

Committee on Children, Families, and Elder Affairs

CS/SB 68 — Public Records/Staff and Domestic Violence Advocates of Domestic Violence Centers

by Criminal Justice Committee and Senator Garcia

The bill amends s. 119.071(4)(d), F.S., creating a new exemption from public records disclosure for specified personal information of current and former staff and domestic violence advocates of domestic violence centers certified by the Department of Children and Families under ch. 39, F.S., and specified personal information relating to their spouses and children.

Section 90.503(1)(b), F.S., defines “domestic violence advocate” as an employee or volunteer of a certified domestic violence center who: provides direct services to individuals victimized by domestic violence; has received 30 hours of domestic violence core competency training; and has been identified by the domestic violence center as an individual who may assert a claim of privilege for communications with domestic violence victims under s. 39.905, F.S.

The bill exempts the following information from public records disclosure:

- Home addresses, telephone numbers, places of employment, dates of birth, and photographs of such personnel;
- Names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and
- Names and locations of schools and day care facilities attended by the children of such personnel.

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

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2024, in accordance with s. 119.15, F.S., unless the statute is reviewed and reenacted by the Legislature before that date. While the repeal date is typically 5 years from enactment of an exemption, the repeal date for this bill is 3 years, so that it remains consistent with the repeal dates of other exemptions currently in s. 119.071(4)(d), F.S.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 35-3; House 115-0

Committee on Children, Families, and Elder Affairs

CS/SB 70 — Domestic Violence Centers

by Children, Families, and Elder Affairs and Senator Garcia

The bill creates s. 39.9057, F.S., making it a criminal offense for any person to maliciously publish, disseminate, or disclose any descriptive information or image that may identify the location of a domestic violence center certified under s. 39.905, F.S., or to otherwise maliciously disclose the location of a center.

A person commits a misdemeanor of the first degree, punishable by up to one year imprisonment and a \$1,000 fine for a first violation of this offense. The bill reclassifies the penalty from a first degree misdemeanor to a third degree felony for a second or subsequent violation. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine.

To the extent the bill creates a new first degree misdemeanor or third degree felony which results in persons being sentenced to jail or prison, it will likely have a positive insignificant jail or prison bed impact (i.e. an increase of 10 or fewer beds).

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 117-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 80 — Child Welfare

by Rules Committee; Children, Families, and Elder Affairs Committee; and Senator Brodeur and others

The bill amends and creates a number of sections of law related to the child welfare system, making substantial changes that will impact the lives of children in out-of-home care and young adults who have aged out of care. Specifically, the bill makes the following changes:

Consolidated Information Record

- Requires the Department of Children and Families (the DCF) or a third party to develop a “FACE sheet” which must include minimum specified information related to the child’s case to be kept in the dependency case file as a quick reference resource.
- Requires that the FACE sheet must be in a uniform and standardized format, be electronic and have the capability to be printed, and be updated at least once a month.

Best Interest and Priority Placement Determinations

- Creates a new section of law that relocates, consolidates, and expands current factors that must be considered for various decisions related to a child that enters or is in out-of-home care and requires the DCF, a community-based care lead agency (lead agency), or the court to consider such enumerated factors when determining whether a proposed placement for a child in out-of-home care is in the child’s best interest.
- Provides legislative findings and intent related to priority placements for children in out-of-home care and expands and relocates the list of persons that should be considered as priority placements for these children.
- Requires the priority placement list to be applied to initial placement decisions and all subsequent placement decisions.

Multidisciplinary Teams

- Relocates and expands the use of existing multidisciplinary teams (MDT) to emphasize the importance of engaging with families and other important individuals in order to make better decisions for children in out-of-home care.
- Requires the MDT to be convened within specified timeframes to consider certain decisions related to the child, including initial and subsequent placement decisions, creating transition plans for such placement decisions, determining educational placement decisions, and the above-mentioned decisions specifically related to sibling placements.
- Specifies the participants that must be invited to MDT staffings and provides authority for the DCF or lead agency to invite other relevant participants.
- Requires the MDT staffing to be led by a facilitator who is a trained professional and a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather when an important decision about a child’s life is required to be made and consider data and information on the child before reaching a decision.

- Requires MDTs to conduct supplemental assessments for children under age 3, including to collect specified additional data and consider factors when making decisions relating to such children.
- Provides that a unanimous consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision.
- Provides procedures for when the MDT does not reach a unanimous consensus decision, and requires the facilitator to notify the court and the DCF within a certain time frame.
- Requires the DCF to determine how to address the goal of the staffing in the absence of a unanimous consensus decision.

Changes in Placement and Education Settings; Transition Planning

- Provides a number of additions and amendments to provisions related to changes in placement and education settings and for appropriately planned and executed transitions in order to reduce the possible trauma of such changes to the child, and his or her family, caregivers and other professionals involved in the case.
- Requires the DCF or lead agency to convene the MDT to develop transition plans for placement changes and education transitions within specified time frames for emergency versus nonemergency circumstances that focus on minimizing the impact on the child.
- Requires the transition plans to address specialized concerns, including, in part, additional specified factors for children that are younger than 3 years of age.
- Requires the DCF and lead agency to consider certain factors when determining the best education placement for a child and provide additional considerations for transitions of early education or programs versus K-12 education schools.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative and requires such form to be attached to a child's FACE sheet.
- Requires the DCF to contract for the development of model placement transition plans and related material that provide a basis for developing individualized transition plans for children in out-of-home care who are changing placements.

Placement of Siblings in Out-of-Home Care

- Consolidates existing provisions and creates new provisions addressing the complexities of placing sibling groups in out-of-home care or, in the alternative, allowing the siblings to maintain visitation and ongoing contact when placement together is not possible.
- Creates specified provisions for handling changes in placement or educational settings and transitions of sibling groups throughout the dependency case process.
- Requires that the DCF make reasonable efforts to place sibling groups together when they are removed at the same time from the same home and on an initial placement of a child who enters out-of-home care later than his or her siblings if it won't disrupt the placement of the sibling already in out-of-home care.
- Requires the DCF or lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and who is younger than 3 years of age.

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- Requires contact and visitation between siblings who are not placed together in out-of-home care, which will assist the siblings with continuing established relationships or possibly developing a relationship.
- Provides, in very limited instances, for continued communication between a child and his or her sibling who has legally exited out-of-home care.

Postdisposition Placement Changes

- Requires the court to consider MDT reports and placement priorities when making a decision regarding a placement change.
- Creates a rebuttable presumption that when certain specified criteria are satisfied that it is in the best interest of the child to remain in the current placement and requires the court to conduct an evidentiary hearing to determine the best placement for a child when such rebuttable presumption applies.
- Permits the caregiver to, in response to receiving written notice of the DCF or lead agency's intent to change a placement, file written notice to the court and the DCF requesting the above-mentioned evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes, appoint an attorney for the child and an expert in attachment and bonding, and advise the caregiver that he or she may retain counsel for the evidentiary hearing.
- Prohibits the DCF from moving the child until the evidentiary hearing has been conducted and unless a court finds that the change of placement is in the child's best interest and requires the DCF or lead agency to implement an appropriate transition place if the court makes such a finding.

Increased Support for Young Adults Aging Out of Care

- Requires the DCF to assess each child's readiness for transition to adulthood and requires transition planning at an earlier age to allow more time for appropriate preparation.
- Requires the court to consider factors related to older children at an earlier age and more frequently if necessary.
- Improves collection and reporting of performance measures and outcomes for independent living skill development and transition success.
- Requires lead agencies to provide post-adoption supports to avoid dissolution of adoptions.
- Creates an Office of Continuing Care at the DCF to help young adults who have aged out of the child welfare system and also requires lead agencies to annually contact young adults to advise such youth of eligible services, inquire about the youth's needs, and provide assistance with connecting them to independent living services.
- Expands eligibility for having the cost of licensure and motor vehicle insurance reimbursed through the Keys-to-Independence program to include young adults who were 18 at the time of aging out of care and who are currently enrolled in the Postsecondary Education Supports and Services (PESS) program, rather than only for young adults in Extended Foster Care (EFC).

- Allows young adults in the Road-to-Independence program to access financial assistance in times of emergency, such as large medical expenses or automobile repairs.
- Requires lead agencies to provide intensive supports for young adults who have aged out of care and who show the greatest deficits in life.
- Requires the Florida Institute for Child Welfare to evaluate the state's delivery of life skill services and the DCF to provide more support to caregivers in delivering those services.

Reinstatement of Parental Rights

- Allows the court to consider a motion to reinstate parental rights if certain factors are satisfied including, in part, the termination of such rights was based on either the parent's voluntary surrender or as a result of failing to substantially comply with his or her case plan; that the child must be at least 13 years of age; both the child and parent want the reinstatement; and the MDT convened for this identified goal recommends the reinstatement is in the child's best interest.
- Requires the court, upon a finding of clear and convincing evidence that all the necessary factors are met, to conduct supervised visitation and trial home visits for at least 3 consecutive months with regular reports on progress.
- Allows the court to reinstate the parental rights with an in-home safety plan and protective supervision for a specified time if the court finds by clear and convincing evidence after the completion of the 3 month supervised visitation and trial home visits that it is in the best interest of the child.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 38-0; House 114-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 96 — Child Welfare

by Rules Committee; Children, Families, and Elder Affairs Committee; and Senator Book and others

The bill makes a number of changes and clarifies provisions relating to the child welfare system, including to the intake process and reporting requirements, investigations, penalties, and confidentiality of records and reports. Further, the bill makes changes to the Department of Children and Families' (DCF) duties, lead agencies' and managing entities' duties, new programs, and establishes a commission.

Intake Process and Reporting Requirements for Child Abuse, Abandonment, or Neglect

The bill reorganizes, clarifies, and modifies the intake process and reporting requirements as follows:

- Creates s. 39.101, F.S., to reorganize and clarify provisions relating to the central abuse hotline (hotline) contained in provisions of s. 39.201, F.S., under current law and directs the Division of Law Revision to add s. 39.101, F.S., to ch. 39, part II, F.S.;
- Requires the hotline to maintain and produce statistical reports relating to child abuse and sexual abuse that are reported from or occur in specified educational settings;
- Provides that a person required to report to the hotline is not relieved from their duty to report by notifying his or her supervisor;
- Reorganizes and clarifies reporting requirements, and adds requirements relating to reporting, and data collection and analysis; and
- Creates s. 39.208, F.S., imposing cross-reporting requirements for any person who is required to investigate child abuse, abandonment, or neglect to report known or suspected animal cruelty, and requires animal control officers to report any known or suspected child abuse, abandonment, or neglect.

Child Welfare Investigations

The bill modifies or relocates provisions relating to investigations as follows:

- Requires a representative from a child advocacy center (CAC) to be included on the critical incident rapid response team (CIRRT) conducting investigations of child deaths in certain circumstances, effective as of October 1, 2021;
- Provides that CACs offer multidisciplinary services to children who are abused, abandoned, or neglected, and provide coordinated responses to victims and their families;
- Requires the DCF to conduct an investigation similar to a CIRRT of a verified report of sexual abuse of a child in out-of-home care in specified circumstances which meet certain requirements, effective October 1, 2021;
- Provides that a child protective investigator who is assigned to investigate child sexual abuse allegations must continually assess and take protective actions to address the safety of other children in the out-of-home placement or who are accessible to the alleged perpetrator; and

- Relocates provisions regarding attorney representation of alleged perpetrators during an investigation of institutional child abuse, abandonment, or neglect.

Penalties Related to Failure to Report Certain Abuse, Abandonment, or Neglect Allegations

The bill provides for criminal penalties relating to cross-reporting requirements and clarifies penalties for school personnel for failing to report child abuse, abandonment, or neglect as follows:

- Provides criminal penalties for child protective investigators to knowingly and willfully failing to report animal abuse; and
- Requires a minimum of a 1 year suspension of the instructional personnel's or school administrator's educator certificate in specified circumstances.

Confidentiality

The bill modifies and clarifies current law regarding confidential reports or records as follows:

- Provides for employees, authorized agents, or contract providers of the Agency for Health Care Administration to have access to confidential reports or records, except for the name and other identifying reporter information, in cases of child abuse or neglect;
- Adds members of the Legislature to the list of authorized individuals that may have access to specified confidential reports and records in cases of child abuse or neglect within 7 days of such a request, if requested within that time frame; and
- Clarifies provisions regarding a caregiver's requirement to maintain confidentiality of any information provided under s. 39.4087, F.S.

DCF Duties

The bill modifies the DCF's duties as follows:

- Amends the DCF's duties to collect and post information regarding the managing entities' and lead agencies' compensation and other financial information;
- Requires the DCF to work with all stakeholders to help children in out-of-home care become knowledgeable about their rights, including providing certain information in specified timeframes;
- Requires the DCF to conduct a multi-year review of specified financial information of lead agencies and develop a plan to ensure financial viability of such entities;
- Requires the DCF to make available training for caregivers developed in collaboration with certain agencies on the life skills necessary for children in out-of-home care;
- Increases the capacity of children that can be placed in a licensed foster home without an additional assessment to align with current federal law and provides the DCF with the ability to adopt rules to establish requirements for requesting a Title IV-E waiver for over-capacity; and
- Requires the DCF and animal welfare associations to develop or adopt and use already available training materials to provide a 1-hour training to all child protective investigators and animal control officers on cross-reporting awareness and requirements.

Lead Agencies' and Managing Entities' Duties

Lead agencies and managing entities must comply with the following requirements:

- Requires board members or officers of a managing entity or lead agency, or their relatives, to disclose specified activity that may reasonably be construed as a conflict of interest, and provides procedures to follow to address such conflict;
- Modifies the information that lead agencies must post on their websites;
- Requires a statement on promotional and other literature which states the lead agency is contracted with the DCF;
- Requires through their contracts with the DCF that the lead agencies demonstrate the ability to adhere to best child welfare practices enumerated in chs. 39 and 409, F.S., and provide information on their adherence to such best practices; and
- Requires lead agencies to fund the cost of increased care in certain circumstances.

Programs and Services for Children and Families in the Child Welfare System

The bill expands existing programs and creates the following new programs to improve outcomes:

- Requires, rather than authorizes, the DCF, contracted sheriffs' offices, and lead agencies to develop a formal family-finding program;
- Requires, rather than authorizes, each lead agency to establish a kinship navigator program;
- Creates the Foster Information Center to serve current and potential foster parents and provide additional resources to foster parent and kinship caregivers;
- Authorizes and encourages district school boards to establish educational programs for students relating to certain information about identifying abuse, abandonment, or neglect; and
- Authorizes each Office of Criminal Conflict and Civil Regional Council (OCCCRC) to establish a multidisciplinary legal representation program for parents in the dependency system with specified duties and reporting requirements.

Commission on Mental Health and Substance Abuse

The bill creates a Commission on Mental Health and Substance Abuse adjunct to the DCF to examine the current methods of providing such services in Florida and providing for its composition, duties, and reporting requirements.

Repealed Provisions

The following statutes have been repealed and the provision deleted:

- Repeals ss. 409.1453 and 409.1753, F.S., relating to design and dissemination of training for foster care caregivers and foster care duties, respectively, as such provisions were relocated to other sections; and

- Eliminates an obsolete provision that requires the Florida Institute for Child Welfare to evaluate the Guardianship Assistance Program.

If approved by the Governor, these provisions take effect July 1, 2021, except as otherwise provided.

Vote: Senate 39-0; House 116-0

Committee on Children, Families, and Elder Affairs

CS/HB 141 — Parenting and Time-Sharing of a Minor Child for a Convicted Parent

by Judiciary Committee and Rep. Leek (CS/CS/SB 932 by the Committees on Rules; Children, Families, and Elder Affairs and Senator Wright)

The bill amends s. 61.13, F.S., expanding the application of the rebuttable presumption of detriment to the child to include when a parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S. (offense criteria relevant to sexual offender registration), and at the time of the offense:

- The parent was 18 years of age or older; and
- The victim was under 18 years of age or the parent believed the victim was under 18 years of age.

A rebuttable presumption against granting a parent time-sharing with his or her minor child is also created based on the same criteria. The bill provides that the presumption against granting time-sharing may be rebutted upon the court making written findings that the parent poses no significant risk of harm to the child and that time-sharing is in the child's best interest. If the presumption is rebutted, the bill also requires the court to consider all time-sharing factors provided for in s. 61.13(3), F.S.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 116-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

SB 252 — Child Care Facilities

by Senator Stewart and others

The bill creates the “Child Safety Alarm Act” and requires that after January 1, 2022, all vehicles used by child care facilities to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. This change is in response to reported deaths of small children who are left in vehicles during periods of hot weather.

The bill requires the Department of Children and Families (DCF) to adopt minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill also provides rulemaking authority.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 39-1; House 115-1

Committee on Children, Families, and Elder Affairs

CS/CS/HB 441 — Elder-focused Dispute Resolution Process

by Judiciary Committee; Civil Justice and Property Rights Subcommittee; and Rep. Hage
(CS/CS/SB 368 by Appropriations Committee; Judiciary Committee; and Senator Baxley)

The bill creates an alternative dispute resolution process for persons 60 years of age and older who are involved in certain legal proceedings. Specifically, the bill allows a court to appoint an eldercaring coordinator to assist in disputes that can impact an elder's safety and autonomy. The court must specifically define the scope of an eldercaring coordinator's authority in its order of appointment.

n eldercaring coordinator may be appointed for up to 2 years, although a court has discretion to extend or suspend the appointment as needed. In order to be appointed as an eldercaring coordinator, an applicant must:

- Meet a specified professional licensing requirement, such as membership in The Florida Bar or being a licensed nurse;
- Complete 3 years of post-licensing or post-certification practice;
- Receive training in family and elder mediation;
- Receive 44 hours in eldercare coordinator training, which must offer training on topics including, among other things:
 - Elder, guardianship, and incapacity law;
 - Family dynamics;
 - Multicultural competency; and
 - Elder abuse, neglect, and exploitation.
- Successfully pass a background check; and
- Have not been a respondent in a final order granting an injunction for protection against domestic, dating, sexual, or repeat violence or stalking or exploitation of an elder or a disabled person.

The bill provides that an eldercaring coordinator may be removed or disqualified if the coordinator no longer meets the minimum qualifications or upon court order.

The bill requires an equal amount of fees and costs for eldercaring coordination to be paid by each party, subject to an exception. If a court finds that a party is indigent, the bill prohibits the court from ordering the party to eldercaring coordination unless funds are available to pay the indigent party's allocated portion. Likewise, cases involving exploitation of an elder or domestic violence are ineligible for a referral without the consent of the parties involved. The court must offer each party the opportunity to consult with either an attorney or a domestic violence advocate prior to accepting consent of the referral and the court is required to determine whether each party has given their consent freely and voluntarily.

When a court is determining whether to refer parties that may have an above-mentioned history that would otherwise preclude the referral, the court must consider whether a party has:

- Committed an act of exploitation or domestic violence against another party or any member of another party's family;
- Engaged in a behavioral pattern where power and control are used against another party and that could jeopardize another party's ability to negotiate fairly; or
- Behaved in a way that leads another party to reasonably believe he or she is in imminent danger of becoming a victim of domestic violence.

If the court refers a case to eldercaring coordination that involves a party who has any history of domestic violence or exploitation of an elder, the court must order necessary precautions to ensure safety of specified persons and property.

The bill provides that all communications that meet specified requirements and are made during eldercaring coordination must be kept confidential. The bill provides that parties to the eldercaring coordination, including the coordinator, may not testify unless one of the enumerated exceptions applies. The bill also provides remedies for breaches of confidentiality.

The bill provides legislative findings and requires the Florida Supreme Court to establish minimum standards and procedures for training, qualifications, discipline, and education of eldercaring coordinators. The bill also defines a number of terms, including:

- "Action";
- "Care and safety";
- "Elder";
- "Eldercaring coordination";
- "Eldercaring coordination communication";
- "Eldercaring coordinator";
- "Eldercaring plan";
- "Good cause";
- "Legally authorized decisionmaker";
- "Participant"; and
- "Party."

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 119-0

Committee on Children, Families, and Elder Affairs

CS/SB 590 — School Safety

by Appropriations Committee and Senator Harrell

The bill modifies numerous provisions related to school safety. Specifically, the bill:

- Requires public and charter schools to make a reasonable attempt to notify the parents of a minor student before the student is removed from school, school transportation, or a school-sponsored activity for an involuntary mental health examination.
- Defines “a reasonable attempt to notify” as “the exercise of reasonable diligence and care by the principal or the principal’s designee to make contact with the student’s parent, guardian, or other known emergency contact whom the student’s parent or guardian has authorized to receive notification of an involuntary examination.”
- Requires the principal or their designee to, at a minimum, use available methods of communication to notify a parent, guardian, or other known emergency contact following the decision to Baker Act a student. The methods of communication should include, but are not limited to, telephone calls; text messages; e-mails; and voicemails.
- Requires a principal or their designee to document the method and number of attempts made to contact the student’s parent, guardian, or other known emergency contact, and the outcome of each attempt, allowing a delay of notification if it is necessary to avoid jeopardizing the health and safety of the student.
- Mandates the collection of data by school districts and the Department of Children and Families (DCF) relating to the number and frequency of involuntary examinations of minors initiated by schools at specified school locations or events.
- Provides that parents of public and charter school students have the right to timely notification of threats, unlawful acts, and significant emergencies, as well as access to school safety and discipline incidents as reported in the school environmental safety incident report.
- Adds requirements to required student codes of conduct to include criteria for: Recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest; and
- Assigning a student who commits a petty act of misconduct to a school-based intervention program. If a student’s assignment is based on a noncriminal offense, the student’s participation in a school-based intervention program may not be entered into the Department of Juvenile Justice Information System Prevention Web.
- Allows district school board policies to provide accommodations for drills conducted by exceptional education centers, and requires district school boards to establish certain emergency response and emergency preparedness policies and procedures.
- Requires timely notice to parents of specified unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities.
- Requires each district school board to adopt a policy mandating that the school superintendent annually report to the DCF the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.

- Requires all school safety officers to undergo crisis intervention training.
- Requires any ID card issued by a public school for students in grades 6-12 to include the telephone numbers for national or statewide crisis and suicide hotlines and text lines.
- Requires school districts to adopt procedures mandating attempts at de-escalation be made prior to initiating a Baker Act.
- Requires schools to contact a health care practitioner capable of initiating a Baker Act in person or via telehealth prior to a Baker Act being initiated. The mental health professional may be available to a school district either by contracts or interagency agreements with a local community behavioral health providers, a managing entity, or a local mobile response team. Alternatively, the mental health professionals may be a direct or contracted employee of the school district.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 116-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 714 — Resource Information for Individuals with Disabilities

by Rules Committee; Children, Families, and Elder Affairs Committee; and Senator Taddeo

The bill directs the Agency for Persons with Disabilities (the APD) to provide individuals applying for Medicaid Home and Community-Based Services (HCBS) Waiver services, regardless of eligibility for such services, with the following information:

- A brief overview of vocational rehabilitation services offered through the Florida Division of Vocational Rehabilitation;
- A brief overview of the Florida Achieving a Better Life Experience (ABLE) Program;
- A brief overview of supplemental social security and social security disability benefits;
- A statement indicating that an applicant's local public school district may provide specialized instructional services, including transition programs, for students with special education needs;
- A brief overview of programs and services funded through the Center for Students with Unique Abilities, including contact information for each state approved Florida Postsecondary Comprehensive Transition Program;
- A brief overview of decision-making options for persons with developmental disabilities, guardianship programs, and alternatives to guardianship;
- A brief overview of referral tools made available through the APD; and
- A statement indicating that some waiver providers may serve private pay individuals.

The bill requires that the APD provide the information in writing to the applicant, their parent, legal guardian, or a family member annually.

The bill also requires the APD to provide a written disclosure stating that each program and service has its own eligibility requirements and that the APD does not guarantee eligibility or enrollment for the applicant in any program or service. The bill directs the APD to post the information and disclaimer statement on the agency's website.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 118-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

SB 794 — Independent Living Services

by Senator Bean

The bill modifies the membership and responsibilities of the Florida Independent Living Council (FILC). Specifically, the bill removes the Division of Blind Services (DBS) from the membership of the FILC, and revises the total number of members from 14 to 11. The bill also permits the FILC to choose representative members from a wide range of persons with developmental disabilities from diverse backgrounds.

The bill revises certain required and discretionary tasks of the FILC and prohibits the FILC from engaging in certain prohibited activities related to lobbying.

The bill increases the percentage of total revenues collected from the Tax Collection Enforcement Diversion Program (Diversion Program) used to administer the James Patrick Memorial Work Incentive Personal Attendant Services Program (JPPAS Program) from 50 percent to 75 percent.

The bill will have a positive fiscal impact on the JPPAS program by increasing the proportion of funds from the Diversion Program to the JPPAS Program, and a negative fiscal impact on other segments of state government.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 116-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 804 — Substance Abuse Services

by Community Affairs Committee; Children, Families, and Elder Affairs Committee; and
Senator Harrell

The bill makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs (service provider), including recovery residences.

The bill makes it a third degree felony to falsify information, or to withhold material facts, on an application for licensure as a substance abuse service provider. Substance abuse service providers operated directly by, or under contract with, any state agency must be licensed by the Department of Children and Families (the DCF) and are not currently subject to a penalty for falsification of information or withholding of material facts in an application for licensure.

The bill authorizes the DCF to suspend a service provider's license for failing to pay, within 60 days of a date set by the DCF, administrative fines and accrued interest related to disciplinary action taken against the service provider. The bill also mandates that a service provider pay fines and accrued interest resulting from violations of patient referral prohibitions within 60 days of a date specified by the DCF. If a service provider fails to remit payment within 60 days, the bill requires the DCF to immediately suspend the service provider's license.

The bill also broadens the eligibility for exemption from employment disqualification for certain prior criminal offenses to specified employees of an applicant recovery residence and to applicant recovery residence administrators. This will allow additional qualified individuals with knowledge of, and experience within, recovery residences to be eligible for employment within recovery residences, or as recovery residence administrators.

The bill prohibits certain classes of dwellings that are used as recovery residences from having their occupancy category changed or being reclassified for the purpose of enforcement of the

Florida Building Code and for the Florida Fire Prevention Code's requirement for installation of fire sprinklers.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 115-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

HB 871 — Sovereign Immunity for Child Protection Teams

by Reps. Snyder and others (SB 826 by Senators Baxley and Harrell)

The bill extends sovereign immunity protections to any member of a child protection team (CPT), including a member who is an independent contractor, when the team member is carrying out her or his duties under the control, direction, and supervision of the state or any of its agencies or subdivisions.

A CPT is a group of professionals who receive referrals, primarily from child protective investigators and sheriff's offices, when child abuse, abandonment, or neglect is alleged. The team, directed by a physician, evaluates the allegations, assesses risks, and provides recommendations for child safety and support services.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 119-0

Committee on Children, Families, and Elder Affairs

CS/HB 1041 — Protection of Elderly Persons and Disabled Adults

by Judiciary Committee and Rep. Burton and others (CS/CS/SB 1344 Appropriations Committee; Criminal Justice Committee; and Senator Burgess)

The bill creates s. 732.8031, F.S., and amends s. 736.1104, F.S., prohibiting a person who commits any of the following offenses on an elderly or disabled person in any state or jurisdiction from serving as a personal representative or inheriting from the victim's estate, trust, or other beneficiary assets:

- Abuse;
- Neglect;
- Exploitation; or
- Aggravated manslaughter.

The bill amends s. 733.303, F.S., prohibiting individuals convicted of abuse, neglect, or exploitation of an elderly person or disabled adult from serving as personal representatives of an estate.

The bill creates s. 732.8031, F.S., to provide that a final judgment of conviction for abuse, neglect, exploitation, or aggravated manslaughter of the decedent creates a rebuttable presumption that any of the following convicted persons may not inherit a beneficiary asset:

- A surviving person whose beneficiary interest depends on the death of the victim.
- A joint tenant with a right of survivorship and a tenant by the entirety in real and personal property, a joint and multiple-party accountholder in a bank, savings and loan association, credit union, and any other financial institution, and any other form of coownership with survivorship interests whose survivorship interest depends on the death of the victim.
- A named beneficiary of a bond, life insurance policy, or other contractual arrangement where the victim is the owner or principal obligee of the bond, life insurance policy, or other contractual arrangement or the person upon whose life such policy was issued.

Similarly, the bill amends s. 736.1104, F.S., by prohibiting a beneficiary of a trust convicted in any state or foreign jurisdiction of abuse, neglect, or exploitation, or aggravated manslaughter of an elderly person or disabled adult, from receiving trust benefits when the victim is the settlor of a trust, or another person on whose death such beneficiary's interest depends from inheriting trust interests, including a homestead dependent on the victim's death.

In the absence of a qualifying conviction, the court may determine by the greater weight of the evidence whether the abuser's, neglector's, exploiter's, or killer's conduct as defined in ss. 825.102, 825.103, or 782.07(2), F.S., caused the victim's death, in which the person may not inherit. However, a convicted person may inherit from an estate, trust, or other beneficiary asset if it can be shown by clear and convincing evidence that the capacitated victim reinstated the person as a beneficiary.

The bill provides that any person who knowingly obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use the funds, assets, property, or the estate of an elderly person or disabled adult through the intentional modification, alteration, or fraudulent creation of a planned distribution or disbursement in a will, trust, or other testamentary document commits exploitation under the bill unless they have first obtained any of the following:

- A court order authorizing the modification;
- A written instrument authored by the elderly person or disabled adult, sworn to by the elderly person or disabled adult with two witnesses, authorizing the change; or
- The action of an agent under a valid power of attorney authorized by the elderly person or disabled adult permitting the change.

The bill also:

- Amends s. 16.56, F.S., to authorize the Office of Statewide Prosecution to investigate and prosecute crimes under ch. 825, F.S.
- Amends s. 825.101, F.S., to define the terms:
 - “Improper benefit” as any remuneration or payment, by or on behalf of any service provider or merchant of goods, to any person as an incentive or inducement to refer customers or patrons for past or future services or goods; and
 - “Kickback” as having the same meaning as in provided in s. 456.054(1), F.S.
- Amends s. 825.102, F.S., to expand the offense of abuse, aggravated abuse, and neglect of an elderly person or disabled adult by prohibiting intentional isolation or restriction of access to an elderly person or disabled adult from his or her family members which can reasonably be expected to result in physical or psychological injury to elderly person or disabled adult with the intent to promote, facilitate, conceal, or disguise some form of criminal activity.
- Amends s. 825.103, F.S., to:
 - Prohibit seeking out appointment as a guardian, trustee, or agent under power of attorney with the intent to obtain control over the victim’s assets and person for the perpetrator or a third party’s benefit.
 - Prohibit intentional conduct by a perpetrator who modifies or alters the victim’s originally intended estate plan to financially benefit either the perpetrator or a third party in a manner inconsistent with the intent of the elderly person or disabled adult.

Expand the definition of exploitation of an elderly or disabled person to include breach of fiduciary duty resulting in a kickback or receipt of an improper benefit.

The bill also amends s. 825.1035, F.S., to authorize an agent under a durable power of attorney to petition for an injunction for protection against exploitation of a vulnerable adult, and to allow a court to make a one-time extension of the injunction for up to 30 days. The bill amends the statutory form for a petition for an injunction for protection against exploitation of a vulnerable adult in s. 825.1035, F.S., to include sufficient identifying information about the petitioner or the vulnerable adult.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 117-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

SB 1136 — Board of Directors of Florida ABLE, Inc.

by Senator Rodrigues

The bill revises the member composition of the board of directors of the Florida Achieving a Better Life Experience (ABLE) program. The bill authorizes the Florida Prepaid College Board to appoint up to three individuals, rather than one as provided for in current law, who possess knowledge, skill, and experience in the area of accounting, risk management, or investment management. One of the persons appointed by the Florida Prepaid College Board may be a current member of the board.

The bill also removes the limit on the number of terms board members appointed by the Governor and presiding officers of the Legislature may serve.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 114-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

HB 1231 — Domestic Violence

by Reps. Melo and others (SB 606 by Senator Bean)

The bill amends current law to recognize that domestic violence is a significant public health threat that has adverse physical, emotional, and financial impact on Florida families. The bill also amends current law to add nonresidential outreach services to the list of minimum services a certified domestic violence center must provide. It clarifies current law to require certified domestic violence centers to obtain public and private funding in an amount of at least 25 percent of the amount of funding the center receives from the Domestic Violence Trust Fund and permits certified domestic violence centers to carry forward, from one fiscal year to the next, unexpended state funds in a cumulative amount not to exceed eight percent of their total contract with the DCF.

The bill amends s. 741.32, F.S., requiring the DCF to certify and monitor Batterers' Intervention Programs (BIPs) to be used by the justice system. The bill revives, reenacts, and amends s. 741.327, F.S., to authorize the DCF to adopt rules on procedures for the certification and monitoring of BIPs. The bill also amends current law to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in its program content.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 37-0; House 118-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 1532 — Child Support

by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Book

The bill makes numerous changes to the Child Support Program, which is administered by the Department of Revenue (DOR), Florida's Title IV-D agency. As the state's Title IV-D agency, the DOR is responsible for collecting and enforcing child support. To receive services from the Child Support Program, families either complete an application for services, or are automatically referred because a parent is receiving cash or food assistance.

The bill makes the following changes to the Child Support Program:

- Specifies that affidavits of default or a default in payments are not required for Title IV-D cases to have accounts established in the Clerk of Court Child Support Collection System, and that Title IV-D payments are processed through the State Disbursement Unit;
- Amends the statements the DOR is required to certify when requesting a consumer report, to conform to the federal Fair Credit Reporting Act;
- Allows notices relating to consumer reports to be made by regular mail instead of by certified or registered mail;
- Prohibits the state from treating incarceration as voluntary unemployment when a support order is established or modified, unless limited exceptions apply;
- Codifies how social security dependent benefits affect the amount of child support ordered; the extent to which the parent receives credit for the benefits; and how a parent obtains credit for dependent benefits;
- Updates the process for rendering final orders;
- Authorizes the use of electronic notices of garnishment to consenting institutions;
- Revises the data exchange process between the DOR and the Department of Financial Services relating to the use of unclaimed property for past due child support;
- Permits the DOR to transmit confidential and exempt information with limited exception by unencrypted electronic mail to a parent, caregiver, or other person authorized to receive information about DOR services upon his or her consent; and
- Requires an entity to report to the State Directory of New Hires nonemployees who perform services and are paid \$600 or more in a calendar year.

Additionally, the bill expands the authorized topics under the parent education and family stabilization course that is required for parents of minor children seeking a dissolution of marriage. It requires the parents of children with special needs or emotional concerns to select a course that is tailored towards those needs. Moreover, a court may authorize a parent to take an additional course covering those needs, separate from the required parent education and family stabilization course.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 39-0; House 117-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 1826 — Human Trafficking

by Rules Committee; Criminal Justice Committee and Senator Diaz

The bill creates s. 90.5037, F.S., establishing a privilege for communication between human trafficking victims and human trafficking advocates or trained volunteers. The bill provides that communication between a human trafficking victim advocate or trained volunteer and a human trafficking victim is “confidential,” if it is not intended to be disclosed to third persons, except to specified persons. A human trafficking victim has a privilege to refuse to disclose, and prevent any other person from disclosing such confidential communication or record made in the course of advising, counseling, or providing services to the victim. Additionally, the bill defines the terms “anti-human trafficking organization,” “human trafficking victim advocate,” “trained volunteer,” and “human trafficking victim,” and provides training requirements for human trafficking victim advocates and trained volunteers.

The bill amends s. 787.06, F.S., to expand the definition of “human trafficking,” to include the “purchasing, patronizing, [or] procuring” another person for the purpose of exploitation of that person. Additionally, the definition of “obtain,” is amended to mean “in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof.” The bill expands the scope of specified human trafficking offenses relating to children under 18 years of age to include an adult believed to be under 18 years of age. The bill provides that the Legislature encourages each state attorney to adopt a prosecution policy for human trafficking offenses, and requires the state attorney to determine whether to file, nonfile, or divert criminal charges even when there is no cooperation from a victim or over the objection of the victim, if necessary.

The bill modifies s. 943.0583, F.S., to prohibit the clerk of the court from charging any fees, such as filing or copy fees, for a petition to expunge a criminal offense of a human trafficking victim. It clarifies that a human trafficking victim may petition to expunge a criminal history record that results from the arrest or filing of charges for one or more offenses in certain circumstances. Further, the bill requires the clerk to treat a human trafficking victim’s petition to expunge more than one eligible offense as a single petition. It also removes language that is required to be included in the sworn statement that must accompany such petition which states that the petitioner “does not have any other petition to expunge or any petition to seal pending before any court.”

The bill also expands the list of offenses in which a court must impose special conditions on probationers or community controllees who are placed under supervision or on community control or sex offender probation for committing a specified human trafficking offense on or after a certain date.

For purposes of incorporating the amendments made in the bill, ss. 39.01305, 464.013, 775.21, 943.0435, 943.0583, and 944.606, F.S., are reenacted.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 114-0