

Tab 1	SB 214 by Harrell; (Identical to H 00555) Child Protection Teams				
--------------	---	--	--	--	--

Tab 2	SB 306 by Harrell; (Similar to H 00327) Placement of Surrendered Newborn Infants				
--------------	---	--	--	--	--

530466	A	S	CF, Harrell	Delete L.64 - 71.	12/12 10:56 AM
802344	A	S	CF, Harrell	Delete L.157 - 194:	12/12 10:56 AM

Tab 3	SB 474 by Grall; (Similar to H 00529) Public Records/Suicide Victims				
--------------	---	--	--	--	--

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Garcia, Chair
Senator Thompson, Vice Chair

MEETING DATE: Wednesday, December 13, 2023
TIME: 11:00 a.m.—1:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Garcia, Chair; Senator Thompson, Vice Chair; Senators Avila, Baxley, Book, Bradley, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 214 Harrell (Identical H 555)	Child Protection Teams; Expanding the types of reports that the Department of Children and Families must refer to Child Protection Teams, etc. CF 12/13/2023 AHS FP	
2	SB 306 Harrell (Similar H 327)	Placement of Surrendered Newborn Infants; Defining the term “community-based care lead agency”; requiring community-based care lead agencies to establish and maintain a specified registry; revising the entity responsible for surrendered infants from licensed child-placing agencies to community-based care lead agencies; providing requirements for the hospital once they take physical custody of a surrendered newborn infant, etc. CF 12/13/2023 JU FP	
3	SB 474 Grall (Similar H 529)	Public Records/Suicide Victims; Defining the term “suicide of a person”; creating an exemption from public records requirements for a photograph or video or audio recording of the suicide of a person; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such photograph or video or audio recording be under the direct supervision of the custodian of the record or his or her designee; creating an exemption from public records requirements for autopsy reports of suicide victims; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 12/13/2023 GO RC	

Other Related Meeting Documents

By Senator Harrell

31-00366-24

2024214__

1 A bill to be entitled
2 An act relating to Child Protection Teams; amending s.
3 39.303, F.S.; expanding the types of reports that the
4 Department of Children and Families must refer to
5 Child Protection Teams; reenacting s. 39.301(14) (c),
6 F.S., relating to the initiation of protective
7 investigations, to incorporate the amendment made to
8 s. 39.303, F.S., in a reference thereto; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraphs (j), (k), and (l) are added to
14 subsection (4) of section 39.303, Florida Statutes, to read:

15 39.303 Child Protection Teams and sexual abuse treatment
16 programs; services; eligible cases.—

17 (4) The child abuse, abandonment, and neglect reports that
18 must be referred by the department to Child Protection Teams of
19 the Department of Health for an assessment and other appropriate
20 available support services as set forth in subsection (3) must
21 include cases involving:

22 (j) A child who was not properly restrained in a motor
23 vehicle pursuant to s. 316.613 or s. 316.614 when, in the
24 opinion of a physician, the improper restraint exacerbated the
25 child's injuries in a motor vehicle accident or resulted in the
26 child's death.

27 (k) A child who was left unattended or unsupervised in a
28 motor vehicle pursuant to s. 316.6135 and such action resulted
29 in an injury to the child or in the child's death.

31-00366-24

2024214__

30 (1) Any report from an emergency room physician.

31 Section 2. For the purpose of incorporating the amendment
32 made by this act to section 39.303, Florida Statutes, in a
33 reference thereto, paragraph (c) of subsection (14) of section
34 39.301, Florida Statutes, is reenacted to read:

35 39.301 Initiation of protective investigations.—

36 (14)

37 (c) The department, in consultation with the judiciary,
38 shall adopt by rule:

39 1. Criteria that are factors requiring that the department
40 take the child into custody, petition the court as provided in
41 this chapter, or, if the child is not taken into custody or a
42 petition is not filed with the court, conduct an administrative
43 review. Such factors must include, but are not limited to,
44 noncompliance with a safety plan or the case plan developed by
45 the department, and the family under this chapter, and prior
46 abuse reports with findings that involve the child, the child's
47 sibling, or the child's caregiver.

48 2. Requirements that if after an administrative review the
49 department determines not to take the child into custody or
50 petition the court, the department shall document the reason for
51 its decision in writing and include it in the investigative
52 file. For all cases that were accepted by the local law
53 enforcement agency for criminal investigation pursuant to
54 subsection (2), the department must include in the file written
55 documentation that the administrative review included input from
56 law enforcement. In addition, for all cases that must be
57 referred to Child Protection Teams pursuant to s. 39.303(4) and
58 (5), the file must include written documentation that the

31-00366-24

2024214__

59 administrative review included the results of the team's
60 evaluation.

61 Section 3. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 214

INTRODUCER: Senator Harrell

SUBJECT: Child Protection Teams

DATE: November 27, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

To protect Florida’s children from abuse, abandonment, or neglect, the Department of Children and Families (DCF) operates the Florida central abuse hotline (Hotline), which accepts reports 24 hours a day, seven days a week. If reports meet the statutory criteria for abuse, abandonment, or neglect, a child protective investigation is commenced.

A child protection team (CPT) is a medically directed, multidisciplinary team contracted by the Department of Health that supplements the child protective investigations in cases of child abuse or neglect. Certain cases reported to the Hotline must be referred to CPTs.

This bill expands the reports that the Hotline must refer to CPTs for assessment and other available support services to include cases involving:

- A child who was not properly restrained in a motor vehicle and , in the opinion of a physician, the improper restrained exacerbated the child’s injuries or resulted in the child’s death,
- A child who was left unattended or unsupervised in a motor vehicle and such action resulted in an injury to the child or the child’s death.
- Any report from an emergency room physician.

The bill reenacts ss. 39.301(14)(c)1.-2., F.S.

The bill has an indeterminate, but likely insignificant, fiscal impact on state government.

The bill takes effect July 1, 2024.

II. Present Situation:

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

Florida Central Abuse Hotline

The Department of Children and Families (DCF) operates the Florida central abuse hotline (Hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child abuse, abandonment, or neglect.¹ A child protective investigation begins with a report by any person to the Hotline. Statute mandates any person who knows or suspects a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, shall report such knowledge or suspicion to the Hotline.²

Once the Hotline obtains information from a reporter, the allegations of the report must meet the statutory definition required to trigger a child protective investigation by DCF.³ For the report to be accepted for an investigation there must be reasonable cause to believe that the child was harmed by abuse, abandonment, or neglect, or the child is at risk of harm.⁴

Child Protective Investigations

The DCF must conduct a child protective investigation if a Hotline report meets the statutory definition of child abuse, abandonment, or neglect. An investigation must be commenced immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁵ The child protective investigator assesses the safety and perceived needs of the child and family and whether the child should receive in-home or out-of-home services.

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of DCF.⁶ CPTs are independent, community-based programs contracted by the Department of Health Children's Medical Services (CMS) program that provide expertise in evaluating alleged child abuse and neglect, assess risk and protective

¹ Section 39.201(5), F.S.

² Section 39.201(1)(a), F.S.

³ Section 39.201(2)(a), F.S.

⁴ Section 39.201(2), F.S.

⁵ Section 39.201(2)(a), F.S.

⁶ Florida Department of Health, Children's Medical Services, *Child Protection Teams*, https://www.cms-kids.com/families/child_protection_safety/child_protection_teams.html (last visited Nov. 28, 2023).

factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.⁷

CPTs across the state are divided into 15 districts and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.⁸ Each of the 15 districts served by CPTs are supervised by one or multiple CPT medical doctors, depending on the size and subdivision of the particular district.⁹

Certain reports of child abuse, abandonment, and neglect to the Hotline must be referred to CPTs, including:

- 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; and
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment or neglect is suspected.¹⁰

When a CPT accepts a referral from DCF or law enforcement, it may provide one or more of the following services:

- Medical diagnoses and evaluation;
- Child forensic interviews;
- Child and family assessments;
- Multidisciplinary staffings;
- Psychological and psychiatric evaluations;
- Community awareness campaign; and
- Expert court testimony.¹¹

CPT staff also provide training services to child protective investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community.¹²

⁷ *Id.*

⁸ Florida Department of Health, *Children's Protection Team Directory (September 2023)*, <https://www.cms-kids.com/home/contact/cpt.pdf> (last visited Nov. 28, 2023).

⁹ *Id.*

¹⁰ Section 39.303(4), F.S.

¹¹ Section 39.303(3), F.S.

¹² Section 39.303(3)(h), F.S.

State Laws Protecting Children in Motor Vehicles

Child Restraint and Safety Belts

Florida law requires the use of seat belts and child restraint devices, if applicable, by drivers, all front seat passengers, and all children under the age of 18 riding in a motor vehicle.

Currently, the Hotline accepts reports of children who are seriously harmed or die due to failure of a parent to use a child restraint required by law. These reports are accepted under the maltreatment of “inadequate supervision.”¹³

Under s. 316.613, F.S., the driver of a motor vehicle transporting a child through 5 years of age must properly use a crash-tested, federally approved child restraint device for the child. For children through age 3, such restraint device must be a separate carrier or a vehicle manufacturer’s integrated child seat.¹⁴

For children age 4 through age 5, a separate carrier, an integrated child seat, or a child booster seat may be used.¹⁵ However, the requirements to use a child restraint device for children in this age range do not apply when a safety belt is being used and the child is being transported:

- Gratuitously by a driver who is not a member of the child’s immediate family;
- In a medical emergency involving the child; or
- Has a medical condition diagnosed by a health care professional that necessitates an exception.¹⁶

Additionally, under s. 316.614, F.S., it is unlawful for any person to drive a motor vehicle or an autocycle in Florida unless the driver and each passenger under the age of 18 are restrained by a safety belt or a child restraint device pursuant to s. 316.613, F.S. The requirements of s. 316.614, F.S., do not apply to motor vehicles that are not required to be equipped with safety belts under federal law.

Under ss. 316.613 and 316.614, F.S., a motor vehicle does not include a:

- School bus;
- Bus used for the transportation of persons for compensation, unless the bus is regularly used to transport children to or from school or in conjunction with school activities;
- Farm tractor or implement of husbandry;

¹³ The DCF’s operating procedures define “inadequate supervision” as a parent or caregiver leaving a child without adult supervision or arrangement appropriate for the child’s age, maturity, developmental level or mental or physical condition so that the child is unable to care for the child’s own needs or another basic need, or is unable to exercise sufficient judgment in responding to a physical or emotional crisis. *See* DCF CFOP 170-4, pg. A-29 (Sept. 1, 2020).

¹⁴ Section 316.613(1)(a)1., F.S.

¹⁵ Section 316.613(1)(a)2., F.S.

¹⁶ *Id.*

- Truck having a gross vehicle weight rating more than 26,000 pounds; or
- Motorcycle, moped, or bicycle.

The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the driver and the vehicle were hired and used for transportation of persons for compensation.¹⁷ It is the caregiver's responsibility to comply with the child restraint requirements in these situations.¹⁸

Any person violating Ch. 316, F.S., commits a moving violation and is charged with a noncriminal infraction and must be cited for such an infraction¹⁹ and cited to appear before a judge authorized by law to preside over a court or hearing adjudicating traffic infractions.²⁰ If another person dies because of the noncriminal infraction, the person cited is required to appear at a mandatory hearing (instead of having the option to pay a penalty in lieu of a hearing), perform 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, and may be subjected to other civil or criminal penalties, such as if there's a negligence claim or the person is charged with a crime.²¹

In 2022, there were 397,537 crashes in Florida,²² resulting in 172 fatalities in minors aged 0-17.²³ The Florida Department of Highway Safety and Motor Vehicles (DHSMV) reports there were 85 child passenger fatalities due to vehicle crashes. Of these fatalities, almost 50 percent were not wearing any type of restraint.²⁴ Further, in 2022, there were 7,207 citations given for no or improper child restraint device and 59 arrests for leaving a child unattended in a motor vehicle for 15 minutes or longer.²⁵

Leaving Children Unattended or Unsupervised in a Vehicle

Section 316.6135, F.S., prohibits a caregiver from leaving a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes, or for any period of time

¹⁷ Section 316.613(6), F.S.

¹⁸ *Id.*

¹⁹ Section 318.13, F.S., defines "infraction" to mean a noncriminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.

²⁰ Section 318.14(1), F.S.; A person who is not required to appear at a mandatory hearing under s. 318.19, F.S., may elect to pay a civil penalty and delinquent fee, if applicable, either by mail or in person, or entry into a payment plan to pay the civil penalty and delinquent fee, if applicable.

²¹ Any person cited for an infraction that results in a crash that causes the death of another will be required to appear at a mandatory hearing.

²² Florida Highway Safety and Motor Vehicles, *Crash Dashboard*, <https://www.flhsmv.gov/traffic-crash-reports/crash-dashboard/> (last visited Dec. 5, 2023).

²³ FL Health Charts, *Deaths from Motor Vehicle Crashes*, <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=Death.Dataviewer> (last visited Dec. 5, 2023).

²⁴ Florida Highway Safety and Motor Vehicles, *Safety Belts and Child Restraints*, <https://www.flhsmv.gov/safety-center/child-safety/safety-belts-child-restraints/> (last visited Dec. 5, 2023).

²⁵ Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, <https://services.flhsmv.gov/SpecialtyPlates/UniformTrafficCitationReport> (last visited Dec. 5, 2023).

while the motor vehicle is running, the health of the child is in danger, or the child appears to be in distress. Each of these violations has its own penalties:

- Pursuant to s. 316.6135(2), F.S., a caregiver who leave a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes commits a second-degree misdemeanor punishable up to 60 days in jail and a \$500 maximum fine.
- Pursuant to s. 316.6135(5), F.S., a caregiver who leaves a child younger than six years of age unattended or unsupervised in a motor vehicle for any period of time while the vehicle is running, the health of the child is in danger, or the child appears to be in distress is guilty of a noncriminal traffic infraction punishable by a fine not less than \$50 and not more than \$500.

If the caregiver leaves a child younger than six years of age unattended or unsupervised in a vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the child's health is in danger, or the child appears to be in distress, and that action causes great bodily harm, permanent disability, or permanent disfigurement to a child, then the person commits a third degree felony punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the child and remove the child from the motor vehicle.²⁶ If the law enforcement officer is unable to locate a caregiver, the child must be placed in the custody of DCF.²⁷

Children experience different types of dangers if left unattended or unsupervised in a motor vehicle, such as heatstroke, setting the car in motion, seatbelt strangulation and leaving the car voluntarily.²⁸ From January 1990 to December 2014, there were 11,759 non-traffic injuries and fatalities in the United States to children 0 to 14 years of age, with a median age of the affected children being 3.7 years.²⁹ The incident types include:

- 3,115 children unattended in hot vehicles result in 729 deaths.
- 2,251 backovers³⁰ resulting in 1,232 deaths.
- 1,439 frontovers³¹ resulting in 692 deaths.
- 777 vehicles knocked into motion resulting in 227 deaths.
- 415 underage drivers resulting in 203 deaths.
- 173 power window incidents resulting in 61 deaths.
- 134 falls resulting in 54 deaths.

²⁶ Section 316.6135(5), F.S.

²⁷ Section 316.6135(7), F.S.

²⁸ Kids and Cars, *NEVER Leave a Child Alone Inside a Vehicle... Not Even for a Minute!*, available at: https://www.kidsandcars.org/document_center/download/hot-cars/Kids-Alone-in-Cars-FACT-SHEET.pdf (last visited Dec. 5, 2023).

²⁹ Mark R. Zonrillo, et.al., Unintentional non-traffic injury and fatal events: Threats to children in and around vehicles, *Traffic Injury Prevention*, 19:2, 184-188, available at: <https://docs.house.gov/meetings/IF/IF17/20190523/109548/HHRG-116-IF17-Wstate-FennellJ-20190523-SD004.pdf#page=5&zoom=100,0,66> (last visited Dec. 5, 2023).

³⁰ Backovers are defined as a child being backed over by a vehicle traveling in reverse.

³¹ Frontovers are defined as a slow forward-moving vehicle running over a child.

- 79 fires resulting in 41 deaths.
- 3,377 other incidents resulting in 157 deaths.

Since 1998, 968 children have died nationwide due to vehicular heatstroke.³² The national average of child heatstroke deaths per year since 1998 is 37 and have ranged in age from 5 days old to 14 years.³³ More than half of the deaths (55 percent) are children under two years of age.³⁴ Since 1998, Florida has had the largest number of child heatstroke deaths in vehicles (110), second only to Texas (143)³⁵

Currently, a CPT may accept referrals related to children left unattended or unsupervised in motor vehicles. However, the report would not constitute a mandatory referral unless it met a criterion outlined in s. 39.303(4), F.S.

III. Effect of Proposed Changes:

Section 1 expands the reports the Hotline must refer to CPTs for assessment and other available support services to include cases involving:

- A child who was not properly restrained in a motor vehicle and, in the opinion of a physician, the improper restraint exacerbated the child's injuries or resulted in the child's death;
- A child who was left unattended or unsupervised in a motor vehicle and such action resulted in an injury to the child or the child's death;
- Any report from an emergency room physician.

Section 2 reenacts s. 39.301(14)(c)1.-2., F.S., which requires the DCF, in consultation with the judiciary to adopt by rule:

- Criteria that are factors requiring that the DCF to take the child into custody, petition the court, or, if the child is not taken into custody, conduct an administrative review. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family, and prior abuse reports with findings that involve the child, the child's sibling, or the child's caregiver.
- Requirements that if, after administrative review, the DCF determines not to take the child into custody or petition the court, the DCF shall document the reason for its decision in writing and include it in the investigative file. For all cases accepted by law enforcement for criminal investigation, the DCF must include in the file written documentation that the review included input from law enforcement. In addition, for all cases that must be referred to CPT pursuant to s. 39.303(4) and (5), the file must include written documentation that the administrative review included the results of the team's evaluation.

³² United States Department of Transportation, Traffic Safety Marketing, *Child Safety: Heatstroke Prevention*. See KidsandCars.org, *Children Vehicular Heatstroke Deaths by Year*, https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?_ga=2.56158690.870054613.1615229487-1650636428.1615229487 (last visited Dec. 5, 2023).

³³ U.S. Department of Transportation, *Traffic Safety Marketing, Heatstroke Deaths of Children in Vehicles*, <https://www.noheatstroke.org/index.htm> (last visited Dec. 5, 2023).

³⁴ *Id.*

³⁵ National Safety Council, *Hot Car Deaths*, <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/data-details/> (last visited Dec. 4, 2023).

Section 3 provides that the bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is an indeterminate, likely insignificant, negative fiscal impact on the Department of Health as workload due to increased referrals to the child protection teams.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the sections 39.303 and 39.301 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Harrell

31-00293-24

2024306__

1 A bill to be entitled
2 An act relating to placement of surrendered newborn
3 infants; amending s. 63.032, F.S.; defining the term
4 "community-based care lead agency"; amending s.
5 63.039, F.S.; requiring community-based care lead
6 agencies to establish and maintain a specified
7 registry; requiring that certain information be
8 removed from the registry under certain circumstances;
9 prohibiting the community-based care lead agency from
10 transferring certain costs to prospective adoptive
11 parents; conforming provisions to changes made by the
12 act; amending s. 63.0423, F.S.; revising the entity
13 responsible for surrendered infants from licensed
14 child-placing agencies to community-based care lead
15 agencies; requiring community-based care lead agencies
16 to seek an order for emergency custody of a
17 surrendered infant; requiring community-based care
18 lead agencies to place a surrendered infant with
19 certain prospective adoptive parents; providing
20 requirements that apply if an appropriate prospective
21 adoptive parent is not found in the registry;
22 conforming provisions to changes made by the act;
23 amending s. 383.50, F.S.; defining the term
24 "community-based care lead agency"; providing
25 requirements for the hospital once they take physical
26 custody of a surrendered newborn infant; conforming
27 provisions to changes made by the act; amending s.
28 39.201, F.S.; conforming provisions to changes made by
29 the act; providing an effective date.

31-00293-24

2024306__

30
31 Be It Enacted by the Legislature of the State of Florida:
32

33 Section 1. Present subsections (8) through (19) of section
34 63.032, Florida Statutes, are redesignated as subsections (9)
35 through (20), respectively, and a new subsection (8) is added to
36 that section, to read:

37 63.032 Definitions.—As used in this chapter, the term:

38 (8) "Community-based care lead agency" or "lead agency" has
39 the same meaning as in s. 409.986(3).

40 Section 2. Present subsections (3), (4), and (5) of section
41 63.039, Florida Statutes, are redesignated as subsections (4),
42 (5), and (6), respectively, a new subsection (3) is added to
43 that section, and paragraph (b) of present subsection (5) of
44 that section is amended, to read:

45 63.039 Duties ~~Duty~~ of adoption entity; ~~to~~ prospective
46 adoptive parents of infants registries; sanctions.—

47 (3) (a) Each community-based care lead agency shall
48 establish and maintain a registry of prospective adoptive
49 parents of infants with the names, addresses, telephone numbers,
50 and e-mail addresses of prospective adoptive parents who have
51 received a favorable preliminary home study under s. 63.092 and
52 have indicated the desire to be a prospective adoptive parent of
53 a newborn infant surrendered under s. 383.50. The community-
54 based care lead agency must remove the information of a
55 prospective adoptive parent from the registry when the favorable
56 preliminary home study for such prospective adoptive parent is
57 no longer valid as provided in s. 63.092(3) or the prospective
58 adoptive parent asks to be removed from the registry.

31-00293-24

2024306__

59 (b) The community-based care lead agency may not transfer
60 the cost of establishing and maintaining the registry created
61 pursuant to this subsection to a prospective adoptive parent
62 through the cost of the home study or the cost of adoption of a
63 newborn infant under this section.

64 ~~(6)(5)~~ Within 30 days after the entry of an order of the
65 court finding sanctionable conduct on the part of an adoption
66 entity, the clerk of the court must forward to:

67 (b) The Department of Children and Families any order that
68 imposes sanctions under this section against a community-based
69 care lead licensed child-placing agency or a community-based
70 care lead child-placing agency ~~licensed~~ in another state which
71 ~~that~~ is qualified by the department.

72 Section 3. Subsections (1) through (4) and (10) of section
73 63.0423, Florida Statutes, are amended to read:

74 63.0423 Procedures with respect to surrendered infants.—

75 (1) Upon entry of final judgment terminating parental
76 rights, a community-based care lead licensed child-placing
77 agency that takes physical custody of an infant surrendered at a
78 hospital, emergency medical services station, or fire station
79 pursuant to s. 383.50 assumes responsibility for the medical and
80 other costs associated with the emergency services and care of
81 the surrendered infant from the time the community-based care
82 lead licensed child-placing agency takes physical custody of the
83 surrendered infant.

84 (2) Upon taking physical custody of a newborn infant
85 surrendered pursuant to s. 383.50, the community-based care lead
86 ~~licensed child-placing~~ agency shall immediately seek an order
87 from the circuit court for emergency custody of the surrendered

31-00293-24

2024306__

88 infant. The emergency custody order remains ~~shall remain~~ in
89 effect until the court orders preliminary approval of placement
90 of the surrendered infant in a the prospective home, at which
91 time the prospective adoptive parent becomes the guardian of the
92 surrendered infant ~~parents become guardians~~ pending termination
93 of parental rights and finalization of adoption or until the
94 court orders otherwise. The guardianship of the prospective
95 adoptive parent is ~~parents shall remain~~ subject to the right of
96 the community-based care lead licensed child-placing agency to
97 remove the surrendered infant from the placement during the
98 pendency of the proceedings if such removal is deemed by the
99 community-based care lead licensed child-placing agency to be in
100 the best interests of the child. The community-based care lead
101 licensed child-placing agency shall ~~may~~ immediately seek to
102 place the surrendered infant in a prospective adoptive home with
103 a prospective adoptive parent from the registry maintained by
104 the community-based care lead agency under s. 63.039. If the
105 registry does not contain the name of an appropriate prospective
106 adoptive parent, the community-based care lead agency must
107 contact another community-based care lead agency and attempt to
108 place the surrendered infant with a prospective adoptive parent
109 from that lead agency's registry.

110 (3) The community-based care lead licensed child-placing
111 agency that takes physical custody of the surrendered infant
112 shall, within 24 hours thereafter, request assistance from law
113 enforcement officials to investigate and determine, through the
114 Missing Children Information Clearinghouse, the National Center
115 for Missing and Exploited Children, and any other national and
116 state resources, whether the surrendered infant is a missing

31-00293-24

2024306__

117 child.

118 (4) The parent who surrenders the infant in accordance with
119 s. 383.50 is presumed to have consented to termination of
120 parental rights, and express consent is not required. Except
121 when there is actual or suspected child abuse or neglect, the
122 community-based care lead ~~licensed child-placing~~ agency may
123 ~~shall~~ not attempt to pursue, search for, or notify that parent
124 as provided in s. 63.088 and chapter 49. For purposes of s.
125 383.50 and this section, an infant who tests positive for
126 illegal drugs, narcotic prescription drugs, alcohol, or other
127 substances, but shows no other signs of child abuse or neglect,
128 must ~~shall~~ be placed in the custody of a community-based care
129 lead ~~licensed child-placing~~ agency. Such a placement does not
130 eliminate the reporting requirement under s. 383.50(7). When the
131 department is contacted regarding an infant properly surrendered
132 under this section and s. 383.50, the department shall provide
133 instruction to contact a community-based care lead ~~licensed~~
134 ~~child-placing~~ agency and may not take custody of the infant
135 unless reasonable efforts to contact a community-based care lead
136 ~~licensed child-placing~~ agency to accept the infant have not been
137 successful.

138 (10) Except to the extent expressly provided in this
139 section, proceedings initiated by a community-based care lead
140 ~~licensed child-placing~~ agency for the termination of parental
141 rights and subsequent adoption of a newborn left at a hospital,
142 emergency medical services station, or fire station in
143 accordance with s. 383.50 must ~~shall~~ be conducted pursuant to
144 this chapter.

145 Section 4. Subsections (1) and (7) of section 383.50,

31-00293-24

2024306__

146 Florida Statutes, are amended to read:

147 383.50 Treatment of surrendered newborn infant.—

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

149 (a) "Community-based care lead agency" has the same meaning
150 as in s. 409.986(3).

151 (b) "Newborn infant" means a child who a licensed physician
152 reasonably believes is approximately 7 days old or younger at
153 the time the child is left at a hospital, emergency medical
154 services station, or fire station.

155 (7) Upon admitting a newborn infant under this section, the
156 hospital shall immediately contact the a local community-based
157 care lead licensed child placing agency or alternatively contact
158 the statewide central abuse hotline for the name of a licensed
159 child placing agency for purposes of transferring physical
160 custody of the newborn infant. The hospital shall notify the
161 community-based care lead licensed child placing agency that a
162 newborn infant has been left with the hospital and approximately
163 when the community-based care lead licensed child placing agency
164 can take physical custody of the child. In cases where there is
165 actual or suspected child abuse or neglect, the hospital or any
166 of its licensed health care professionals shall report the
167 actual or suspected child abuse or neglect in accordance with
168 ss. 39.201 and 395.1023 in lieu of contacting the local
169 community-based care lead a licensed child placing agency.

170 Section 5. Paragraph (e) of subsection (3) of section
171 39.201, Florida Statutes, is amended to read:

172 39.201 Required reports of child abuse, abandonment, or
173 neglect, sexual abuse of a child, and juvenile sexual abuse;
174 required reports of death; reports involving a child who has

31-00293-24

2024306__

175 exhibited inappropriate sexual behavior.—

176 (3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

177 (e) *Surrendered newborn infants.*—

178 1. The central abuse hotline must receive reports involving
179 surrendered newborn infants as described in s. 383.50.

180 2.a. A report may not be considered a report of child
181 abuse, abandonment, or neglect solely because the infant has
182 been left at a hospital, emergency medical services station, or
183 fire station under s. 383.50.

184 b. If the report involving a surrendered newborn infant
185 does not include indications of child abuse, abandonment, or
186 neglect other than that necessarily entailed in the infant
187 having been left at a hospital, emergency medical services
188 station, or fire station, the central abuse hotline must provide
189 to the person making the report the name of a local community-
190 based care lead ~~an eligible licensed child-placing~~ agency that
191 is required to accept physical custody of and to place
192 surrendered newborn infants. The department shall provide names
193 of eligible community-based care lead ~~licensed child-placing~~
194 agencies on a rotating basis.

195 3. If the report includes indications of child abuse,
196 abandonment, or neglect beyond that necessarily entailed in the
197 infant having been left at a hospital, emergency medical
198 services station, or fire station, the report must be considered
199 as a report of child abuse, abandonment, or neglect and,
200 notwithstanding chapter 383, is subject to s. 39.395 and all
201 other relevant provisions of this chapter.

202 Section 6. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 306

INTRODUCER: Senator Harrell

SUBJECT: Placement of Surrendered Newborn Infants

DATE: December 12, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	FP	_____

I. Summary:

Florida law allows a parent who is unwilling or unable to care for their newborn infant to safely relinquish the infant at a specified, safe, location without fear of criminal liability. The “safe haven law” allows parents to anonymously surrender a newborn infant at a hospital, fire station, or emergency medical services station and grants the parent immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.

The Department of Children and Families’ central abuse hotline must receive reports involving surrendered newborn infants and provide the reporter with the name of a local licensed child-placing agency for transfer of custody and placement responsibility if the report does not indicate child abuse, abandonment, or neglect.

SB 306 shifts the responsibility of custody and placement of a surrendered newborn infant from a child-placing agency to a community-based care lead agency (CBC). The bill requires each CBC to create and maintain a registry of prospective adoptive parents who have received a favorable home study and are willing to adopt a surrendered newborn infant. Each CBC is required to utilize its registry during the placement of a newborn infant and reference other CBC registries to locate alternative adoptive placements when it is in the best interest of the child.

The bill has no fiscal impact on state government and an indeterminate, but likely, insignificant fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Safe Haven Laws

Every state legislature has enacted laws to address infant abandonment and endangerment in response to a reported increase in the abandonment of infants in unsafe locations, such as public restrooms or trash receptacles. Beginning with Texas in 1999, states have enacted safe haven laws as an incentive for mothers in crisis to safely relinquish their babies at designated locations where the babies are protected and provided with care until a permanent home is found.¹

Although policy choices vary among states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and shielded from criminal liability, unless there is evidence of abuse or neglect. Most states designate hospitals, emergency medical service providers, health care facilities, and fire stations as a safe haven.² Forty-three states authorize emergency services personnel to accept an infant or allow relinquishment through the 911 emergency system.³ Laws in nine states allow a parent to voluntarily deliver the infant to a newborn safety device that meets certain safety standards.⁴

According to the nonprofit organization National Safe Haven Alliance, almost 5,000 safe haven relinquishments have occurred since 1999.⁵

Florida Safe Haven Law

The Legislature enacted Florida's safe haven law in 2000. The law created s. 383.50, F.S., and authorized the surrender of a newborn infant at a hospital or fire station. In 2001, the Legislature amended s. 383.50, F.S., to authorize emergency medical services stations (EMS), in addition to hospitals and fire stations, to receive surrendered newborn infants.⁶

Current law authorizes a parent to surrender a newborn infant up to seven days old at a hospital, fire station, or emergency medical services station. The law expressly grants a parent surrendering a newborn infant the right to anonymity and to not be pursued or followed unless a

¹ U.S. Department of Health and Human Services Administration for Families, Children's Bureau, Child Welfare Information Gateway, *Infant Safe Haven Laws*, 2022, available at <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last viewed Nov. 21, 2023).

² *Id.* See also Guttmacher Institute, *Infant Abandonment*, available at <https://www.guttmacher.org/state-policy/explore/infant-abandonment> (last visited Dec. 6, 2023).

³ *Id.* Ten states allow for emergency medical personnel responding to 911 calls to accept an infant (Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin).

⁴ *Id.* Arkansas, Indiana, Kentucky, Louisiana, Maine, Missouri, Ohio, Oklahoma, and Pennsylvania. Newborn safety devices may also be called "baby boxes." Safe Haven Baby Boxes are also found in Florida, New Mexico, Tennessee, Mississippi, North Carolina, Iowa, and West Virginia. See Safe Haven Baby Boxes, *Locations*, available at <https://www.shbb.org/location> (last visited Dec. 6, 2023).

⁵ National Safe Haven Alliance, *2022 Impact Report*, available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Nov. 21, 2023).

⁶ Chapter 2000-188, Laws of Fla.; Chapter 2001-52, Laws of Fla.

parent seeks to reclaim the newborn infant.⁷ The law also grants a surrendering parent immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.⁸

Since 2000, approximately 376 newborns have been surrendered at safe haven locations in Florida. In that time, 64 infants are known to have been unsafely abandoned.⁹

Procedures for Surrendered Newborn Infants

Florida's safe haven law outlines procedures for what happens after a newborn is surrendered. The law requires hospitals, fire stations, and emergency medical services stations that are staffed with full-time firefighters or emergency medical technicians to accept any newborn infant left with a firefighter or emergency medical technician so that the newborn infant can receive any necessary immediate medical treatment, including transport to a hospital.¹⁰ Upon admitting a surrendered newborn infant, the hospital must provide all necessary emergency services and care for the surrendered newborn infant and immediately contact a local licensed child-placing agency¹¹ or the Department of Children and Families' (DCF) statewide central abuse hotline (Hotline) for the name of a local licensed child-placing agency and transfer custody of the surrendered newborn infant to the child-placing agency.¹²

A child-placing agency that takes physical custody of a surrendered newborn infant pursuant to s. 383.50, F.S., must:

- Request assistance from law enforcement to investigate whether the infant is a missing child within 24 hours of taking custody of the infant.¹³
- Immediately seek an order for emergency custody of the infant.¹⁴ The emergency order stays in effect until the court approves of a placement in a prospective adoptive home, at which time the prospective adoptive parent becomes the guardian of the infant pending termination of parental rights and finalization of adoption.¹⁵ The child-placing agency may remove the infant from the prospective adoptive if removal is in the child's best interest.¹⁶

⁷ Section 383.50(5), F.S.

⁸ Section 383.50, F.S.

⁹ A Safe Haven for Newborns, *Safe Haven for Newborns, Truly Making a Difference*, available at <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/#:~:text=376%20newborns%20not%20abandoned%20in%20Florida%2C%20left%20at,were%20helped%20to%20successfully%20regain%20their%20parental%20rights> (last visited Nov. 21, 2023).

¹⁰ Section 383.50, F.S.

¹¹ Section 39.01(42), F.S., defines "licensed child-placing agency" as a person, society, association, or institution licensed by the DCF to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

¹² Sections 395.50(4) and 395.50(7), F.S.

¹³ Section 63.0423(3), F.S.

¹⁴ Section 63.0423(2), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

Florida's Child Welfare System

The DCF contracts with local non-profit agencies, known as community-based care lead agencies (CBCs), to provide child welfare services for children in the community. There are 17 CBCs statewide that provide services throughout Florida's 20 judicial circuits.¹⁷ The CBCs are responsible for providing adoption services for children in the foster care system by facilitating services for prospective adoptive families and conducting adoptive home studies.

A child-placing agency is an entity that receives a child and arranges for the child's placement in a family foster home, residential child-caring agency, or adoptive home.¹⁸ The DCF Office of Quality and Innovation (Office) is responsible for licensing child-placing agencies.¹⁹ The Office annually inspects all licensed child-placing agencies and investigates complaints.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 63.032, F.S., to add the definition of "community-based care lead agency" or "lead agency" to Ch. 63, F.S., to conform with the changes made throughout the bill that shifts the duties from licensed child-placing agencies to community-based care lead agencies (CBCs). This change will increase the responsibilities of CBCs related to a surrendered newborn infant and reduce those responsibilities for licensed child-placing agencies.

Section 2 amends s. 63.069, F.S., to require each CBC to establish and maintain a registry of prospective adoptive parents that have passed a home study under s. 63.092, F.S., and have indicated a desire to adopt a surrendered newborn infant. The bill requires the registries to include the names, addresses, telephone numbers, and email addresses of prospective adoptive parents and requires the CBCs to keep this contact information until their home study is no longer valid, or they request removal from the registry.

The bill prohibits a CBC from transferring the cost of establishing and maintaining the registry to prospective adoptive parents through the cost of the home study or the cost of the adoption.

The bill requires the clerk of court to forward to DCF any order that imposes sanctions related to the CBCs, rather than child-placing agencies.

Section 3 amends s. 63.0423, F.S., by shifting the entity responsible for surrendered newborn infants from licensed child-placing agencies to CBCs. The bill requires CBCs, rather than licensed child-placing agencies, to:

- Assume responsibility for the medical and other costs associated with the emergency services and care of the surrendered newborn infant from the time the CBC takes physical custody of the surrendered newborn infant.

¹⁷ The Department of Children and Families, *Lead Agency Information*, available at: <https://www.myflfamilies.com/services/child-family-and-family-well-being/community-based-care/lead-agency-information> (last visited Nov. 20, 2023).

¹⁸ Section 39.01(42), F.S.

¹⁹ The Department of Children and Families, *Child-Placing Agency Licensing*, available at: <https://www.myflfamilies.com/services/licensing/child-placing-agency-licensing> (last visited Dec. 5, 2023).

²⁰ Rule 65C-15, F.A.C.

- Immediately seek an order from the circuit court for emergency custody of the surrendered newborn infant.
- Request assistance from law enforcement officials to determine if the surrendered newborn infant is a missing child within 24 hours after taking physical custody of the surrendered newborn infant.
- Conduct the proceedings for the termination of parental rights and subsequent adoption of a surrendered newborn infant left at a hospital, emergency medical services station, or fire station.

The bill requires CBCs to utilize the registry of prospective adoptive parents to determine a placement for a surrendered newborn infant and allows the CBC to move a surrendered newborn infant to another placement if the removal is deemed to be in the best interest of the child. If a CBC cannot find a prospective adoptive placement for the surrendered newborn infant on its registry, the bill requires the CBC to contact another CBC and attempt to place the infant with a prospective adoptive parent on that CBC's registry.

The bill prohibits CBCs from attempting to pursue, search for, or notify the parent who surrenders the newborn infant, unless there is actual or suspected child abuse or neglect.

The bill prohibits the DCF from assuming custody of the surrendered newborn infant without reasonable efforts to contact a CBC to accept the infant.

Section 4 amends s. 383.50, F.S., to require hospitals to immediately contact the local CBC to transfer physical custody of a surrendered newborn infant, rather than a licensed child-placing agency or the Hotline.

Section 5 amends s. 39.201, F.S., to reflect the shift in the entity responsible for a surrendered newborn infant after the Hotline receives a report of a surrendered newborn infant. If the report does not indicate child abuse, abandonment, or neglect, the bill requires the Hotline to provide the person making the report with the name of a local CBC that is required to accept physical custody of and to place surrendered newborn infants, rather than a licensed child-placing agency.

The bill requires DCF to provide names of eligible CBCs on a rotating basis.

Section 6 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Community-Based Care Lead Agencies

Because the number of potential surrendered newborn infants is unknown, there is an indeterminate, but likely insignificant, negative fiscal impact on CBCs. The bill requires a CBC to establish and maintain a registry of prospective adoptive parents and requires the CBC to perform all duties related to a surrendered newborn infant, to include placement, care, and adoption. However, numbers of surrendered newborn infants are extremely low; only 376 in the past 24 years.²¹

Child-Placing Agencies

There is also an indeterminate, but likely insignificant, negative fiscal impact on child placing agencies that currently receive, place, and perform surrendered newborn infant adoptions. The bill removes all duties related to a surrendered newborn infant from these private entities. These child-placing agencies will no longer be able to bill for or receive income from prospective adoptive placements. However, numbers of surrendered newborn infants are extremely low; only 376 in the past 24 years.²²

C. Government Sector Impact:

None. Surrendered newborn infants are not considered abandoned or dependent children under Ch. 39, F.S., therefore child welfare specific funding received through contract with the DCF and federal Title IV-E dollars are not able to be used to implement the requirements of this bill.²³

²¹ *Supra* note 9.

²² *Id.*

²³ The Department of Children and Families, *SB 306 Agency Bill Analysis* (December 9, 2023), pp. 5-7 (on file with the Senate Committee on Children, Families, and Elder Affairs).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 63.032, 63.039, 63.0423, 383.50, and 39.201 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



530466

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 64 - 71.

=====
D I R E C T O R Y C L A U S E A M E N D M E N T
=====

And the directory clause is amended as follows:

Delete lines 43 - 44

and insert:

that section, to read:



802344

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

Senate Amendment

Delete lines 157 - 194

and insert:

care lead ~~licensed child-placing~~ agency or alternatively contact the statewide central abuse hotline for the community-based care lead agency contact information ~~name of a licensed child-placing agency~~ for purposes of transferring physical custody of the newborn infant. The hospital shall notify the community-based care lead ~~licensed child-placing~~ agency that a



802344

11 newborn infant has been left with the hospital and approximately
12 when the community-based care lead ~~licensed child-placing~~ agency
13 can take physical custody of the child. In cases where there is
14 actual or suspected child abuse or neglect, the hospital or any
15 of its licensed health care professionals shall report the
16 actual or suspected child abuse or neglect in accordance with
17 ss. 39.201 and 395.1023 in lieu of contacting the local
18 community-based care lead ~~a licensed child-placing~~ agency.

19 Section 5. Paragraph (e) of subsection (3) of section
20 39.201, Florida Statutes, is amended to read:

21 39.201 Required reports of child abuse, abandonment, or
22 neglect, sexual abuse of a child, and juvenile sexual abuse;
23 required reports of death; reports involving a child who has
24 exhibited inappropriate sexual behavior.—

25 (3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

26 (e) *Surrendered newborn infants.*—

27 1. The central abuse hotline must receive reports involving
28 surrendered newborn infants as described in s. 383.50.

29 2.a. A report may not be considered a report of child
30 abuse, abandonment, or neglect solely because the infant has
31 been left at a hospital, emergency medical services station, or
32 fire station under s. 383.50.

33 b. If the report involving a surrendered newborn infant
34 does not include indications of child abuse, abandonment, or
35 neglect other than that necessarily entailed in the infant
36 having been left at a hospital, emergency medical services
37 station, or fire station, the central abuse hotline must provide
38 to the person making the report the name of the local community-
39 based care lead agency ~~an eligible licensed child-placing agency~~



802344

40 that is required to accept physical custody of and to place
41 surrendered newborn infants. ~~The department shall provide names~~
42 ~~of eligible licensed child-placing agencies on a rotating basis.~~

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 474

INTRODUCER: Senator Grall

SUBJECT: Public Records/Suicide Victims

DATE: December 12, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 474 makes confidential and exempt from public disclosure the photograph or video or audio recording that depicts or records the suicide of a person when held by an agency. The bill allows for disclosure to a surviving spouse of the deceased; the surviving parents, if there is no surviving spouse; or the surviving adult children or siblings, if there are no surviving spouse or parents. The bill defines the “suicide of a person” and specifies who may obtain such photographs and recordings and the process for obtaining these materials. The bill gives retroactive application of the exemption.

The bill amends s. 119.071(2)(p), F.S., to conform to the expanded exemption for photographs or video or audio recordings that depict the suicide of a person. Specifically:

- Certain government entities may access such photographs or video or audio recordings in furtherance of their official duties;
- The court, upon showing of good cause, may issue an order authorizing any person to view or copy such photographs or video or audio recordings;
- The record custodian in control of photographs or video or audio recordings, or his or her designee, must directly supervise anyone who views, copies, or handles such; and
- Any custodian or photographs or video or audio recordings that depict the suicide of a person who willfully and knowingly violates the provisions in the section and any person who violates a court order issued pursuant to the section, commits a third degree felony.

The bill gives retroactive application to the exemption for photographs or video or audio recordings that depict the suicide of a person.

The bill also makes confidential and exempt from public inspection and copying requirements an autopsy report of a person whose manner of death was suicide held by a medical examiner. The bill allows for disclosure to a surviving spouse of the deceased; the surviving parents, if there is

no surviving spouse; or the surviving adult children or siblings, if there are no surviving spouse or parents. The bill gives retroactive application of the exemption.

The bill amends s. 406.135, F.S., to conform to the expanded exemption for autopsy reports of a person whose manner of death was suicide. Specifically:

- Certain government entities may access such reports in furtherance of their official duties;
- The custodian of record, or his or her designee, may not permit any other person, except an authorized designated agent, to view or copy an autopsy report of a person whose manner of death was suicide;
- A court may use its discretion to authorize the disclosure of such reports; and
- Any person who willfully and knowingly violates a court order regarding the disclosure of these reports, and any custodian who willfully and knowingly discloses these reports in violation of the law, are subject to a third degree felony.

The bill makes findings that the new exemptions from public records disclosure for photographs or video or audio recordings that depict the suicide of a person and for an autopsy report of a person whose manner of death was suicide are a public necessity as required by the Florida Constitution. Two-third vote of both the House and the Senate is required for final passage.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2029, unless reviewed and reenacted by the Legislature.

There is no anticipated fiscal impact on state or local governments.

The bill is effective upon becoming law.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, Ch. 119,

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photography, 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 connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” 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 exempt from the Public Records act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exemptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions continue by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than necessary. An exemption serves an identifiable public purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- The release of sensitive personal information would be defamatory or would jeopardize an individual’s safety. However, if this public purpose is cited as the basis of the exemption, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

¹¹ See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.; Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage is required.²³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Exemptions related to Sensitive Photos Videos, or Audio Recordings of Deaths

Autopsy Photographs, Videos, or Audio Depictions

Section 406.135, F.S., makes confidential and exempt a photograph, video, or audio recording of an autopsy held by a medical examiner. It does not limit the disclosure of any written autopsy report. There is an exception which allows for a surviving spouse to view and copy a photograph or video recording or listen to or copy an audio recording of the deceased spouse's autopsy.²⁵ If there is no surviving spouse, the surviving parent must have access to such records.²⁶ If there is no surviving spouse and no surviving parent, then an adult child is required to have access to such records.²⁷ Current law also allows for the disclosure to a local, state, or federal agency if it is in furtherance of its official duties.²⁸

The custodian of the record, or his or her designee, may not allow any other person to view or copy such records unless the deceased's surviving relative who has authority to request such records, or his or her designated agent, grants permission to view or copy such records.²⁹

Upon a showing of good cause, a court may issue an order authorizing any person to view or copy a photograph or video recording, or listen to, or copy any audio recording of an autopsy.³⁰

²² Section 119.15(6)(a), F.S.; The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

²⁵ Section 406.135(2), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 406.135(3)(b), F.S.

²⁹ Section 406.135(3)(c), F.S.

³⁰ Section 406.135(4)(a), F.S.

The court may impose any restrictions or stipulations that it deems appropriate.³¹ The court must consider three factors when determining whether good cause exists, including:

- Whether such disclosure is necessary for the public evaluation of governmental performance;
- The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and
- The availability of similar information in other public records.³²

Any handling of photographs, video, or audio recordings of an autopsy must be under the direct supervision of the custodian of record or his or her designee.³³

The surviving spouse, surviving parent, or adult children of the deceased, as appropriate, must be given:

- Reasonable notice of a petition filed with the court to view or copy a photograph or video recording, or listen to or copy an audio recording of an autopsy;
- A copy of such petition; and
- Reasonable notice of the opportunity to be present and hearing at any hearing.³⁴

A custodian of a photograph, video, or audio recording of an autopsy who willfully and knowingly violates these provisions commits a felony of the third degree.³⁵ Any person who willfully and knowingly violates a court order issued after showing good cause to view or copy a photograph or video, or listen to or copy an audio recording of an autopsy commits a felony of the third degree.³⁶

A criminal or administrative proceeding is exempt from s. 406.135, F.S., but is subject to all the provisions of Ch. 119, F.S., unless otherwise exempted.³⁷ A court in a criminal or administrative proceeding, however, may, upon a showing of good cause, restrict or otherwise control the disclosure of an autopsy, crime scene, or similar photograph, video, or audio recording.³⁸

The exemption under s. 406.135, F.S. is given retroactive application.³⁹

³¹ *Id.*

³² Section 406.135(4)(b), F.S.

³³ Section 406.135(5)(c), F.S.

³⁴ Section 406.135(5), F.S.

³⁵ Section 406.135(6)(a), F.S.; A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine.

³⁶ Section 406.135(6)(b), F.S.

³⁷ Section 406.135(7), F.S.

³⁸ *Id.*

³⁹ Section 406.135(8), F.S.

Killing of a Law Enforcement Officer, a Minor, and Mass Killings

Section 119.071(2)(p), F.S., makes a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties,⁴⁰ the killing of a minor,⁴¹ and the killing of a victim of mass violence⁴² confidential and exempt from public records requirements. Similar to the above described public records exemption related to autopsies, a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, the surviving parents must have access to such records, and if there is no surviving spouse or parent, then the adult children must have access to such records.⁴³

Additionally, access may be provided to the photograph or video or audio recordings by a court in the same circumstances as described above for autopsies.⁴⁴

As with the exemption related to autopsies, this exemption applies retroactively and to all photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, or the killing of a minor regardless of whether the killing of the person occurred before, on, or after May 23, 2019.⁴⁵

There is currently no exemption for photographs or video or audio recordings related to the suicide of a person.

⁴⁰ Section 119.071(2)(p)1.a., F.S., defines “killing of a law enforcement officer who was acting in accordance with his or her official duties” to mean all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

⁴¹ Section 119.071(2)(p)1.b., F.S., defines the “killing of a minor” to mean all acts or events that cause or otherwise relate to the death of a victim who has not yet reached the age of 18 at the time of the death, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of the death of a victim under the age of 18, events that depict a victim under the age of 18 being killed, or events that depict the body of a victim under the age of 18 who has been killed.

⁴² Section 119.071(2)(p)1.c., F.S., defines “killing of a victim of mass violence” to mean events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.

⁴³ Section 119.071(2)(p)2., F.S.

⁴⁴ See s. 119.071(2)(p)4.-6., F.S.

⁴⁵ Section 119.071(2)(p)7., F.S.; However, the provision further states that it is not intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any Florida court, as of the effective date of the act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence.

Suicide

Suicide is one of the leading causes of death in the United States.⁴⁶ In 2021, 48,183 people died by suicide in the United States equating to 1 death every 11 minutes.⁴⁷ In 2022, suicide rates increased, with an estimated 49,449 people dying by suicide.⁴⁸ This is 3 percent higher than 2021 and the highest rate of suicide since 1941.⁴⁹

In 2022, Florida's suicide rates were higher than any of the last four years.⁵⁰ Provisional data shows Florida had a rate of 15.8 per 100,000 people dying by suicide. This is a slight increase from 2021's suicide rate of 15.4.⁵¹ As a result, suicide is on the list of 10 leading causes of death in Florida.⁵²

The largest increase in suicide deaths were among older adults. Suicide deaths have increased by nearly 7 percent in people ages 45 to 64 and more than 8 percent in people 65 and older.⁵³ Additionally, suicide deaths for adults aged 25 to 44 have increased by 1 percent.⁵⁴

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(2), F.S., to make a photograph or video or audio recording that depicts the suicide of a person confidential and exempt from public disclosure when held by an agency.

Defines "suicide of a person" to mean events that depict the suicide of a person, the body of a person whose manner of death was suicide, or any portion of such person's body.

Amends s. 119.071(2)(p), F.S., to conform to the expanded exemption for photographs or video or audio recordings that depict the suicide of a person. Specifically:

- Certain government entities may access such photographs or video or audio recordings in furtherance of their official duties;
- The court, upon showing of good cause, may issue an order authorizing any person to view or copy such photographs or video or audio recordings;
- The record custodian in control of photographs or video or audio recordings, or his or her designee, must directly supervise anyone who views, copies, or handles such;

⁴⁶ Centers for Disease Control and Prevention, Suicide Prevention, *Suicide Data and Statistics*, available at: <https://www.cdc.gov/suicide/suicide-data-statistics.html> (last visited Dec. 1, 2023).

⁴⁷ *Id.*

⁴⁸ ABC News Go, *Number of Suicides in the U.S. in 2022 Reaches Record Level: CDC*, available at: <https://abcnews.go.com/Health/number-suicides-us-2022-reaches-record-level-cdc/story?id=105204012#:~:text=The%20suicide%20rate%20increased%20by,1941%2C%20according%20to%20the%20report.> (last visited Dec. 1, 2023).

⁴⁹ *Id.*

⁵⁰ Fox 13 Tampa Bay, *Higher Suicide Rates Reported in Florida in 2022, CDC Says*, available at: <https://www.fox13news.com/news/higher-suicide-rates-reported-in-florida-in-2022-cdc-says> (last visited Dec. 1, 2023).

⁵¹ Tampa Bay 10, *Deaths by Suicide in Florida Increased in 2022, CDC Data suggests*, available at: <https://www.wtsp.com/article/news/health/florida-suicide-death-rate-cdc-2022-data/67-2e25f0b2-c3d7-4f19-97db-242f2ebe4d2f> (last visited Dec. 1, 2023).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

- Any custodian of photographs or video or audio recordings that depict the suicide of a person who willfully or knowingly violates the provision in the section and any person who violates a court order issued pursuant to the section, commits a third degree felony.

The bill gives retroactive application to the exemption.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 includes a statement of public necessity as required by the Florida Constitution. The public necessity statement provides that the release of photographs, videos, and audio recordings could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The widespread dissemination of the photographs, videos, and audio recordings through the Internet would subject the immediate family of the deceased to continuous injury.

Section 3 amends s. 406.135, F.S., to make confidential and exempt an autopsy report of a person whose manner of death was suicide held by a medical examiner.⁵⁵ This section allows for the disclosure to the surviving spouse of the deceased; the surviving parent, if there is no surviving spouse; or the surviving adult children and siblings, if there is no surviving spouse or parent.

Amends s. 406.135, F.S., to conform to the expanded exemption for autopsy reports of a person whose manner of death was suicide. Specifically:

- Certain government entities may access such reports in furtherance of their official duties;
- The custodian of the record, or his or her designee, may not permit any other person, except an authorized designated agent, to view or copy an autopsy report of a person whose manner of death was suicide;
- The court may, upon a showing of good cause, issue an order authorizing any person to view or copy an autopsy report of a person whose manner of death was suicide;
- The record custodian in control of an autopsy report of a person whose manner of death was suicide, or his or her designee, must directly supervise anyone who views, copies, or handles the autopsy report;
- Any custodian of an autopsy report of a person whose manner of death was suicide who willfully and knowingly violates the provisions in s. 406.135, F.S., and any person who violates a court order issued pursuant to s. 406.135, F.S., commits a third degree felony.

The bill gives retroactive application to the exemption.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

⁵⁵ The term “medical examiner” in s. 409.135, F.S., means anyone who serves in the role of a district medical examiner, as well as any employee, deputy, or agent of the medical examiner, or any other person who may obtain possession of a report, photograph, or audio or video recording of an autopsy in the court assisting a medical examiner in the performance of his or her official duties.

Section 4 includes a statement of public necessity as required by the Florida Constitution. The public necessity statements provides that the release of autopsy reports of a person whose manner of death was suicide could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The widespread unauthorized dissemination of such reports would subject the immediate family of the deceased to continuous injury.

Section 5 provides that the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for the final passage of a bill creating and expanding an exemption to the public records requirements. This bill enacts a new exemption for autopsy reports of a person whose manner of death was suicide held by a medical examiner, thus, the bill will require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Sections 2 and 4 of the bill contain statements of public necessity for the exemption.

Scope of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the surviving spouse and family members of a person whose manner of death was suicide. This bill exempts only those autopsy reports of persons whose manner of death was suicide. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.071 and 406.135 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.