center
 275 that meets the requirements of s. 39.3035 and the members of a

276 child protection team as provided in s. 39.303 whose duties
 277 include supporting the investigation of child abuse or sexual
 278 abuse, child abandonment, child neglect, or child exploitation
 279 or to provide services as part of a multidisciplinary case
 280 review team; the home addresses, telephone numbers, photographs,
 281 dates of birth, and places of employment of the spouses and
 282 children of such personnel; and the names and locations of
 283 schools and day care facilities attended by the children of such
 284 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 285 the State Constitution. This sub-subparagraph is subject to the
 286 Open Government Sunset Review Act in accordance with s. 119.15
 287 and shall stand repealed on October 2, 2023, unless reviewed and
 288 saved from repeal through reenactment by the Legislature.

289 3. An agency that is the custodian of the information
 290 specified in subparagraph 2. and that is not the employer of the
 291 officer, employee, justice, judge, or other person specified in
 292 subparagraph 2. shall maintain the exempt status of that
 293 information only if the officer, employee, justice, judge, other
 294 person, or employing agency of the designated employee submits a
 295 written request for maintenance of the exemption to the
 296 custodial agency.

297 4. The exemptions in this paragraph apply to information
 298 held by an agency before, on, or after the effective date of the
 299 exemption.

300 Section 2. (1) The Legislature finds that it is a public

301 necessity that the following identifying and location
 302 information be exempt from s. 119.07(1), Florida Statutes, and
 303 s. 24(a), Article I of the State Constitution:

304 (a) The home addresses, telephone numbers, dates of birth,
 305 and photographs of current or former directors, managers,
 306 supervisors, and clinical employees of a child advocacy center
 307 that meets the requirements of s. 39.3035, Florida Statutes.

308 (b) The home addresses, telephone numbers, dates of birth,
 309 and photographs of current or former members of a child
 310 protection team as provided in s. 39.303, Florida Statutes,
 311 whose duties include supporting the investigation of child abuse
 312 or sexual abuse, child abandonment, child neglect, or child
 313 exploitation or to provide services as part of a
 314 multidisciplinary case review team.

315 (c) The home addresses, telephone numbers, photographs,
 316 dates of birth, and places of employment of the spouses and
 317 children of personnel identified in paragraphs (a) and (b).

318 (d) The names and locations of schools and day care
 319 facilities attended by the children of such personnel.

320 (2) The Legislature finds that the release of such
 321 identifying and location information may place current or former
 322 directors, managers, supervisors, and clinical employees of a
 323 child advocacy center that meets the requirements of s. 39.3035,
 324 Florida Statutes, and the members of a child protection team as
 325 provided in s. 39.303, Florida Statutes, whose duties include

326 supporting the investigation of child abuse or sexual abuse,
 327 child abandonment, child neglect, or child exploitation or to
 328 provide services as part of a multidisciplinary case review
 329 team, and the family members of such personnel, in danger of
 330 physical and emotional harm from disgruntled individuals who may
 331 react inappropriately and violently to actions taken by such
 332 personnel. These personnel provide necessary and appropriate
 333 support services to abused, abandoned, neglected, and exploited
 334 children who are some of the state's most vulnerable residents.
 335 Despite the value of these services, an individual may become
 336 dissatisfied with the assistance provided, or the
 337 recommendations or decisions these personnel make, which may
 338 result in a director, manager, supervisor, or clinical employee
 339 of a child advocacy center, a member of a child protection team,
 340 or a family member of such personnel becoming a potential target
 341 for an act of revenge. The risk continues after such personnel
 342 concludes his or her service because a disgruntled individual
 343 may wait to commit an act of revenge until such personnel no
 344 longer holds a position at a child advocacy center or on a child
 345 protection team. The harm that may result from the release of
 346 such personal identifying and location information outweighs any
 347 public benefit that may be derived from the disclosure of the
 348 information.

349 Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1009 Closing Gap Grant Program
SPONSOR(S): Brown
TIED BILLS: **IDEN./SIM. BILLS:** SB 1184

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--------------------------------------|-----------|-------------------|---|
| 1) Health Quality Subcommittee | 14 Y, 0 N | Beattie | McElroy |
| 2) Health & Human Services Committee | | Beattie <i>AB</i> | Calamas <i>DEC</i> |

SUMMARY ANALYSIS

The Department of Health Office of Minority Health administers multiple health promotion programs including the "Closing the Gap" grant program. The grant program was created by the Legislature in 2000 to improve health outcomes and eliminate racial and ethnic health disparities in Florida by providing grants to increase community-based health and disease prevention activities.

Grants are awarded for one year through a proposal process, and may be renewed annually subject to the availability of funds and the grantee's achievement of quality standards, objectives, and outcomes. The Office outlines required criteria for a grant proposal, including the selection of a priority area that will be addressed by the proposed project. The proposal must identify one of the following priority areas:

- Increasing adult and child immunization rates in certain racial and ethnic populations;
- Improving neighborhood social determinates of health, such as transportation, safety, and food access; or,
- Decreasing racial and ethnic disparities in maternal and infant mortality rates, oral health care, or morbidity and mortality rates related to cancer, HIV/AIDS, cardiovascular disease, diabetes, and sickle cell disease.

HB 1009 allows the grant program to fund projects directed at decreasing racial and ethnic disparities in morbidity and mortality rates relating to lupus.

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

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Closing the Gap Program

The Department of Health's (DOH) Office of Minority Health (Office) is the coordinating office for consultative services in the areas of cultural and linguistic competency, partnership building, and program development and implementation to address the health needs of Florida's minority and underrepresented populations statewide. The Office administers multiple health promotion programs including the "Closing the Gap" grant program.¹ In 2000, the Legislature created the "Closing the Gap" grant program to improve health outcomes and eliminate racial and ethnic health disparities in Florida by providing grants to increase community-based health and disease prevention activities.²

Grant Proposals

Grants are awarded for one year through a proposal process, and may be renewed annually subject to the availability of funds and the grantee's achievement of quality standards, objectives, and outcomes.³ Proposals for grants must identify:⁴

- The purpose and objectives of the proposed project, including the particular racial or ethnic disparity the project will address from one of the following priority areas:
 - Increasing adult and child immunization rates in certain racial and ethnic populations;
 - Improving neighborhood social determinates of health, such as transportation, safety, and food access, as outlined by the Centers for Disease Control and Prevention (CDC), or
 - Decreasing racial and ethnic disparities in maternal and infant mortality rates, oral health care, or morbidity and mortality rates related to cancer, HIV/AIDS, cardiovascular disease, diabetes, and sickle cell disease.

Grant proposals must also identify:⁵

- The target population and its relevance;
- Methods for obtaining baseline health status data and assessment of community health needs;
- Mechanisms for mobilizing community resources and gaining local commitment;
- Development and implementation of health promotion and disease prevention interventions;
- Mechanisms and strategies for evaluating the project's objectives, procedures, and outcomes;
- A proposed work plan, including a timeline for implementing the project; and
- The likelihood that project activities will occur and continue in the absence of funding.⁶

¹ Florida Dep't of Health, *Minority Health*, available at <http://www.floridahealth.gov/%5C/programs-and-services/minority-health/index.html> (last visited January 15, 2018).

² Sections 381.7353 to 381.7356, F.S.

³ Section 381.7356(4), F.S.

⁴ Section 381.7355, F.S.

⁵ *Id.*

⁶ *Id.*

Grant Funding

Projects receiving grants must provide local matching funds of one dollar for every three dollars awarded,⁷ except for grants awarded to Front Porch Florida communities.⁸ In counties with populations greater than 50,000, up to 50 percent of the local matching funds may be in-kind in the form of free services or human resources.⁹ In counties with populations of 50,000 or less, local matching funds may be provided entirely through in-kind contributions.¹⁰

Social Determinants of Health

Healthy People 2020 is an initiative of the U.S. Department of Health and Human Services that provides 10-year national objectives for improving the health of Americans.¹¹ This initiative highlights the importance of social determinants of health as one of its overarching goals.¹² Social determinants of health refer to the conditions in the places where people live, learn, and play that have an effect on health risks outcomes.¹³ Examples of social determinants include access to health care services, public safety, social norms and attitudes, access to educational, economic, and job opportunities, housing, and quality of education and job training.¹⁴ Healthy People 2020's five key areas of social determinants of health are:

- Economic stability;
- Education;
- Social and community context;
- Health and health care; and
- Neighborhood and built environment.¹⁵

The CDC has developed a web-based toolkit to help practitioners recognize the root causes that can affect the health of a population.¹⁶ The tools available in the CDC's web-based toolkit:

- Demonstrate a clear connection to social determinants of health;
- Are wholly or partially funded by the CDC; and
- Were developed within the last 10 years.¹⁷

Lupus

Lupus is a chronic autoimmune disease that triggers inflammation in different bodily tissues.¹⁸ Autoimmune diseases occur when the body's immune system creates antibodies that attack the body's

⁷ Section 381.7356(2), F.S.

⁸ The Front Porch Florida Initiative is administered by the Office of Urban Opportunity within the Department of Economic Opportunity's Division of Community Development and encourages revitalization and redevelopment projects in urban communities. Twenty percent of CTG grant program funds go towards this program. Section 20.60(5)(b)2.g., F.S.

⁹ Section 381.7356(2)(a), F.S.

¹⁰ Section 381.7356(2)(b), F.S.

¹¹ U.S. Dep't of Health and Human Services, Office of Disease Prevention and Health Promotion, *About Healthy People*, available at <http://www.healthypeople.gov/2020/About-Healthy-People> (last visited January 15, 2018).

¹² U.S. Dep't of Health and Human Services, Office of Disease Prevention and Health Promotion, *Social Determinants of Health*, (rev. Jan. 11, 2018), available at <http://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health> (last visited on Jan. 11, 2018).

¹³ Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health* (rev. Jul. 28, 2017), available at <http://www.cdc.gov/socialdeterminants/index.htm> (last visited January 15, 2018).

¹⁴ *Supra* note 12.

¹⁵ *Id.*

¹⁶ CDC, *Tools for Putting Social Determinants of Health into Action*, (Feb. 22, 2017), available at <http://www.cdc.gov/socialdeterminants/tools/index.htm> (last visited January 15, 2018).

¹⁷ Centers for Disease Control and Prevention, *Frequently Asked Questions* (rev. Dec. 7, 2017), available at <http://www.cdc.gov/socialdeterminants/faqs/index.htm> (last visited January 15, 2018).

¹⁸ Centers for Disease Control and Prevention, *Lupus Detailed Fact Sheet*, <https://www.cdc.gov/lupus/facts/detailed.html> (last visited January 15, 2018).

tissues.¹⁹ There are four different forms of lupus; systemic (70% of cases), cutaneous (10% of cases), drug-induced (10% of cases), and neonatal (rare and usually does not last more than six months).²⁰ The Lupus Foundation of America estimates that at least 1.5 million Americans have some type of lupus²¹ and there are an estimated 16,000 new cases of lupus each year.²² Lupus strikes mostly women of childbearing ages (15-44 years), but men, children, and teenagers also develop Lupus.²³

The most common and severe type of lupus is Systemic Lupus Erythematosus (SLE). SLE affects different parts of the body including the joints, skin, brain, lungs, kidneys, and blood vessels. There is no cure for SLE, but medical interventions and lifestyle changes can help control its symptoms. A conservative estimate by the CDC states that there are 161,000 people with definite SLE and 322,000 with probable SLE in the United States. Estimates show that for every man affected by SLE, 4 to 12 women are affected.²⁴

Causes

The causes of lupus are unknown, but genetic and hormonal factors appear to play a role.²⁵ Certain ethnic groups (people of African, Asian, Hispanic/Latino, Native American, Native Hawaiian, or Pacific Islander descent) have a greater risk of developing lupus, suggesting that prevalence may be related to genes.²⁶ However, the link between genetic causes and lupus appears to be limited.²⁷ Only 10% of lupus patients have a close relative (parent or sibling) who already has or may develop lupus.²⁸ Studies of twins show that the chance of lupus occurring in both identical twins is 30%.²⁹ The increase of symptoms before menstrual cycles and/or during pregnancy supports the belief that hormones (particularly estrogen) play some role in lupus, but the cause of the greater prevalence in women is unknown.³⁰

Environmental factors such as a virus or a chemical randomly encountered by a genetically susceptible individual may also trigger lupus.³¹ Suspected environmental factors are: infections, antibiotics (especially those in the sulfa and penicillin groups), ultraviolet light, extreme stress, and certain drugs.³² Exposure to silica dust in agricultural or industrial settings may also be a trigger.³³

Symptoms, Diagnosis and Treatment

Symptoms of SLE include fatigue, skin rashes, fevers, and pain or swelling in the joints. More serious symptoms may include sun sensitivity, oral ulcers, arthritis, lung problems, heart problems, kidney problems, seizures, psychosis, and blood cell and immunological abnormalities. These symptoms may be periodic with extended periods of remission.³⁴

¹⁹ *Id.*

²⁰ The Lupus Foundation of America National Resource Center on Lupus, *Lupus Facts and Statistics*, available at <https://resources.lupus.org/entry/facts-and-statistics> (last visited January 15, 2018).

²¹ *Id.*

²² *Id.*

²³ *Supra* n. 18.

²⁴ *Id.*

²⁵ *Id.*

²⁶ The Lupus Foundation of America National Resource Center on Lupus, *What causes lupus?*, <https://resources.lupus.org/entry/what-causes-lupus> (last visited Jan 15, 2018).

²⁷ *Id.*

²⁸ Lupus International, *What is Lupus?*, available at <http://www.lupusinternational.com/About-Lupus-1-1/What-is-Lupus-.aspx> (last visited Jan 15, 2018).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* See also, *supra* n. 20.

³² *Supra* n. 28.

³³ *Supra* n. 26.

³⁴ *Supra* n. 18

Lupus can be difficult to diagnose because its symptoms mimic other illnesses and can be intermittent. Diagnosis usually involves a careful review of the patient's entire medical history, a physical exam, and an analysis of the results of tests related to immune status. The American College of Rheumatology has identified 12 symptoms or signs to assist health care practitioners with distinguishing lupus from other diseases. Any person displaying 4 or more of these symptoms is considered to potentially have lupus.³⁵

Treatment can minimize symptoms, reduce inflammation, and maintain normal bodily functions.³⁶ Treatment primarily consists of immunosuppressive drugs that inhibit activity of the immune system.³⁷ Medications may include:³⁸

- Non-steroidal Anti-inflammatory Drugs (NSAIDS);
- Acetaminophen;
- Corticosteroids;
- Antimalarials;
- Immunomodulating Drugs;
- Biological agents like Rituximab, or;
- Anticoagulants.

Prevention efforts can also reduce the risk of becoming symptomatic. For example, photosensitive patients should avoid excessive sun exposure and/or regularly apply sunscreen to prevent rashes. Additionally, regular exercise helps prevent muscle weakness and fatigue, and immunization protects against specific infections.³⁹

Early diagnosis and effective treatments can help reduce the damaging effects of SLE and improve the quality of life of those effected.⁴⁰ However, poor access to care, late diagnosis, less effective treatments, and poor adherence to therapeutic regimens may increase the damaging effects of SLE and lead to more complications and an increased risk of death.⁴¹

Lupus is not generally a fatal disease.⁴² With current methods of therapy, deaths from lupus are uncommon, and people without an organ-threatening disease will likely have a normal lifespan if they receive and follow a proper treatment plan and seek help when they encounter unexpected side-effects.⁴³ Causes of premature death associated with SLE include active disease, organ failure (e.g., kidneys), infection, or cardiovascular disease from atherosclerosis.⁴⁴ The CDC identified SLE as the underlying cause of death for an estimated 1,034 deaths and a contributing cause of another 1,803 deaths from 2010-2014.⁴⁵

Effects on Health and Wellbeing

The symptoms of SLE, especially fatigue, can limit a person's physical, mental, and social functioning. For example, SLE has been shown to affect employment. Only 46% of people with SLE of working age report being employed. A 2012 membership survey by the Lupus Foundation of America found that two out of three lupus patients reported a complete or partial loss of their income because they could not work full time due to lupus complications. A 2008 study published in *Arthritis & Rheumatology* found

³⁵ *Supra* n. 28.

³⁶ *Id.*

³⁷ *Supra* n. 20.

³⁸ *Supra* n. 28.

³⁹ *Id.*

⁴⁰ *Supra* n. 18.

⁴¹ *Id.*

⁴² *Supra* n. 28.

⁴³ *Id.*

⁴⁴ *Supra* n. 18.

⁴⁵ *Id.*

that the mean annual productivity costs (in hours of lost productive work) for participants of employment age was \$8,659.⁴⁶

Impact of Lupus in Racial and Ethnic Minority Populations

Racial and ethnic minority populations (African Americans, Hispanics/Latinos, Asians, and American Indians/Alaska Natives) are more affected by lupus than Non-Hispanic whites.⁴⁷ In fact, women in racial and ethnic minority populations are two to three times more likely to develop lupus than Non-Hispanic white women.⁴⁸

African-Americans have the worst prognosis among SLE patients, including more organ damage.⁴⁹ The Lupus in Minority Populations: Nature vs. Nurture (LUMINA) study reported that African Americans are more likely to have organ system involvement and a more active disease. The LUMINA study found that African Americans are more likely to have lower levels of social support compared to white lupus patients, which can also cause disparities.⁵⁰ Trust may also play a role in poorer healthcare outcomes for African Americans.⁵¹ African Americans with lupus were less willing than whites to receive potent immunosuppressive medications for renal disease.⁵²

Racial and ethnic minority groups are also have a higher mortality rate from lupus than Non-Hispanic whites. African-American lupus patients have higher mortality rates than white lupus patients.⁵³ However, the data on Hispanic and Asian populations with SLE living in the United States are inconclusive.⁵⁴

The graph below shows the age-standardized mortality rate (per 100,000 people) of Americans with SLE in different racial groups. Although lupus is usually a contributing factor to mortality and not the cause, this graph shows deaths where the underlying cause of death (which is defined as “the disease or injury that initiated the events resulting in death”) was attributed to SLE. The “Asian/PI/AI/AN” category includes people who are Asian, Pacific Islanders, American Indians, and Alaskan Natives.⁵⁵

This data shows that African Americans have a much higher mortality rate from SLE than the other two racial groups. Where mortality rates for the white and Asian/PI/AI/AN groups decreased slightly over time, the mortality rates for African Americas actually increased from the mid-1970s to early 2000s, and are still about twice as high as the other two groups.

⁴⁶ *Supra* n. 20.

⁴⁷ *Supra* n. 18.

⁴⁸ *Supra* n. 20.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ The Lupus Initiative, *Health Disparities in SLE*, p. 29, (citing Vina ER, Masi CM, Green SL, Utset TO. *Rheumatology (Oxford)*. 2012;51(9):1697-1706.), available at http://thelupusinitiative.org/slides/pdf/PP_HealthDisparities.pdf (last visited January 15, 2018).

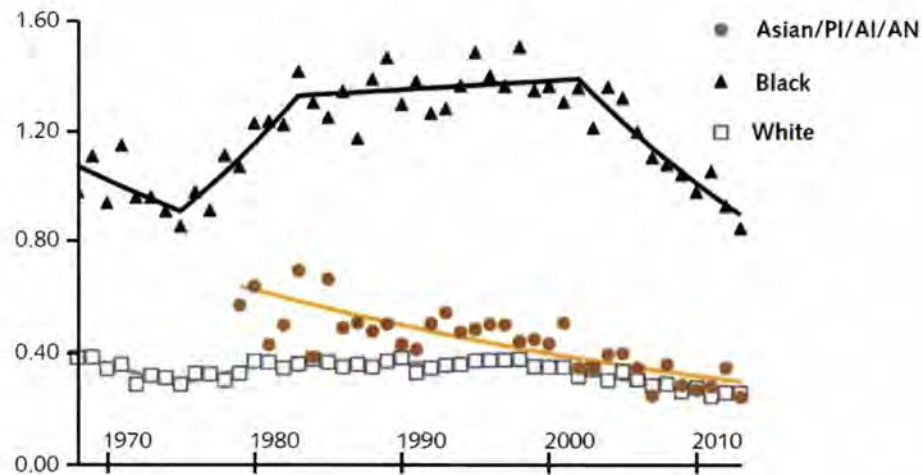
⁵² *Id.*

⁵³ Center for Disease Control and Prevention, *Trends in Deaths from Systemic Lupus Erythematosus --- United States, 1979—1998*, available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5117a3.htm> (last visited January 15, 2018).

⁵⁴ Gomez-Puerta & Vasquez, *What impact do race and ethnicity have on lupus mortality?*, *International Journal of Clinical Rheumatology* (2015), available at <http://www.openaccessjournals.com/articles/what-impact-do-race-and-ethnicity-have-on-lupus-mortality.pdf> (last visited January 15, 2018).

⁵⁵ Eric Y. Yen, et. al. *46-Year Trends in Systemic Lupus Erythematosus Mortality in the United States, 1968 to 2013*, 167 *Annals of Internal Medicine* 11, 777-78 (Dec. 5, 2017).

**Trends in Systemic Lupus Erythematosus (SLE) Mortality Rates from 1968 to 2013
(per 100,000 Americans)⁵⁶**



Effect of Proposed Changes

HB 1009 allows the “Closing the Gap” grant program to fund projects directed at decreasing racial and ethnic disparities in morbidity and mortality rates relating to lupus.

The bill establishes an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.7355, F.S., relating to project requirements; review criteria.

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the bill authorizes the use of grant funds for projects related to lupus, it neither makes nor requires an appropriation. Lupus-related proposals will compete with other proposals for existing grant funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁵⁶ *Id.* at Appendix Figure 1.
STORAGE NAME: h1009c.HHS.DOCX
DATE: 1/24/2018

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Closing the Gap grant program;
3 amending s. 381.7355, F.S.; providing an additional
4 priority area for Closing the Gap grant proposals that
5 addresses racial and ethnic disparities in morbidity
6 and mortality rates relating to Lupus; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraph (a) of subsection (2) of section
12 381.7355, Florida Statutes, is amended to read:

13 381.7355 Project requirements; review criteria.—

14 (2) A proposal must include each of the following
15 elements:

16 (a) The purpose and objectives of the proposal, including
17 identification of the particular racial or ethnic disparity the
18 project will address. The proposal must address one or more of
19 the following priority areas:

20 1. Decreasing racial and ethnic disparities in maternal
21 and infant mortality rates.

22 2. Decreasing racial and ethnic disparities in morbidity
23 and mortality rates relating to cancer.

24 3. Decreasing racial and ethnic disparities in morbidity
25 and mortality rates relating to HIV/AIDS.

26 4. Decreasing racial and ethnic disparities in morbidity
 27 and mortality rates relating to cardiovascular disease.

28 5. Decreasing racial and ethnic disparities in morbidity
 29 and mortality rates relating to diabetes.

30 6. Increasing adult and child immunization rates in
 31 certain racial and ethnic populations.

32 7. Decreasing racial and ethnic disparities in oral health
 33 care.

34 8. Decreasing racial and ethnic disparities in morbidity
 35 and mortality rates relating to sickle cell disease.



36 9. Decreasing racial and ethnic disparities in morbidity
 37 and mortality rates relating to Lupus.

38 ~~10.9.~~ Improve neighborhood social determinants of health,
 39 such as transportation, safety, and food access, as outlined by
 40 the Centers for Disease Control and Prevention's "Tools for
 41 Putting Social Determinants of Health into Action."

42 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHS 18-01 Optometry
SPONSOR(S): Health & Human Services Committee
TIED BILLS: IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|--|---|
| Orig. Comm.: Health & Human Services Committee | | Siples  | Calamas  |

SUMMARY ANALYSIS

Many students in optometric school take all or a portion of the national licensure exam for optometry prior to graduation and application for state licensure. Prior to 2017, the Board of Optometry (Board) accepted results from a national licensure examination regardless of whether the applicant took the examination before or after applying for licensure. In 2017, an administrative law judge found that the plain language of s. 463.006, F.S., prohibits the Board from accepting any scores from the national licensure examination if it was taken before an individual files an application for licensure. As a result, any applicant who has taken all or a portion of the licensure examination prior to applying for licensure must now retake the exam or those portions thereof.

PCB HHS 18-01 authorizes the Department of Health to accept proof of a passing score on a licensure examination within 3 years before the date of application or any time after the submission of an application for an optometrist license.

Unlike other health care professions, current law provides topics that must be tested on the licensure examination but does not give the Board express authority to approve a licensure examination. The bill expressly requires the Board to approve a licensure examination repeals the list of specific topics that a licensure examination must contain. The bill also makes conforming changes.

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

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Optometry Licensure

The practice of optometry includes the diagnosis of conditions of the human eye and its appendages; the use of objective and subjective means or methods to determine the refractive powers of the human eye or any visual, muscular neurological, or anatomic anomalies of the human eye or its appendages; and the prescribing and use of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, or other means to correct, remedy, or relieve any insufficiencies or abnormal conditions of the eyes and their appendages.¹

The Board of Optometry (Board) regulates the practice of optometry in this state.² Any person seeking to be licensed as an optometrist must apply to DOH to take the licensure and certification examinations.³ To qualify for licensure, an applicant must:⁴

- Be 18 years of age or older;
- Have graduated from an accredited school or college of optometry approved by rule of the Board;
- Be of good moral character;
- Have successfully completed at least 110 hours of transcript-quality coursework and clinical training in general and ocular pharmacology; and
- Have completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.

In addition, an applicant must pass the Florida licensure examination, which consists of:⁵

- Part I – the Applied Basic Science (ABS) portion of the examination developed by the National Boards of Examiners in Optometry (NBEO);
- Part II – the Patient Assessment and Management (PAM) portion of the examination developed by NBEO, which includes an embedded Treatment of Ocular Disease (TMOD) examination;
- Part III – the Clinical Skills portion of the examination developed by NBEO; and
- Part IV – A written examination on applicable Florida laws and rules governing the practice of optometry.

An applicant for licensure must pass all 4 parts of the examination.⁶ An applicant who fails to pass any part of the licensure examination may retake the applicable part; however, the reexamination must occur within 18 months of the date of the original failure.⁷

¹ Section 463.002(7), F.S.

² Section 463.005, F.S.

³ Section 463.006, F.S.

⁴ Id.

⁵ Rule 64B13-4.001, F.A.C., and Department of Health, Board of Pharmacy, *Certified Optometrist Licensing Requirements*, available at <http://floridasoptometry.gov/licensing/certified-optometrist/> (last visited January 19, 2018).

⁶ Id.

⁷ Rule 64B13-4.002, F.A.C. The Board of Optometry may grant a 1 year extension to allow an additional retake based on medical disability.

Administrative Challenge to Licensure Rule

Prior to 2017, an individual licensed as an optometrist in another state could apply for a Florida license without having to sit for a licensure examination if the applicant passed the NBEO examination within the 7 years preceding the application.⁸ In 2016, two out-of-state optometrists applying for licensure in Florida petitioned the Board to waive the rule requirement to retake the NBEO examination since more than seven years had passed since they received passing scores.⁹ One of the optometrists was licensed in Nevada and had passed the NBEO in 2007; the other was licensed in Michigan and had passed the NBEO in 1998.¹⁰ The Board denied both requests, and each applicant filed a petition with the Division of Administrative Hearings (DOAH) to invalidate the rule.¹¹

DOAH held that the look-back provision of the rule was an invalid exercise of delegated legislative authority because it enlarged the authority the Board was given under statute being implemented, s. 463.006(1), F.S. Specifically, the administrative law judge found that s. 463.006(1), F.S., requires applicants to submit the application for licensure before taking the NEO examination, and that the plain language of the section would prohibit the Board from accepting any scores from an NBEO examination taken before an individual files an application for licensure.¹²

Eleven out of 23 accredited schools of optometry in the United States require students to take some or all of the NBEO examination prior to graduation, including optometry schools in Florida.¹³ As a result of the DOAH decision, graduating students applying for licensure are required to retake examinations they have previously passed while in school or college, and all out-of-state applicants must retake the examination.¹⁴

Effect of the Proposed Changes

The PCB repeals a requirement that a person desiring to be licensed as an optometrist must file an application for licensure prior to taking the licensure examination. Under the bill, a person may submit proof of successfully passing the licensure examination within 3 years before or after the submission of an application. This would allow individuals, both in-state and outside of Florida, to apply for licensure if he or she obtained a passing score on the licensure examination within 3 years before or after the submission of an application.

Unlike other health care professions, current law provides topics that must be tested on the licensure examination but does not give the Board express authority to approve a licensure examination. The bill expressly requires the Board to approve a licensure examination and repeals the list of specific topics that a licensure examination must contain.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 463.006, F.S., relating to licensure and certification by examination.

⁸ Rule 68B13-4.001(2), F.A.C. At that time, the relevant part of the rule read: "Given constant advances in research, developing knowledge in the area of basic and clinical science as applied to the diagnosis, correction, remedy, and relief of insufficiencies or abnormal conditions of the human eyes and their appendages, variances the scope of optometric practice among the states, and the importance of fundamental clinical skills to patient health and safety, passing scores on Part I, Part II, Part III and Part IV of the licensure examination must be obtained within the seven (7) year period immediately preceding licensure application."

⁹ *Yontz and Johnson v. Department of Health, Board of Optometry*, Case No. 16-6663RX (Fla. DOAH Apr. 14, 2017). After the DOAH order was issued, DOH repealed this provision from r. 64B13-4.001(2), F.A.C.

¹⁰ *Id.*

¹¹ *Johnson v. Florida Board of Optometry*, Case No. 15-5655 and *Yontz v. Florida Board of Optometry and the Florida Optometric Ass'n*, Case No. 16-6123. The cases were consolidated, see footnote 9.

¹² *Supra* note 9 at pp. 32-33.

¹³ Department of Health, *2018 Agency Legislative Bill Analysis for Senate Bill 520*, (Oct. 12, 2017), on file with the Health and Human Services Committee. SB 520 is substantively similar to the PCB.

¹⁴ *Id.*

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensure applicants may avoid costs related to retaking all or portions of the licensure reexamination that were taken before the date of application.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to optometry; amending s. 463.006,
 3 F.S.; requiring an applicant for licensure as an
 4 optometrist to submit proof to the Department of
 5 Health that she or he meets certain requirements;
 6 removing a requirement that the department examine an
 7 applicant who meets specified requirements for
 8 licensure and certification; requiring the Board of
 9 Optometry to approve a licensure examination that
 10 meets certain requirements; removing specific topics
 11 that must be tested on the licensure examination;
 12 providing that an applicant must pass the licensure
 13 examination within a specified timeframe as a
 14 condition of licensure as an optometrist; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsections (1) and (2) of section 463.006,
 20 Florida Statutes, are amended to read:

21 463.006 Licensure and certification by examination.—

22 (1) Any person desiring to be a licensed practitioner
 23 pursuant to this chapter shall apply to the department ~~to take~~
 24 ~~the licensure and certification examinations.~~ The department
 25 shall license ~~examine~~ each applicant who the board determines

26 has:

27 (a) Completed the application forms as required by the
 28 board, remitted an application fee for certification not to
 29 exceed \$250, ~~remitted an examination fee for certification not~~
 30 ~~to exceed \$250,~~ and remitted a ~~an~~ examination fee for licensure
 31 not to exceed \$325, all as set by the board.

32 (b) Submitted proof satisfactory to the department that
 33 she or he:

- 34 1. Is at least 18 years of age.
- 35 2. Has graduated from an accredited school or college of
 36 optometry approved by rule of the board.
- 37 3. Is of good moral character.
- 38 4. Has successfully completed at least 110 hours of
 39 transcript-quality coursework and clinical training in general
 40 and ocular pharmacology as determined by the board, at an
 41 institution that:
 - 42 a. Has facilities for both didactic and clinical
 43 instructions in pharmacology; and
 - 44 b. Is accredited by a regional or professional accrediting
 45 organization that is recognized and approved by the Commission
 46 on Recognition of Postsecondary Accreditation or the United
 47 States Department of Education.
- 48 5. Has completed at least 1 year of supervised experience
 49 in differential diagnosis of eye disease or disorders as part of
 50 the optometric training or in a clinical setting as part of the

51 optometric experience.

52 6. Has obtained a passing score, as established by rule of
53 the board, on the licensure examination of the National Board of
54 Examiners in Optometry or a similar nationally recognized
55 examination approved by the board within 3 years prior to or
56 after submission of an application for licensure.

57 ~~(2) The examination shall consist of the appropriate~~
58 ~~subjects, including applicable state laws and rules and general~~
59 ~~and ocular pharmacology with emphasis on the use and side~~
60 ~~effects of ocular pharmaceutical agents. The board may by rule~~
61 ~~substitute a national examination as part or all of the~~
62 ~~examination and may by rule offer a practical examination in~~
63 ~~addition to the written examination.~~

64 Section 2. This act shall take effect July 1, 2018.