

Tab 1	CS/SB 56 by HP, Harrell (CO-INTRODUCERS) Davis ; (Similar to CS/H 00033) Psychology Interjurisdictional Compact					
Tab 2	CS/SB 58 by HP, Harrell ; (Similar to H 00035) Public Records and Meetings/Psychology Interjurisdictional Compact					
663140	A	S	RCS	AHS, Harrell	Delete L.100 - 101:	04/12 02:41 PM
Tab 3	SB 140 by Rodriguez ; (Identical to CS/H 00385) Fees/Professional Counselors Licensure Compact					
Tab 4	SB 246 by Calatayud (CO-INTRODUCERS) Perry, Osgood, Rodriguez ; (Similar to CS/CS/H 00121) Florida Kidcare Program Eligibility					
959674	D	S	RCS	AHS, Calatayud	Delete everything after	04/12 02:46 PM
Tab 5	SB 268 by Brodeur ; (Similar to CS/H 01413) Health Care Expenses					
Tab 6	CS/SB 612 by HP, Yarborough (CO-INTRODUCERS) Gruters, Davis, Book, Osgood, Harrell, Martin, Avila ; (Identical to CS/H 00483) Blood Clot and Pulmonary Embolism Policy Workgroup					
Tab 7	SB 704 by Boyd ; (Similar to CS/H 00783) Substance Abuse Prevention					
Tab 8	SB 768 by Martin ; (Identical to H 00601) Referral of Patients by Health Care Providers					
Tab 9	CS/SB 824 by MS, Collins ; (Similar to CS/H 00485) Veterans' Services and Recognition					
Tab 10	SB 976 by Harrell (CO-INTRODUCERS) Avila ; (Similar to H 01055) Certification of Individuals Who Provide Child and Adult Protective Services					
Tab 11	CS/SB 988 by HP, Burton (CO-INTRODUCERS) Davis ; (Identical to CS/H 00967) Medicaid Coverage of Continuous Glucose Monitors					
Tab 12	CS/SB 1064 by CF, Yarborough ; (Identical to CS/H 01007) Children Removed from Caregivers					
693786	A	S	RCS	AHS, Yarborough	Delete L.29 - 39:	04/12 02:56 PM
Tab 13	CS/SB 1182 by CF, Simon (CO-INTRODUCERS) Book ; (Similar to CS/CS/H 00299) Education and Training for Alzheimer's Disease and Related Forms of Dementia					
194392	A	S	RCS	AHS, Simon	Delete L.77 - 494:	04/12 02:57 PM
Tab 14	CS/SB 1190 by CF, Garcia (CO-INTRODUCERS) Osgood, Perry, Rouson ; (Similar to H 01337) Step into Success Workforce Education and Internship Pilot Program					
Tab 15	SB 1352 by Rouson (CO-INTRODUCERS) Davis ; (Compare to CS/CS/H 01481) Medicaid Enrollees with Sickle Cell Disease					
678952	D	S	RCS	AHS, Rouson	Delete everything after	04/12 03:01 PM
Tab 16	CS/SB 1408 by HP, Davis ; (Identical to CS/H 00247) Sickle Cell Program					
125072	A	S	RCS	AHS, Davis	Delete L.23 - 24:	04/12 03:02 PM

Tab 17	CS/SB 1412 by CF, Bradley ; (Similar to H 01349) Mental Health					
Tab 18	CS/SB 1690 by CF, Ingoglia ; (Similar to CS/CS/H 01557) Sexual Exploitation and Human Trafficking					
536946	A	S	RS	AHS, Ingoglia	btw L.309 - 310:	04/12 03:04 PM
332036	SA	S	RCS	AHS, Ingoglia	btw L.309 - 310:	04/12 03:04 PM
Tab 19	SPB 7056 by AHS ; Child Protective Investigative Services					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Harrell, Chair
Senator Garcia, Vice Chair

MEETING DATE: Wednesday, April 12, 2023

TIME: 8:30—11:00 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Harrell, Chair; Senator Garcia, Vice Chair; Senators Avila, Baxley, Book, Bradley, Brodeur, Burgess, Burton, Calatayud, Davis, Gruters, Martin, Osgood, Rouson, and Simon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 56 Health Policy / Harrell (Similar CS/H 33, Compare H 35, Linked CS/S 58)	Psychology Interjurisdictional Compact; Enacting the Psychology Interjurisdictional Compact; providing for recognition of psychologist licenses in compact states; providing that, while authority over a psychologist's license remains with the home state, receiving states and distant states may define the scope of and act on a psychologist's authority to practice in the receiving or distant state, as applicable, under the compact; requiring the Department of Health to report certain investigative information to the coordinated licensure information system, etc. HP 04/04/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
2	CS/SB 58 Health Policy / Harrell (Similar H 35, Compare CS/H 33, Linked CS/S 56)	Public Records and Meetings/Psychology Interjurisdictional Compact; Providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Psychology pursuant to the Psychology Interjurisdictional Compact; providing an exemption from public meeting requirements for certain meetings of the Psychology Interjurisdictional Compact Commission; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. HP 04/04/2023 Fav/CS AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0
3	SB 140 Rodriguez (Identical CS/H 385)	Fees/Professional Counselors Licensure Compact; Authorizing member states of the Professional Counselors Licensure Compact to charge individuals a fee for the privilege to practice under the compact, etc. HP 03/27/2023 Favorable AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 246 Calatayud (Similar CS/CS/H 121, Compare H 1245)	Florida Kidcare Program Eligibility; Increasing the income eligibility threshold for coverage under the Florida Kidcare program; requiring that premiums for certain enrollees under the program be based on a tiered system of uniform premiums; providing that certain amendments made by this act are subject to federal approval through a waiver or state plan amendment, etc. HP 03/13/2023 Favorable AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0
5	SB 268 Brodeur (Similar CS/H 1413)	Health Care Expenses; Establishing a 3-year statute of limitations for an action to collect medical debt for services rendered by a health care provider or facility; providing additional personal property exemptions from legal process for medical debts resulting from services provided in certain licensed facilities; requiring a licensed facility to post on its website a consumer-friendly list of standard charges for a minimum number of shoppable health care services; requiring each health insurer to provide an insured with an advance explanation of benefits after receiving a patient estimate from a facility for scheduled services, etc. HP 04/04/2023 Favorable AHS 04/12/2023 Temporarily Postponed FP	Temporarily Postponed
6	CS/SB 612 Health Policy / Yarborough (Identical CS/H 483)	Blood Clot and Pulmonary Embolism Policy Workgroup; Citing this act as the "Emily Adkins Prevention Act"; requiring the Secretary of Health Care Administration, in conjunction with the State Surgeon General, to establish a blood clot and pulmonary embolism policy workgroup; requiring the secretary to submit a final report to the Governor and the Legislature by a specified date, etc. HP 03/27/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 704 Boyd (Similar CS/H 783)	Substance Abuse Prevention; Revising authorizations for prescribing and dispensing emergency opioid antagonists by authorized health care practitioners; authorizing certain pharmacies, pharmacists, and pharmacy technicians to take certain actions relating to emergency opioid antagonists; creating the Statewide Council on Opioid Abatement within the Department of Children and Families; exempting certain pharmacies, pharmacists, and pharmacy technicians from liability for damages, penalties, fines, or costs as a result of certain actions relating to emergency opioid antagonists, etc. HP 03/20/2023 Favorable AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
8	SB 768 Martin (Identical H 601)	Referral of Patients by Health Care Providers; Deleting the definitions of the terms "direct supervision" and "present in the office suite"; revising the definition of the term "referral" to remove reference to direct physician supervision and to require compliance with certain Medicare payment and coverage rules, etc. HP 03/20/2023 Favorable AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
9	CS/SB 824 Military and Veterans Affairs, Space, and Domestic Security / Collins (Similar CS/H 485)	Veterans' Services and Recognition; Creating the Division of Long-term Care within the Department of Veterans' Affairs; creating the "Veterans' Adult Day Health Care of Florida Act"; providing a purpose and definitions; providing for program audits, inspections, and operational standards; designating the week of November 11 of each year as "Veterans Week" in Florida, etc. MS 03/29/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
10	SB 976 Harrell (Similar H 1055)	Certification of Individuals Who Provide Child and Adult Protective Services; Providing a review and appeal process for child welfare administration certifications that are denied, revoked, or suspended or sanctions that are imposed by a third-party credentialing entity; revising legislative intent regarding the certification of individuals who provide adult protective services, etc. CF 04/04/2023 Favorable AHS 04/12/2023 Favorable FP	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 988 Health Policy / Burton (Identical CS/H 967)	Medicaid Coverage of Continuous Glucose Monitors; Requiring the Agency for Health Care Administration, subject to the availability of funds and certain limitations and directions, to provide coverage for continuous glucose monitors for certain Medicaid recipients; providing requirements for Medicaid recipients to continue receiving coverage for their continuous glucose monitors; requiring the agency to include the rate impact of the act in certain rates that become effective on a specified date, etc. HP 03/13/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
12	CS/SB 1064 Children, Families, and Elder Affairs / Yarborough (Identical CS/H 1007)	Children Removed from Caregivers; Requiring community-based care lead agencies, in coordination with the local managing entity, to administer a trauma-focused screening within a specified timeframe to children removed from certain caregivers; requiring the Department of Children and Families to require in its contracts with the community-based care lead agencies that such agencies and managing entities administer a trauma-focused screening within a specified timeframe to children removed from certain caregivers, etc. CF 03/14/2023 Fav/CS AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0
13	CS/SB 1182 Children, Families, and Elder Affairs / Simon (Similar CS/CS/H 299)	Education and Training for Alzheimer's Disease and Related Forms of Dementia; Designating the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act"; requiring the Department of Elderly Affairs to offer certain education about Alzheimer's disease and related forms of dementia to the general public; providing minimum requirements for the training; authorizing persons to satisfy the training requirements of this act using training curricula approved before the effective date of this act until the department adopts rules for training curricula guidelines, etc. CF 03/14/2023 Fav/CS AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	CS/SB 1190 Children, Families, and Elder Affairs / Garcia (Similar H 1337)	Step into Success Workforce Education and Internship Pilot Program; Creating the "Step into Success Act"; requiring the Department of Children and Families to establish the pilot program; requiring the independent living professionalism and workforce education component of the pilot program to culminate in a specified certificate; providing that completion of that component allows former foster youth to participate in the onsite workforce and training internship component; specifying conditions for participation in the onsite workforce internship component, etc. CF 03/14/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
15	SB 1352 Rouson (Compare CS/CS/H 1481)	Medicaid Enrollees with Sickle Cell Disease; Requiring the Agency for Health Care Administration to conduct a biennial review of Medicaid enrollees with sickle cell disease to determine if the available covered medications, treatment, and services are adequate to meet their needs; providing minimum requirements for the review; requiring the agency to submit a report of its findings to the Governor, the Legislature, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council by a specified date every 2 years, etc. HP 04/04/2023 Favorable AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0
16	CS/SB 1408 Health Policy / Davis (Identical CS/H 247)	Sickle Cell Program; Citing this act as the "Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act"; requiring the Department of Health to establish a grant program for the prevention, care, and treatment of sickle cell disease and sickle cell trait or sickle cell trait carriers and for certain educational programs; requiring the department to develop application criteria and standards of eligibility for grants under the program; requiring the department to ensure that grant funds are used for specified purposes, etc. HP 04/04/2023 Fav/CS AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	CS/SB 1412 Children, Families, and Elder Affairs / Bradley (Similar H 1349)	Mental Health; Authorizing the Department of Children and Families to issue a conditional designation for up to a certain number of days to allow the implementation of certain corrective measures by receiving facilities, treatment facilities, and receiving systems; requiring the sheriff to administer or to permit the department to administer the appropriate psychotropic medication to forensic clients before admission to a state mental health treatment facility; revising what an expert is required to specifically report on for recommended treatment for a defendant to attain competence to proceed, if the expert finds that a defendant is incompetent to proceed; revising the circumstances under which every defendant who is charged with a felony and who is adjudicated incompetent to proceed may be involuntarily committed for treatment upon specified findings by the court, etc. CF 03/20/2023 Fav/CS AHS 04/12/2023 Favorable FP	Favorable Yeas 16 Nays 0
18	CS/SB 1690 Children, Families, and Elder Affairs / Ingoglia (Similar CS/CS/H 1557, Compare S 1210)	Sexual Exploitation and Human Trafficking; Requiring residential treatment centers for children and adolescents to place specified signage; requiring the Department of Children and Families, in consultation with the Agency for Health Care Administration, to adopt rules; requiring the department to develop a process to certify adult safe houses that provide housing and care to adult survivors of human trafficking; providing requirements for safe houses and safe foster homes; requiring specified signage to be placed on the premises of facilities maintained by licensed child-caring agencies, etc. CF 03/27/2023 Fav/CS AHS 04/12/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0
Consideration of proposed bill:			
19	SPB 7056	Child Protective Investigative Services; Repealing provisions relating to sheriffs of certain counties providing child protective investigative services; requiring certain sheriffs to transfer the functions of providing child protective investigative services to the Department of Children and Families; providing that certain sheriffs remain the custodians of certain files and documents; authorizing the department and certain sheriffs to enter into an agreement to allow certain employees to remain in office space owned or leased by the sheriff for a specified time, etc.	Submitted and Reported Favorably as Committee Bill Yeas 14 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Health and Human Services
Wednesday, April 12, 2023, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)			
Other Related Meeting Documents			

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 56

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Psychology Interjurisdictional Compact

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Fav/CS
2.	Barr	Money	AHS	Favorable
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 56 establishes Florida as a member state in the Psychology Interjurisdictional Compact (PSYPACT or compact). Pursuant to the compact, and with appropriate authorizations, a licensed psychologist may engage in the practice of interjurisdictional telepsychology and also obtain a temporary authorization to practice psychology in-person, face-to-face for up to 30 days per calendar year with clients and patients in member states other than the one in which he or she is licensed.

The bill also amends statutes to facilitate implementation of the PSYPACT to:

- Require the Department of Health (DOH) to report any significant investigatory information relating to a psychologist practicing under the PSYPACT to the coordinated licensure information system.
- Require the monitoring contract of a psychologist practicing under the PSYPACT who is in the impaired practitioner program to withdrawal from all practice under the compact.
- Require the board of psychology to appoint an individual to be the state's commissioner on the PSYPACT commission.
- Exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.
- Authorize the Board of Psychology to take adverse action against a psychologist's credentials to practice pursuant to the PSYPACT and to impose any other applicable penalties for violation of the compact.

- Designate the state’s commissioner on the PSYPACT commission and others, when acting in this state within the scope of his or her compact responsibilities, an agent of the state for purposes of the limited waiver of sovereign immunity and providing that the commission shall pay any claims or judgments pursuant to the waiver of sovereign immunity.

The bill has a negative fiscal impact on the Department of Health. *See* Section V of this analysis.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Practice of Psychology

“Practice of psychology” means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. Psychological services may be rendered to individuals, couples, families, groups, and the public without regard to place of service.

- The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.
- The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.¹

The Board of Psychology is responsible for the licensure and regulation of the practice of psychology in Florida. There are two pathways for licensure to practice psychology in Florida:

- Licensure by examination² – The applicant must:
 - Have a doctoral degree from an American Psychological Association accredited program; or the equivalent from a school or university located outside the U.S.;
 - Have had at least two years or 4,000 hours of experience in the field of psychology in association with or under the supervisions of a licensed psychologist;
 - Pass the psychology licensure examination;
 - Pass the Florida law and rules examination; and
 - Complete the application and pay the applicable fees.
- Licensure by endorsement³ – The applicant must:
 - Be a diplomate in good standing with the American Board of Professional Psychology, Inc.; or
 - Possess a doctoral degree in psychology and have at least 10 years of experience as a licensed psychologist within the past 25 years;
 - Pass the Florida law and rules examination; and
 - Complete the application and pay the applicable fees.

¹ Section 490.003(4), F.S.

² Section 490.005, F.S.

³ Section 490.006, F.S.

Telehealth

Section 456.47, F.S., authorizes certain health care practitioners, including licensed psychologists, persons licensed under a multistate health care licensure compact of which Florida is a member state, or a licensed practitioner in another state who registers with the applicable board in Florida, to provide services to patients in Florida through telehealth. Telehealth means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to a patient; however, a practitioner licensed in another state and registered to provide health care services through telehealth may not provide in-person services to patients located in this state. Florida's law authorizing the use of telehealth to provide services does not authorize a Florida-licensed practitioner, including a Florida-licensed psychologist, to use telehealth to provide services to out-of-state patients.⁴

Sovereign Immunity

Sovereign immunity bars lawsuits against a state or its political subdivisions for torts committed by an officer, employee, or agent of such governments unless the immunity is expressly waived. Section 768.28, F.S., provides a limited waiver of sovereign immunity for liability for torts up to \$200,000 per person for any claim or judgment and up to \$300,000 in total for liability arising out of the same incident or occurrence.

Interstate Compacts Generally

An interstate compact is a contract between two or more states. It carries the force of statutory law and may establish uniform guidelines, standards, or procedures for agencies in the compact's member states. Interstate compacts addressing regulatory matters may be structured quite differently. Currently, there are several professions utilizing an interstate compact to address regulatory matters and each profession has taken a different approach when writing its compact language. The professions of medicine, nursing, and physical therapy are examples.⁵

Florida has enacted two health care practitioner compacts – the Nurse Licensure Compact enacted in 2016⁶ and the Professional Counselors Licensure Compact enacted in 2022.⁷

⁴ Section 456.47, F.S.

⁵ See What is a Compact? Audiology and Speech Language Pathology, available at: https://aslpcompact.com/wp-content/uploads/2019/08/80057-What-is-a-Compact_Final.pdf (last visited March 29, 2023).

⁶ Section 464.0095, F.S.

⁷ Section 491.017, F.S.

Psychology Interjurisdictional Compact

The PSYPACT is an interstate compact designed to facilitate the practice of telepsychology and the temporary in-person, face-to-face practice of psychology across state boundaries.⁸ The PSYPACT was created by the Association of State and Provincial Psychology Boards (ASPPB), a membership organization composed of state and provincial psychology regulatory authorities that are responsible for the licensure and registration of psychologists throughout the United States and Canada. Thirty-six states and territories have enacted the PSYPACT.⁹ Once enacted into law, a state joins the PSYPACT Commission (commission) and designates one voting member to the commission. The commission is the governing body of the compact.

If a psychologist wishes to practice through telepsychology under the PSYPACT, the psychologist must obtain an Authority to Practice Interjurisdictional Telepsychology (APIT) at an initial cost of \$40 with a \$20 annual renewal fee from the PSYPACT Commission. It also requires an active ASPPB e-passport at an initial cost of \$400 with a \$100 annual renewal fee.¹⁰

If a psychologist wants to practice in a temporary, in-person, face-to-face mode for up to 30 days per calendar year under the PSYPACT, the psychologist must obtain a Temporary Authorization to Practice (TAP) from the PSYPACT Commission at a cost of \$40, with an annual renewal of \$20. It also requires an Interjurisdictional Practice Certificate (IPC) of \$200, with an annual renewal fee of \$50.¹¹

III. Effect of Proposed Changes:

Section 1 creates s. 490.0075, F.S., the Psychology Interjurisdictional Compact.

Article I – Purpose

The stated purposes and objectives of the compact are:

- Increase access to psychologists through telepsychological practice across state lines and temporary, in-person, face-to-face services in a state where the psychologist is not licensed.
- Enhance a member state's ability to protect a client's or patient's safety.
- Encourage the cooperation of compact states in the areas of licensure and regulation.
- Facilitate the exchange of information between compact states regarding licensure, adverse actions, and disciplinary history.
- Promote compliance with the laws governing the practice of psychology in each compact state.
- Invest all compact states with the authority to hold psychologists accountable through the mutual recognition of compact state licenses.

⁸ PSYPACT Overview, available at: <https://psypact.org/page/About> (last visited March 29, 2023).

⁹ PSYPACT Map, available at: <https://psypact.org/mpage/psypactmap> (last visited March 29, 2023). The 36 states include Alabama, Arizona, Arkansas, Colorado, Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Rhode Island has enacted the PSYPACT but it is not yet effective).

¹⁰ PSYPACT Fees available at: <https://psypact.org/page/fees> (last visited March 29, 2023).

¹¹ *Id.*

Article II - Definitions

The following terms used in the compact are defined.

- “Adverse action” means any disciplinary action that is a matter of public record and that is taken by a state’s psychology regulatory authority against an individual’s license to practice psychology in that state.
- “Association of State and Provincial Psychology Boards” means the membership organization composed of state and provincial psychology regulatory authorities that are responsible for the licensure and registration of psychologists throughout the United States and Canada.
- “Authority to practice interjurisdictional telepsychology” “APIT” means a licensed psychologist’s authority to practice telepsychology, within the limits authorized under the compact, in a compact state other than the one in which he or she is licensed.
- “Bylaws” means those rules established by the compact commission pursuant to article X for its governance, or for directing and controlling its actions and conduct.
- “Client or patient” means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.
- “Commissioner” means the voting representative appointed by each state psychology regulatory authority pursuant to article X.
- “Compact state” means a state, the District of Columbia, or a US territory that has enacted the compact legislation and that has not withdrawn pursuant to subsection (3) of article XIII or been terminated pursuant to subsection (2) of article XII.
- “Confidentiality” means the principle that data or information is not made available or disclosed to unauthorized persons or processes.
- “Coordinated licensure information system” or “coordinated database” means an integrated process administered by the ASPPB for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws and the Compact.
- “Day” means any part of a day in which a psychologist practices psychology.
- “Distant state” means the compact state, which is not the home state, where a psychologist is physically present, not through the use of telecommunication technologies, to provide temporary in-person, face-to-face psychological services.
- “E-passport” means a certificate issued by the ASPPB which allows a licensed psychologist to provide telepsychological services across state lines.
- “Executive board” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.
- “Home state” means a compact state where a psychologist is licensed to practice psychology, as provided in article III.
- “Identity history summary” means a summary of information retained by the Federal Bureau of Investigation, or another designee with similar authority, in connection with arrests and, in some instances, federal employment or military service.
- “In-person, face-to-face” means interactions in which the psychologist and the client or patient are in the same physical space and does not include interactions that may occur through the use of telecommunication technologies.

- “Interjurisdictional Practice Certificate” or “IPC” means the certificate issued by the ASPPB which grants a psychologist temporary authority to practice based on notification to the state psychology regulatory authority of one’s intention to practice temporarily and verification of one’s qualifications for such practice.
- “License” means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without such authorization.
- “Noncompact state” means a state that is not a compact state.
- “Psychologist” means an individual licensed by a state psychology regulatory authority to independently practice psychology in that state.
- “Psychology Interjurisdictional Compact Commission” or “commission” means the national administration of which all compact states are members.
- “Receiving state” means a compact state where the client or patient is physically located when the telepsychological services are delivered.
- “Rule” means a written statement by the commission adopted pursuant to article XI which has the full force and effect of statutory law in a compact state and which implements, interprets, or prescribes a policy or provision of the compact or is an organizational, procedural, or practice requirement of the commission. The term also includes the amendment, repeal, or suspension of an existing rule.
- “Significant investigatory information” means:
 - Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate a violation of state statute or rule which would be considered more substantial than a minor infraction; or
 - Investigative information that indicates that the psychologist represents an immediate threat to public health and safety, regardless of whether the psychologist has been notified or had an opportunity to respond.
- “State” means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.
- “State psychology regulatory authority” means the board, office, or agency with the legislative mandate to license and regulate the practice of psychology in that state.
- “Telepsychology” means the provision of psychological services using telecommunication technologies.
- “Temporary authorization to practice” means a licensed psychologist’s authority to conduct temporary in-person, face-to-face practice, within the limits authorized under the compact, in another compact state.
- “Temporary in-person, face-to-face practice” means when a psychologist is physically present, not through the use of telecommunication technologies, in the distant state to provide psychological services for up to 30 days within a calendar year and with notification to the distant state.

Article III – Home State Licensure

The home state is a compact state where a psychologist is licensed to practice psychology. A psychologist may hold more than one compact state license at a time. If he or she holds more than one and is practicing telepsychology, the home state is where the psychologist is physically present when the services are delivered. If a psychologist is practicing telepsychology under

circumstances that are not authorized in the APIT, or practicing under the temporary authorization beyond the scope of the TAP, then the compact state may require licensure in that state.

A home state's license authorizes a psychologist to practice in a receiving state under the APIT only if the compact state:

- Requires the psychologist to hold an active e-passport,
- Has a mechanism in place for receiving and investigating complaints,
- Notifies the commission of any adverse action or significant investigatory information regarding a licensed individual,
- Requires an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact, and
- Complies with the commission's bylaws and rules.

A home state's license grants a psychologist temporary authorization to practice in a distant state only if the compact state:

- Requires the psychologist to hold an IPC,
- Has a mechanism in place for receiving and investigating complaints,
- Notifies the commission of any adverse action or significant investigatory information regarding a licensed individual,
- Requires an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact, and
- Complies with the commission's bylaws and rules.

Article IV – Compact Privilege to Practice Telepsychology

Compact states must recognize the right of a psychologist to practice telepsychology under the APIT. To qualify to practice telepsychology, a psychologist must:

- Hold a graduate degree in psychology awarded by an accredited institution of higher education recognized by the U.S. Department of Education or the equivalent;
- Hold a graduate degree in psychology which meets the following criteria:
 - The program must be identified, labeled, and advertise as a psychology program to educate and train psychologists,
 - The program stands as a recognizable and coherent organizational entity within the institution,
 - There is a clear authority and primary responsibility for the core and specialty areas,
 - The program consists of an integrated, organized sequence of study,
 - There is an identifiable psychology faculty in sufficient size and breadth,
 - The designated director of the program is a psychologist and member of the core faculty,
 - The program has an identifiable body of students matriculated in that program for a degree,
 - The program includes supervised practicum, internship, or field training,

- The program encompasses a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees, and
- The program includes an acceptable residency as defined by the rules of the commission.
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;
- Have no history of adverse actions that violate the rules of the commission;
- Possess a current, active e-passport;
- Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and
- Meet other criteria as defined by the rules of the commission.

The home state maintains authority over the license of the psychologist practicing in a receiving state under the APIT. The psychologist practicing in a receiving state under the APIT must comply with the receiving state's scope of practice. A receiving state may limit or revoke a psychologist's APIT in the receiving state and take other necessary actions to protect the receiving state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

If a psychologist's license or the APIT in any receiving state is encumbered, the psychologist's e-passport must be revoked and the psychologist is not eligible to practice telepsychology under the APIT.

Article V – Compact Temporary Authorization to Practice

Compact states agree to recognize the right of a psychologist licensed in a compact state to practice temporarily in other compact states or distant states in which the psychologist is not licensed but is physically present to provide temporary, in-person, face-to-face psychological services. In order to practice in a distant state under the compact a psychologist must:

- Hold a graduate degree in psychology awarded by an accredited institution of higher education recognized by the U.S. Department of Education or the equivalent;
- Hold a graduate degree in psychology which meets the following criteria:
 - The program must be identified, labeled, and advertise as a psychology program to educate and train psychologists,
 - The program stands as a recognizable and coherent organizational entity within the institution,
 - There is a clear authority and primary responsibility for the core and specialty areas,
 - The program consists of an integrated, organized sequence of study,
 - There is an identifiable psychology faculty in sufficient size and breadth,
 - The designated director of the program is a psychologist and member of the core faculty,
 - The program has an identifiable body of students matriculated in that program for a degree,
 - The program includes supervised practicum, internship, or field training,

- The program encompasses a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees, and
 - The program includes an acceptable residency as defined by the rules of the commission.
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;
- Have no history of adverse actions that violate the rules of the commission;
- Possess a current, active IPC;
- Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and
- Meet other criteria as defined by the rules of the commission.

A psychologist practicing in a distant state under a temporary authorization to practice shall practice within the scope of practice authorized by the distant state and is subject to the distant state's authority and law. A distant state may limit or revoke a psychologist's temporary authorization in the distant state and take other necessary actions to protect the distant state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

If a psychologist's license or his or her temporary authorization to practice in any distant state is encumbered, the psychologist's IPC must be revoked and the psychologist is not eligible to practice telepsychology under the temporary authorization.

Article VI Conditions of Telepsychology Practice in a receiving state

A psychologist may practice in a receiving state under the APIT only within the scope of practice defined by the state psychology regulatory authority as defined by commission rules, and under the following circumstances:

- The psychologist initiates a client or patient contact in a home state via telecommunication technologies with the client or patient in a receiving state, and
- Other conditions regarding telepsychology as determined by commission rules.

Article VII Adverse Actions

A home state may take adverse action against a psychologist's license issued by the home state. A distant state may take adverse action against a psychologist's TAP within that distant state. A receiving state may take adverse action against a psychologist's APIT within the receiving state.

A home state may take adverse action against a psychologist's license based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

If a home state takes adverse action against a psychologist's license, that psychologist's APIT is terminated and the e-passport is revoked. In addition, any TAP is terminated and the IPC is revoked. No other judicial or administrative remedies are available to a psychologist if his or her

home state takes adverse action against the psychologist's license and the APIT and TAP are terminated and the e-passport and IPC are revoked.

All home state disciplinary orders that take adverse action and adverse action taken by a compact state must be reported to the commission. If disciplinary action against a psychologist is reported he or she is not eligible for telepsychology or temporary in-person practice. Other action may be imposed as determined by the rules adopted by the commission.

A home state's regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state in the same manner as if the conduct had occurred in the home state. The home state's law controls in determining applicable adverse action against the psychologist's license.

A distant state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under a TAP. The distant state's law controls in determining applicable adverse action against the psychologist's license.

The compact does not override a compact state's decision to use alternate programs in lieu of adverse action, and that action may remain confidential if required by the compact state's law. The compact state must require that psychologists who enter an alternative program do not provide telepsychology services under the APIT or temporary psychological services under the TAP during the term of the alternate program.

Article VIII Additional Authorities Invested in a Compact State's Regulatory Authority

In addition to other powers authorized under state law, a compact state's regulatory authority may:

- Issue subpoenas for hearings and investigations for attendance and records production. Any subpoenas issued to another compact state must be enforced by courts in the other compact state. The issuing state's regulatory authority must pay the fees and expenses.
- Issue cease and desist or injunctive relief orders to revoke a psychologist's APIT or TAP.

During the course of an investigation, a psychologist may not change his or her home state licensure. Once an investigation is completed and pending the outcome of the investigation, the psychologist may change his or her home state licensure. The investigating state must report the conclusions of the investigation to the commission and the commission must promptly notify the new home state.

All information provided to the commission or distributed by a compact state related to the psychologist must be confidential and used only for investigatory or disciplinary matters. The commission is authorized to create additional rules for mandated or discretionary sharing of information by compact states.

Article IX – Coordinated Licensure Information System

The commission must develop and maintain a coordinated database and a reporting system containing licensure and disciplinary action for all psychologists practicing under the compact.

The compact overrides a compact state's laws to the contrary and requires the submission of a uniform data set on all licensees containing:

- Identifying information;
- Licensure data;
- Significant investigatory information;
- Adverse actions against a psychologist's license;
- Any indicator that a psychologist's APIT or TAP is revoked;
- Any denial of application for licensure and the reason for the denial;
- Other information determined by commission rules.

The coordinated database administrator must promptly notify all compact states of adverse action taken against any licensee in a compact state.

A compact state may designate information that may not be shared with the public without the express permission of the compact state. Any information submitted to the coordinated database which is subsequently required to be expunged by law must be removed from the coordinated database.

Article X – Establishment of the Psychology Interjurisdictional Compact Commission

The commission is a body politic and an instrumentality of the compact states. Venue and judicial proceedings by or against the commission may only be brought in a court of competent jurisdiction where the principal office of the commission is located. However, the commission may waive this restriction if it adopts or consents to participate in alternate dispute resolution proceedings.

The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

Membership, Voting, and Meetings

Each member state must appoint a commissioner with authority to act on behalf of the compact state. Vacancies must be filled in accordance with the laws of that compact state. Each commissioner is entitled to one vote with regard to the adoption of rules and creation of bylaws and may otherwise participate in the business and affairs of the commission. Voting must be in-person or as provided in the bylaws.

The commission must meet at least once during each calendar year and additional meetings must be held as set forth in the bylaws. All meetings are open to the open and notice must be given. However, the commission may convene in a closed, nonpublic meeting to discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.

- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting or portion of a meeting is closed, the commission's legal counsel must identify each relevant exempting provision. The commission must keep detailed minutes about all matters discussed, actions taken, participants, views expressed, and documents considered. These minutes and documents must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

Bylaws

Bylaws or rules must be adopted by a majority vote of the commissioners. These may address:

- Establishing a fiscal year of the commission.
- Providing reasonable standards and procedures:
 - For the establishment and meetings of other committees;
 - Governing delegation of an authority or function of the commission;
 - For calling and conducting commission meetings;
 - For establishing personnel policies and programs. Notwithstanding any civil service or other similar law of a compact state, the bylaws exclusively govern these.
- Establishing the titles, duties, and authority of officers, and the election thereof.
- Adopting a code of ethics.
- Providing a mechanism for concluding the operation of the commission, including disposition of assets once all debts and obligations are satisfied.
- Maintenance of financial records.

Each compact state must be given access to the bylaws.

Powers

The commission may:

- Adopt rules to implement and administer the compact. The rules have the force and effect of law and are binding in all compact states.
- Bring and prosecute legal proceedings or action in the name of the commission, provided a state's regulatory authority for psychology licensure to sue or be used under applicable law is not affected.
- Purchase and maintain insurance and bonds.
- Borrow, accept, or contract for personnel services from compact states.

- Hire employees and elect or appoint officers, fix compensation, define duties, and establish policies relating to conflicts of interest, personnel qualifications, and other personnel matters.
- Accept and dispose of donations and grants, avoiding any appearance of impropriety.
- Lease, purchase, own, hold, or use any property, real or personal, avoiding any appearance of impropriety.
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property.
- Establish a budget and make expenditures.
- Borrow money.
- Appoint committees consisting of commissioners, state regulators or legislators, consumer representatives, or other interested persons as designated in the compact and bylaws.
- Cooperate with law enforcement agencies.
- Adopt and use an official seal.
- Perform other functions as necessary or appropriate to achieve the purposes of the compact.

Executive Board

The executive board may act on behalf of the commission. It consists of five voting members elected by the commission and one ex-officio non-voting member from the ASPPB, who has served as staff for or as a member of a state psychology regulatory authority and is selected by his or her respective organization. The commission may remove any member of the executive board as provided in the bylaws. The executive board must meet at least annually.

The executive board has the following duties and responsibilities:

- Recommend to the entire commission changes to the bylaws, compact legislation, or fees paid by compact states.
- Ensure compact administration services are appropriately provided.
- Prepare and recommend a budget.
- Maintain financial records on behalf of the commission.
- Monitor compact compliance of member states and report to the commission.
- Establish additional committees as necessary.
- Perform other duties as provided in the rules or bylaws.

Financing

The commission shall pay the reasonable expenses of its establishment, organization, and ongoing operations. The commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, and services.

The commission may levy and collect an annual assessment from each compact state or impose fees on other parties sufficient to cover the budgeted cost of operations and activities. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule that is binding upon all compact states.

The commission may not incur obligations before securing the funds adequate to meet the obligation and may not pledge the credit of any compact state, except by and with the authority of the compact state.

The commission must maintain accurate accounts of all receipts and disbursements, which are subject to the audit and accounting procedures established under the bylaws. In addition, all receipts and disbursements must be audited yearly by a certified or licensed public accountant and the report must be included in and become part of the commission's annual report.

Qualified immunity, defense, and indemnification

The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing herein may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

The commission will defend any of the above referenced persons in any civil action seeking to impose liability that occurred, or the person against whom the claim is made reasonably believed occurred, within the scope of commission employment, duties, or responsibilities, provided the incident did not result from that person's intentional or willful or wanton misconduct. This does not prohibit such person from retaining his or her own counsel.

The commission will indemnify and hold harmless any of these persons for the amount of any settlement or judgment obtained against that person arising out of an incident that occurred, or the person against whom the claim is made reasonably believed occurred, within the scope of commission employment, duties, or responsibilities, provided the incident did not result from that person's intentional or willful or wanton misconduct.

Article XI – Rulemaking

Rules and amendments become binding as of the date specified in each rule or amendment and must be adopted at a regular or special meeting of the commission. If a majority of the legislatures of compact states reject a rule by enactment of a statute or resolution in the same manner used to adopt the compact, the rule does not have further force and effect in any compact state.

At least 60 days before the meeting at which a rule will be considered and voted upon, the commission must file a notice of proposed rulemaking on its website and on the website of each compact state's psychology regulatory authority or in a publication the state would otherwise publish a proposed rule. The notice must include the text and the reason for the proposed rule, a request for comment from any interested person along with the manner in which the interested person may attend a public hearing or submit written comments.

The commission must hold a public hearing before it adopts a rule or an amendment if a hearing is requested by: at least 25 individuals who submit comments independently of each other; a governmental subdivision or agency; or a duly appoint person in an association that has at least 25 members.

Persons wishing to be heard at a hearing must notify the commission's executive director in writing at least five business days before the schedule date of the hearing and these persons must be provided a fair and reasonable opportunity to comment orally or in writing. A transcript is not required but if one is requested, the person requesting it is responsible for the cost. A hearing is not required if the executive director does not receive any notices of intent to attend the public hearing.

A majority vote of the commission is required to adopt the rule after consideration of all written and oral comments received and an effective date is determined.

Upon determination that an emergency exists, the commission may adopt an emergency rule without the procedures outlined above but must then proceed with the rulemaking procedures above.

A revision to a previously adopted rule or amendment for non-substantive corrections must be posted on the commission's website. A person may challenge the revisions within 30 days on the grounds that the revision results in a material change to a rule. If a challenge is not made, the revision takes effect without further action.

Article XII – Oversight; Default, Technical Assistance, and Termination; Dispute Resolution; and Enforcement

Oversight

The executive, legislative, and judicial branches of state government in each compact state must enforce the compact and take all action necessary and appropriate to effectuate the compact's purpose and intent. The compact and rules adopted thereunder have standing as statutory law.

All courts must take judicial notice of the compact and rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the compact. The commission is entitled to receive services of process in any such proceeding and has standing to intervene for all purposes. Failure to provide service of process to the commission renders a judgement or an order void as to the commission, the compact, or adopted rules.

Default, technical assistance, and termination

If the commission determines that a compact state has defaulted in its obligation under the compact, the commission must:

- Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed remedies, and any other action to be taken by the commission; and
- Provide remedial training and specific technical assistance regarding the default.

If the state fails to remedy the default, the state may be terminated from the compact upon majority vote of the compact states. A remedy of the default does not relieve the offending state of any obligations incurred during the period of default. Termination of membership is a last resort after all other means of securing compliance have been exhausted. A defaulting state may appeal the action of the commission by petitioning the United States District Court for the state

of Georgia or the federal district court where the compact has its principal office. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

Dispute resolution

Upon a compact state's request, the commission must attempt to resolve disputes related to the compact arising among compact states and between compact and noncompact states. The commission must adopt a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

Enforcement

The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact. By majority vote, the commission may initiate legal action in the U.S. District Court for the state of Georgia or the federal district court where the compact has its principal office against a compact state in default to enforce compliance with the compact. The relief sought may include injunctive relief and damages. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees. The commission may also pursue any other remedies available under federal or state law.

Article XIII – Date of implementation of the Psychology Interjurisdictional Compact Commission and association rules; Withdrawal; and Amendments

The compact becomes effective on the date on which seven states enact the compact into law.¹² Any state that joins the compact after the commission's initial adoption of rules is subject to the rules as they exist on the date the state law enacting the compact becomes effective.

A state may withdraw from the compact by enacting a statute repealing the compact; however, the withdrawal does not take effect until six months after enactment of the repealing statute. Withdrawal does not affect the continued requirement of the state's psychology regulatory authority to comply with the investigative and adverse action reporting requirement of the compact before the effective date of withdrawal.

The compact may not be construed to invalidate or prevent any psychology licensure agreement between a compact state and a noncompact state which does not conflict with the provisions of the compact.

The compact may be amended by the compact states but an amendment is not effective and binding upon any compact state until enacted into the law of all compact states.

Article XIV – Construction and Severability

The compact must be liberally construed so as to effectuate the purposes thereof. If the compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining compact states.

¹² The compact became effective on April 9, 2019.

Section 2 amends s. 456.073, F.S., relating to disciplinary proceedings of practitioners, to require the department to report any significant investigatory information relating to a psychologist practicing under the PSYPACT to the coordinated database pursuant to the compact. It also clarifies the type of information that may be provided to law enforcement or to any other regulatory agency, specifically the complaint or any information obtained pursuant to the department's investigation.

Section 3 amends s. 456.076, F.S., relating to the impaired practitioner program, to require if the impaired practitioner is a psychologist practicing under the PSYPACT, the terms of the monitoring contract require withdrawal from all practice under the compact.

Section 4 amends s. 490.004, F.S., to require the board of psychology to appoint an individual to be the state's commissioner on the PSYPACT commission.

Section 5 amends s. 490.005, F.S., relating to licensure by examination, to exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.

Section 6 amends s. 490.006, F.S., relating to licensure by endorsement, to exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.

Section 7 amends s. 490.009, F.S., relating to discipline of psychologists, to reference the PSYPACT in s. 490.0075, F.S., and to authorize the board to take adverse action against a psychologist's Authority to Practice Interjurisdictional Telepsychology or his or her Temporary Authorization to Practice under the PSYPACT and to impose any other applicable penalties.

Section 8 amends s. 768.28, F.S., relating to sovereign immunity, to designate the individual appointed as the state's commissioner on the PSYPACT commission, when serving in that capacity; and any administrator, officer, executive director, employee, or representative of the commission, when acting with the scope of his or her employment, duties, or responsibilities in this state; is considered an agent of the state. The commission shall pay any claims or judgments pursuant to the waiver of sovereign immunity and may maintain insurance coverage to pay any such claims or judgments.

The bill provides an effective date of July 1, 2023.

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:

The compact authorizes the commission to “adopt reasonable rules to effectively and efficiently achieve the purposes of the compact,” and these rules carry the force of law in member states, which is potentially an unlawful delegation of legislative authority. Although the compact has been effective for several years and the commission has adopted rules to implement the compact, if enacted into law, the state will bind itself to rules not yet adopted by the commission. However, if Florida finds that rules adopted by the commission are not acceptable, the compact provides a mechanism for a majority of state legislatures to override the commission’s rules. Furthermore, the state maintains the ability to withdraw from the compact.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Although the Association of State and Provincial Psychology Boards (ASPPB) imposes fees for various authorizations to practice pursuant to the compact, psychologists will be able to practice telepsychology and engage in temporary, in-person, face-to-face practice in other states without becoming licensed and paying individual state fees to practice psychology in the other states.

The ASPPB fees are:

- ASSB e-passport: \$400 initial; \$100 annual renewal
- Authority to Practice Interjurisdictional Telepsychology (APIT): \$40 initial; \$20 annual renewal
- Interjurisdictional Practice Certificate (IPC): \$200 initial; \$50 annual renewal
- Temporary Authorization to Practice (TAP): \$40 initial cost and \$20 annual renewal

¹³

Licensed Florida psychologists who have not previously undergone a level 2, fingerprint-based state and national criminal history record check must have one completed to

¹³ PSYPACT Fees available at: <https://psypact.org/page/fees> (last visited March 29, 2023).

practice under the compact. The cost for such record checks and five years of fingerprint retention is \$45.25.¹⁴

C. Government Sector Impact:

The Department of Health indicates it will experience a workload impact associated with implementing the compact, including processing applications, issuing new and renewal licenses, and reviewing and investigating additional complaints. At this time, the DOH is requesting one full-time equivalent position at a total cost of \$59,312 to address the workload. As participation in the PSYPACT increases, the staffing needs may increase.

The DOH will experience a nonrecurring workload and expenditure increase to update various information technology systems to comply with the multistate licensing, data collection and reporting requirements of the compact. However the full impact is indeterminate at this time.

In addition, the DOH will be required to pay an annual PSYPACT membership fee to ASPPB on behalf of the state. While that amount is unknown at this time, DOH indicates current budget authority is adequate to cover the cost.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

Currently the practice of psychology in Florida does not require fingerprinting as a condition of licensure. The compact requires a home state's licensure provisions to require an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.073, 456.076, 490.004, 490.005, 490.006, 490.009, and 768.28.

This bill creates section 490.0075 of the Florida Statutes.

¹⁴ The Florida Department of Law Enforcement, *SB 56 Bill Analysis* (Jan. 12, 2023)(on file with the Senate Appropriations Committee on Health and Human Services).

¹⁵ The Department of Health, *HB 33 Bill Analysis* (Jan. 12, 2023)(on file with the Senate Appropriations Committee on Health and Human Services).

IX. Additional Information:

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

CS by Health Policy on April 4, 2023:

The CS removes, “Nothing in the compact may be construed to be a waiver of sovereign immunity,” from the underlying bill and replaces it with, “The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.”

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senator Harrell

588-03472-23

202356c1

1 A bill to be entitled
 2 An act relating to the Psychology Interjurisdictional
 3 Compact; creating s. 490.0075, F.S.; enacting the
 4 Psychology Interjurisdictional Compact; providing
 5 purposes and objectives; defining terms; providing for
 6 recognition of psychologist licenses in compact
 7 states; authorizing a compact state to require
 8 licensure under certain circumstances; requiring
 9 compact states to meet certain criteria for their
 10 licensed psychologists to participate in the compact;
 11 requiring compact states to recognize the right of
 12 psychologists to practice telepsychology and practice
 13 temporarily in compact states under the compact;
 14 specifying criteria that a psychologist must satisfy
 15 to exercise the authority to practice
 16 interjurisdictional telepsychology in a receiving
 17 state or the temporary authorization to practice in a
 18 distant state under the compact; providing that, while
 19 authority over a psychologist's license remains with
 20 the home state, receiving states and distant states
 21 may define the scope of and act on a psychologist's
 22 authority to practice in the receiving or distant
 23 state, as applicable, under the compact; requiring a
 24 psychologist's e-passport or interjurisdictional
 25 practice certificate, as applicable, and right to
 26 practice under the compact to be revoked under certain
 27 circumstances; specifying conditions for the practice
 28 of telepsychology in receiving states; providing for
 29 adverse actions against psychologists under the

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30 compact; requiring compact states to report adverse
 31 actions they take against psychologists to the
 32 Psychology Interjurisdictional Compact Commission;
 33 authorizing the psychology regulatory authorities of
 34 compact states to take specified actions; prohibiting
 35 psychologists from changing their home state licensure
 36 under the compact during a disciplinary investigation;
 37 providing requirements for changing home state
 38 licensure after the investigation is complete;
 39 providing for the confidential exchange of certain
 40 information between compact states under certain
 41 circumstances; requiring the commission to develop and
 42 maintain a coordinated licensure information system;
 43 requiring compact states to submit specified
 44 information to the system; requiring the coordinated
 45 database administrator to notify compact states of
 46 specified information submitted to the system;
 47 authorizing compact states to designate reported
 48 information as exempt from public disclosure;
 49 providing for the removal of submitted information
 50 from the system under certain circumstances;
 51 establishing the Psychology Interjurisdictional
 52 Compact Commission; providing for the jurisdiction and
 53 venue for court proceedings by or against the
 54 commission; providing construction; providing for
 55 commission membership, voting, and meetings; requiring
 56 the commission to prescribe bylaws; specifying powers
 57 of the commission; providing for membership and duties
 58 of the executive board of the commission; providing

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59 for financing of the commission; providing for
 60 qualified immunity, defense, and indemnification of
 61 the commission; providing for commission rulemaking;
 62 providing for state enforcement of the compact;
 63 providing for the default and termination of compact
 64 membership; providing for appeals and costs; providing
 65 procedures for the resolution of certain disputes;
 66 providing for enforcement against a defaulting state;
 67 providing for implementation and administration of the
 68 compact; providing that compact states that join after
 69 initial adoption of the commission's rules are subject
 70 to such rules; specifying procedures for compact
 71 states to withdraw from the compact; providing
 72 construction; providing for amendment of the compact;
 73 providing construction and severability; amending s.
 74 456.073, F.S.; requiring the Department of Health to
 75 report certain investigative information to the
 76 coordinated licensure information system; amending s.
 77 456.076, F.S.; requiring that monitoring contracts for
 78 impaired practitioners participating in treatment
 79 programs contain specified terms; amending s. 490.004,
 80 F.S.; requiring the Board of Psychology to appoint an
 81 individual to serve as the state's commissioner on the
 82 Psychology Interjurisdictional Compact Commission;
 83 amending ss. 490.005 and 490.006, F.S.; exempting
 84 certain persons from psychology licensure
 85 requirements; amending s. 490.009, F.S.; authorizing
 86 certain disciplinary action under the compact for
 87 specified prohibited acts; amending s. 768.28, F.S.;

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88 designating the state commissioner and other members
 89 or employees of the commission as state agents for the
 90 purpose of applying sovereign immunity and waivers of
 91 sovereign immunity; requiring the commission to pay
 92 certain judgments or claims; authorizing the
 93 commission to maintain insurance coverage to pay such
 94 claims or judgments; providing an effective date.
 95

96 WHEREAS, states license psychologists to protect the public
 97 through verification of education, training, and experience and
 98 to ensure accountability for professional practice, and

99 WHEREAS, this compact is intended to regulate the day-to-
 100 day practice of telepsychology, or the provision of
 101 psychological services using telecommunication technologies, by
 102 psychologists across state boundaries in the performance of
 103 their psychological practice as defined by an appropriate state
 104 psychology regulatory authority, and

105 WHEREAS, this compact is intended to regulate the temporary
 106 in-person, face-to-face practice of psychology by psychologists
 107 across state boundaries for up to 30 days within a calendar year
 108 in the performance of their psychological practice as defined by
 109 an appropriate state psychology regulatory authority, and

110 WHEREAS, this compact is intended to authorize state
 111 psychology regulatory authorities to afford legal recognition,
 112 in a manner consistent with the terms of the compact, to
 113 psychologists licensed in another state, and

114 WHEREAS, this compact recognizes that states have a vested
 115 interest in protecting the public's health and safety through
 116 the licensing and regulation of psychologists and that such

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state regulation will best protect public health and safety, and

WHEREAS, this compact does not apply when a psychologist is licensed in both the home and receiving states, and

WHEREAS, while this compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice, NOW, THEREFORE,

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

Section 1. Section 490.0075, Florida Statutes, is created to read:

490.0075 Psychology Interjurisdictional Compact.—The Psychology Interjurisdictional Compact is hereby enacted and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

ARTICLE I

PURPOSE

The compact is designed to achieve the following purposes and objectives:

(1) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services in a state where the psychologist is not licensed to practice psychology.

(2) Enhance the member states' ability to protect the public's health and safety, especially client or patient safety.

(3) Encourage the cooperation of compact states in the

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areas of psychologist licensure and regulation.

(4) Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history.

(5) Promote compliance with the laws governing the practice of psychology in each compact state.

(6) Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II

DEFINITIONS

As used in the compact, the term:

(1) "Adverse action" means any disciplinary action that is a matter of public record and that is taken by a state's psychology regulatory authority against an individual's license to practice psychology in that state.

(2) "Association of State and Provincial Psychology Boards" means the membership organization composed of state and provincial psychology regulatory authorities that are responsible for the licensure and registration of psychologists throughout the United States and Canada.

(3) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under the compact, in a compact state other than the one in which he or she is licensed.

(4) "Bylaws" means those rules established by the Psychology Interjurisdictional Compact Commission pursuant to

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article X for its governance, or for directing and controlling its actions and conduct.

(5) "Client or patient" means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.

(6) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to article X.

(7) "Compact state" means a state, the District of Columbia, or a United States territory that has enacted the compact legislation and that has not withdrawn pursuant to subsection (3) of article XIII or been terminated pursuant to subsection (2) of article XII.

(8) "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

(9) "Coordinated licensure information system" or "coordinated database" means an integrated process administered by the Association of State and Provincial Psychology Boards for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws and the Psychology Interjurisdictional Compact.

(10) "Day" means any part of a day in which a psychologist practices psychology.

(11) "Distant state" means the compact state, which is not the home state, where a psychologist is physically present, not through the use of telecommunication technologies, to provide temporary in-person, face-to-face psychological services.

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(12) "E-passport" means a certificate issued by the Association of State and Provincial Psychology Boards which allows a licensed psychologist to provide telepsychological services across state lines.

(13) "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(14) "Home state" means a compact state where a psychologist is licensed to practice psychology, as provided in article III.

(15) "Identity history summary" means a summary of information retained by the Federal Bureau of Investigation, or another designee with similar authority, in connection with arrests and, in some instances, federal employment or military service.

(16) "In-person, face-to-face" means interactions in which the psychologist and the client or patient are in the same physical space and does not include interactions that may occur through the use of telecommunication technologies.

(17) "Interjurisdictional Practice Certificate" or "IPC" means the certificate issued by the Association of State and Provincial Psychology Boards which grants a psychologist temporary authority to practice based on notification to the state psychology regulatory authority of one's intention to practice temporarily and verification of one's qualifications for such practice.

(18) "License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without such authorization.

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233 (19) "Noncompact state" means a state that is not a compact
 234 state.

235 (20) "Psychologist" means an individual licensed by a state
 236 psychology regulatory authority to independently practice
 237 psychology in that state.

238 (21) "Psychology Interjurisdictional Compact Commission" or
 239 "commission" means the national administration of which all
 240 compact states are members.

241 (22) "Receiving state" means a compact state where the
 242 client or patient is physically located when the
 243 telepsychological services are delivered.

244 (23) "Rule" means a written statement by the Psychology
 245 Interjurisdictional Compact Commission adopted pursuant to
 246 article XI which has the full force and effect of statutory law
 247 in a compact state and which implements, interprets, or
 248 prescribes a policy or provision of the compact or is an
 249 organizational, procedural, or practice requirement of the
 250 commission. The term also includes the amendment, repeal, or
 251 suspension of an existing rule.

252 (24) "Significant investigatory information" means:

253 (a) Investigative information that a state psychology
 254 regulatory authority, after a preliminary inquiry that includes
 255 notification and an opportunity to respond if required by state
 256 law, has reason to believe, if proven true, would indicate a
 257 violation of state statute or rule which would be considered
 258 more substantial than a minor infraction; or

259 (b) Investigative information that indicates that the
 260 psychologist represents an immediate threat to public health and
 261 safety, regardless of whether the psychologist has been notified

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262 or had an opportunity to respond.

263 (25) "State" means a state, commonwealth, territory, or
 264 possession of the United States, or the District of Columbia.

265 (26) "State psychology regulatory authority" means the
 266 board, office, or agency with the legislative mandate to license
 267 and regulate the practice of psychology in that state.

268 (27) "Telepsychology" means the provision of psychological
 269 services using telecommunication technologies.

270 (28) "Temporary authorization to practice" means a licensed
 271 psychologist's authority to conduct temporary in-person, face-
 272 to-face practice, within the limits authorized under the
 273 compact, in another compact state.

274 (29) "Temporary in-person, face-to-face practice" means
 275 when a psychologist is physically present, not through the use
 276 of telecommunication technologies, in the distant state to
 277 provide psychological services for up to 30 days within a
 278 calendar year and with notification to the distant state.

ARTICLE III

HOME STATE LICENSURE

282 (1) The home state is a compact state where a psychologist
 283 is licensed to practice psychology.

284 (2) A psychologist may hold one or more compact state
 285 licenses at a time. If a psychologist practicing
 286 interjurisdictional telepsychology under the compact is licensed
 287 in more than one compact state, the home state is deemed to be
 288 the compact state where the psychologist is physically present
 289 when the services are delivered as authorized by the authority
 290 to practice interjurisdictional telepsychology.

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291 (3) A compact state may require a psychologist who is not
 292 licensed in that compact state to obtain and maintain a license
 293 in the compact state in order to practice under circumstances
 294 that are not authorized under the authority to practice
 295 interjurisdictional telepsychology under the compact.
 296 (4) A compact state may require a psychologist to obtain
 297 and maintain a license to be authorized to practice in that
 298 compact state under circumstances that are not authorized by a
 299 temporary authorization to practice under the terms of the
 300 compact.
 301 (5) A home state's license authorizes a psychologist to
 302 practice in a receiving state under the authority to practice
 303 interjurisdictional telepsychology only if the compact state:
 304 (a) Currently requires the psychologist to hold an active
 305 e-passport;
 306 (b) Has a mechanism in place for receiving and
 307 investigating complaints about licensed individuals;
 308 (c) Notifies the commission, in accordance with this
 309 section, of any adverse action or significant investigatory
 310 information regarding a licensed individual;
 311 (d) Requires an identity history summary of all applicants
 312 at initial licensure, including the use of the results of
 313 fingerprints or other biometric data checks compliant with the
 314 requirements of the Federal Bureau of Investigation or other
 315 designee with similar authority, within 10 years after
 316 activation of the compact; and
 317 (e) Complies with the bylaws and rules of the commission.
 318 (6) A home state's license grants a psychologist temporary
 319 authorization to practice in a distant state only if the compact

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320 state:
 321 (a) Currently requires the psychologist to hold an active
 322 IPC;
 323 (b) Has a mechanism in place for receiving and
 324 investigating complaints about licensed individuals;
 325 (c) Notifies the commission, in accordance with this
 326 section, of any adverse action or significant investigatory
 327 information regarding a licensed individual;
 328 (d) Requires an identity history summary of all applicants
 329 at initial licensure, including the use of the results of
 330 fingerprints or other biometric data checks compliant with the
 331 requirements of the Federal Bureau of Investigation or other
 332 designee with similar authority, within 10 years after
 333 activation of the compact; and
 334 (e) Complies with the bylaws and rules of the commission.
 335
 336 ARTICLE IV
 337 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY
 338 (1) Compact states shall recognize the right of a
 339 psychologist licensed in a compact state pursuant to article III
 340 to practice telepsychology in other compact states or receiving
 341 states in which the psychologist is not licensed under the
 342 authority to practice interjurisdictional telepsychology as
 343 provided in the compact.
 344 (2) To exercise the authority to practice
 345 interjurisdictional telepsychology in a receiving state under
 346 the terms and provisions of the compact, a psychologist licensed
 347 to practice in a compact state must:
 348 (a) Hold a graduate degree in psychology from an

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institution of higher education that was, at the time the degree was awarded:

1. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

2. A foreign college or university deemed to be equivalent to subparagraph 1. by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology which meets the following criteria:

1. The program, regardless of where it is administratively housed, is clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

2. The program stands as a recognizable and coherent organizational entity within the institution;

3. There is a clear authority and primary responsibility for the core and specialty areas regardless of whether the program overlaps across administrative lines;

4. The program consists of an integrated, organized sequence of study;

5. There is an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

6. The designated director of the program is a psychologist and a member of the core faculty;

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7. The program has an identifiable body of students matriculated in that program for a degree;

8. The program includes supervised practicum, internship, or field training appropriate to the practice of psychology;

9. The program encompasses a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

10. The program includes an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(d) Have no history of adverse actions that violate the rules of the commission;

(e) Have no criminal history reported on an identity history summary which violates the rules of the commission;

(f) Possess a current, active e-passport;

(g) Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) The home state maintains authority over the license of any psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology.

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(4) A psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology is subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

(5) If a psychologist's license in any home state or another compact state or his or her authority to practice interjurisdictional telepsychology in any receiving state is restricted, suspended, or otherwise limited, the psychologist's e-passport must be revoked and the psychologist is not eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

(1) Compact states shall recognize the right of a psychologist licensed in a compact state pursuant to article III to practice temporarily in other compact states or distant states in which the psychologist is not licensed, as provided in the compact.

(2) To exercise the temporary authorization to practice in distant states under the compact, a psychologist licensed to practice in a compact state must:

(a) Hold a graduate degree in psychology from an

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institution of higher education that was, at the time the degree was awarded:

1. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

2. A foreign college or university deemed to be equivalent to subparagraph 1. by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology that meets the following criteria:

1. The program, regardless of where it is administratively housed, is clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

2. The program stands as a recognizable and coherent organizational entity within the institution;

3. There is a clear authority and primary responsibility for the core and specialty areas regardless of whether the program overlaps across administrative lines;

4. The program consists of an integrated, organized sequence of study;

5. There is an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

6. The designated director of the program is a psychologist and a member of the core faculty;

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7. The program has an identifiable body of students matriculated in that program for a degree;

8. The program includes supervised practicum, internship, or field training appropriate to the practice of psychology;

9. The program encompasses a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

10. The program includes an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(d) Have no history of adverse actions that violate the rules of the commission;

(e) Have no criminal history that violates the rules of the commission;

(f) Possess a current, active IPC;

(g) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) A psychologist practicing in a distant state under a temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(4) A psychologist practicing in a distant state under a temporary authorization to practice is subject to the distant state's authority and law. A distant state may, in accordance

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with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, it must promptly notify the home state and the commission.

(5) If a psychologist's license in any home state or another compact state or his or her temporary authorization to practice in any distant state is restricted, suspended, or otherwise limited, the IPC must be revoked and the psychologist is not eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as defined by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(1) The psychologist initiates a client or patient contact in a home state via telecommunication technologies with a client or patient in a receiving state; and

(2) Other conditions regarding telepsychology as determined by rules adopted by the commission.

ARTICLE VII

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ADVERSE ACTIONS

(1) A home state may take adverse action against a psychologist's license issued by the home state. A distant state may take adverse action against a psychologist's temporary authorization to practice within that distant state.

(2) A receiving state may take adverse action against a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist's license based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(3) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e-passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

(a) All home state disciplinary orders that take adverse action must be reported to the commission in accordance with the rules adopted by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(b) In the event that disciplinary action against a psychologist is reported, the psychologist is not eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(c) Other actions may be imposed as determined by the rules adopted by the commission.

(4) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported

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inappropriate conduct engaged in by a licensee which occurred in a receiving state in the same manner as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law controls in determining any adverse action against a psychologist's license.

(5) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization to practice which occurred in the distant state in the same manner as it would if such conduct had occurred by a licensee within the home state. In such cases, the distant state's law controls in determining any adverse action against a psychologist's temporary authorization to practice.

(6) The compact does not override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation must remain nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs not to provide telepsychology services under the authority to practice interjurisdictional telepsychology or temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(7) No other judicial or administrative remedies are available to a psychologist in the event a compact state takes adverse action pursuant to subsection (3).

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY

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REGULATORY AUTHORITY

(1) In addition to any other powers granted under state law, a compact state's psychology regulatory authority may:

(a) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses or for the production of evidence from another compact state must be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

(b) Issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(2) During the course of an investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of such investigation, the psychologist may change his or her home state licensure. The commission shall promptly notify the new home state of any such

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decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states related to the psychologist must be confidential, filed under seal, and used only for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IXCOORDINATED LICENSURE INFORMATION SYSTEM

(1) The commission shall provide for the development and maintenance of a coordinated licensure information system and a reporting system containing licensure and disciplinary action information on all psychologists to whom the compact is applicable in all compact states as defined by the rules of the commission.

(2) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission which includes:

(a) Identifying information;

(b) Licensure data;

(c) Significant investigatory information;

(d) Adverse actions against a psychologist's license;

(e) Any indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;

(f) Nonconfidential information related to alternative program participation information;

(g) Any denial of application for licensure and the reasons

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639 for such denial; and

640 (h) Other information that may facilitate the
641 administration of the compact, as determined by the rules of the
642 commission.

643 (3) The coordinated database administrator shall promptly
644 notify all compact states of any adverse action taken against,
645 or significant investigatory information on, any licensee in a
646 compact state.

647 (4) Compact states reporting information to the coordinated
648 database may designate information that may not be shared with
649 the public without the express permission of the compact state
650 reporting the information.

651 (5) Any information submitted to the coordinated database
652 which is subsequently required to be expunged by the law of the
653 compact state reporting the information must be removed from the
654 coordinated database.

656 ARTICLE X

657 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT

658 COMMISSION

659 (1) COMMISSION CREATED.—The compact states hereby create
660 and establish a joint public agency known as the Psychology
661 Interjurisdictional Compact Commission.

662 (a) The commission is a body politic and an instrumentality
663 of the compact states.

664 (b) Venue is proper, and judicial proceedings by or against
665 the commission may be brought solely and exclusively in a court
666 of competent jurisdiction where the principal office of the
667 commission is located. The commission may waive venue and

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668 jurisdictional defenses to the extent that it adopts or consents
669 to participate in alternative dispute resolution proceedings.

670 (c) The compact does not waive sovereign immunity except to
671 the extent sovereign immunity is waived in the party states.

672 (2) MEMBERSHIP, VOTING, AND MEETINGS.—

673 (a) The commission shall consist of one voting
674 representative appointed by each compact state who shall serve
675 as that state's commissioner. The state psychology regulatory
676 authority shall appoint its delegate. The delegate must be
677 empowered to act on behalf of the compact state. The delegate
678 must be:

679 1. The executive director, the executive secretary, or a
680 similar executive of the compact state's psychology regulatory
681 authority;

682 2. A current member of the compact state's psychology
683 regulatory authority; or

684 3. A designee empowered with the appropriate delegate
685 authority to act on behalf of the compact state.

686 (b) A commissioner may be removed or suspended from office
687 as provided by the law of the state from which the commissioner
688 is appointed. Any vacancy occurring in the commission must be
689 filled in accordance with the laws of the compact state for
690 which the vacancy exists.

691 (c) Each commissioner is entitled to one vote with regard
692 to the adoption of rules and creation of bylaws and shall
693 otherwise have an opportunity to participate in the business and
694 affairs of the commission. A commissioner shall vote in person
695 or by such other means as provided in the bylaws. The bylaws may
696 provide for commissioners' participation in meetings by

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697 telephone or other means of communication.

698 (d) The commission shall meet at least once during each
 699 calendar year. Additional meetings must be held as set forth in
 700 the bylaws.

701 (e) All meetings must be open to the public, and public
 702 notice of meetings must be given in the same manner as required
 703 under the rulemaking provisions in article XI.

704 (f) The commission may convene in a closed, nonpublic
 705 meeting if the commission must discuss:

706 1. Noncompliance of a compact state with its obligations
 707 under the compact;

708 2. Employment, compensation, or discipline of, or other
 709 personnel matters, practices, or procedures related to, specific
 710 employees or other matters related to the commission's internal
 711 personnel practices and procedures;

712 3. Current, threatened, or reasonably anticipated
 713 litigation against the commission;

714 4. Negotiation of contracts for the purchase or sale of
 715 goods, services, or real estate;

716 5. An accusation of any person of a crime or a formal
 717 censure of any person;

718 6. Information disclosing trade secrets or commercial or
 719 financial information that is privileged or confidential;

720 7. Information of a personal nature when disclosure would
 721 constitute a clearly unwarranted invasion of personal privacy;

722 8. Investigatory records compiled for law enforcement
 723 purposes;

724 9. Information related to any investigatory reports
 725 prepared by or on behalf of or for use of the commission or

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726 another committee charged with responsibility for investigation
 727 or determination of compliance issues pursuant to the compact;
 728 or

729 10. Matters specifically exempted from disclosure by
 730 federal or state statute.

731 (g) If a meeting, or a portion of a meeting, is closed
 732 pursuant to this subsection, the commission's legal counsel or
 733 designee must certify that the meeting may be closed and must
 734 reference each relevant exempting provision. The commission
 735 shall keep minutes that fully and clearly describe all matters
 736 discussed in the meeting and shall provide a full and accurate
 737 summary of actions taken, of any person participating in the
 738 meeting, and the reasons therefor, including a description of
 739 the views expressed. All documents considered in connection with
 740 an action must be identified in the minutes. All minutes and
 741 documents of a closed meeting must remain under seal, subject to
 742 release only by a majority vote of the commission or order of a
 743 court of competent jurisdiction.

744 (3) BYLAWS.—

745 (a) The commission shall, by a majority vote of the
 746 commissioners, prescribe bylaws or rules to govern its conduct
 747 as may be necessary or appropriate to carry out the purposes and
 748 exercise the powers of the compact, including, but not limited
 749 to:

750 1. Establishing the fiscal year of the commission;

751 2. Providing reasonable standards and procedures:

752 a. For the establishment and meetings of other committees;

753 and

754 b. Governing any general or specific delegation of an

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authority or function of the commission;

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance at such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals involved in such proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part, with no proxy votes allowed. As soon as practicable, the commission shall make public a copy of the vote to close the meeting which reveals the vote of each commissioner;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;

5. Providing reasonable standards and procedures for the establishment of the commission's personnel policies and programs. Notwithstanding any civil service or other similar law of a compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

6. Adopting a code of ethics to address permissible and prohibited activities of commission members and employees; and

7. Providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact and after the payment or reserving of all of its debts and obligations.

(b) The commission shall publish its bylaws in a convenient

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form and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states.

(c) The commission shall maintain its financial records in accordance with the bylaws.

(d) The commission shall meet and take such actions as are consistent with the provisions of the compact and the bylaws.

(4) POWERS.—The commission may:

(a) Adopt uniform rules to facilitate and coordinate implementation and administration of the compact. The rules have the force and effect of law and are binding in all compact states;

(b) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law is not affected;

(c) Purchase and maintain insurance and bonds;

(d) Borrow, accept, or contract for personnel services, including, but not limited to, employees of a compact state;

(e) Hire employees and elect or appoint officers; fix compensation of, define duties of, and grant appropriate authority to such employees and officers to carry out the purposes of the compact; and establish the commission's personnel policies and programs relating to conflicts of interest, personnel qualifications, and other related personnel matters;

(f) Accept any appropriate donations and grants of money, equipment, supplies, materials, and services and receive, use,

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and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(g) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(h) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(i) Establish a budget and make expenditures;

(j) Borrow money;

(k) Appoint committees, including advisory committees, consisting of commission members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in the compact and the bylaws;

(l) Provide information to, receive information from, and cooperate with law enforcement agencies;

(m) Adopt and use an official seal; and

(n) Perform such other functions as may be necessary or appropriate to achieve the purposes of the compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

(5) EXECUTIVE BOARD.—

(a) The executive board may act on behalf of the commission according to the terms of the compact and shall consist of the following six members:

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1. Five voting members elected by the commission from the current membership of the commission; and

2. One ex-officio, nonvoting member from the Association of State and Provincial Psychology Boards.

(b) The ex-officio member must have served as staff for or as a member of a state psychology regulatory authority and must be selected by his or her respective organization.

(c) The commission may remove any member of the executive board as provided in its bylaws.

(d) The executive board shall meet at least annually.

(e) The executive board has the following duties and responsibilities:

1. Recommend to the entire commission changes to the rules or bylaws, the compact legislation, or fees paid by compact states, such as annual dues and other applicable fees;

2. Ensure compact administration services, contractual or otherwise, are appropriately provided;

3. Prepare and recommend the budget;

4. Maintain financial records on behalf of the commission;

5. Monitor compact compliance of member states and provide compliance reports to the commission;

6. Establish additional committees as necessary; and

7. Perform other duties as provided in the rules or bylaws.

(6) FINANCING.—

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies,

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materials, and services.

(c) The commission may levy and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, and such assessments and fees must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule that is binding upon all compact states.

(d) The commission may not incur obligations of any kind before securing the funds adequate to meet such obligations; nor may the commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

(a) The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual

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or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing under this section may be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities,

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provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment.

(2) If a majority of the legislatures of the compact states reject a rule by enactment of a statute or resolution in the same manner used to adopt the compact, such rule does not have further force and effect in any compact state.

(3) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(4) Before adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the website of the commission; and

(b) On the website of each compact state's psychology regulatory authority or in the publication in which each state would otherwise publish proposed rules.

(5) The notice of proposed rulemaking must include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

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(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(6) Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, all of which must be made available to the public.

(7) The commission must grant an opportunity for a public hearing before it adopts a rule or an amendment if a hearing is requested by:

(a) At least 25 individuals who submit comments independently of each other;

(b) A governmental subdivision or agency; or

(c) A duly appointed person in an association that has at least 25 members.

(8) If a hearing is held on the proposed rule or amendment, the commission must publish the place, time, and date of the scheduled public hearing.

(a) All individuals wishing to be heard at the hearing shall notify the executive director of the commission or another designated member in writing of their desire to appear and testify at the hearing at least 5 business days before the scheduled date of the hearing.

(b) Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) A transcript of the hearing is not required, unless a written request for a transcript is made, in which case the

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person requesting the transcript bears the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph does not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(d) This article may not be construed to require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(9) If a written notice of intent to attend the public hearing by interested parties is not received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(10) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule based on the rulemaking record and the full text of the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

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(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or compact state funds;

(c) Meet a deadline for the adoption of an administrative rule which is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct a revision to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the commission's website. The revisions are subject to challenge by any person for a period of 30 days after posting. A revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE XII

OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION; DISPUTE RESOLUTION; AND ENFORCEMENT

(1) OVERSIGHT.—

(a) The executive, legislative, and judicial branches of state government in each compact state shall enforce the compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and

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the rules adopted thereunder have standing as statutory law.

(b) All courts shall take judicial notice of the compact and the rules adopted thereunder in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the compact which may affect the powers, responsibilities, or actions of the commission.

(c) The commission is entitled to receive service of process in any such judicial or administrative proceeding and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or an order void as to the commission, the compact, or adopted rules.

(2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.-

(a) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under the compact or the adopted rules, the commission must:

1. Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and

2. Provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by the compact terminate on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or

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liabilities incurred during the period of default.

(c) Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. The commission shall submit a notice of intent to suspend or terminate a defaulting compact state to the state's governor, the majority and minority leaders of the state's legislature, and each of the compact states.

(d) A compact state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission may not bear any costs incurred by the state that is found to be in default or has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the state of Georgia or the federal district court where the compact has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(3) DISPUTE RESOLUTION.-

(a) Upon request by a compact state, the commission must attempt to resolve disputes related to the compact which arise among compact states and between compact and noncompact states.

(b) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(4) ENFORCEMENT.-

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(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the state of Georgia or the federal district court where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies under this article are not the exclusive remedies available to the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES; WITHDRAWAL; AND AMENDMENTS

(1) The compact becomes effective on the date on which the compact is enacted into law in the seventh compact state. The provisions that become effective at that time are limited to the powers granted to the commission relating to assembly and the adoption of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary for the implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the

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rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(3) Any compact state may withdraw from the compact by enacting a statute repealing the same.

(a) A compact state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

(b) Withdrawal does not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of the compact before the effective date of withdrawal.

(4) The compact may not be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of the compact.

(5) The compact may be amended by the compact states. Amendments to the compact are not effective and binding upon any compact state until they are enacted into the law of all compact states.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

The compact must be liberally construed so as to effectuate the purposes thereof. If the compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining compact states.

Section 2. Subsection (10) of section 456.073, Florida

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Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) (a) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first.

(b) The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095; any significant investigatory information relating to a psychologist practicing under the Psychology Interjurisdictional Compact to the coordinated licensure information system pursuant to s. 490.0075; ~~and any significant investigatory information relating to a health care practitioner practicing under the Professional Counselors Licensure Compact to the data system pursuant to s. 491.017.~~

(c) Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or

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patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department.

(d) This subsection does not prohibit the department from providing the complaint or any information obtained pursuant to the department's investigation ~~such information~~ to any law enforcement agency or to any other regulatory agency.

Section 3. Subsection (5) of section 456.076, Florida Statutes, is amended to read:

456.076 Impaired practitioner programs.—

(5) A consultant shall enter into a participant contract with an impaired practitioner and shall establish the terms of monitoring and shall include the terms in a participant contract. In establishing the terms of monitoring, the consultant may consider the recommendations of one or more approved evaluators, treatment programs, or treatment providers. A consultant may modify the terms of monitoring if the consultant concludes, through the course of monitoring, that extended, additional, or amended terms of monitoring are required for the protection of the health, safety, and welfare of the public. If the impaired practitioner is a psychologist practicing under the Psychology Interjurisdictional Compact pursuant to s. 490.0075 ~~or~~ a health care practitioner practicing

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under the Professional Counselors Licensure Compact pursuant to s. 491.017, the terms of the monitoring contract must include the impaired practitioner's withdrawal from all practice under the compact.

Section 4. Subsection (7) is added to section 490.004, Florida Statutes, to read:

490.004 Board of Psychology.—

(7) The board shall appoint an individual to serve as the state's commissioner on the Psychology Interjurisdictional Compact Commission, as required under s. 490.0075.

Section 5. Subsection (4) is added to section 490.005, Florida Statutes, to read:

490.005 Licensure by examination.—

(4) A person licensed as a psychologist in another state who is practicing pursuant to the Psychology Interjurisdictional Compact under s. 490.0075, and only within the scope provided therein, is exempt from the licensure requirements of this section.

Section 6. Subsection (4) is added to section 490.006, Florida Statutes, to read:

490.006 Licensure by endorsement.—

(4) A person licensed as a psychologist in another state who is practicing pursuant to the Psychology Interjurisdictional Compact under s. 490.0075, and only within the scope provided therein, is exempt from the licensure requirements of this section.

Section 7. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

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(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) or s. 490.0075:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

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1277 (g) Knowingly aiding, assisting, procuring, or advising any
 1278 nonlicensed person to hold himself or herself out as licensed
 1279 under this chapter.

1280 (h) Failing to perform any statutory or legal obligation
 1281 placed upon a person licensed under this chapter.

1282 (i) Willfully making or filing a false report or record;
 1283 failing to file a report or record required by state or federal
 1284 law; willfully impeding or obstructing the filing of a report or
 1285 record; or inducing another person to make or file a false
 1286 report or record or to impede or obstruct the filing of a report
 1287 or record. Such report or record includes only a report or
 1288 record which requires the signature of a person licensed under
 1289 this chapter.

1290 (j) Paying a kickback, rebate, bonus, or other remuneration
 1291 for receiving a patient or client, or receiving a kickback,
 1292 rebate, bonus, or other remuneration for referring a patient or
 1293 client to another provider of mental health care services or to
 1294 a provider of health care services or goods; referring a patient
 1295 or client to oneself for services on a fee-paid basis when those
 1296 services are already being paid for by some other public or
 1297 private entity; or entering into a reciprocal referral
 1298 agreement.

1299 (k) Committing any act upon a patient or client which would
 1300 constitute sexual battery or which would constitute sexual
 1301 misconduct as defined in s. 490.0111.

1302 (l) Making misleading, deceptive, untrue, or fraudulent
 1303 representations in the practice of any profession licensed under
 1304 this chapter.

1305 (m) Soliciting patients or clients personally, or through

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1306 an agent, through the use of fraud, intimidation, undue
 1307 influence, or a form of overreaching or vexatious conduct.

1308 (n) Failing to make available to a patient or client, upon
 1309 written request, copies of test results, reports, or documents
 1310 in the possession or under the control of the licensee which
 1311 have been prepared for and paid for by the patient or client.

1312 (o) Failing to respond within 30 days to a written
 1313 communication from the department concerning any investigation
 1314 by the department or to make available any relevant records with
 1315 respect to any investigation about the licensee's conduct or
 1316 background.

1317 (p) Being unable to practice the profession for which he or
 1318 she is licensed under this chapter with reasonable skill or
 1319 competence as a result of any mental or physical condition or by
 1320 reason of illness; drunkenness; or excessive use of drugs,
 1321 narcotics, chemicals, or any other substance. In enforcing this
 1322 paragraph, upon a finding by the State Surgeon General, the
 1323 State Surgeon General's designee, or the board that probable
 1324 cause exists to believe that the licensee is unable to practice
 1325 the profession because of the reasons stated in this paragraph,
 1326 the department shall have the authority to compel a licensee to
 1327 submit to a mental or physical examination by psychologists or
 1328 physicians designated by the department or board. If the
 1329 licensee refuses to comply with the department's order, the
 1330 department may file a petition for enforcement in the circuit
 1331 court of the circuit in which the licensee resides or does
 1332 business. The licensee may ~~shall~~ not be named or identified by
 1333 initials in the petition or in any other public court records or
 1334 documents, and the enforcement proceedings must ~~shall~~ be closed

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to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456,

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or any rules adopted pursuant thereto.

(2) (a) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(b) The board may take adverse action against a psychologist's authority to practice interjurisdictional telepsychology or his or her temporary authorization to practice under the Psychology Interjurisdictional Compact pursuant to s. 490.0075, and may impose any of the penalties in s. 456.072(2), if a psychologist commits an act specified in subsection (1) or s. 456.072(1).

Section 8. Paragraph (i) is added to subsection (10) of section 768.28, Florida Statutes, to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(i) For purposes of this section, the individual appointed under s. 490.004(7) as the state's commissioner on the Psychology Interjurisdictional Compact Commission, when serving in that capacity pursuant to s. 490.0075, and any administrator, officer, executive director, employee, or representative of the Psychology Interjurisdictional Compact Commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, is considered an agent of the

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1393 state. The commission shall pay any claims or judgments pursuant
1394 to this section and may maintain insurance coverage to pay any
1395 such claims or judgments.

1396 Section 9. This act shall take effect July 1, 2023.



2023 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 0056
BILL TITLE:	Psychology Interjurisdictional Compact
BILL SPONSOR:	Senator Harrell
EFFECTIVE DATE:	July 1, 2023

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 1370
SPONSOR:	Harrell
YEAR:	2022
LAST ACTION:	Died in committee

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	33
SPONSOR:	Hunschfsky

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 12, 2023
LEAD AGENCY ANALYST:	Lucy Saunders
ADDITIONAL ANALYST(S):	Ashley Black
LEGAL ANALYST:	Jim Martin, Jason Harrison
FISCAL ANALYST:	Elizabeth martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Enacting the Psychology Interjurisdictional Compact; providing for recognition of psychologist licenses in compact states; providing that, while authority over a psychologist's license remains with the home state, receiving states and distant states may define the scope of and act on a psychologist's authority to practice in the receiving or distant state, as applicable, under the compact; requiring the Department of Health to report certain investigative information to the coordinated licensure information system.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, individuals seeking to obtain licensure as a psychologist are not required to undergo a level 2, fingerprint-based state and national criminal history record check at initial and/or renewal of licensure unless applicants are applying for licensure under s. 456.024, F.S. There is no multi-state licensing compact for psychologists.
2. **EFFECT OF THE BILL:** Creates s. 490.0075, F.S., which establishes the Psychology Interjurisdictional Compact. Within the proposed bill, a home state's license authorizes a psychologist to practice in a receiving state (defined under Article II (22)), under the authority to practice interjurisdictional telepsychology only if the compact state requires the home state's licensing authority to require and maintain an identity history summary (defined under Article II (15)) of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority. Additionally, a home state's license grants a psychologist temporary authorization to practice in a distant state (defined under Article II (11)) only if the compact state meets the aforementioned provisions of the identity history summary requirement.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number:	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	

Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	The Florida Department of Law Enforcement (FDLE) was advised by the Florida Department of Health (DOH) that there is an uncertainty as to the number of screenings which could occur as a result of the passage of the bill. The total fiscal revenue for the state portion of a state and national criminal history record check with five years of Care Provider Background Screening Clearinghouse (Clearinghouse) retention is \$32. The cost for the state portion of a state and national criminal history record check is \$8. Since persons screened pursuant to this bill will be entered in the Clearinghouse, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into the FDLE's Operating Trust Fund.
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☒ N ☐

Revenues:	
Expenditures:	The FDLE was advised by the DOH that there is an uncertainty as to the number of screenings which could occur as a result of the passage of the bill.

	The total fiscal impact to the private sector for state and national criminal history record checks with five years of Clearinghouse retention is a total of \$45.25. The cost for a state criminal history record check is \$8 which goes into the FDLE's Operating Trust Fund; the FBI fee is \$13.25 for the national portion of the criminal history record check. Five (5) years of fingerprint retention (\$24), paid up front, goes into the FDLE's Operating Trust Fund. Upon successful state and national retention of the applicant's fingerprints, the applicant will be enrolled in the Federal Bureau of Investigation's (FBI) Next Generation Identification (NGI) Noncriminal Justice Rap Back Service (i.e., the national retained print arrest notification program).
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	The impact of the bill is unknown. FDLE would need to know the estimated number of individuals falling under the scope of this bill to assess the impact.

FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.	See Additional Comments

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	No Additional comments from what is listed below.

ADDITIONAL COMMENTS

- Lines 311-316; 328-333: Current state law, in conjunction with the proposed bill, poses a conflict in background screening requirements for licensed psychologists. If the intent of the bill is to require fingerprint-based, state and national criminal history record checks (i.e., Level 2 background checks) for applicants, FDLE recommends amending current state law to require such screenings for psychologists at initial and/or the renewal of licensure. FDLE also recommends participation in the state and federal fingerprint retention programs to ensure that all arrests occurring after the initial criminal history screening are reported to the appropriate state agency (i.e., DOH). Both FDLE and the FBI will retain the fingerprints, search the fingerprints against incoming arrests, and FDLE will notify DOH if the retained fingerprints match an incoming arrest.

To facilitate state and national criminal history record checks and fingerprint retention, the FDLE recommends using the following language in current state law which addresses licensure of psychologists:

An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall initially submit the fingerprints to the Department of Law Enforcement for state processing, and thereafter the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

Fees for state and federal fingerprint processing and retention shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h), along with the enrollment in the Federal Bureau of Investigation's national retained fingerprint arrest notification program. Any arrest record identified shall be reported to the department.

- It is recommended that s. 456.0135, F.S., be amended to include Chapter 490 to add psychologists practicing under the Professional Counselors Licensure Compact authorizing the population to be screened and retained in the Care Provider Background Screening Clearinghouse (Clearinghouse), pursuant to s. 435.12, F.S. Additionally, it is recommended that s. 490.006, F.S., be amended to clarify the requirement that an applicant must submit a full set of fingerprints as authorized by s. 943.053(13), F.S.
- DOH must be prepared to enroll applicants into the national retained print arrest notification program (i.e., the National Rap Back Service) upon enactment of the bill. In this regard, the FDLE can provide the respective contact(s) with further guidance and assistance.
- Pursuant to 28 CFR § 20.33, it should be noted that national criminal history information cannot be reported to or maintained within the Coordinated Licensure Information System and/or reporting system. Additionally, this information cannot be disseminated by the coordinated database administrator to compact states.
- DOH advised the FDLE that their office reasonably anticipates a modest increase in the number of screening requests, as the bill requires screenings for psychologists applying through the compact. Multiple factors make it difficult for the DOH to offer a precise estimate of the number of screening requests. However, it was noted that the current population of Florida psychologists is approximately 6,900; 1,962 psychologists are registered as Out-of-State Telehealth Providers (pursuant to s. 456.47, F.S.). As such, the impact of this bill does not appear to necessitate additional FTE and other resources; however, this bill, in combination with additional criminal history record check bills, could rise to the level of requiring additional staffing and other resources.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health



BILL INFORMATION

BILL NUMBER:	33
BILL TITLE:	Psychology Interjurisdictional Compact
BILL SPONSOR:	Hunschofsky
EFFECTIVE DATE:	7/1/2023

COMMITTEES OF REFERENCE

1) Healthcare Regulation Subcommittee
2) Health Care Appropriations Subcommittee
3) Health & Human Services Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

BILL NUMBER:	56
BILL SPONSOR:	Harrell

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
BILL TITLE:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.

Is this bill part of an Agency Package?

Yes ☐ No ☒

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	1/12/2023
LEAD AGENCY ANALYST:	Allen Hall
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
FISCAL ANALYST:	Madison Adkins
LEGAL ANALYST:	John Wilson

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates section 490.0075, Florida Statutes, establishing Florida as a member state of the Psychology Interjurisdictional Compact (Compact).

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Psychology is a health care profession that enhances interpersonal behavioral health, mental or psychological health using scientific and applied psychological principles, methods, and procedures. Psychologists use a variety of methods including but not limited to, psychological testing, evaluation, or assessment of personal characteristics such as intelligence, personality, abilities, aptitudes, neuropsychological functioning, and all forms of psychotherapy to diagnose and treat mental, nervous, and psychological disorders. Florida had 6,896 licensed psychologists and 1,962 psychologists registered as Out-of-State Telehealth Providers in fiscal year 2021-2022. The Bureau of Labor Statistics projects that from 2021 to 2031 overall employment will grow by 6%.

Psychologists are regulated in all 50 states; each state specifies specific education, examination, and pre-licensure supervision requirements. When applying by examination, Florida requires a doctoral degree in psychology from an educational institution, which at the time the applicant was enrolled and graduated held institutional accreditation from an approved agency and programmatic accreditation from the American Psychological Association (APA). Demonstration of at least two-years or 4,000 hours of experience in psychology under the supervision of a licensed psychologist is also required. APA accreditation is not required for applicants with doctoral degrees in psychology when applying by endorsement of 10 years of experience as a licensed psychologist.

The national examination for psychology is the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB). The ASPPB, established in 1961, is an alliance of state, provincial and territorial agencies responsible for licensing psychologists in the United States and Canada.

Under the licensure model currently in place in Florida, a psychologist license issued in Florida is only valid for practice in Florida. Licensees interested in practicing in multiple states must apply for an individual state license, pay a fee for each license, and meet the specific requirements in each state.

Section 456.0135, Florida Statutes, specifies specific professions that are required to submit to electronic fingerprinting for the purpose of background screening as a condition of initial licensure. Individuals applying for psychologist licensure are not currently screened but are required to report all criminal history in the form of a disclosure within the license application. In accordance with section 490.009 (1)(c), Florida Statutes, licensed psychologists are compelled to report any arrest and may be subject to discipline if the crime directly relates to the profession.

Section 456.47, Florida Statutes, provides for telehealth in Florida and allows registered out of state telehealth providers/psychologists to provide telehealth services to patients in Florida. However, Florida psychologists may not have telehealth privileges open to them in the other states. Section 490.014(2)(e), Florida Statutes, Exemptions, allows psychologists licensed in another state to offer psychological services in Florida if those services are performed for no more than five days in any month and no more than fifteen days in any calendar year.

The compact is an ASPPB initiative that allows limited interjurisdictional practice among participating states. The compact was created in 2015 and became operational in 2019 after the seventh state enacted legislation. There are presently 34 member states participating in the compact. The compact facilitates the practice of psychology using telehealth (E-Passport) and provides for temporary face-to-face psychology practice in a compact state (Interjurisdictional Practice Certificate), up to 30 workdays per year. Once the compact is enacted by legislative action, licensed psychologists who are interested in participating in the compact do so by applying for one or both ASPPB certificates, E-Passport and/or the Interjurisdictional Practice Certificate (IPC).

The E-Passport certificate allows telepsychology across state lines in states that have adopted the compact. The requirements to obtain an e-passport are:

- A current and active psychology license in at least one compact state;
- No disciplinary action on any psychology license;
- A doctoral degree in psychology from a regionally accredited institution that included a minimum of three years of full-time graduate study;
- Graduates from doctoral programs not accredited by the APA or the Canadian Psychological Association (CPA) must demonstrate at least one course from specifically listed areas;
- At least one continuous academic year of full-time residency at the educational institution granting the doctoral degree; and
- Passage of the EPPP exam.

Compact interjurisdictional E-Passport provisions:

- A psychologist must obtain an E-Passport certification to practice in a receiving state;
- A psychologist is subject to the receiving state's scope of practice;
- A receiving state can limit or revoke a psychologist's authority to practice interjurisdictional telepsychology;
- If a receiving state takes adverse action, it must notify the psychologist's home state and the compact commission;
- A home state must investigate and take appropriate action on inappropriate conduct in a receiving state;
- A home state's law will control in determining any adverse action taken against a psychologist's license; and
- If a psychologist's license in any home state or another compact state or a receiving state is restricted, suspended, or limited, the e-passport will be revoked.

The IPC certification allows psychologists to provide temporary psychological services, up to thirty days per year, in states that have adopted the compact. The requirements to obtain an IPC are:

- A current and active psychology license in an ASPPB member jurisdiction;
- No disciplinary action on any psychology license;
- A doctoral degree in psychology from a regionally accredited institution that included a minimum of three years of full-time graduate study;
- Graduates from doctoral programs not accredited by the APA or the CPA must demonstrate at least one course from specifically listed areas; and
- At least one continuous academic year of full-time residency at the educational institution granting the doctoral degree.

Interjurisdictional Practice Certificate (IPC) practice provisions:

- A psychologist must obtain an IPC certification to practice in a distant state;
- A psychologist is subject to the distant state's scope of practice and is subject to the distant state's authority and law;
- A distant state can limit, revoke, or take adverse action against a psychologist's temporary authorization to practice;
- If a distant state takes adverse action, it must notify the psychologist's home state and the compact commission;
- A distant state must investigate and take appropriate action on inappropriate conduct in that distant state;
- A distant state's law will control in determining any adverse action taken against a psychologist's temporary authorization to practice; and
- If a psychologist's license in any home state or another compact state or a distant state is restricted, suspended, or limited, the IPC will be revoked.

2. EFFECT OF THE BILL:

Section 1

The bill creates and enacts section 490.0075, Florida Statutes, the Psychology Interjurisdictional compact which establishes Florida as a member state.

Article I

This article specifies the purposes and objectives of the compact.

Article II

This article defines terminology utilized within the compact.

Article III

This article specifies compact provisions related to the term “home state”. Two of the provisions requires fingerprints for initial licensure, no later than 10 years after the activation of the compact. Currently, fingerprint screening is not required for Florida psychologist licensure. Therefore, all applicants for psychologist licensure in Florida will be required to undergo background screening and bear the additional cost of the screening regardless of their interest in the compact. This will also necessitate amendment of section 456.0135, Florida Statutes, to include psychology as a screened profession and will increase in the number of background screenings the Department will be required to review.

Article IV

This article specifies compact provisions related to telepsychology (E-Passport). It specifies the following standards and requirements to practice interjurisdictional telepsychology:

- Hold a graduate degree in psychology that meets the specified criteria;
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a member of the compact;
- Have no history of adverse actions that violate the rules of the commission;
- Have no criminal history which violates the rules of the commission;
- Possesses a current active e-passport;
- Provide attestations regarding multiple topics related to telepsychology; and
- Meet other criteria defined by the rules of the commission.

Article IV also specifies that the home state maintains authority for the license of the psychologist practicing telepsychology in a receiving state and the psychologist is subject to the receiving state's scope of practice. Receiving states may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state. If a receiving state takes action, the state shall promptly notify the home state and the commission. In addition, if a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology is restricted, suspended or otherwise limited, the E-passport must be revoked. This provision will require communication of any Florida license discipline through the established database to other compact member states.

Article V

This article specifies compact provisions related to temporary practice in other compact states (Interjurisdictional Practice Certificate). It provides the following standards and requirements to practice temporarily in other compact states or receiving states:

- Hold a graduate degree in psychology that meets the specified criteria;
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a member of the compact;
- Have no history of adverse actions that violate the rules of the commission;
- Have no criminal history which violates the rules of the commission;
- Possesses a current, active IPC;
- Provide attestations regarding multiple topics related to temporary practice and provide a release of information to allow for primary source verification; and
- Meet other criteria defined by the rules of the commission.

A psychologist practicing in a distant state under a temporary authorization to practice shall practice within the scope of practice of the distant state and is subject to the distant state's authority and law. A distant state may limit or revoke the temporary authorization and may take other actions needed to protect the health and safety of its citizens. If action is taken, the state shall notify the home state and the commission. In addition, if a psychologist's license in any home state, another compact state or temporary authorization to practice in any distant state is restricted, suspended or otherwise limited, the IPC must be revoked.

This provision will require communication of any Florida license discipline through the established database to other compact member states.

Article VI

This article specifies compact provisions related to telepsychology practice in a receiving state. The psychologist may practice telepsychology only within the scope of practice as defined by the appropriate state psychology regulatory authority as defined in the rules of the commission and under the following circumstances:

- The psychologist initiates client or patient contact in a home state via telecommunication technologies with a client or patient in a receiving state; and
- Other conditions as determined by rules of the commission.

Participating Florida psychologists will be required to ensure an understanding of the telepsychology regulations in other states as well as those implemented by the commission prior to initiating services with a client in another state.

Article VII

This article specifies compact provisions related to adverse actions. It specifies when a home and distant state may investigate and take adverse action. Any adverse action must be reported to the commission. When the home state takes adverse action against a psychologist's license, that psychologist's E-passport and or IPC is revoked. A compact state may allow participation in an alternative treatment program, like Professionals Resource Network in Florida, in lieu of adverse action and this participation shall remain confidential if required by the compact state's law. Compact states must require psychologists who enter alternative programs to withdraw from interjurisdictional telepsychology and temporary services during the term of the alternative program.

No judicial or administrative remedies are available to a psychologist when a compact state takes adverse action under section (3) of article VII. This may require additional provisions for practice to be added to any final order requiring the services of the Professionals Resource Network.

Article VIII

This article specifies compact provisions related to additional authorities invested in a compact state's psychology regulatory authority. In addition to any other powers granted under state law, a compact state shall have authority to:

- Issue subpoenas; and
- Issue cease and desist or injunctive relief orders to revoke authority for a psychologist to practice interjurisdictional telepsychology or temporary authorization to practice.

This article also prevents a psychologist from changing home state licensure, during any investigation. A home state regulatory authority is authorized to complete any pending investigations and take any appropriate actions. The home state must report the conclusions of any investigations to the commission. All information provided to the commission or distributed by compact states shall be confidential. The commission may create additional rules for mandated or discretionary sharing of information by compact states. This provision will require Florida Board of Psychology staff to add a review of the commission database prior to the issuance of any psychology license to ensure there is no pending investigation in any other state.

Article IX

This article specifies compact provisions related to a Coordinated Licensure Information system. The commission shall provide for the development and maintenance of this system and a reporting system containing licensure and disciplinary action information on all applicable psychologists in all compact states. A compact state shall submit a uniform data set to the database, notwithstanding any other provision of state law, on all licensees as required by the rules of the commission, including:

- Identifying information;
- Licensure data;
- Significant investigatory information;
- Adverse actions against the license;
- An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
- Nonconfidential information related to alternative program participation;
- Any denial of an application for licensure and the reasons for the denial; and
- Other information that may facilitate the administration of the compact.

The database administrator is required to notify all compact states of any adverse action taken or significant investigatory information on any licensee in a compact state. Compact states may designate information that may not be shared with the public without the express permission of the compact state that reports the information. In addition, authorization is provided to allow information to be removed from the database when the law of the compact state calls for expungement.

Information technology resources will be required to build the infrastructure needed for the Department of Health (DOH) to provide the needed data to the commission.

Article X

This article specifies compact provisions related to the establishment of the psychology interjurisdictional compact commission.

- Specific details are provided which include:
- Commission creation;
- Membership, voting and meetings;
- Bylaws;
- Powers;
- Executive Board;
- Financing; and
- Qualified immunity, defense, and Indemnification.

Authority is granted to the commission to collect an annual assessment. However, no limits or restrictions on the amount of the assessment are specified. In addition, the bill does not provide specific authority to charge any fees to offset the costs to the DOH and the Board of Psychology (Board). A fee bill may be necessary to capture costs of licensure and compact processing costs in Florida.

Article XI

This article specifies compact provisions related to rulemaking. Detailed processes and requirements are provided that the commission must follow to implement rules. Once enacted, rules are binding on compact states. Compact states may reject a rule by statute, if enacted by a majority of legislatures of the compact states.

Article XII

This article specifies compact provisions necessary for the administration of the compact, which are:

- Oversight;
- Default, technical assistance, termination;
- Dispute resolution; and
- Enforcement.

Article XIII

This article specifies compact provisions related to the effective date of the compact, which is the date the seventh compact state enacts the compact. The compact became effective in 2019. A state is subject to compact rules as they exist on the date the state adopts the compact. Once adopted, a state may only withdraw from the compact through legislative repeal. Withdrawal may not take effect until six months after the enactment of the repeal. Investigative and adverse action reporting must continue until the withdrawal becomes effective. A compact state may make cooperative agreements with noncompact states if the agreements do not conflict with the compact. Changes to the compact do not become effective until each compact state enacts them into law.

Article XIV

This article specifies compact provisions related to construction and severability. If the compact is found to be contrary to the constitution of any state member, the compact shall remain in effect in the remaining compact states.

Section 2

The bill amends section 456.073(10), Florida Statutes, to require the DOH to report any significant investigatory information relating to a psychologist practicing under the compact to the compact's coordinated licensure information system.

Section 3

The bill amends section 456.076(5), Florida Statutes, to require an impaired practitioner program mandate that an impaired psychologist practicing under the compact, withdraw from all practice under the compact.

Section 4

The bill creates section 490.004(7), Florida Statutes, to require the Board to appoint an individual to serve as the state's commissioner on the Psychology Interjurisdictional Compact Commission. This will require the Florida Board of Psychology to appoint either a Board member or administrator to serve in this capacity.

Section 5

The bill creates section 490.005(4), Florida Statutes, to provide an exemption from licensure by examination for a psychologist in another state who is practicing under the compact and within the scope of the compact.

Section 6

The bill creates s. 490.006(4), Florida Statutes, to provide an exemption from licensure by endorsement for a psychologist in another state who is practicing under the compact and within the scope of the compact.

Section 7

The bill amends section 490.009(1), Florida Statutes, and creates section 490.009(2)(b), Florida Statutes, to allow the Board to take adverse action against a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice psychology under the compact. The Board is authorized to impose any of the penalties in section 456.072(2), Florida Statutes, if a psychologist commits an act specified in section (1) or s. 456.072(1), Florida Statutes.

Section 8

The bill creates section 768.28(10)(i), Florida Statutes, which specifies that the individual appointed as the state's commissioner on the Psychology Interjurisdictional Compact Commission as well as any administrator, officer, executive director, employee, or representative of the commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, is considered an agent of the state. The commission shall pay any claims or judgements pursuant to this section and may maintain insurance coverage to pay any claims or judgements.

Section 9

An effective date of July 1, 2023, is provided. Implementation of the compact will require significant time and resources. Some of the key activities will be development and adoption by rule of revised paper and on-line applications, as well as designing, testing, implementing multiple electronic systems to comply with new reporting and other aspects of the compact. Based on this effective date, there may be expected delays in implementation.

Adoption of the compact will increase processing requirements, although the specific increase in workload is unknown. This increase in workload could be offset by the addition of one, Regulatory Specialist III to process compact applications. Presently, the bill does not provide additional resources or staffing to address increased workloads and requirements.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

Yes ☐ No ☒	
If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Yes ☒ No ☐
Rule(s) impacted (provide references to F.A.C., etc.):	No specific rule authority for the Board of Psychology is provided. Rulemaking exists for the promulgation of new applications or revisions to existing applications necessary

	for compact implementation in section 490.005, Florida Statutes.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and Summary of Position:	Unknown
Opponents and Summary of Position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Yes ☐ No ☒	
If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Yes ☐ No ☒	
Board:	N/A
Board Purpose:	N/A
Who Appoints?	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Yes ☐ No ☒	
Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain:	N/A

If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Yes ☒ No ☐	
Revenues:	The provisions of this bill do not provide authority to impose fees to offset the cost of the assessment or to cover the costs of implementing the compact or processing applications.
Expenditures:	1 full-time equivalent (FTE) position will be required to implement the provisions of this bill. Salary is calculated at base of the position plus 43% for fringe benefits. DOH/MQA will experience a recurring increase in workload associated with processing applications and issuing initial and renewal licenses. It is anticipated that a minimum of 1 FTE will be required to implement the provisions of this legislation. 1 Regulatory Specialist III (PG 19), no travel, is requested. Based on the LBR standards, the total FTE cost is \$59,312 (\$46,698/Salary \$12,272/Expense \$342/HR). DOH/MQA may experience a recurring increase in workload associated with the additional complaints and investigations due to the new compact license. The impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time. DOH/MQA will experience a recurring increase in cost. The annual membership cost with the Psychology Interjurisdictional Compact is unknown at this time, yet it is anticipated that current budget authority is adequate to absorb. DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Artificial Intelligence Virtual Customer Contact Agent, Continuing Education Tracking System, License Verification Search Site, and board website to support multistate licensing. Additionally, DOH/MQA will be required to establish a process for sharing information with the established compact commission database and update existing data exchange services with the Agency for Health Care Administration. The impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time.
Does the legislation contain a State Government appropriation?	Yes ☐ No ☒
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Yes ☐ No ☒	
Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Yes ☒ No ☐	
If yes, explain impact:	The bill will require applicants to complete electronic fingerprinting for the purpose of criminal background screening as a condition of licensure. This cost averages \$100 per screening.
Bill Section Number:	Section 1 (lines 277-282 & 294-299)

TECHNOLOGY IMPACT**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?**

Yes ☒ No ☐	
If yes, describe the anticipated impact to the agency including any fiscal impact:	DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Artificial Intelligence Virtual Customer Contact Agent, Continuing Education Tracking System, License Verification Search Site, and board website to support multistate licensing. Additionally, DOH/MQA will be required to establish a process for sharing information with the established compact commission database and update existing data exchange services with the Agency for Health Care Administration.

FEDERAL IMPACT**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?**

Yes ☐ No ☒

If yes, describe the anticipated impact including any fiscal impact:	N/A

ADDITIONAL COMMENTS

N/A

LEGAL – GENERAL COUNSEL’S OFFICE REVIEW

Issues/Concerns/Comments: The public records aspect of this legislation are addressed in linked bills. As discussed above, section 456.0135, Florida Statutes, will need to be amended to include psychology as a screened profession. No further legal issues, concerns or comments are identified at this time.

4/12/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

56

Bill Number or Topic

HHS Approps
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name John Brinkman - UF Student Govt

Phone 904 999 9186

Address 3000 J. Wayne Reitz Union
Street

Email john.brinkman@ufl.edu

Gainesville FL 32611
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

12 April 2023

Meeting Date

HHS Approps

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

56 Tab 1

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave

Email cstranburg@calphg.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Americans for
Prosperity

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

representing League of Women Voters
of Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FL
Psychological Assn

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(fsenate.gov\)](#)

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S-001 (08/10/2021)

04/12 /2023

Meeting Date

Appropriations

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Tab 1

0056

Bill Number or Topic

Amendment Barcode (if applicable)

Name **AARP** **Ivonne Fernandez**

Phone **954-850-7262**

Address **215 S Monroe Street - 603**

Email **ifernandez@aarp.org**

Street

Tallahassee

FL

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

5-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 58

INTRODUCER: Appropriations Committee on Health and Human Services; Health Policy Committee;
and Senator Harrell

SUBJECT: Public Records and Meetings/Psychology Interjurisdictional Compact

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Fav/CS
2.	Barr	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 58 creates public record and public meeting exemptions for the Psychology Interjurisdictional Compact (PSYPACT).

The bill protects from public disclosure a psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated licensure information system (coordinated system) and held by the Department of Health (department) or Board of Psychology (board), unless the state that originally reported the information to the coordinated system authorizes the disclosure by law.

The bill exempts a meeting or a portion of a meeting of the PSYPACT Commission (commission) if the commission must discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.

- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

Recordings, minutes, and records generated during an exempt commission meeting are exempted from the public records provisions in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

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

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill provides the effective date is the same date that CS/SB 56, or similar legislation, if adopted, takes effect. The effective date provided in CS/SB 56 is July 1, 2023.

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

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024)

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

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, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in 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.” 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.¹³ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁵ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁶ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.¹⁷

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”¹⁸ or the “Sunshine Law,”¹⁹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²⁰ The board or commission must provide the public reasonable notice of such meetings.²¹ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²² Minutes of a public meeting must be promptly recorded and open to public inspection.²³ Failure to abide by open meetings requirements will invalidate any resolution, rule

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

¹⁵ FLA. CONST., art. I, s. 24(b).

¹⁶ *Id.*

¹⁷ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁸ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

¹⁹ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²⁰ Section 286.011(1)-(2), F.S.

²¹ *Id.*

²² Section 286.011(6), F.S.

²³ Section 286.011(2), F.S.

or formal action adopted at a meeting.²⁴ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁵

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.²⁶ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁷ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁸

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act²⁹ (the Act), prescribe a legislative review process for newly created or substantially amended³⁰ public records or open meetings exemptions, with specified exceptions.³¹ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³²

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 is necessary.³³ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁴
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁵ or

²⁴ Section 286.011(1), F.S.

²⁵ Section 286.011(3), F.S.

²⁶ FLA. CONST., art. I, s. 24(c).

²⁷ *Id.*

²⁸ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

²⁹ Section 119.15, F.S.

³⁰ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³¹ 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.

³² Section 119.15(3), F.S.

³³ Section 119.15(6)(b), F.S.

³⁴ Section 119.15(6)(b)1., F.S.

³⁵ Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.³⁶

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

Public Necessity Statement and Two-thirds Vote Requirement

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁷ 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.³⁸

Psychology Interjurisdictional Compact

CS/SB 56 establishes Florida as a member state in the Psychology Interjurisdictional Compact (PSYPACT). Pursuant to the compact and with appropriate authorizations, a licensed psychologist may engage in the practice of interjurisdictional telepsychology and obtain a temporary authorization to practice psychology in-person, face-to-face for up to 30 days with clients and patients in member states other than the one in which he or she is licensed. Thirty-six states and territories have enacted the PSYPACT.³⁹

If a psychologist wants to practice through telepsychology, the psychologist must obtain an Authority to Practice Interjurisdictional Telepsychology (APIT) from the commission. It also requires an active Association of State and Provincial Psychology Boards e-passport.⁴⁰ If a psychologist wants to practice in a temporary in-person, face-to-face mode, the psychologist must obtain a Temporary Authorization to Practice (TAP) from the commission and an Interjurisdictional Practice Certificate (IPC).⁴¹

Article IX of the compact requires the commission to develop and maintain a coordinated licensure information system (coordinated database) and a reporting system containing licensure and disciplinary action for all psychologists practicing under the compact.

The compact overrides a compact state's laws to the contrary and requires the submission of a uniform data set on all licensees containing:

- Identifying information;

³⁶ Section 119.15(6)(b)3., F.S.

³⁷ *See generally* s. 119.15, F.S.

³⁸ Section 119.15(7), F.S.

³⁹ PSYPACT Map, available at: <https://psypact.org/mpage/psypactmap> (last visited March 29, 2023). The 36 states include Alabama, Arizona, Arkansas, Colorado, Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Rhode Island has enacted the PSYPACT but it is not yet effective).

⁴⁰ PSYPACT Fees available at: <https://psypact.org/page/fees> (last visited March 29, 2023).

⁴¹ *Id.*

- Licensure data;
- Significant investigatory information;
- Adverse actions against a psychologist's license;
- Any indicator that a psychologist's APIT or TAP is revoked;
- Any denial of application for licensure and the reason for the denial;
- Other information determined by commission rules.

All home state disciplinary orders that take adverse action and adverse action taken by a compact state must be reported to the commission. The coordinated database administrator must promptly notify all compact states of adverse action taken against any licensee in a compact state.

A compact state may designate information that may not be shared with the public without the express permission of the compact state. Any information submitted to the coordinated database which is subsequently required to be expunged by law must be removed from the coordinated database.

Although most of the commission's meetings are required to be open to the public, Article X of the PSYPACT authorizes the commission to convene in a closed, nonpublic meeting to discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting or portion of a meeting is closed, the commission's legal counsel must identify each relevant exempting provision. The commission must keep detailed minutes about all matters discussed, actions taken, participants, views expressed, and documents considered. Under the compact, these minutes and documents must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

III. Effect of Proposed Changes:

Section 1 creates s. 490.0076, F.S., to establish a public records and meetings exemption for activities related to the Psychology Interjurisdictional Compact (PSYPACT). The bill exempts a psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated system and held by the department or board from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, unless the state that originally reported the information to the coordinated system authorizes the disclosure by law.

The bill exempts a meeting or a portion of a meeting of the PSYPACT Commission from s. 286.011, F.S., and s. 24(b), Art. I of the Statue Constitution if the commission must discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

Recordings, minutes, and records generated during an exempt commission meeting are exempted from the public records provisions in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

Section 2 contains the Legislative findings justifying the necessity for these exemptions. The protection from public disclosure of a psychologists' personal identifying information, other than the name, licensure status, or license number, obtained from the coordinated system is required by the PSYPACT. Without this exemption, Florida would be unable to participate in the compact.

The PSYPACT requires that meetings in which specified sensitive and confidential information is discussed must be closed to the public. Without this exemption from the public meetings law, Florida would be unable to participate in the compact.

In addition, the PSYPACT requires that the mandatory recordings, minutes, and records generated during a closed meeting must not be disclosed publicly unless by majority vote of the commission or upon a court order. Release of this information would negate the public meeting exemption and as a result the bill provides that Legislature finds that the public records exemption is a public necessity.

Section 3 provides that the bill's effective date is the same date that CS/SB 56 or similar legislation takes effect, if adopted and becomes a law. CS/SB 56 provides an effective date of July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or open meetings requirements. This bill creates public records exemptions and a public meeting exemption; therefore, it requires a two-thirds vote.

Public Necessity Statement

Article I, section 24(a) of the State Constitution and Article I, section 24(b) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 includes a public necessity statement for the exemptions.

The public necessity statement for the public records exemption of certain personal identifying information and the exemption from the public meetings provisions when the commission discusses specified matters provides that the protection and closing are necessary otherwise the state will be unable to effectively and efficiently implement and administer the Psychology Interjurisdictional Compact and unable to become a member state of the compact. By enactment of the enabling legislation, and in particular the purpose of the compact as set forth in Article I, the Legislature has determined that becoming a member state of the compact is important to increase public access to professional psychological services.

Breadth of Exemption

Article I, section 24(c), of the State Constitution requires exemptions to the public records and open meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the bill is to protect personal identifying information of psychologists practicing under the compact, other than the psychologist's name, licensure status, or licensure number; commission meetings in which specifically identified confidential and sensitive information is discussed; and the recordings, minutes, and records generated during an exempt commission meeting. These protections are required of a member state through the compact and they do not appear to be broader than necessary to accomplish its purpose.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

One of the stated purposes in the legislation to establish the Psychology Interjurisdictional Compact in Florida is to increase public access to professional psychological services. This might be an appropriate justification to add to the public necessity statement.

VIII. Statutes Affected:

This bill creates section 490.0076 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute removes the reference to a Psychology Interjurisdictional Compact Commission meeting being closed to the public by a majority vote of commission members. This provision is not in the compact.

CS by Health Policy on April 4, 2023:

The CS incorporates a technical amendment to provide that the bill's effective date is the same date that CS/SB 56, or similar legislation, takes effect, if adopted in the same legislative session or an extension thereof and becomes a law.

B. Amendments:

None.



663140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Harrell) recommended the following:

Senate Amendment

Delete lines 100 - 101
and insert:
subjects. In the

By the Committee on Health Policy; and Senator Harrell

588-03473-23

202358c1

A bill to be entitled

An act relating to public records and meetings; creating s. 490.0076, F.S.; providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Psychology pursuant to the Psychology Interjurisdictional Compact; authorizing disclosure of exempt information under certain circumstances; providing an exemption from public meeting requirements for certain meetings of the Psychology Interjurisdictional Compact Commission; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portion of such meetings; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 490.0076, Florida Statutes, is created to read:

490.0076 Psychology Interjurisdictional Compact; public records and meetings exemptions.—

(1) A psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated licensure information system, as described in article IX of s. 490.0075, and held by the department or the board is exempt from s. 119.07(1) and s.

Page 1 of 4

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

588-03473-23

202358c1

24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. If disclosure is so authorized, information may be disclosed only to the extent authorized by law by the reporting state.

(2) (a) A meeting or a portion of a meeting of the Psychology Interjurisdictional Compact Commission, established in article X of s. 490.0075, is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the commission must discuss:

1. Noncompliance of a compact state with its obligations under the compact;

2. Employment, compensation, or discipline of, or other personnel matters, practices, or procedures related to, specific employees or other matters related to the commission's internal personnel practices and procedures;

3. Current, threatened, or reasonably anticipated litigation against the commission;

4. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

5. An accusation of any person of a crime or a formal censure of any person;

6. Information disclosing trade secrets or commercial or financial information that is privileged or confidential;

7. Information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Investigatory records compiled for law enforcement purposes;

Page 2 of 4

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

588-03473-23

202358c1

59 9. Information related to any investigatory reports
 60 prepared by or on behalf of or for use of the commission or
 61 another committee charged with responsibility for investigation
 62 or determination of compliance issues pursuant to the compact;
 63 or

64 10. Matters specifically exempted from disclosure by
 65 federal or state statute.

66 (b) In keeping with the intent of the Psychology
 67 Interjurisdictional Compact, recordings, minutes, and records
 68 generated during an exempt commission meeting or a portion of
 69 such a meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
 70 of the State Constitution.

71 (3) This section is subject to the Open Government Sunset
 72 Review Act in accordance with s. 119.15 and shall stand repealed
 73 on October 2, 2028, unless reviewed and saved from repeal
 74 through reenactment by the Legislature.

75 Section 2. (1) The Legislature finds that it is a public
 76 necessity that a psychologist's personal identifying
 77 information, other than the psychologist's name, licensure
 78 status, or license number, obtained from the coordinated
 79 licensure information system, as described in article IX of s.
 80 490.0075, Florida Statutes, and held by the Department of Health
 81 or the Board of Psychology, be made exempt from s. 119.07(1),
 82 Florida Statutes, and s. 24(a), Article I of the State
 83 Constitution. Protection of such information is required under
 84 the Psychology Interjurisdictional Compact, which the state must
 85 adopt in order to become a member state of the compact. Without
 86 the public records exemption, this state will be unable to
 87 effectively and efficiently implement and administer the

588-03473-23

202358c1

88 compact.

89 (2) (a) The Legislature finds that it is a public necessity
 90 that any meeting of the Psychology Interjurisdictional Compact
 91 Commission held as provided in article X of s. 490.0075, Florida
 92 Statutes, in which matters specifically exempted from disclosure
 93 by federal or state law are discussed be made exempt from s.
 94 286.011, Florida Statutes, and s. 24(b), Article I of the State
 95 Constitution.

96 (b) The Psychology Interjurisdictional Compact requires the
 97 closing of any meeting, or any portion of a meeting, of the
 98 Psychology Interjurisdictional Compact Commission if the
 99 commission is discussing certain sensitive and confidential
 100 subjects or if a majority of the commission members vote to
 101 close a meeting to the public in whole or in part. In the
 102 absence of a public meeting exemption, this state would be
 103 prohibited from becoming a member state of the compact.

104 (3) The Legislature also finds that it is a public
 105 necessity that the recordings, minutes, and records generated
 106 during a meeting that is exempt pursuant to s. 490.0076(2),
 107 Florida Statutes, be made exempt from s. 119.07(1), Florida
 108 Statutes, and s. 24(a), Article I of the State Constitution.
 109 Release of such information would negate the public meeting
 110 exemption. As such, the Legislature finds that the public
 111 records exemption is a public necessity.

112 Section 3. This act shall take effect on the same date that
 113 SB 56 or similar legislation takes effect, if such legislation
 114 is adopted in the same legislative session or an extension
 115 thereof and becomes a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Tab 2
CS/SB 58

Bill Number or Topic

Amendment Barcode (if applicable)

04/12/2023

Meeting Date

Approp. Committee on HHS

Committee

Name Mary Winn

Phone (850) 766-2612

Address 1006 Brookwood Dr.

Street

Email kathywinn980@gmail.com

Tallahassee FL

City

State

32308

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

representing League of Women Voters
of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

5-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 140

INTRODUCER: Senator Rodriguez

SUBJECT: Fees/Professional Counselors Licensure Compact

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Favorable
2.	Howard	Money	AHS	Favorable
3.			FP	

I. Summary:

SB 140 amends the Professional Counselors Licensure Compact found in section 491.017, Florida Statutes, to authorize Florida, a member state, to charge a fee for granting the privilege to practice professional counseling in member states. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (board) within the Department of Health (DOH) would be responsible for adopting rules to impose the fee if this bill becomes a law.

The Professional Counselors Licensure Compact was enacted into law by the Florida Legislature in 2022.¹ The act's effective date was conditioned upon enactment of the Compact into law by 10 states. Nineteen states have now enacted the Compact into law.² Accordingly, the Professional Counselors Licensure Compact is now effective in Florida.

The Florida Constitution requires that legislation that imposes or authorizes new state taxes or fees,³ or that raises existing state taxes or fees,⁴ must be approved by two-thirds of the membership of each house of the Legislature, and the tax or fee provisions must be passed in a separate bill that contains no other subject.⁵ SB 140 authorizes the imposition of fees on Florida-licensed mental health professionals who desire to practice in member states pursuant to the compact. As such, the Florida Constitution may require that such a fee provision must be approved in a stand-alone bill by two-thirds of the membership of each house of the Legislature.

The bill has no fiscal impact on the DOH.

¹ Ch. 2022-63, Laws of Florida.

² See the 2023 Compact Map, available at: <https://counselingcompact.org/map/> (last visited Mar 22, 2023). The member states are Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Tennessee, Utah, West Virginia, and Wyoming.

³ FLA. CONST. art VII, s. 19(a).

⁴ FLA. CONST. art VII, s. 19(b).

⁵ FLA. CONST. art VII, s. 19(e).

The bill takes effect on July 1, 2023.

II. Present Situation:

Professional Counselors Licensure Compact

The Professional Counselors Licensure Compact (counseling compact) was enacted into law in the 2022 Legislative Session⁶ and is now effective. The act's effective date was conditioned upon enactment of the Compact into law by 10 states. Nineteen states have now enacted the Compact into law⁷ and are considered member states.

The counseling compact facilitates interstate practice of licensed professional counseling by counselors licensed in their home state⁸ to practice in a member state without the necessity to obtain an additional license from the member state. It also facilitates the delivery of professional counseling services through telehealth technology.⁹

The counseling compact defines a “licensed professional counselor” to mean a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.¹⁰ Within the definition section of ch. 491, F.S., relating to clinical, counseling, and psychotherapy, “licensed professional counselor” means a clinical social worker, marriage and family therapist, or mental health counselor authorized to provide services under [the counseling compact].¹¹

The counseling compact establishes the Counseling Compact Commission that is an instrumentality of the compact states consisting of one voting delegate, appointed by each member state's licensing board.¹²

The board within the DOH is the licensing board responsible for rulemaking and administering ch. 491, F.S., and in particular, the counseling compact. The board has appointed a delegate who is participating in the activities of the Commission.¹³ The duties of the Commission include, among other things, to provide for the development, operation, and maintenance of a data system and to adopt rules to achieve the purposes of the compact.¹⁴ The data system and rules are under

⁶ *Supra* note 1.

⁷ *Supra* note 2.

⁸ “Home State” is defined in the counseling compact to mean the member state that is the licensee's primary state of residence. See Article II (11) of the Professional Counselor Licensure Compact in s. 491.017, F.S.

⁹ Section 456.47, F.S., authorizes certain Florida-licensed health care practitioners, that includes a clinical social worker, marriage and family therapist, or mental health counselor licensed under ch. 491, F.S.; practitioners licensed under a multistate health care licensure compact of which Florida is a member; or a licensed health care professional in another state who registers with the applicable board in Florida to provide services through telehealth for persons located in Florida. However, it does not authorize the Florida-licensed health care practitioners to provide services to out-of-state patients. Whether Florida licensed practitioners can treat patients in other states is governed by laws in those states.

¹⁰ See Article II (15) of the Professional Counselor Licensure Compact in s. 491.017, F.S.

¹¹ Section 491.003(5), F.S.

¹² See Article IX (1) and (2) of the Professional Counselor Licensure Compact in s. 491.017, F.S.

¹³ Email from the Department of Health to staff of the Senate Health Policy Committee, January 27, 2023, on file with the Senate Committee on Health Policy.

¹⁴ See Articles X and XII of the Professional Counselor Licensure Compact in s. 491.017, F.S.

development so full implementation and the issuance of the privilege to practice under the counseling compact is anticipated but is not yet available.

There are approximately 16,682 Licensed Mental Health Counselors in the state. The number of applicants who will apply for a privilege to practice under the compact is indeterminate; applications are expected to open in late 2023 or early 2024.¹⁵

Fee Authority

The Counseling Compact Model Legislation¹⁶ includes a provision that member states may charge a fee for granting the privilege to practice. However, the counseling compact enacted by the 2022 Florida Legislature, did not include this provision ostensibly because of the Constitutional requirement for a separate bill for new state taxes or fees. See Section IV of this analysis.

In 2016, the Florida Legislature enacted the Nurse Licensure Compact that similarly authorizes Registered Nurses (RN) and Licensed Practical Nurses (LPN) with a multistate license to practice in other member states.¹⁷ An RN or LPN in Florida applying for the multistate upgrade to their license must pay a one-time \$100 fee.¹⁸

III. Effect of Proposed Changes:

The bill amends the Professional Counselors Licensure Compact to authorize a member state to charge a fee for granting the privilege to practice professional counseling in member states. If enacted, the board may impose a fee for licensing or otherwise designating licensed practitioners to practice in member states in accordance with the counseling compact. This fee might offset the cost of implementing and administering the counseling compact.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁵ Department of Health, *Florida Department of Health Agency Bill Analysis for SB 140*, January 27, 2023, on file with the Senate Committee on Health Policy.

¹⁶ Counseling Compact Model Legislation, at line 3, available at: https://counselingcompact.org/wp-content/uploads/2022/03/Final_Counseling_Compact_3.1.22.pdf (last visited Mar 22, 2023).

¹⁷ Ch. 2016-130, Laws of Florida.

¹⁸ Florida. Bd. of Nursing, Florida Department of Health, Frequently Asked Questions, Question “When I renew, will I receive the multi-state license automatically?” at <https://floridasnursing.gov/enhanced-nurse-licensure-compact-faqs/> (last visited Mar 22, 2023).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, section 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, section 19(d)(1), of the Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for services, fee or cost for licenses, and charge for service.

The bill authorizes the imposition of fees for a license for the privilege to practice professional counseling in member states. As such, the Florida Constitution may require that such a fee provision be approved in a stand-alone bill by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill conforms Florida law to the terms of the compact ensuring Florida’s participation in the compact giving Florida discretion to collect fees for the privilege to practice under the compact.

B. Private Sector Impact:

Obtaining a license to practice professional counseling in member states pursuant to the compact is optional. The exact amount of the fee that may be adopted by rule is unknown at this time. However, under the Nurse Licensure Compact an RN or LPN in Florida applying for the multistate upgrade to their license must pay a one-time \$100 fee.

C. Government Sector Impact:

The bill does not authorize the DOH to collect a fee but rather states that these type of fees are allowable under the compact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 491.017 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 Rodriguez

40-00109-23

2023140__

A bill to be entitled

An act relating to fees; amending s. 491.017, F.S.;
authorizing member states of the Professional
Counselors Licensure Compact to charge individuals a
fee for the privilege to practice under the compact;
providing an effective date.

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

Section 1. Present subsections (3), (4), and (5) of Article
III of section 491.017, Florida Statutes, are redesignated as
subsections (4), (5), and (6), respectively, and a new
subsection (3) is added to Article III of that section, to read:

491.017 Professional Counselors Licensure Compact.—The
Professional Counselors Licensure Compact is hereby enacted and
entered into by this state with all other jurisdictions legally
joining therein in the form substantially as follows:

ARTICLE III

STATE PARTICIPATION

(3) A member state may charge a fee for granting the
privilege to practice.

Section 2. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health



BILL INFORMATION

BILL NUMBER:	SB 140
BILL TITLE:	Fees/Professional Counselors Licensure Compact
BILL SPONSOR:	Rodriguez
EFFECTIVE DATE:	July 1, 2023

COMMITTEES OF REFERENCE

1) Click or tap here to enter text.
2) Click or tap here to enter text.
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
BILL TITLE:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 385 Fees/Professional Counselors Licensure Compact
BILL SPONSOR:	Porras

Is this bill part of an Agency Package?

Yes ☐ No ☒

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	Friday, 1/27/2023 10:25AM
LEAD AGENCY ANALYST:	Ashleigh Irving
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
FISCAL ANALYST:	Madison Adkins
LEGAL ANALYST:	John Wilson

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends section 491.017, Florida Statutes, authorizing member states of the Professional Counselors Licensure Compact to charge individuals a fee for the privilege to practice under the compact providing an effective date of July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

During the 2022 Legislative Session, House Bill 1521 passed into law, making Florida the 8th state to enact the Professional Counselors Licensure Compact or Counseling Compact (compact). There are currently 17 member states including Alabama, Colorado, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Tennessee, Utah, and West Virginia. Member states are required to pay an annual fee to cover costs to administer the Counseling Compact. This fee has not yet been specified nor imposed on compact participating states.

The Counseling Compact is an interstate compact, or a contract among states, allowing professional counselors licensed and residing in a compact member state to practice in other compact member states without the need for multiple licenses. According to the Department of Health, Division of Medical Quality Assurance 2021-2022 Annual Report, there are approximately 16,682 Licensed Mental Health Counselors in the state. The number of applicants who will apply for a privilege to practice under the compact is indeterminate; applications are expected to open in late 2023 or early 2024. House Bill 1521 was not filed with a companion fee bill, as such, the Department of Health is not presently authorized to collect fees for the compact privilege to practice.

Florida is also a member state in the established and fully operational Nurse Licensure Compact. Applicants for a multistate license under the Nurse Licensure Compact pay a \$100 application fee. The Department pays an annual administrative fee to the Nurse Licensure Compact of \$6,000. The collection of application fees off-sets regulatory costs and annual fees for state participation in the Compact.

2. EFFECT OF THE BILL:

If adopted, the Department of Health will be authorized to collect a fee to offset the regulatory costs associated with processing applicants for a privilege to practice under the Counseling Compact.

Applicants for the Florida Professional Counselors Licensure Compact will be required to pay a fee to participate in the compact, as well as incur the cost of a background check.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

Yes ☐ No ☒	
If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Yes ☒ No ☐
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and Summary of Position:	Unknown
Opponents and Summary of Position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Yes ☐ No ☒	
If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Yes ☐ No ☒	
Board:	N/A
Board Purpose:	N/A
Who Appoints?	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Yes ☐ No ☒	
Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain:	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Yes ☒ No ☐	
Revenues:	The required fees will result in an increase in revenues for the Division of Medical Quality Assurance. However, as a participating state in the Counseling Compact, Florida must pay an annual fee to participate in the Compact. The collection of a fee from compact applicants will off-set regulatory costs.
Expenditures:	There will be an anticipated increase in workload due to the provisions of this bill. However, it is anticipated the impact will be minimal and can be absorbed within existing budget authority.
Does the legislation contain a State Government appropriation?	Yes ☐ No ☒
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Yes ☐ No ☒	
Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Yes ☒ No ☐	
If yes, explain impact:	The Department of Health would be authorized to collect a fee from applicants for a privilege to practice under the compact. The fee is not expected to exceed \$100 per applicant.
Bill Section Number:	Section 1

TECHNOLOGY IMPACT**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?**

Yes ☐ No ☒	
If yes, describe the anticipated impact to the agency including any fiscal impact:	N/A

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Yes ☐ No ☒	
If yes, describe the anticipated impact including any fiscal impact:	N/A

ADDITIONAL COMMENTS

None.

LEGAL – GENERAL COUNSEL’S OFFICE REVIEW

Issues/Concerns/Comments: No legal issues, concerns, or comments identified at this time.



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: March 27, 2023

I respectfully request that **SB 140**, relating to Fees/Professional Counselors Licensure Compact, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 246

INTRODUCER: Appropriations Committee on Health and Human Services and Senator Calatayud

SUBJECT: Florida Kidcare Program Eligibility

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Favorable
2.	McKnight	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 246 raises the income eligibility limits for the subsidized MediKids, Florida Healthy Kids, and Children's Medical Services Network programs within the Florida Kidcare program from 200 percent to 300 percent of the federal poverty level (FPL). The bill requires the Florida Healthy Kids Corporation to establish new monthly premiums for enrollees in households over 150 percent of the FPL and develop a minimum of three, but not more than six, income-based tiers.

The bill has a significant negative fiscal impact to the Florida KidCare program. See Section V of this analysis.

The bill takes effect upon becoming a law, except as otherwise expressly provided in the bill.

II. Present Situation:

The Florida KidCare (KidCare) program was established in 1998 as a combination of Medicaid delivery systems and public and private partnerships, with a wrap-around delivery system serving children with special health care needs.¹ The KidCare program, codified in ss. 409.810 through 409.821, F.S., encompasses four government-sponsored health insurance programs

¹ Chapter 1998-288, Laws of Fla.

serving Florida's children: MediKids, Florida Healthy Kids (Healthy Kids), Children's Medical Services (CMS) Network, and Medicaid for children.²

Three of the four programs, MediKids, Healthy Kids, and CMS, directly receive federal Children's Health Insurance Program (CHIP) funding and constitute Florida's CHIP program. The CHIP was designed as a federal and state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much income to be eligible for Medicaid, but not enough money to purchase private, comprehensive health insurance. The federal CHIP is authorized and funded through Fiscal Year 2029.³

CHIP funding is also used to enhance the match rate for some children in Medicaid. More specifically:

- *MediKids* is a Medicaid "look-alike" program administered by the Agency for Health Care Administration (AHCA) for children ages 1 through 4 who are at or below 200 percent of the federal poverty level (FPL).⁴ Families whose income exceeds 200 percent of the FPL can elect to participate in the MediKids full-pay premium option.⁵
- *Healthy Kids* is for children ages 5 through 18 and administered by the Florida Healthy Kids Corporation (FHKC). Children in families with income between 133 percent and 200 percent of the FPL (\$33,383 and \$50,200 for a family of four) are eligible for subsidized coverage through the Healthy Kids program.⁶ Families whose income exceeds 200 percent of the FPL can elect to participate in the Healthy Kids full-pay option.⁷
- *Children's Medical Services (CMS) Network* is a program for children from birth through age 18 with special health care needs.⁸ The Department of Health (DOH) operates the program which is open to all children who meet the clinical eligibility criteria that are Medicaid or Title XXI eligible.⁹
- *Medicaid* eligibility is determined by the Department of Children and Families (DCF) and provides Title XIX coverage to infants from birth to age 1 who are at or below 200 percent of the FPL and children ages 1 through 18 who are at or below 133 percent of the FPL.¹⁰

Families who receive Medicaid are not responsible for paying premiums or co-payments. Families with children that qualify for other KidCare program components are responsible for paying monthly premiums and co-payments for certain services. The Healthy Kids program¹¹

² Florida KidCare, available at <https://www.floridakidcare.org/> (last visited Mar. 13, 2023).

³ Consolidated Appropriations Act, 2023, Public Law No. 117-328 (2022).

⁴ Section 409.8132(6), F.S.

⁵ Agency for Health Care Administration, Florida KidCare, *Welcome to MediKids*, https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/program_policy/FLKidCare/PDF/FLORIDA_MEDIKIDS_INFORMATION_2019.pdf (last visited Mar. 13, 2023).

⁶ Florida Healthy Kids Corporation, *Subsidized Premiums/Copays*, <https://www.healthykids.org/cost/subsidized/> (last visited Mar. 13, 2023).

⁷ *Id.*

⁸ See ch. 391, F.S.

⁹ *Id.*

¹⁰ Florida Healthy Kids, *Florida KidCare Health and Dental Insurance Program Eligibility Overview*, https://www.floridakidcare.org/docs/Florida_KidCare_Income_Guidelines.pdf (last visited Mar. 13, 2023).

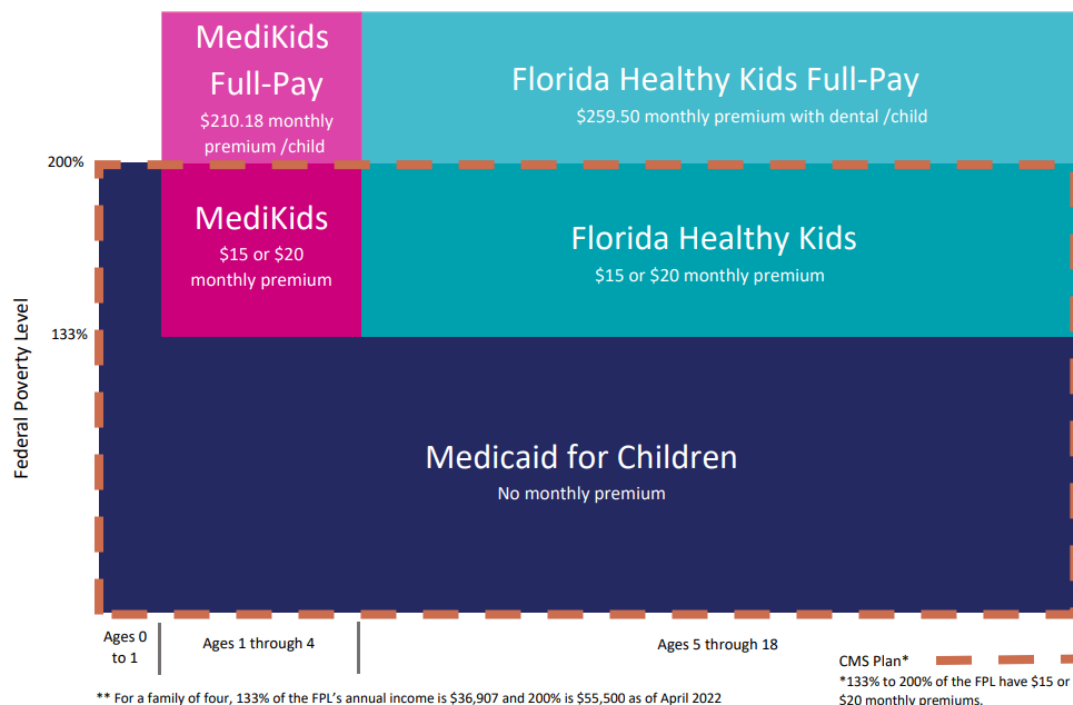
¹¹ Chapter 2019-115, Laws of Fla., Specific Appropriation 178.

and the MediKids program¹² both utilize a combined-risk premium model of Title XXI-subsidized and full-pay enrollments for medical insurance payments.

The total monthly family payment for CHIP enrollees is \$15 or \$20 for families with incomes between 133 percent and 200 percent of the FPL.¹³ The per-child monthly premium rate is \$210.18 for full-pay MediKids coverage and \$259.50 for full-pay Healthy Kids coverage, including dental coverage.¹⁴

As of March 2023, 4,883 children are enrolled in subsidized MediKids; 3,280 children are enrolled in MediKids under the full-pay option; 76,340 children are enrolled in subsidized Healthy Kids; 21,650 children are enrolled in Healthy Kids under the full-pay option; 6,575 children are enrolled in CMS; and 2,466,597 children are enrolled in the Medicaid program.^{15, 16}

The following chart provides an eligibility overview of the KidCare program.¹⁷



¹² Chapter 2020-111, Laws of Fla., Specific Appropriation 185.

¹³ Florida Healthy Kids Corporation, *Florida KidCare Health and Dental Insurance Program Eligibility Overview*, https://www.floridakidcare.org/docs/Florida_KidCare_Income_Guidelines.pdf (last visited Mar. 13, 2023).

¹⁴ *Id.*

¹⁵ Agency for Health Care Administration, Florida KidCare, *Florida KidCare Enrollment Report, March 2023* (on file with the Senate Appropriations Committee on Health and Human Services).

¹⁶ Florida KidCare program enrollment has been affected by federal Medicaid maintenance of effort (MOE) requirements outlined in the Families First Coronavirus Response Act (Public Law No. 116-127). The Act provided for states to receive a 6.2% enhancement to the customary Medicaid Federal Medical Assistance Percentage (FMAP) for the duration of the federal public health emergency (PHE). In return, states are required to provide continuous eligibility to Medicaid enrollees. This Medicaid MOE requirement has resulted in a sharp enrollment decline in the Title XXI, KidCare programs. Children that might have otherwise transferred to KidCare programs are required to remain in Medicaid. The Title XXI enrollment decline is expected to reverse after the PHE ends and the MOE expires.

¹⁷ Florida KidCare, *Program Eligibility Overview*, available at https://www.floridakidcare.org/docs/Florida_KidCare_Income_Guidelines.pdf (last visited Mar. 29, 2023).

The KidCare program is jointly administered by the Agency for Health Care Administration, the Florida Health Kids Corporation, the Department of Health, the Department of Children and Families, and the Office of Insurance Regulation. The general KidCare program responsibilities of each agency are outlined in the following table:

Entity	Responsibilities
Agency for Health Care Administration ¹⁸	• Administration of the state Medicaid program that serves individuals eligible for Medicaid under Title XIX. • Administration of the MediKids program that serves Title XXI children from age 1 through age 4. • The Title XXI state contact with the federal Centers for Medicare & Medicaid Services. • Distribution of federal funds for Title XXI programs. • Management of the contract with the FHKC. • Development and maintenance of the Title XXI Florida KidCare State Plan.
Department of Children and Families ¹⁹	• Processing Medicaid applications and determining children's eligibility for Medicaid.
Department of Health ²⁰	• Administration of the CMSN that offers a range of services to Title XIX and XXI children from birth through age 18 who have special health care needs. • Chair of the Florida KidCare Coordinating Council. • In consultation with the FHKC and the DCF, establishment of a toll-free telephone line to assist families with questions about the program.
Florida Healthy Kids Corporation ²¹	• Under a contract with the AHCA, perform the administrative KidCare functions including eligibility determination, premium billing and collection, refunds, and customer service. • Administration of the Florida Healthy Kids program for Title XXI children from age 5 through age 18.
Office of Insurance Regulation ²²	• Certification that health benefits coverage plans seeking to provide services under the KidCare program, aside from services provided under Healthy Kids and CMSN, meet, exceed, or are equivalent to the benchmark benefit plan and that the health insurance plans will be offered at an approved rate.

III. Effect of Proposed Changes:

Section 1 amends s. 409.8132, F.S., relating to eligibility for MediKids (age 1-4), to increase the eligibility threshold from 200 percent to 300 percent of the Federal Poverty Limit (FPL).

¹⁸ See part II of ch. 409, F.S.

¹⁹ Section 409.818(1), F.S.

²⁰ See ch. 391 and s. 409.818(2), F.S.

²¹ Section 624.91, F.S.

²² Section 409.818(4), F.S.

Section 2 amends s. 409.814, F.S., relating to eligibility for Healthy Kids (age 5-18) and the Children's Medical Services Network (children with special health care needs), to increase the eligibility threshold from 200 percent to 300 percent of the FPL.

The bill also provides that if the eligibility determination and redetermination for the KidCare program cannot be verified using reliable data sources in accordance with federal requirements, then the applicant must provide secondary sources of information.

Section 3 amends s. 409.816, F.S., relating to limitations on premiums and cost sharing in the KidCare program to require that enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges must be based on a minimum of three, but no more than six, tiers of uniform premiums scaled to the FPL, by tier.

Section 4 amends s. 624.91, F.S., relating to the Florida Healthy Kids Corporation, to conform the increased eligibility thresholds to 300 percent of the FPL.

Section 5 provides the bill takes effect upon becoming a law, except as otherwise expressly provided in the bill.

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:

Increasing the eligibility threshold to 300 percent of the federal poverty level (FPL) will convert a portion of current full-pay enrollees to the Children's Health Insurance Program (CHIP) subsidized payment category. Current CHIP full-pay enrollees with household incomes between 200 to 300 percent FPL will experience lower monthly premium costs, and new potential enrollees may find coverage less expensive compared to the current CHIP full-pay structure and cost.

The bill amends the structure of household premiums for CHIP-subsidized KidCare. Currently, the premium is \$15 a month, per household, for households with incomes between 133 to 158 percent FPL, and \$20, per household, for households with incomes between 158 to 200 percent FPL. Current law caps premiums for households with incomes between 150 to 200 percent FPL to no more than five percent of the household's annual income.

The bill requires the Florida Healthy Kids Corporation (FHKC) to establish premium tiers based on household income for all enrollees with household incomes over 150 percent FPL. The bill's requirement applies both to current enrollees at 150 to 200 percent FPL and to the new eligibility group at 200 to 300 percent FPL. The FHKC must establish at least three, but no more than six, tiers of premiums.

The bill does not address copays for the new eligibility group or amend them for existing eligibility groups.

According to the 2021 U.S. Census Report, 68,455 Florida children have household incomes between 200.01 to 300 percent of the FPL and have no health insurance coverage.²³

C. Government Sector Impact:

Mercer Government Human Services Consulting (Mercer) conducted an actuarial analysis dated March 22, 2023, on behalf of the Florida Healthy Kids Corporation (FHKC), to support discussion of increasing the KidCare program's income eligibility upper income limit for the CHIP program.²⁴

For Fiscal Year 2023-2024, the bill is estimated to increase state expenditures by \$22.2 million, of which \$6.5 million is from general revenue funds. The Florida Healthy Kids Corporation (FHKC) projects 18,575 additional children will enroll.²⁵

- Mercer estimates that implementation of SB 246 will result in recurring expenditures to the Florida KidCare program of \$19.4 million, of which \$5.7 million is from

²³ Florida Healthy Kids Corporation, SB 246 Bill Analysis (Mar. 7, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

²⁴ Email from Florida Healthy Kids Corporation to the Senate Appropriations Committee on Health and Human Services (Apr. 10, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

²⁵ *Id.*

general revenue funds. Recurring expenditures are projected to increase in out years, as more eligible children obtain coverage in the KidCare program.²⁶

- The Florida KidCare eligibility system's third-party administrator has estimated the programming changes required to comply with the provisions of the bill will result in \$800,000 one-year nonrecurring expenditures, of which approximately \$235,424 is from general revenue funds.²⁷
- The FHKC also estimates a funding need of \$1.6 million in nonrecurring expenditures in Fiscal Year 2023-2024, of which \$470,848 is from general revenue funds, associated with a statewide marketing campaign.²⁸

Family Premium Model – 6 Tiers, Set Premium Household Size of 2.57:²⁹

		FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Florida Healthy Kids						
Enrollment ¹		13,629	20,381	29,676	33,065	33,443
Recurring -	GR	\$ 761,044	\$ 4,088,548	\$ 8,063,746	\$ 9,559,593	\$ 9,625,620
Medical Carrier Payments ¹	Fed TF	\$ 1,825,078	\$ 9,786,995	\$ 19,124,756	\$ 22,802,411	\$ 23,458,204
	Total	\$ 2,586,122	\$ 13,875,543	\$ 27,188,502	\$ 32,362,004	\$ 33,083,824
Recurring -	GR	\$ 361,064	\$ 1,105,321	\$ 1,669,702	\$ 1,911,064	\$ 1,949,653
Dental Carrier Payments ¹	Fed TF	\$ 865,875	\$ 2,646,266	\$ 3,960,608	\$ 4,558,566	\$ 4,751,514
	Total	\$ 1,226,939	\$ 3,751,587	\$ 5,630,310	\$ 6,469,630	\$ 6,701,167
Recurring -	GR	\$ 116,600	\$ 415,034	\$ 375,014	\$ 427,286	\$ 420,899
TPA Administration Fees ²	Fed TF	\$ 279,622	\$ 993,771	\$ 889,830	\$ 1,019,181	\$ 1,025,689
	Total	\$ 396,222	\$ 1,408,805	\$ 1,264,844	\$ 1,446,467	\$ 1,446,588
Nonrecurring -	GR	\$ 235,424				
TPA Implementation Fees ³	Fed TF	\$ 564,576				
	Total	\$ 800,000				
Nonrecurring -	GR	\$ 470,848				
Marketing Campaign ⁴	Fed TF	\$ 1,129,152				
	Total	\$ 1,600,000				
	GR	\$ 1,944,980	\$ 5,608,903	\$ 10,108,462	\$ 11,897,943	\$ 11,996,172
	Total Fed TF	\$ 4,664,303	\$ 13,427,032	\$ 23,975,194	\$ 28,380,158	\$ 29,235,407
	Total	\$ 6,609,283	\$ 19,035,935	\$ 34,083,656	\$ 40,278,101	\$ 41,231,579
MediKids (Excludes family contributions deposited and used from the Grants and Donations Trust Fund)						
Enrollment ¹		3,494	4,497	5,545	5,913	5,959
Recurring - Medical/Dental	GR	\$ 936,924	\$ 2,523,533	\$ 3,294,551	\$ 3,578,981	\$ 3,600,700
Carrier Payments ¹	Fed TF	\$ 2,246,860	\$ 6,042,024	\$ 7,815,813	\$ 8,536,900	\$ 8,775,253
	Total	\$ 3,183,784	\$ 8,565,557	\$ 11,110,364	\$ 12,115,881	\$ 12,375,953
Children's Medical Services (Excludes family contributions deposited and used from the Grants and Donations Trust Fund)						
Enrollment ¹		1,452	2,263	2,898	3,146	3,152
Recurring - Medical/Dental	GR	\$ 3,643,829	\$ 11,636,288	\$ 15,626,744	\$ 17,651,663	\$ 18,231,116
Carrier Payments ¹	Fed TF	\$ 8,738,354	\$ 27,860,379	\$ 37,069,137	\$ 42,105,721	\$ 44,434,056
	Total	\$ 12,382,183	\$ 39,496,667	\$ 52,695,881	\$ 59,757,384	\$ 62,665,172
KidCare Administration (Excludes family contributions deposited and used from the Grants and Donations Trust Fund)						
Contracted Services ²	GR	\$ 20,758	\$ 79,354	\$ 71,030	\$ 80,843	\$ 79,575
	Fed TF	\$ 49,781	\$ 190,008	\$ 168,539	\$ 192,829	\$ 193,916
	Total	\$ 70,539	\$ 269,361	\$ 239,569	\$ 273,672	\$ 273,491
Enrollment ¹		18,575	27,141	38,119	42,124	42,554
	GR	\$ 6,546,491	\$ 19,848,078	\$ 29,100,786	\$ 33,209,430	\$ 33,907,563
	Total-All Fed TF	\$ 15,699,298	\$ 47,519,443	\$ 69,028,683	\$ 79,215,608	\$ 82,638,632
	Total	\$ 22,245,789	\$ 67,367,521	\$ 98,129,470	\$ 112,425,038	\$ 116,546,195

²⁶ Email from Florida Healthy Kids Corporation to the Senate Appropriations Committee on Health and Human Services (Apr. 10, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

According to the Agency for Health Care Administration, indeterminate one-time administrative implementation costs may be associated with updating the Florida Medicaid Management Information System (FMMIS).³⁰

The FHKC's fiscal analysis is based on policy assumptions not directly addressed in the bill.

- The bill requires the FHKC to establish “at least three but no more than six” tiers of premiums scaled to household income for enrollees with incomes over 150 percent of the FPL. This would apply to an income group currently eligible for subsidized Kidcare: those with incomes between 150 to 200 percent of the FPL.
- The FHKC's fiscal impact estimate uses a per-household premium and assumes 2.57 children per household.

The assumptions referenced above create the following monthly premium schedule based on 2023 FPLs:³¹

Family Premium Model - 6 Tiers Based on Household Size of 2.57													
Family Size	100% FPL	Tier 1 150%-175%	Premium	Tier 2 175%-200%	Premium	Tier 3 200%-225%	Premium	Tier 4 225%-250%	Premium	Tier 5 250%-275%	Premium	Tier 6 275%-300%	Premium
1	\$14,580	\$25,515	\$17.00	\$29,160	\$38.00	\$32,805	\$64.00	\$36,450	\$94.00	\$40,095	\$130.00	\$43,740	\$170.00
2	\$19,720	\$34,510	\$17.00	\$39,440	\$38.00	\$44,370	\$64.00	\$49,300	\$94.00	\$54,230	\$130.00	\$59,160	\$170.00
3	\$24,860	\$43,505	\$17.00	\$49,720	\$38.00	\$55,935	\$64.00	\$62,150	\$94.00	\$68,365	\$130.00	\$74,580	\$170.00
4	\$30,000	\$52,500	\$17.00	\$60,000	\$38.00	\$67,500	\$64.00	\$75,000	\$94.00	\$82,500	\$130.00	\$90,000	\$170.00
5	\$35,140	\$61,495	\$17.00	\$70,280	\$38.00	\$79,065	\$64.00	\$87,850	\$94.00	\$96,635	\$130.00	\$105,420	\$170.00
6	\$40,280	\$70,490	\$17.00	\$80,560	\$38.00	\$90,630	\$64.00	\$100,700	\$94.00	\$110,770	\$130.00	\$120,840	\$170.00
7	\$45,420	\$79,485	\$17.00	\$90,840	\$38.00	\$102,195	\$64.00	\$113,550	\$94.00	\$124,905	\$130.00	\$136,260	\$170.00
8	\$50,560	\$88,480	\$17.00	\$101,120	\$38.00	\$113,760	\$64.00	\$126,400	\$94.00	\$139,040	\$130.00	\$151,680	\$170.00

VI. Technical Deficiencies:

The bill takes effect upon becoming a law, except as otherwise expressly provided in the bill. However, no other effective dates are provided in the bill. Therefore, the bill will take effect upon becoming a law. The Florida Healthy Kids Corporation (FHKC) recommends a January 1, 2024, implementation date due to the needed development, programming, and testing required to migrate children from full-pay programs to the Children's Health Insurance Program (CHIP).³² Further, Mercer Government Human Services Consulting's actuarial analysis and FHKC's projected fiscal impact is based on a January 1, 2024 effective date. If the intent of the bill is to take effect on January 1, 2024, the bill will need to be amended to reflect an effective date of January 1, 2024.

VII. Related Issues:

Implementing the proposed changes requires the Agency for Health Care Administration to seek approval from the federal Centers for Medicare & Medicaid Services through a state plan amendment.³³

³⁰ Agency for Health Care Administration, SB 246 Bill Analysis (Jan. 10, 2023) (on file with the Senate Healthy Policy Committee.)

³¹ Email from Florida Healthy Kids Corporation to the Senate Appropriations Committee on Health and Human Services (Apr. 12, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

³² Florida Healthy Kids Corporation, SB 246 Bill Analysis (Mar. 7, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

³³ *Supra* note 30.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.8132, 409.814, 409.816, and 624.91.

IX. Additional Information:

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

CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute:

- Removes the two-year phase-in for income eligibility increases and requires income eligibility to increase to 300 percent of the federal poverty level.
- Requires the Florida Healthy Kids Corporation to establish new premiums for no less than three but no more than six income-based tiers.
- Removes “Whereas” clauses and clarification that changes made under the bill are subject to federal approval through a waiver or state plan amendment.
- Removes requirement for the Agency for Health Care Administration to notify the Division of Law Revision within 10 days after receiving federal approval through a waiver or state plan amendment.
- Amends effective date to take effect upon becoming a law, except as otherwise expressly provided in the bill.
- Makes technical changes.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (6) of section
409.8132, Florida Statutes, is amended to read:

409.8132 Medikids program component.—

(6) ELIGIBILITY.—

(a) A child who has attained the age of 1 year but who is
under the age of 5 years is eligible to enroll in the Medikids



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program component of the Florida Kidcare program, if the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 300 ~~200~~ percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

Section 2. Section 409.814, Florida Statutes, is amended to read:

409.814 Eligibility.—A child who has not reached 19 years of age whose family income is equal to or below 300 ~~200~~ percent of the federal poverty level is eligible for the Florida Kidcare program as provided in this section. If an enrolled individual is determined to be ineligible for coverage, he or she must be immediately disenrolled from the respective Florida Kidcare program component.

(1) A child who is eligible for Medicaid coverage under s. 409.903 or s. 409.904 must be enrolled in Medicaid and is not eligible to receive health benefits under any other health benefits coverage authorized under the Florida Kidcare program.

(2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain health benefits coverage under any of the other components listed in s. 409.813 if such coverage is approved and available in the county



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in which the child resides.

(3) A Title XXI-funded child who is eligible for the Florida Kidcare program who is a child with special health care needs, as determined through a medical or behavioral screening instrument, is eligible for health benefits coverage from and shall be assigned to and may opt out of the Children's Medical Services Network.

(4) A Title XXI-funded child who reaches 19 years of age is eligible for continued Title XXI-funded coverage for the duration of a pregnancy and the postpartum period consisting of the 12-month period beginning on the last day of a pregnancy, if such pregnancy or postpartum period begins prior to the child reaching 19 years of age, and if the child is ineligible for Medicaid.

(5) The following children are not eligible to receive Title XXI-funded premium assistance for health benefits coverage under the Florida Kidcare program, except under Medicaid if the child would have been eligible for Medicaid under s. 409.903 or s. 409.904 as of June 1, 1997:

(a) A child who is covered under a family member's group health benefit plan or under other private or employer health insurance coverage, if the cost of the child's participation is not greater than 5 percent of the family's income. If a child is otherwise eligible for a subsidy under the Florida Kidcare program and the cost of the child's participation in the family member's health insurance benefit plan is greater than 5 percent of the family's income, the child may enroll in the appropriate subsidized Kidcare program.

(b) A child who is seeking premium assistance for the



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Florida Kidcare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 60 days before the family submitted an application for determination of eligibility under the program.

(c) A child who is an alien but who does not meet the definition of a lawfully residing child. This paragraph does not extend eligibility for the Florida Kidcare program to an undocumented immigrant.

(d) A child who is an inmate of a public institution or a patient in an institution for mental diseases.

(e) A child who is otherwise eligible for premium assistance for the Florida Kidcare program and has had his or her coverage in an employer-sponsored or private health benefit plan voluntarily canceled in the last 60 days, except those children whose coverage was voluntarily canceled for good cause, including, but not limited to, the following circumstances:

1. The cost of participation in an employer-sponsored health benefit plan is greater than 5 percent of the family's income;

2. The parent lost a job that provided an employer-sponsored health benefit plan for children;

3. The parent who had health benefits coverage for the child is deceased;

4. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death;

5. The employer of the parent canceled health benefits coverage for children;

6. The child's health benefits coverage ended because the



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child reached the maximum lifetime coverage amount;

7. The child has exhausted coverage under a COBRA continuation provision;

8. The health benefits coverage does not cover the child's health care needs; or

9. Domestic violence led to loss of coverage.

(6) A child who is otherwise eligible for the Florida Kidcare program and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (5)(a) which would have disqualified the child for the Florida Kidcare program if the child were able to enroll in the plan is eligible for Florida Kidcare coverage when enrollment is possible.

(7) A child whose family income is above 300 ~~200~~ percent of the federal poverty level or a child who is excluded under the provisions of subsection (5) may participate in the Florida Kidcare program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program, subject to the following:

(a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.

(b) The board of directors of the Florida Healthy Kids Corporation may offer a reduced benefit package to these children in order to limit program costs for such families.

(8) Once a child is enrolled in the Florida Kidcare program, the child is eligible for coverage for 12 months without a redetermination or reverification of eligibility, if the family continues to pay the applicable premium. Eligibility



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for program components funded through Title XXI of the Social Security Act terminates when a child attains the age of 19. A child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility.

(9) When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. If a transition from one program component to another is authorized, there shall be cooperation between the program components and the affected family which promotes continuity of health care coverage. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(10) In determining the eligibility of a child, an assets test is not required. If eligibility for the Florida Kidcare program cannot be verified using reliable data sources in accordance with federal requirements, each applicant must ~~shall~~ provide documentation during the application process and the redetermination process, including, but not limited to, the following:

(a) Proof of family income, which must be verified



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electronically to determine financial eligibility for the Florida Kidcare program. Written documentation, which may include wages and earnings statements or pay stubs, W-2 forms, or a copy of the applicant's most recent federal income tax return, is required only if the electronic verification is not available or does not substantiate the applicant's income.

(b) A statement from all applicable, employed family members that:

1. Their employers do not sponsor health benefit plans for employees;

2. The potential enrollee is not covered by an employer-sponsored health benefit plan; or

3. The potential enrollee is covered by an employer-sponsored health benefit plan and the cost of the employer-sponsored health benefit plan is more than 5 percent of the family's income.

(c) To enroll in the Children's Medical Services Network, a completed application, including a clinical screening.

(11) Subject to paragraph (5)(a), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee must ~~shall~~ be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 working days after the date of notice, to discuss and resolve the matter. The program shall make every effort to



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185 resolve the matter within a timeframe that will not cause
186 benefits to be withheld from an eligible enrollee.

187 (12) The following individuals may be subject to
188 prosecution in accordance with s. 414.39:

189 (a) An applicant obtaining or attempting to obtain benefits
190 for a potential enrollee under the Florida Kidcare program when
191 the applicant knows or should have known the potential enrollee
192 does not qualify for the Florida Kidcare program.

193 (b) An individual who assists an applicant in obtaining or
194 attempting to obtain benefits for a potential enrollee under the
195 Florida Kidcare program when the individual knows or should have
196 known the potential enrollee does not qualify for the Florida
197 Kidcare program.

198 Section 3. Subsection (3) of section 409.816, Florida
199 Statutes, is amended to read:

200 409.816 Limitations on premiums and cost sharing.—The
201 following limitations on premiums and cost sharing are
202 established for the program.

203 (3) Enrollees in families with a family income above 150
204 percent of the federal poverty level who are not receiving
205 coverage under the Medicaid program or who are not eligible
206 under s. 409.814(7) may be required to pay enrollment fees,
207 premiums, copayments, deductibles, coinsurance, or similar
208 charges on a sliding scale related to income, except that the
209 total annual aggregate cost sharing with respect to all children
210 in a family may not exceed 5 percent of the family's income.
211 However, copayments, deductibles, coinsurance, or similar
212 charges may not be imposed for preventive services, including
213 well-baby and well-child care, age-appropriate immunizations,



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and routine hearing and vision screenings. Premiums for enrollees who are paying enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges as provided in this subsection must be based on at least three but no more than six tiers of uniform premiums that increase with each tier as a percentage of the applicable threshold amount of the federal poverty level, by tier.

Section 4. Paragraph (b) of subsection (2) of section 624.91, Florida Statutes, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(2) LEGISLATIVE INTENT.—

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income equal to or below 300 ~~200~~ percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds be used to continue coverage, subject to specific appropriations in the General Appropriations Act, to children not eligible for federal matching funds under Title XXI.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

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

And the title is amended as follows:



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243 Delete everything before the enacting clause
244 and insert:

245 A bill to be entitled
246 An act relating to Florida Kidcare program
247 eligibility; amending s. 409.8132, F.S.; increasing
248 the income eligibility threshold for coverage under
249 the Medikids program component; amending s. 409.814,
250 F.S.; increasing the income eligibility threshold for
251 coverage under the Florida Kidcare program; requiring
252 an applicant seeking coverage under the program to
253 provide certain documentation if eligibility cannot be
254 verified using reliable data sources; amending s.
255 409.816, F.S.; requiring that premiums for certain
256 enrollees under the Florida Kidcare program be based
257 on a tiered system of uniform premiums; amending s.
258 624.91, F.S.; conforming a provision to changes made
259 by the act; providing an effective date.

By Senator Calatayud

38-00501B-23

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A bill to be entitled

An act relating to Florida Kidcare program eligibility; amending s. 409.8132, F.S.; conforming a provision to changes made by the act; amending s. 409.814, F.S.; increasing the income eligibility threshold for coverage under the Florida Kidcare program; requiring an applicant seeking coverage under the program to provide certain documentation if eligibility cannot be verified using reliable data sources; amending s. 409.816, F.S.; requiring that premiums for certain enrollees under the program be based on a tiered system of uniform premiums; amending s. 624.91, F.S.; conforming a provision to changes made by the act; providing that certain amendments made by this act are subject to federal approval through a waiver or state plan amendment; requiring the agency to notify the Division of Law Revision within a specified timeframe after receiving federal approval through a waiver or state plan amendment; providing effective dates.

WHEREAS, as families progress up the economic ladder, they are adversely affected by the fiscal cliff, disincentivizing upward mobility, and

WHEREAS, some families have lost access to Florida Healthy Kids, which subsidizes children's health insurance, creating a health care coverage gap, and

WHEREAS, the Legislature seeks to remove these barriers and intends to facilitate a way for families to achieve economic

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self-sufficiency and access necessary health care services for their children, NOW, THEREFORE,

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

Section 1. Paragraph (a) of subsection (6) of section 409.8132, Florida Statutes, is amended to read:

409.8132 Medikids program component.—

(6) ELIGIBILITY.—

(a) A child who has attained the age of 1 year but who is under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 250 ~~200~~ percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

Section 2. Effective July 1, 2024, paragraph (a) of subsection (6) of section 409.8132, Florida Statutes, as amended by this act, is amended to read:

409.8132 Medikids program component.—

(6) ELIGIBILITY.—

(a) A child who has attained the age of 1 year but who is

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under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 300 ~~250~~ percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

Section 3. Section 409.814, Florida Statutes, is amended to read:

409.814 Eligibility.—A child who has not reached 19 years of age whose family income is equal to or below 250 ~~200~~ percent of the federal poverty level is eligible for the Florida Kidcare program as provided in this section. If an enrolled individual is determined to be ineligible for coverage, he or she must be immediately disenrolled from the respective Florida Kidcare program component.

(1) A child who is eligible for Medicaid coverage under s. 409.903 or s. 409.904 must be enrolled in Medicaid and is not eligible to receive health benefits under any other health benefits coverage authorized under the Florida Kidcare program.

(2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain health benefits coverage under any of the other components listed in s.

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409.813 if such coverage is approved and available in the county in which the child resides.

(3) A Title XXI-funded child who is eligible for the Florida Kidcare program who is a child with special health care needs, as determined through a medical or behavioral screening instrument, is eligible for health benefits coverage from and shall be assigned to and may opt out of the Children's Medical Services Network.

(4) A Title XXI-funded child who reaches 19 years of age is eligible for continued Title XXI-funded coverage for the duration of a pregnancy and the postpartum period consisting of the 12-month period beginning on the last day of a pregnancy, if such pregnancy or postpartum period begins prior to the child reaching 19 years of age, and if the child is ineligible for Medicaid.

(5) The following children are not eligible to receive Title XXI-funded premium assistance for health benefits coverage under the Florida Kidcare program, except under Medicaid if the child would have been eligible for Medicaid under s. 409.903 or s. 409.904 as of June 1, 1997:

(a) A child who is covered under a family member's group health benefit plan or under other private or employer health insurance coverage, if the cost of the child's participation is not greater than 5 percent of the family's income. If a child is otherwise eligible for a subsidy under the Florida Kidcare program and the cost of the child's participation in the family member's health insurance benefit plan is greater than 5 percent of the family's income, the child may enroll in the appropriate subsidized Kidcare program.

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(b) A child who is seeking premium assistance for the Florida Kidcare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 60 days before the family submitted an application for determination of eligibility under the program.

(c) A child who is an alien but who does not meet the definition of a lawfully residing child. This paragraph does not extend eligibility for the Florida Kidcare program to an undocumented immigrant.

(d) A child who is an inmate of a public institution or a patient in an institution for mental diseases.

(e) A child who is otherwise eligible for premium assistance for the Florida Kidcare program and has had his or her coverage in an employer-sponsored or private health benefit plan voluntarily canceled in the last 60 days, except those children whose coverage was voluntarily canceled for good cause, including, but not limited to, the following circumstances:

1. The cost of participation in an employer-sponsored health benefit plan is greater than 5 percent of the family's income;

2. The parent lost a job that provided an employer-sponsored health benefit plan for children;

3. The parent who had health benefits coverage for the child is deceased;

4. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death;

5. The employer of the parent canceled health benefits coverage for children;

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6. The child's health benefits coverage ended because the child reached the maximum lifetime coverage amount;

7. The child has exhausted coverage under a COBRA continuation provision;

8. The health benefits coverage does not cover the child's health care needs; or

9. Domestic violence led to loss of coverage.

(6) A child who is otherwise eligible for the Florida Kidcare program and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (5)(a) which would have disqualified the child for the Florida Kidcare program if the child were able to enroll in the plan is eligible for Florida Kidcare coverage when enrollment is possible.

(7) A child whose family income is above 250 ~~200~~ percent of the federal poverty level or a child who is excluded under the provisions of subsection (5) may participate in the Florida Kidcare program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program, subject to the following:

(a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.

(b) The board of directors of the Florida Healthy Kids Corporation may offer a reduced benefit package to these children in order to limit program costs for such families.

(8) Once a child is enrolled in the Florida Kidcare program, the child is eligible for coverage for 12 months without a redetermination or reverification of eligibility, if

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the family continues to pay the applicable premium. Eligibility for program components funded through Title XXI of the Social Security Act terminates when a child attains the age of 19. A child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility.

(9) When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. If a transition from one program component to another is authorized, there shall be cooperation between the program components and the affected family which promotes continuity of health care coverage. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(10) In determining the eligibility of a child, an assets test is not required. If eligibility for the Florida Kidcare program cannot be verified using reliable data sources in accordance with federal requirements, each applicant shall provide documentation during the application process and the redetermination process, including, but not limited to, the following:

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(a) Proof of family income, which must be verified electronically to determine financial eligibility for the Florida Kidcare program. Written documentation, which may include wages and earnings statements or pay stubs, W-2 forms, or a copy of the applicant's most recent federal income tax return, is required only if the electronic verification is not available or does not substantiate the applicant's income.

(b) A statement from all applicable, employed family members that:

1. Their employers do not sponsor health benefit plans for employees;

2. The potential enrollee is not covered by an employer-sponsored health benefit plan; or

3. The potential enrollee is covered by an employer-sponsored health benefit plan and the cost of the employer-sponsored health benefit plan is more than 5 percent of the family's income.

(c) To enroll in the Children's Medical Services Network, a completed application, including a clinical screening.

(11) Subject to paragraph (5) (a), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 working days after the date of notice, to discuss and

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233 resolve the matter. The program shall make every effort to
 234 resolve the matter within a timeframe that will not cause
 235 benefits to be withheld from an eligible enrollee.

236 (12) The following individuals may be subject to
 237 prosecution in accordance with s. 414.39:

238 (a) An applicant obtaining or attempting to obtain benefits
 239 for a potential enrollee under the Florida Kidcare program when
 240 the applicant knows or should have known the potential enrollee
 241 does not qualify for the Florida Kidcare program.

242 (b) An individual who assists an applicant in obtaining or
 243 attempting to obtain benefits for a potential enrollee under the
 244 Florida Kidcare program when the individual knows or should have
 245 known the potential enrollee does not qualify for the Florida
 246 Kidcare program.

247 Section 4. Effective July 1, 2024, section 409.814, Florida
 248 Statutes, as amended by this act, is amended to read:

249 409.814 Eligibility.—A child who has not reached 19 years
 250 of age whose family income is equal to or below 300 ~~250~~ percent
 251 of the federal poverty level is eligible for the Florida Kidcare
 252 program as provided in this section. If an enrolled individual
 253 is determined to be ineligible for coverage, he or she must be
 254 immediately disenrolled from the respective Florida Kidcare
 255 program component.

256 (1) A child who is eligible for Medicaid coverage under s.
 257 409.903 or s. 409.904 must be enrolled in Medicaid and is not
 258 eligible to receive health benefits under any other health
 259 benefits coverage authorized under the Florida Kidcare program.

260 (2) A child who is not eligible for Medicaid, but who is
 261 eligible for the Florida Kidcare program, may obtain health

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262 benefits coverage under any of the other components listed in s.
 263 409.813 if such coverage is approved and available in the county
 264 in which the child resides.

265 (3) A Title XXI-funded child who is eligible for the
 266 Florida Kidcare program who is a child with special health care
 267 needs, as determined through a medical or behavioral screening
 268 instrument, is eligible for health benefits coverage from and
 269 shall be assigned to and may opt out of the Children's Medical
 270 Services Network.

271 (4) A Title XXI-funded child who reaches 19 years of age is
 272 eligible for continued Title XXI-funded coverage for the
 273 duration of a pregnancy and the postpartum period consisting of
 274 the 12-month period beginning on the last day of a pregnancy, if
 275 such pregnancy or postpartum period begins prior to the child
 276 reaching 19 years of age, and if the child is ineligible for
 277 Medicaid.

278 (5) The following children are not eligible to receive
 279 Title XXI-funded premium assistance for health benefits coverage
 280 under the Florida Kidcare program, except under Medicaid if the
 281 child would have been eligible for Medicaid under s. 409.903 or
 282 s. 409.904 as of June 1, 1997:

283 (a) A child who is covered under a family member's group
 284 health benefit plan or under other private or employer health
 285 insurance coverage, if the cost of the child's participation is
 286 not greater than 5 percent of the family's income. If a child is
 287 otherwise eligible for a subsidy under the Florida Kidcare
 288 program and the cost of the child's participation in the family
 289 member's health insurance benefit plan is greater than 5 percent
 290 of the family's income, the child may enroll in the appropriate

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subsidized Kidcare program.

(b) A child who is seeking premium assistance for the Florida Kidcare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 60 days before the family submitted an application for determination of eligibility under the program.

(c) A child who is an alien but who does not meet the definition of a lawfully residing child. This paragraph does not extend eligibility for the Florida Kidcare program to an undocumented immigrant.

(d) A child who is an inmate of a public institution or a patient in an institution for mental diseases.

(e) A child who is otherwise eligible for premium assistance for the Florida Kidcare program and has had his or her coverage in an employer-sponsored or private health benefit plan voluntarily canceled in the last 60 days, except those children whose coverage was voluntarily canceled for good cause, including, but not limited to, the following circumstances:

1. The cost of participation in an employer-sponsored health benefit plan is greater than 5 percent of the family's income;

2. The parent lost a job that provided an employer-sponsored health benefit plan for children;

3. The parent who had health benefits coverage for the child is deceased;

4. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death;

5. The employer of the parent canceled health benefits

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coverage for children;

6. The child's health benefits coverage ended because the child reached the maximum lifetime coverage amount;

7. The child has exhausted coverage under a COBRA continuation provision;

8. The health benefits coverage does not cover the child's health care needs; or

9. Domestic violence led to loss of coverage.

(6) A child who is otherwise eligible for the Florida Kidcare program and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (5)(a) which would have disqualified the child for the Florida Kidcare program if the child were able to enroll in the plan is eligible for Florida Kidcare coverage when enrollment is possible.

(7) A child whose family income is above 300 ~~250~~ percent of the federal poverty level or a child who is excluded under the provisions of subsection (5) may participate in the Florida Kidcare program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program, subject to the following:

(a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.

(b) The board of directors of the Florida Healthy Kids Corporation may offer a reduced benefit package to these children in order to limit program costs for such families.

(8) Once a child is enrolled in the Florida Kidcare program, the child is eligible for coverage for 12 months

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without a redetermination or reverification of eligibility, if the family continues to pay the applicable premium. Eligibility for program components funded through Title XXI of the Social Security Act terminates when a child attains the age of 19. A child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility.

(9) When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. If a transition from one program component to another is authorized, there shall be cooperation between the program components and the affected family which promotes continuity of health care coverage. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(10) In determining the eligibility of a child, an assets test is not required. If eligibility for the Florida Kidcare program cannot be verified using reliable data sources in accordance with federal requirements, each applicant shall provide documentation during the application process and the redetermination process, including, but not limited to, the

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following:

(a) Proof of family income, which must be verified electronically to determine financial eligibility for the Florida Kidcare program. Written documentation, which may include wages and earnings statements or pay stubs, W-2 forms, or a copy of the applicant's most recent federal income tax return, is required only if the electronic verification is not available or does not substantiate the applicant's income.

(b) A statement from all applicable, employed family members that:

1. Their employers do not sponsor health benefit plans for employees;

2. The potential enrollee is not covered by an employer-sponsored health benefit plan; or

3. The potential enrollee is covered by an employer-sponsored health benefit plan and the cost of the employer-sponsored health benefit plan is more than 5 percent of the family's income.

(c) To enroll in the Children's Medical Services Network, a completed application, including a clinical screening.

(11) Subject to paragraph (5)(a), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be

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within 10 working days after the date of notice, to discuss and resolve the matter. The program shall make every effort to resolve the matter within a timeframe that will not cause benefits to be withheld from an eligible enrollee.

(12) The following individuals may be subject to prosecution in accordance with s. 414.39:

(a) An applicant obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program when the applicant knows or should have known the potential enrollee does not qualify for the Florida Kidcare program.

(b) An individual who assists an applicant in obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program when the individual knows or should have known the potential enrollee does not qualify for the Florida Kidcare program.

Section 5. Subsection (3) of section 409.816, Florida Statutes, is amended to read:

409.816 Limitations on premiums and cost sharing.—The following limitations on premiums and cost sharing are established for the program.

(3) Enrollees in families with a family income above 150 percent of the federal poverty level who are not receiving coverage under the Medicaid program or who are not eligible under s. 409.814(7) may be required to pay enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges on a sliding scale related to income, except that the total annual aggregate cost sharing with respect to all children in a family may not exceed 5 percent of the family's income. However, copayments, deductibles, coinsurance, or similar

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charges may not be imposed for preventive services, including well-baby and well-child care, age-appropriate immunizations, and routine hearing and vision screenings. Premiums for enrollees paying enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges as provided in this subsection must be based on at least three but no more than five tiers of uniform premiums that increase with each tier as a percentage of the applicable threshold amount of the federal poverty level, by tier.

Section 6. Paragraph (b) of subsection (2) of section 624.91, Florida Statutes, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(2) LEGISLATIVE INTENT.—

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income equal to or below 250 ~~200~~ percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds be used to continue coverage, subject to specific appropriations in the General Appropriations Act, to children not eligible for federal matching funds under Title XXI.

Section 7. Effective July 1, 2024, paragraph (b) of subsection (2) of section 624.91, Florida Statutes, as amended by this act, is amended to read:

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624.91 The Florida Healthy Kids Corporation Act.—

(2) LEGISLATIVE INTENT.—

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income equal to or below 300 ~~250~~ percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds be used to continue coverage, subject to specific appropriations in the General Appropriations Act, to children not eligible for federal matching funds under Title XXI.

Section 8. (1) The amendments to ss. 409.8132, 409.814, and 624.91, Florida Statutes, made by this act are subject to federal approval through a waiver or state plan amendment.

(2) The Agency for Health Care Administration shall notify the Division of Law Revision within 10 days after receiving federal approval through a waiver or state plan amendment.

Section 9. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2023.



SENATOR Alexis M. Calatayud
38th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, Chair
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Fiscal Policy
Health Policy
Military and Veterans Affairs, Space and Domestic
Security
Select Committee on Resiliency

March 13, 2023

Honorable Senator Gayle Harrell
Chair
Committee on Appropriations on Health and Human Services

Honorable Chair Harrell,

I respectfully request SB 246 Florida Kidcare Program Eligibility be placed on the next committee agenda.

This bill increases the income eligibility threshold for coverage under the Florida Kidcare program; requiring that premiums for certain enrollees under the program be based on a tiered system of uniform premiums; providing that certain amendments made by this act are subject to federal approval through a waiver or state plan amendment.

Sincerely,

Alexis M. Calatayud

Senator Alexis M. Calatayud
Florida Senate, District 39

CC: Tonya Money, Staff Director
Robin Jackson, Committee Administrative Assistant

REPLY TO:

- 11011 SW 101st St, STE 5101, Miami Florida 33176 (305) 596-3002
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

4/12/2023

The Florida Senate
APPEARANCE RECORD

246

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Meeting Date

Bill Number or Topic

HHS

Approps

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Sarah Katherine Massey

Phone

850 545 0543

Address

136 S. Bronough

Email

smassey@flchamber.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Chamber of Commerce

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

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4/12/23

Meeting Date

246

Bill Number or Topic

4

HHS Appro/s

Committee

Amendment Barcode (if applicable)

Name

Doug Bell

Phone

850 205 9000

Address

119 S. Monroe St.

Email

doug.bell@mhdfirm.com

Street

TLH

City

FL

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Chapter of the American Academy of Pediatrics

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S-001 (08/10/2021)

4

4/12/23
Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 246
Bill Number or Topic

Appropriations on Health/Human Services
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name TASHA CARTER Phone 850-413-2868

Address 200 E. GAINES STREET Email TASHA.CARTER@MyFloridaSFO.com
Street

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

- ☐ I am appearing without compensation or sponsorship.
- ☒ I am a registered lobbyist, representing: the office of the Insurance Consumer Advocate
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules, pdf flsenate.gov](#)

April 12, 2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

1607
SIB 246 - FL KidCare Program
Bill Number or Topic

Appropriations Committee on Health and Human Services
Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Cora Merritt Phone 850-758-5209
Address 7004 Tairstock Lakes Blvd. Email cora.merritt@nemours.org
Orlando, Florida 32827
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Nemours Children's
Health

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

4/12/2023

Meeting Date

Appropriations Committee on Health & Human Services

Committee

The Florida Senate

APPEARANCE RECORD

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Tab 4

SB 246- KidCare Eligibility

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Michele Watson**

Phone **850-320-2388**

Address **1203 Governor's Square Blvd. Suite 102**

Email **mwatson@facct.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Florida Alliance of Children's
Councils & Trusts**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/12/23

Meeting Date

513 246

Bill Number or Topic

Tab 4

HHS Appropriations

Committee

Amendment Barcode (if applicable)

Name

Michael Barrett

Phone

(850) 222-3803

Address

201 W. Park Ave

Street

Email

mbarrett@flsca.org

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Florida Conference of Catholic Bishops

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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Meeting Date

4/12
HHS Appropriations

Committee

246
Bill Number or Topic

Amendment Barcode (if applicable)

Name

AUSTIN STOWERS

Phone

850 413 5939

Address

200 E GAINES

Street

Email

austin.stowers@myfloridacfo.com

TALLAHASSEE

FL

32399

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

CFU Jimmy PATRONIS

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

APPEARANCE RECORD4-12-23

Meeting Date

HHS Approvs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting246

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Natalie King

Phone

813 924-8218

Address

235 W. Brandon Blvd. #640

Street

Email

Natalie@teamrsa.comBrandon

City

FL

State

33511

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:United Way Suncoast☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

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4-12-23

Meeting Date

HHS Approps

Committee

246

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Natalie King

Phone

813 924 8218

Address

Street

235 W Brandon Blvd. #640

Email

NatalieTeamrsa.com

City

Brandon

State

FL

Zip

33511

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Broward United Way

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4-13-23

Meeting Date

HHS Approps

Committee

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246

Bill Number or Topic

Amendment Barcode (if applicable)

Name Natalie King

Phone 813 924-8218

Address 235 W. Brandon Blvd #640

Email natalie@teamrsa.com

Street

Brandon FL

City

State

33511

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

United Way of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

APPEARANCE RECORD

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:FL Conference of Catholic
Bishops☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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246

Bill Number or Topic

Amendment Barcode (if applicable)

04/12/2023
Meeting Date
Appropriations
Committee

Name Karen Mazzola

Phone 407-855-7604

Address 1747 Orlando Central
Street
Orlando FL 32809
City State Zip

Email vp.education@florida
pta.org

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:



In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

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S-001 (08/10/2021)

3-12-22

Meeting Date

The Florida Senate
APPEARANCE RECORD

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246

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

DANE BENNETT

Phone

941-468-8479

Address

800 PRUDENTIAL DRIVE

Email

Street

JACKSONVILLE

FL

32207

City

State

Zip

Speaking:



For

☐

Against

☐

Information

OR

Waive Speaking:



In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

BAPTIST HEALTH

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S-001 (08/10/2021)

APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

4/12/23
HHS Appropriations
Committee
Michael Cusick

Phone

850-222-5620

Address

2114 La Rochelle Dr
Street

Email

Tallahassee FL 32308
City State Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Association of Children's Hospitals

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 268

INTRODUCER: Senator Brodeur

SUBJECT: Health Care Expenses

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Favorable
2.	McKnight	Money	AHS	Pre-meeting
3.			FP	

I. Summary:

SB 268 amends and creates multiple sections of law in order to limit how hospitals and ambulatory surgical centers (ASC) may collect medical debt and to exclude certain property from being collected through legal action on such debt. The bill prohibits certain billing and debt collection practices and limits legal actions on medical debt to three years after the debt has been referred to a collection service.

The bill also requires a hospital or ASC to post standard charges for specified services on its website and establish a process for reviewing and responding to grievances from patients. Additionally, the bill amends a provision of current law that requires hospitals and ASCs to provide estimates of anticipated charges for nonemergency services, to require that facilities also must provide such estimates to the patient's health insurer. The health insurer, in turn, is required under the bill to prepare an "advance explanation of benefits" for the patient, within a specified time frame prior to the service being provided, based on the facility's estimate.

The bill may pose an indeterminate negative fiscal impact to the Agency for Health Care Administration. *See* Section V of this analysis.

The bill takes effect on July 1, 2023.

II. Present Situation:

Florida Price Transparency: Florida Patient's Bill of Rights and Responsibilities

In 1991, the Legislature enacted the Florida Patient's Bill of Rights and Responsibilities (Patient's Bill of Rights).¹ The statute established the right of patients to expect medical

¹ Section 1, Ch. 91-127, Laws of Fla. (1991); s. 381.026, F.S.

providers to observe standards of care in providing medical treatment and communicating with their patients.² The standards of care include, but are not limited to, the following aspects of medical treatment and patient communication:

- Individual dignity;
- Provision of information;
- Financial information and the disclosure of financial information;
- Access to health care;
- Experimental research; and
- Patient's knowledge of rights and responsibilities.

A patient has the right to request certain financial information from health care providers and facilities.³ Specifically, upon request, a health care provider or health care facility must provide a person with a reasonable estimate of the cost of medical treatment prior to the provision of treatment.⁴ Estimates must be written in language "comprehensible to an ordinary layperson."⁵ The reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges as the patient's needs or medical condition warrant.⁶ A patient has the right to receive a copy of an itemized bill upon request and to receive an explanation of charges upon request.⁷

Currently, under the financial information and disclosure provisions in the Patient's Bill of Rights:

- A request is necessary before a health care provider or health care facility must disclose to a Medicare-eligible patient whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility.
- A request is necessary before a health care provider or health care facility is required to furnish a person an estimate of charges for medical services before providing the services. The Florida Patient's Bill of Rights and Responsibilities does not require that the components making up the estimate be itemized or that the estimate be presented in a manner that is easily understood by an ordinary layperson.
- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the website of the Agency for Health Care Administration (AHCA).
- The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary.
- A patient has the right to receive an itemized bill upon request.

Health care providers and health care facilities are required to make available to patients a summary of their rights. The applicable regulatory board or the AHCA may impose an

² Section 381.026(3), F.S.

³ Section 381.026(4)(c), F.S.

⁴ Section 381.026(4)(c)3., F.S.

⁵ *Id.*

⁶ *Id.*

⁷ Section 381.026(4)(c)5., F.S.

administrative fine when a provider or facility fails to make available to patients a summary of their rights.⁸

The Patient's Bill of Rights also authorizes, but does not require, primary care providers⁹ to publish a schedule of charges for the medical services offered to patients.¹⁰ The schedule must include certain price information for at least the 50 services most frequently provided by the primary care provider.¹¹ The law also requires the posting of the schedule in a conspicuous place in the reception area of the provider's office and at least 15 square feet in size.¹² A primary care provider who publishes and maintains a schedule of charges is exempt from licensure fees for a single renewal of a professional license and from the continuing education requirements for a single two-year period.¹³

The law also requires urgent care centers to publish a schedule of charges for the medical services offered to patients.¹⁴ This applies to any entity that holds itself out to the general public, in any manner, as a facility or clinic where immediate, but not emergent, care is provided, expressly including offsite facilities of hospitals or hospital-physician joint ventures, and licensed health care clinics that operate in three or more locations. The schedule requirements for urgent care centers are the same as those established for primary care providers.¹⁵ The schedule must describe each medical service in language comprehensible to a layperson. This provision prevents a center from using medical or billing codes, Latin phrases, or technical medical jargon as the only description of each medical service. An urgent care center that fails to publish and post the schedule of charges is subject to a fine of not more than \$1,000 per day, until the schedule is published and posted.¹⁶

Florida Price Transparency: Health Care Facilities

Under s. 395.301, F.S., a health care facility¹⁷ must provide, within seven days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The estimate may represent the average charges for that diagnosis related group¹⁸ or the average charges for that procedure. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the estimate as required may be fined \$500 for each instance of the facility's failure to provide the requested information.

⁸ Section 381.0261, F.S.

⁹ Section 381.026(2)(d), F.S., defines primary care providers to include allopathic physicians, osteopathic physicians, and nurses who provide medical services that are commonly provided without referral from another health care provider, including family and general practice, general pediatrics, and general internal medicine.

¹⁰ Section 381.026(4)(c)3., F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 381.026(4)(c)4., F.S.

¹⁴ Section 395.107(1), F.S.

¹⁵ Section 395.107(2), F.S.

¹⁶ Section 395.107(6), F.S.

¹⁷ The term "health care facilities" refers to hospitals and ambulatory surgical centers, which are licensed under part I of Chapter 395, F.S.

¹⁸ Diagnosis related groups (DRGs) are a patient classification scheme which provides a means of relating the type of patients a hospital treats (i.e., its case mix) to the costs incurred by the hospital. DRGs allow facilities to categorize patients based on severity of illness, prognosis, treatment difficulty, need for intervention and resource intensity.

Also, pursuant to s. 395.301, F.S., a licensed facility must notify each patient during admission and at discharge of his or her right to receive an itemized bill upon request. If requested, within seven days of discharge or release, the licensed facility must provide an itemized statement, in language comprehensible to an ordinary layperson, detailing the specific nature of charges or expenses incurred by the patient. This initial bill must contain a statement of specific services received and expenses incurred for the items of service, enumerating in detail the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged by the licensed facility. The patient or patient's representative may elect to receive this level of detail in subsequent billings for services.

Current law also directs these health care facilities to publish information on their websites detailing the cost of specific health care services and procedures, as well as information on financial assistance that may be available to prospective patients. The facility must disclose to the consumer that these averages and ranges of payments are estimates, and that actual charges will be based on the services actually provided.¹⁹ Under s. 408.05, F.S., the AHCA contracts with a vendor to collect and publish this cost information to consumers on an internet site.²⁰ Hospitals and other facilities post a link to this site – known as Florida Health Finder – to comply with the price transparency requirements. The cost information is searchable, based on descriptive bundles of commonly performed procedures and services. The information must, at a minimum, provide the estimated average payment received and the estimated range of payment from all non-governmental payers for the bundles available at the facility.²¹

The law also establishes the right of a patient to request a personalized estimate on the costs of care from health care practitioners who provide services in a licensed hospital facility or ambulatory surgical center.²²

Federal Price Transparency Laws and Regulations

Congress and federal regulatory agencies recently took steps to improve the quantity and quality of health care cost information available to patients.

Hospital Facility Transparency

On November 15, 2019, the federal Centers for Medicare & Medicaid Services (CMS) finalized regulations²³ changing payment policies and rates for services furnished to Medicare beneficiaries in hospital outpatient departments. In doing so, the federal CMS also established new requirements for hospitals to publish standard charges for a wide range of health care services offered by such facilities. Specifically, the regulations require hospitals to make public both a machine-readable file of standard charges and a consumer-friendly presentation of prices

¹⁹ Section 395.301, F.S.

²⁰ Section 408.05(3)(c), F.S.

²¹ *Id.*

²² Section 456.0575(2), F.S.

²³ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180).

for at least 300 “shoppable” health care services. The regulations became effective on January 1, 2021.²⁴

The regulations define a “shoppable” service as one that can be scheduled in advance, effectively giving patients the opportunity to select the venue in which to receive the service. This is a more expansive designation of shoppable services than currently exists in Florida law. For each shoppable service, a hospital must disclose several pricing benchmarks to include:

- The gross charge;
- The payer-specific negotiated charge;
- A de-identified minimum negotiated charge;
- A de-identified maximum negotiated charge; and,
- The discounted cash price.

This information should provide a patient with both a reasonable estimate of the charge for a shoppable service, and also a range in which the actual charge can be expected to fall.

The penalty for facility noncompliance under the federal regulations is a maximum fine of \$300 per day.²⁵

Health Insurer Transparency

On October 29, 2020, the federal departments of Health and Human Services, Labor, and Treasury finalized regulations²⁶ imposing new transparency requirements on issuers of individual and group health insurance plans.

Estimates

Central to the new regulations is a requirement for health plans to provide an estimate of an insured's cost-sharing liability for covered items or services furnished by a particular provider. Under the final rule, health insurance plans must disclose cost-sharing estimates at the request of an enrollee and publicly release negotiated rates for in-network providers, historical out-of-network allowed amounts and billed charges, and drug pricing information. The rule's goal is to enable insured patients to estimate their out-of-pocket costs *before* receiving health care services, to encourage shopping and price competition among providers.²⁷

Each health plan will be required to establish an online shopping tool that will allow insureds to see the negotiated rate between their provider and their plan, as well as a personalized estimate of their out-of-pocket cost for 500 of the most shoppable items and services. Under the federal regulations, this requirement took effect January 1, 2023. Beginning in 2024, health plans will

²⁴ *Id.*

²⁵ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180).

²⁶ Transparency in Coverage, 85 FR 73158 (November 12, 2020)(codified at 29 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 147, and 45 CFR Part 158).

²⁷ Health Affairs Blog, *Trump Administration Finalizes Transparency Rule for Health Insurers, November 1, 2020*, available at <https://www.healthaffairs.org/doi/10.1377/hblog20201101.662872/full/> (last visited Mar. 31, 2023).

need to provide personalized cost-sharing information to patients across the full range of covered health care services.²⁸

Medical Loss Ratio

The regulations also clarify the treatment of shared savings expenses under medical loss ratio (MLR) calculations required by the Patient Protection and Affordable Care Act (ACA). MLR refers to the percentage of insurance premium payments that are actually spent on medical claims by an insurer. In general, MLR requirements are intended to promote efficiency among insurers.²⁹ The ACA established minimum MLR requirements for group and individual health insurance plans.³⁰ Under the ACA, large-group plans must dedicate at least 85 percent of premium payments to medical claims, while small-group and individual market plans must dedicate at least 80 percent of premium payments to medical claims.³¹ Further, the law requires a health plan that does not meet these standards to provide annual rebates to individuals enrolled in the plan.³²

The regulations finalized in October 2020 specify that expenses by a health plan in direct support of a shared savings program shall be counted as medical expenditures.³³ Thus, a health plan providing shared savings to members will receive an equivalent credit towards meeting the MLR standards established by the ACA. In theory, this policy should provide an additional incentive for insurers to adopt shared savings programs if they have not already done so.

The Federal “No Surprises” Act

On December 27, 2020, Congress enacted the No Surprises Act as part of the Consolidated Appropriations Act of 2021.³⁴ The No Surprises Act includes a wide-range of provisions aimed at protecting patients from surprise billing practices and ensuring that patients have access to accurate information about the costs of care. Most sections of the Act go into effect on January 1, 2022, and the federal departments of Health and Human Services, Treasury, and Labor are tasked with issuing regulations and guidance to implement a number of the provisions.³⁵

Estimates – Facilities

In the spirit of price transparency, the No Surprises Act establishes the concept of an “advanced explanation of benefits” (AEOB) that combines information on charges provided by a hospital

²⁸ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180).

²⁹ Henry J Kaiser Family Foundation, “*Explaining Health Care Reform: Medical Loss Ratio (MLR)*”, February 29, 2012, available at <https://www.kff.org/health-reform/fact-sheet/explaining-health-care-reform-medical-loss-ratio-mlr/> (last visited Mar. 31, 2023).

³⁰ Patient Protection and Affordable Care Act, s. 1001; 42 U.S.C. 300gg-18.

³¹ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180).

³² *Id.*

³³ 45 CFR Part 158.

³⁴ Public Law 116-260. The No Surprises Act is found in Division BB of the Act.

³⁵ *Id.*

facility with patient-specific cost information supplied by a health insurance plan. The process is triggered when a patient schedules a service at a hospital facility or requests cost information on a specific set of services. A hospital facility must share a “good faith estimate” of the total expected charges for scheduled items or services, including any expected ancillary services, with a health plan (if the patient is insured) or individual (if the patient is uninsured).³⁶

Estimates – Health Plans

Under the No Surprises Act, once the “good faith estimate” has been shared with a patient’s health plan, the plan must then develop the AEOB. This personalized cost estimate must include the following:

- An indication of whether the facility participates in the patient’s health plan network. If the facility is non-participating, information on how the patient can receive services from a participating provider;
- The good-faith estimate prepared by the hospital facility based on billing/diagnostic codes;
- A good-faith estimate of the amount to be covered by the health plan;
- A good-faith estimate of the amount of the patient’s out-of-pocket costs;
- A good-faith estimate of the accrued amounts already met by the patient towards any deductible or out-of-pocket maximum under the patient’s health plan;
- A disclaimer indicating whether the services scheduled are subject to medical management techniques (e.g., medical necessity determinations, prior authorization, step therapy, etc.); and,
- A disclaimer that the information provided is only an estimate of costs and may be subject to change.³⁷

Furthermore, the Act directs the Secretary of Health and Human Services to establish, by January 1, 2022, a “patient-provider dispute resolution process” to resolve any disputes concerning bills received by uninsured individuals that substantially differ from a provider’s good faith estimate provided prior to the service being rendered.³⁸

The new requirements placed on hospitals and health plans by the No Surprises Act are cumulatively intended to provide patients with increased certainty about the total and out-of-pocket costs associated with health care services. In turn, patients may be more equipped to seek out cost-effective care and avoid unforeseen costs that can lead to financial strain.

Many hospitals do not comply with the federal transparency requirement. A 2021 review of more than 3,500 hospitals found that 55 percent of hospitals were not compliant with the rule and had not posted price information for commercial plans or had not posted any prices at all.³⁹ Nearly 84 percent of hospitals failed to post machine-readable files containing standard charges, and roughly 78 percent of hospitals did not provide a consumer-friendly shoppable services display.⁴⁰

³⁶ Public Law 116-260, Division BB, Section 112.

³⁷ Public Law 116-260, Division BB, Section 111.

³⁸ Patient Protection and Affordable Care Act, s. 1001; 42 U.S.C. 300gg-18.

³⁹ John Xuefeng Jiang, et al., *Factors associated with compliance to the hospital price transparency final rule: A national landscape study*, Journal of General Internal Medicine (2021), available at <https://link.springer.com/article/10.1007/s11606-021-07237-y> (last visited Mar. 31, 2023).

⁴⁰ *Id.*

Another review of more than 6,400 hospitals in 2022 indicated widespread non-compliance with the federal transparency rule in that more than 63 percent of hospitals were estimated to be non-compliant.⁴¹ According to that review, only 38 percent of Florida hospitals were in compliance.⁴²

Medical Debt

Medical costs can result in overwhelming debts to patients, and in some cases, bankruptcy. Nationwide, over 100 million people have some form of medical debt.⁴³ A 2007 study suggested that illness and medical bills contributed to 62.1 percent of all personal bankruptcies filed in the U.S. during that year.⁴⁴ A more recent analysis, which considered only the impact of hospital charges, found that four percent of U.S. bankruptcies among non-elderly adults resulted from hospitalizations.⁴⁵ Four in ten U.S. adults have some form of health care debt.⁴⁶ About half of adults – including three in ten who do not currently have health care debt – are vulnerable to falling in the debt, saying they would be unable to pay a \$500 unexpected medical bill without borrowing money.⁴⁷ While about a third of adults with health care debt owe less than \$1,000, even small amounts of debt can have significant financial consequences for some.⁴⁸ Though a third of those with current debt expect to pay it off within a year and about a quarter expect to pay it within one to two years, nearly one in five adults with health care debt think they will never be able to pay it off.⁴⁹

Medical Debt Collection Process

Current law provides a court process for the collection of lawful debts, including medical debts. A creditor may sue a debtor and, if the creditor prevails, the creditor may receive a final judgment awarding monetary damages. If the debtor does not voluntarily pay the judgment, the creditor has several legal means to collect on the debt, including:

- Wage garnishment.
- Garnishment of money in a bank account.
- Directing the sheriff to seize assets, sell them, and give the proceeds to the creditor.

⁴¹ Foundation for Government Accountability, *How America's Hospitals Are Hiding the Cost of Health Care*, pg. 3, August 2022, available at <https://www.TheFGA.org/paper/americas-hospitals-are-hiding-the-cost-of-health-care> (last visited Mar. 31, 2023). Only two hospitals to date have been fined for noncompliance with the transparency rule, both of which are in Georgia's Northside Hospital System.

⁴² *Id.*, pg. 4.

⁴³ Kaiser Health News, *Diagnosis: Debt – 100 Million People in America Are Saddled with Health Care Debt*, June 16, 2022, available at <https://khn.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/> (last visited Mar. 31, 2023).

⁴⁴ David U. Himmelstein, et al. "Medical Bankruptcy in the United States, 2007: Results of a National Study." *American Journal of Medicine* 2009; 122: 741-6, available at [https://www.amjmed.com/article/S0002-9343\(09\)00404-5/abstract](https://www.amjmed.com/article/S0002-9343(09)00404-5/abstract) (last visited Mar. 31, 2023)

⁴⁵ Carlos Dobkin, et al. "Myth and Measurement: The Case of Medical Bankruptcies." *New England Journal of Medicine* 2018; 378:1076-1078, available at <https://www.nejm.org/doi/full/10.1056/NEJMp1716604> (last visited Apr. 2, 2023).

⁴⁶ Lopes, L., Kearney, A., et al, *Health Care Debt in the U.S.: The Broad Consequences of Medical and Dental Bills*, June 16, 2022 (using results from the Kaiser Family Foundation Health Care Debt Survey), available at <https://www.kff.org/health-costs/report/kff-health-care-debt-survey/> (last visited March 31, 2023).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

In order to protect debtors from being destitute, current law provides that certain property is exempt from being taken by a creditor. The Florida Constitution provides that the debtor's homestead and \$1,000 of personal property is exempt.⁵⁰ Statutory law provides numerous categories of exempt property, and federal statutory law also provides certain exemptions that apply in all of the states.⁵¹

In addition to the protection from creditors contained in the Florida Constitution, chapter 222, F.S., protects other personal property from certain claims of creditors and legal process: garnishment of wages for a head of family;⁵² proceeds from life insurance policies;⁵³ wages or unemployment compensation payments due certain deceased employees;⁵⁴ disability income benefits;⁵⁵ assets in qualified tuition programs; medical savings accounts; Coverdell education savings accounts; hurricane savings accounts;⁵⁶ \$1,000 interest in a motor vehicle; professionally prescribed health aids; certain refunds or credits from financial institutions; and \$4,000 interest in personal property, if the debtor does not claim or receive the benefits of a homestead exemption under the State Constitution.⁵⁷

Bankruptcy is a means by which a person's assets are liquidated in order to pay that person's debts under court supervision. The U.S. Constitution gives Congress the right to uniformly govern bankruptcy law.⁵⁸ Bankruptcy courts are operated by the federal government. A debtor (the bankrupt person) is not required to give up all of his or her assets in bankruptcy. Certain property is deemed "exempt" from the bankruptcy case and may be kept by the debtor without being subject to creditor claims. The Bankruptcy Code provides for exempt property in a bankruptcy case.⁵⁹ In general, a debtor may choose to utilize the exempt property listing in state law or the exempt property of the Bankruptcy Code. However, federal law allows a state to opt-out of the federal law and thereby insist that debtors only utilize state law exemptions.⁶⁰ Florida, like most states, has made the opt-out election to prohibit the use of the federal exemptions and require that debtors may only use state law exemptions.⁶¹

III. Effect of Proposed Changes:

Medical Debt Protections

The bill amends and creates several sections of law in order to establish new protections for consumers who carry medical debt owed to a hospital or ambulatory surgical center (ASC).

⁵⁰ Art. X, s. 4(a), Fla. Const.

⁵¹ For example, the federal Employee Retirement Income Security Act of 1974 (ERISA) provides that most retirement plans are exempt from creditor claims.

⁵² Section 222.11, F.S.

⁵³ Section 222.13, F.S.

⁵⁴ Section 222.15, F.S.

⁵⁵ Section 222.18, F.S.

⁵⁶ Section 222.22, F.S.

⁵⁷ Section 222.25, F.S.

⁵⁸ Art. 1, s. 8, cl. 4, U.S. Const.

⁵⁹ 11 U.S.C. s. 522.

⁶⁰ 11 U.S.C. s. 522(b).

⁶¹ Section 222.20, F.S.

The bill creates s. 222.26, F.S., in order to shield a debtor's interest, up to \$10,000, in a single motor vehicle and, if the debtor does not claim or receive the benefits of a homestead exemption,⁶² up to \$10,000 of personal property. Under the bill, this property is exempt from attachment, garnishment, or other legal process in an action on such debt.

The bill also amends s. 95.11, F.S., to establish that a legal action to collect such medical debt must commence within three years starting at the time the facility refers the debt to a third party for collection.

The bill creates s. 395.3011, F.S., to prohibit certain billing and collection activities related to such medical debt. The bill defines the term "extraordinary collection action" to mean any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the facility's financial assistance policy:

- Selling the individual's debt to another party.
- Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.
- Deferring, denying, or requiring a payment before providing medically necessary care because of the individual's nonpayment of one or more bills for previously provided care covered under the facility's financial assistance policy.
- Actions that require a legal or judicial process, including, but not limited to:
 - Placing a lien on the individual's property;
 - Foreclosing on the individual's real property;
 - Attaching or seizing the individual's bank account or any other personal property;
 - Commencing a civil action against the individual;
 - Causing the individual's arrest; or
 - Garnishing the individual's wages.

The bill prohibits a hospital or ASC from engaging in an extraordinary collection action:

- Before the facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care provided and, if eligible, before a decision is made by the facility on the patient's application for such financial assistance;
- Before the facility has provided the individual with an itemized statement or bill;
- During an ongoing grievance process as described in s. 395.301(6), F.S., or an ongoing appeal of a claim adjudication;
- Before billing any applicable insurer and allowing the insurer to adjudicate a claim;
- For 30 days after notifying the patient in writing, by certified mail, or by other traceable delivery method, that a collection action will commence absent additional action by the patient; or
- While the individual:
 - Negotiates in good faith the final amount of a bill for services rendered; or
 - Complies with all terms of a payment plan with the facility.

⁶² Under s. 4, Art. X of the State Constitution

The bill amends s. 395.301, F.S., to require each hospital and ASC to establish an internal process for reviewing and responding to grievances from patients. The process must allow a patient to dispute charges that appear on the patient's itemized statement or bill and the facility must prominently post on its website and print on each itemized statement or bill, in bold print, the instructions for initiating, and the direct contact information required to initiate, a grievance. The facility must respond to a patient's grievance within seven business days after the patient formally files the grievance.

Price Transparency Provisions

The bill amends s. 395.301, F.S., to require a hospital or an ASC to post on its website a consumer-friendly list of standard charges for at least 300 shoppable health care services. If the facility posts less than 300 services, it must include each service it provides. The bill defines:

- “Shoppable health care service” to mean a service that can be scheduled by a health care consumer in advance. The term includes, but is not limited to, the services described in s. 627.6387(2)(e), F.S.,⁶³ and any services defined in regulations or guidance issued by the U.S. Department of Health and Human Services.
- “Standard charge” to mean the same as that term is defined in regulations or guidance issued by the U.S. Department of Health and Human Services for purposes of hospital price transparency.

The bill also amends provisions requiring a hospital or ASC to provide a good faith estimate for nonemergency medical services to a patient. The bill requires this estimate to be provided to the patient or prospective patient upon scheduling the medical service, rather than within seven days of receiving the request for the service as under current law, and also requires the facility to provide the estimate to the patient's health insurer⁶⁴ and to the patient at least three business days before the service but no more than one business day after the service is scheduled, or three business days after the service is scheduled if the service is scheduled at least ten days in advance.

The bill removes current-law provisions that require the facility to take action to educate the public that such estimates are available upon request and that specify that the estimate does not preclude the actual charges from exceeding the estimate.

The bill creates s. 627.445, F.S., to require a health insurer to prepare an “advance explanation of benefits” (AEB) after receiving an estimate from a hospital or ASC. The bill defines “health insurer” as a health insurer issuing individual or group coverage or a health maintenance organization issuing coverage through an individual or a group contract. The AEB must be provided to the patient no later than one business day after the insurer receives the estimate or no later than three business days for services scheduled at least ten business days in advance. At a

⁶³ These services include clinical laboratory services, infusion therapy, inpatient and outpatient surgical procedures, obstetrical and gynecological services, inpatient and outpatient nonsurgical diagnostic tests and procedures, physical and occupational therapy services, radiology and imaging services, prescription drugs, services provided through telehealth, and any additional services published by the Agency for Health Care Administration that have the most significant price variation pursuant to s. 408.05(3)(m).

⁶⁴ As defined in s. 627.445(1), F.S.

minimum, the AEB must include detailed coverage and cost-sharing information pursuant to the federal No Surprises Act.

Shared Savings Incentive Programs

The bill amends ss. 627.6387, 627.6648, and 641.31076, F.S. to specify that a health insurer or health maintenance organization must count a shared saving incentive program as a medical expense for rate development and rate filing purposes. This change removes a barrier to such programs and aligns Florida law with federal law.⁶⁵

Conforming Changes

The bill makes several conforming cross-reference changes.

Effective Date

The bill provides an effective date of July 1, 2023.

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:

Article II, Section 3, of the Florida Constitution has been interpreted by Florida courts to prohibit the Legislature from delegating its legislative power to others.⁶⁶ Under this non-delegation principle, Florida courts have held that the Legislature may enact laws that adopt federal statutes or other federal regulations in existence and in effect at the time the Legislature acts; however, if the Legislature incorporates into a Florida statute a *future*

⁶⁵ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180)..

⁶⁶ *Abbott Laboratories v. Mylan Pharmaceuticals, Inc.*, 15 So.3d 642 (Fla. 1d DCA 2009), citing *Gallagher v. Motors Ins. Corp.*, 605 So.2d 62, 71 (Fla. 1992).

federal act or regulation, courts have held that such incorporation constitutes an unconstitutional delegation of legislative power.⁶⁷

However, when a statute incorporates a federal law or regulation by reference, in order to avoid holding the subject statute unconstitutional, Florida courts generally interpret the statute as incorporating only the federal law or regulation in effect on the date of the Legislature's action to enact the Florida law, reasoning that the Legislature is presumed to have intended to enact a valid and constitutional law.⁶⁸

Lines 106-115 of the bill define the terms “shoppable health care service” and “standard charge” with reference to how those terms are defined in “regulations or guidance issued by the United States Department of Health and Human Services.” Considering that the bill does not specify that it is referring to such definitions as they exist at a specific date prior to the enactment of the bill, these references may be considered an unauthorized delegation of legislative powers if interpreted to make reference to future revisions of those definitions in federal law and may be interpreted to maintain the meaning of how those federal definitions stand on the date the bill becomes effective instead of incorporating such future revisions.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 268 may have an indeterminate positive fiscal impact on consumers of health care services at hospitals and ambulatory surgical centers (ASCs) through providing additional price transparency prior to the consumer obtaining a health care service and through protecting the consumer against certain debt collection practices for medical debt.

The bill may have an indeterminate negative fiscal impact on hospitals, ASCs, and health insurers related to meeting the new requirements in the bill and on hospitals and ASCs that may not be able to collect on medical debt that they may have collected prior to the passage of the bill.

C. Government Sector Impact:

The Office of the State Courts Administrator reports that the State Courts System receives \$195 in filing fees for each civil proceeding, and those funds are deposited into the State Courts Revenue Trust Fund (SCRTF). To the extent that the number of such proceedings will be reduced by the bill's prohibition against hospitals and ASCs pursuing “extraordinary collection activities,” combined with the bill's other limitations related to

⁶⁷ *State v. Rodriquez*, 365 So.2d 157, 160 (Fla.1978).

⁶⁸ *Id.*

the collection of medical debt, the bill will negatively impact deposits into the SCRTF. The extent of this impact is indeterminate.⁶⁹

The Agency for Health Care Administration (AHCA) has not provided an estimate of the costs it will incur under the bill's numerous measures that increase the regulation of hospitals and ASCs, both of which are licensed and regulated by the AHCA. By requiring new regulatory and disciplinary actions by the AHCA to enforce the bill's new requirements, the bill may pose an indeterminate negative fiscal impact on the AHCA. The extent of this impact is unknown without an estimate from the AHCA.

VI. Technical Deficiencies:

Lines 121-122 of the bill require a hospital or ambulatory surgical center (ASC) to provide the good faith estimate to a patient “upon scheduling a medical service.” However, lines 126-132 require the facility to provide the estimate to the patient “no later than one business day after the service is scheduled” (or three business days in certain scenarios). As such, it is unclear when a facility is required to provide the estimate to the patient or whether the facility must provide the estimate to the patient twice.

VII. Related Issues:

Line 128 requires the good faith estimate to be provided by the hospital or ambulatory surgical center (ASC) to the health insurer and to the patient “at least 3 business days before a service is to be furnished.” It may be impossible for a facility to meet this deadline if a service is to be furnished less than three days after it is scheduled and may preclude services from being furnished less than three days after they are scheduled.

The federal No Surprises Act requires the issuance of an “advanced” explanation of benefits. Meanwhile, SB 268 requires the issuance of an “advance” explanation of benefits.

Many of the bill's new requirements placed on hospitals, ASCs, and insurers are already required under federal law. For example, the federal Centers for Medicare & Medicaid Services (CMS) reports that, “CMS expects hospitals to comply with these legal requirements and is actively enforcing these rules to ensure people know what a hospital charges for items and services. The public is invited to submit a complaint to CMS if it appears that a hospital has not posted information online.”⁷⁰ It is unclear how much duplicative effort and confusion would be created by dual enforcement of these laws under the enactment of SB 268.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 95.11, 395.301, 627.6387, 627.6648, 641.31076, 475.01, 475.611, 517.191, and 768.28.

⁶⁹ Office of the State Courts Administrator, *2023 Judicial Impact Statement: HB 1413*, Mar. 22, 2023 (on file with the Senate Committee on Health Policy).

⁷⁰ Centers for Medicare & Medicaid Services, *Hospital Price Transparency Frequently Asked Questions (FAQs)*, pg. 21, available at: <https://www.cms.gov/files/document/hospital-price-transparency-frequently-asked-questions.pdf> (last visited Apr. 2, 2023).

This bill creates the following sections of the Florida Statutes: 222.26, 395.3011, and 627.445.

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 Brodeur

10-00729-23

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1 A bill to be entitled
 2 An act relating to health care expenses; amending s.
 3 95.11, F.S.; establishing a 3-year statute of
 4 limitations for an action to collect medical debt for
 5 services rendered by a health care provider or
 6 facility; creating s. 222.26, F.S.; providing
 7 additional personal property exemptions from legal
 8 process for medical debts resulting from services
 9 provided in certain licensed facilities; amending s.
 10 395.301, F.S.; requiring a licensed facility to post
 11 on its website a consumer-friendly list of standard
 12 charges for a minimum number of shoppable health care
 13 services; defining the terms "shoppable health care
 14 service" and "standard charge"; requiring a licensed
 15 facility to provide an estimate to a patient or
 16 prospective patient and the patient's health insurer
 17 within specified timeframes; requiring a licensed
 18 facility to establish an internal grievance process
 19 for patients to dispute charges; requiring a facility
 20 to make available information necessary for initiating
 21 a grievance; requiring a facility to respond to a
 22 patient grievance within a specified timeframe;
 23 creating s. 395.3011, F.S.; defining the term
 24 "extraordinary collection action"; prohibiting certain
 25 collection activities by a licensed facility; creating
 26 s. 627.445, F.S.; defining the term "health insurer";
 27 requiring each health insurer to provide an insured
 28 with an advance explanation of benefits after
 29 receiving a patient estimate from a facility for

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30 scheduled services; providing requirements for the
 31 advance explanation of benefits; amending ss.
 32 627.6387, 627.6648, and 641.31076, F.S.; providing
 33 that a shared savings incentive offered by a health
 34 insurer or health maintenance organization constitutes
 35 a medical expense for rate development and rate filing
 36 purposes; amending ss. 475.01, 475.611, 517.191, and
 37 768.28, F.S.; conforming cross-references; providing
 38 an effective date.
 39

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

41
 42 Section 1. Present subsections (4) through (11) of section
 43 95.11, Florida Statutes, are redesignated as subsections (5)
 44 through (12), a new subsection (4) is added to that section, and
 45 paragraph (o) of subsection (3) and paragraphs (f) and (g) of
 46 present subsection (5) of that section are amended, to read:

47 95.11 Limitations other than for the recovery of real
 48 property.—Actions other than for recovery of real property shall
 49 be commenced as follows:

50 (3) WITHIN FOUR YEARS.—

51 (o) An action for assault, battery, false arrest, malicious
 52 prosecution, malicious interference, false imprisonment, or any
 53 other intentional tort, except as provided in subsections (5),
 54 (6), and (8) ~~(4)~~, ~~(5)~~, and ~~(7)~~.

55 (4) WITHIN THREE YEARS.—An action to collect medical debt
 56 for services rendered by a facility licensed under chapter 395,
 57 provided that the period of limitations shall run from the date
 58 on which the facility refers the medical debt to a third party

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59 for collection.

60 ~~(6)-(5)~~ WITHIN ONE YEAR.—

61 (f) Except for actions described in subsection (9) ~~(8)~~, a
62 petition for extraordinary writ, other than a petition
63 challenging a criminal conviction, filed by or on behalf of a
64 prisoner as defined in s. 57.085.

65 (g) Except for actions described in subsection (9) ~~(8)~~, an
66 action brought by or on behalf of a prisoner, as defined in s.
67 57.085, relating to the conditions of the prisoner's
68 confinement.

69 Section 2. Section 222.26, Florida Statutes, is created to
70 read:

71 222.26 Additional exemptions from legal process concerning
72 medical debt.—If a debt is owed for medical services provided by
73 a facility licensed under chapter 395, the following property is
74 exempt from attachment, garnishment, or other legal process in
75 an action on such debt:

76 (1) A debtor's interest, not to exceed \$10,000 in value, in
77 a single motor vehicle as defined in s. 320.01(1).

78 (2) A debtor's interest in personal property, not to exceed
79 \$10,000 in value, if the debtor does not claim or receive the
80 benefits of a homestead exemption under s. 4, Art. X of the
81 State Constitution.

82 Section 3. Present paragraphs (b), (c), and (d) of
83 subsection (1) of section 395.301, Florida Statutes, are
84 redesignated as paragraphs (c), (d), and (e), respectively,
85 present subsection (6) of that section is redesignated as
86 subsection (7), a new paragraph (b) is added to subsection (1)
87 of that section, a new subsection (6) is added to that section,

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88 and present paragraph (b) of subsection (1) of that section is
89 amended, to read:

90 395.301 Price transparency; itemized patient statement or
91 bill; patient admission status notification.—

92 (1) A facility licensed under this chapter shall provide
93 timely and accurate financial information and quality of service
94 measures to patients and prospective patients of the facility,
95 or to patients' survivors or legal guardians, as appropriate.
96 Such information shall be provided in accordance with this
97 section and rules adopted by the agency pursuant to this chapter
98 and s. 408.05. Licensed facilities operating exclusively as
99 state facilities are exempt from this subsection.

100 (b) Each licensed facility shall post on its website a
101 consumer-friendly list of standard charges for at least 300
102 shoppable health care services. If a facility provides fewer
103 than 300 distinct shoppable health care services, it must make
104 available on its website the standard charges for each service
105 it provides. As used in this paragraph, the term:

106 1. "Shoppable health care service" means a service that can
107 be scheduled by a health care consumer in advance. The term
108 includes, but is not limited to, the services described in s.
109 627.6387(2) (e) and any services defined in regulations or
110 guidance issued by the United States Department of Health and
111 Human Services.

112 2. "Standard charge" has the same meaning as that term is
113 defined in regulations or guidance issued by the United States
114 Department of Health and Human Services for purposes of hospital
115 price transparency.

116 ~~(c)-(b)~~1. ~~Upon request, and~~ Before providing any

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117 nonemergency medical services, each licensed facility shall
 118 provide in writing or by electronic means a good faith estimate
 119 of reasonably anticipated charges by the facility for the
 120 treatment of a the patient's or prospective patient's specific
 121 condition. Such estimate must be provided to the patient or
 122 prospective patient upon scheduling a medical service. The
 123 ~~facility must provide the estimate to the patient or prospective~~
 124 ~~patient within 7 business days after the receipt of the request~~
 125 ~~and~~ is not required to adjust the estimate for any potential
 126 insurance coverage. The facility shall provide the estimate to
 127 the patient's health insurer, as defined in s. 627.445(1), and
 128 to the patient at least 3 business days before a service is to
 129 be furnished, but no later than 1 business day after the service
 130 is scheduled or, in the case of a service scheduled at least 10
 131 business days in advance, no later than 3 business days after
 132 the service is scheduled. The estimate may be based on the
 133 descriptive service bundles developed by the agency under s.
 134 408.05(3)(c) unless the patient or prospective patient requests
 135 a more personalized and specific estimate that accounts for the
 136 specific condition and characteristics of the patient or
 137 prospective patient. The facility shall inform the patient or
 138 prospective patient that he or she may contact his or her health
 139 insurer ~~or health maintenance organization~~ for additional
 140 information concerning cost-sharing responsibilities.

141 2. In the estimate, the facility shall provide to the
 142 patient or prospective patient information on the facility's
 143 financial assistance policy, including the application process,
 144 payment plans, and discounts and the facility's charity care
 145 policy and collection procedures.

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146 3. The estimate ~~must~~ shall clearly identify any facility
 147 fees and, if applicable, include a statement notifying the
 148 patient or prospective patient that a facility fee is included
 149 in the estimate, the purpose of the fee, and that the patient
 150 may pay less for the procedure or service at another facility or
 151 in another health care setting.

152 4. ~~Upon request,~~ The facility shall notify the patient or
 153 prospective patient of any revision to the estimate.

154 5. In the estimate, the facility must notify the patient or
 155 prospective patient that services may be provided in the health
 156 care facility by the facility as well as by other health care
 157 providers that may separately bill the patient, if applicable.

158 6. ~~The facility shall take action to educate the public~~
 159 ~~that such estimates are available upon request.~~

160 7. Failure to timely provide the estimate pursuant to this
 161 paragraph shall result in a daily fine of \$1,000 until the
 162 estimate is provided to the patient or prospective patient and
 163 the health insurer. The total fine per patient estimate may not
 164 exceed \$10,000.

165 ~~The provision of an estimate does not preclude the actual~~
 166 ~~charges from exceeding the estimate.~~

167 (6) Each facility shall establish an internal process for
 168 reviewing and responding to grievances from patients. Such
 169 process must allow a patient to dispute charges that appear on
 170 the patient's itemized statement or bill. The facility shall
 171 prominently post on its website and indicate in bold print on
 172 each itemized statement or bill the instructions for initiating
 173 a grievance and the direct contact information required to
 174

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initiate the grievance process. The facility must provide an initial response to a patient grievance within 7 business days after the patient formally files a grievance disputing all or a portion of an itemized statement or bill.

Section 4. Section 395.3011, Florida Statutes, is created to read:

395.3011 Billing and collection activities.-

(1) As used in this section, the term "extraordinary collection action" means any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the facility's financial assistance policy:

(a) Selling the individual's debt to another party.

(b) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(c) Deferring, denying, or requiring a payment before providing medically necessary care because of the individual's nonpayment of one or more bills for previously provided care covered under the facility's financial assistance policy.

(d) Actions that require a legal or judicial process, including, but not limited to:

1. Placing a lien on the individual's property;

2. Foreclosing on the individual's real property;

3. Attaching or seizing the individual's bank account or any other personal property;

4. Commencing a civil action against the individual;

5. Causing the individual's arrest; or

6. Garnishing the individual's wages.

(2) A facility may not engage in an extraordinary

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collection action against an individual to obtain payment for services:

(a) Before the facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care provided and, if eligible, before a decision is made by the facility on the patient's application for such financial assistance;

(b) Before the facility has provided the individual with an itemized statement or bill;

(c) During an ongoing grievance process as described in s. 395.301(6) or an ongoing appeal of a claim adjudication;

(d) Before billing any applicable insurer and allowing the insurer to adjudicate a claim;

(e) For 30 days after notifying the patient in writing, by certified mail, or by other traceable delivery method, that a collection action will commence absent additional action by the patient; or

(f) While the individual:

1. Negotiates in good faith the final amount of a bill for services rendered; or

2. Complies with all terms of a payment plan with the facility.

Section 5. Section 627.445, Florida Statutes, is created to read:

627.445 Advance explanation of benefits.-

(1) As used in this section, the term "health insurer" means a health insurer issuing individual or group coverage or a health maintenance organization issuing coverage through an individual or a group contract.

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(2) Each health insurer shall prepare an advance explanation of benefits upon receiving a patient estimate from a facility pursuant to s. 395.301(1). The health insurer must provide the advance explanation of benefits to the insured no later than 1 business day after receiving the patient estimate from the facility or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after receiving such estimate.

(3) At a minimum, the advance explanation of benefits must include detailed coverage and cost-sharing information pursuant to the No Surprises Act, Title I of Division BB, Pub. L. No. 116-260.

Section 6. Paragraph (a) of subsection (4) of section 627.6387, Florida Statutes, is amended to read:

627.6387 Shared savings incentive program.—

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 7. Paragraph (a) of subsection (4) of section 627.6648, Florida Statutes, is amended to read:

627.6648 Shared savings incentive program.—

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

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1. Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 8. Paragraph (a) of subsection (4) of section 641.31076, Florida Statutes, is amended to read:

641.31076 Shared savings incentive program.—

(4) A shared savings incentive offered by a health maintenance organization in accordance with this section:

(a) Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

Section 9. Paragraphs (a) and (j) of subsection (1) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.—

(1) As used in this part:

(a) "Broker" means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or

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printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~. Where the term "appraise" or "appraising" appears in the definition of the term "broker," it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II. The term "broker" also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker. The term "broker" also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

(j) "Sales associate" means a person who performs any act

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specified in the definition of "broker," but who performs such act under the direction, control, or management of another person. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~.

Section 10. Paragraph (h) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(h) "Appraiser" means any person who is a registered trainee real estate appraiser, a licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~.

Section 11. Subsection (7) of section 517.191, Florida Statutes, is amended to read:

517.191 Injunction to restrain violations; civil penalties; enforcement by Attorney General.—

(7) Notwithstanding s. 95.11(5)(e) ~~s. 95.11(4)(e)~~, an enforcement action brought under this section based on a violation of any provision of this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Section 12. Subsection (14) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions;

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recovery limits; civil liability for damages caused during a
riot; limitation on attorney fees; statute of limitations;
exclusions; indemnification; risk management programs.—

(14) Every claim against the state or one of its agencies
or subdivisions for damages for a negligent or wrongful act or
omission pursuant to this section shall be forever barred unless
the civil action is commenced by filing a complaint in the court
of appropriate jurisdiction within 4 years after such claim
accrues; except that an action for contribution must be
commenced within the limitations provided in s. 768.31(4), and
an action for damages arising from medical malpractice or
wrongful death must be commenced within the limitations for such
actions in s. 95.11(5) ~~s. 95.11(4)~~.

Section 13. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JASON BRODEUR

10th District

April 4, 2023

The Honorable Gayle Harrell
Chair, Appropriations on Health and Human Services
400 Senate Building
414 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Harrell,

I respectfully request that **Senate Bill 268, Health Care Expenses**, be placed on the agenda for the Appropriations on Health and Human Services Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive.

Senator Jason Brodeur – District 10

CC: Tonya Money– Staff Director
Robin Jackson – Administrative Assistant

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/12/23

Meeting Date

HHS Appropriation
Committee

268

Tab 8

Bill Number or Topic

Amendment Barcode (if applicable)

Name Daniel Stannard

Phone (850) 509-7567

Address 9895 Buck Point Rd
Street

Email dStannard@redhillssurgicalcenter.com

Tallahassee
City

FL
State

32312
Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 612

INTRODUCER: Health Policy Committee and Senator Yarborough and others

SUBJECT: Blood Clot and Pulmonary Embolism Policy Workgroup

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Fav/CS
2.	McKnight	Money	AHS	Favorable
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 612 creates the “Emily Adkins Prevention Act” to establish a blood clot and pulmonary embolism policy workgroup. The Secretary of Health Care Administration (Secretary), in conjunction with the State Surgeon General, are required to establish the policy workgroup composed of health care providers, patients who have experienced blood clots, family members of patients who have died from blood clots, advocates, and other interested parties and associations.

The workgroup is tasked with identifying specific background information pertaining to the prevalence, data collection, impacts, standards of care, and emerging treatments of blood clots and pulmonary embolisms. The workgroup is further tasked with developing a risk surveillance system for various health care providers and facilities and policy recommendations to improve patient awareness, including written materials and guidelines that affect the standard of care for patients at risk of forming blood clots.

The Secretary is directed to submit a final report detailing findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 4, 2025.

The bill has no fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2023.

II. Present Situation:

A pulmonary embolism (PE) is a sudden blockage in a pulmonary artery resulting from a blood clot that develops in a blood vessel (often in the leg) that travels through the circulatory system to a lung, creating the blockage in blood flow.¹

The heart, arteries, capillaries, and veins make up the body's circulatory system. Blood is pumped with great force from the heart into the arteries. From there blood flows into the capillaries (tiny blood vessels in the tissues). Blood returns to the heart through the veins. As it moves through the veins back to the heart, blood flow slows. Sometimes this slower blood flow may lead to clot formation.

Blood clotting is a normal process to prevent bleeding. The body makes blood clots and then breaks them down. Under certain circumstances, the body may be unable to break down a clot. When blood clots in a vein, it may be due to the slowed blood flow, an abnormality in clot forming, or from an injury to the blood vessel wall.

Blood clots can form in arteries and veins. Clots formed in veins are called venous clots. Veins of the legs can be superficial veins (close to the surface of the skin) or deep veins (located near the bone and surrounded by muscle).

Venous clots most often happen in the deep veins of the legs. This is called deep vein thrombosis (DVT). Once a clot has formed in the deep veins of the leg, there is a potential for part of the clot to break off and travel through the blood to another area of the body, often the lung. DVT is the most common cause of a pulmonary embolism.

Other less frequent sources of pulmonary embolism are a fat embolus (often linked to the breaking of a large bone), amniotic fluid embolus, air bubbles, and a deep vein thrombosis in the upper body. Clots may also form on the end of an indwelling intravenous (IV) catheter, break off, and travel to the lungs.

Risk factors²

Although anyone can develop blood clots that result in a pulmonary embolism, certain factors can increase the risk.

- History of blood clots.
- Some medical conditions and treatments create higher risk, such as:
 - **Heart disease.** Heart and blood vessel disease, specifically heart failure, makes clot formation more likely.
 - **Cancer.** Certain cancers, especially brain, ovary, pancreas, colon, stomach, lung and kidney cancers, and cancers that have spread, can increase the risk of blood clots. Chemotherapy further increases the risk.

¹ Johns Hopkins Medicine, *Pulmonary Embolism*, available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/pulmonary-embolism> (last visited Mar. 22, 2023).

² Mayo Clinic, *Pulmonary embolism*, available at <https://www.mayoclinic.org/diseases-conditions/pulmonary-embolism/symptoms-causes/syc-20354647> (last visited Mar. 22, 2023).

- **Surgery.** Surgery is one of the leading causes of problem blood clots. For this reason, medicine to prevent clots may be given before and after major surgery, such as joint replacement.
- **Disorders that affect clotting.** Some inherited disorders affect blood, making it more likely to clot. Other medical disorders such as kidney disease also can increase the risk of blood clots.
- **COVID-19.** People who have severe symptoms of COVID-19 have an increased risk of pulmonary embolism.
- Blood clots are more likely to form during longer than usual periods of inactivity, such as:
 - **Bed rest.** Being confined to bed for an extended period after surgery, a heart attack, leg fracture, trauma, or any serious illness creates higher risk of blood clots.
 - **Long trips.** Sitting in a cramped position during lengthy plane or car trips slows blood flow in the legs, which increases the risk of blood clots.

Other risk factors

- **Smoking.** For reasons that aren't well understood, tobacco use increases the risk of blood clots in some people, especially those who have other risk factors.
- **Being overweight.** Excess weight increases the risk of blood clots – particularly in people with other risk factors.
- **Supplemental estrogen.** The estrogen in birth control pills and in hormone replacement therapy can increase clotting factors in the blood, especially in those who smoke or are overweight.
- **Pregnancy.** The weight of a baby pressing on veins in the pelvis can slow blood return from the legs. Clots are more likely to form when blood slows or pools.

Symptoms

Pulmonary embolism symptoms can vary greatly, depending on how much of the lung is involved, the size of the clots, and the existence of underlying lung or heart disease.

Common symptoms include:

- **Shortness of breath.** This symptom usually appears suddenly. Trouble catching one's breath happens even when resting and gets worse with physical activity.
- **Chest pain.** Afflicted persons might feel like they are having a heart attack. The pain is often sharp and felt when taking deep breaths.
- **Fainting.** An afflicted person may pass out if his or her heart rate or blood pressure drops suddenly. This is called syncope.

Other symptoms that can occur with pulmonary embolism include:

- A cough that may include bloody or blood-streaked mucus.
- Rapid or irregular heartbeat.
- Lightheadedness or dizziness.
- Excessive sweating.
- Fever.
- Leg pain or swelling, or both, usually in the back of the lower leg.
- Clammy or discolored skin, called cyanosis.

Treatment for pulmonary embolism³

Treatment choices for pulmonary embolism (PE) include:

- **Anticoagulants.** Also described as blood thinners, these medicines decrease the ability of the blood to clot. This helps stop a clot from getting bigger and keep new clots from forming.
- **Fibrinolytic therapy.** Also called clot busters, these medicines are given intravenously (IV or into a vein) to break down the clot. These medicines are only used in life-threatening situations.
- **Vena cava filter.** A small metal device placed in the vena cava (the large blood vessel that returns blood from the body to the heart) may be used to keep clots from traveling to the lungs. These filters are generally used when a person cannot tolerate anticoagulation treatment (for medical reasons), develops more clots even with anticoagulation treatment, or has bleeding problems from anticoagulation medicines.
- **Pulmonary embolectomy.** Rarely used, this surgery is performed to remove a PE. It is generally done only in severe cases when a PE is very large, the patient cannot get anticoagulation and/or thrombolytic therapy due to other medical problems or he or she has not responded well to those treatments, or the patient's condition is unstable.
- **Percutaneous thrombectomy.** A long, thin, hollow tube (catheter) can be threaded through the blood vessel to the site of the embolism guided by X-ray. Once the catheter is in place, it is used to break up the embolism, pull it out, or dissolve it using thrombolytic medicine.

An important aspect of treating a PE is treatment to prevent formation of additional embolisms.

III. Effect of Proposed Changes:

Section 1 creates a non-statutory section of law citing the bill as the “Emily Adkins Prevention Act.”

Section 2 creates s. 408.0621, F.S., to establish the blood clot and pulmonary embolism policy workgroup. The Secretary of Health Care Administration (Secretary), in conjunction with the State Surgeon General, are required to establish the workgroup tasked with the following:

- Identifying the aggregate number of people who experience blood clots and pulmonary embolisms each year in this state.
- Identifying how data is collected regarding blood clots, pulmonary embolisms, and adverse health outcomes associated with these conditions.
- Identifying how blood clots and pulmonary embolisms impact the lives of people in this state.
- Identifying the standards of care for blood clot surveillance, detection, and treatment.
- Identifying emerging treatments, therapies, and research relating to blood clots.
- Developing a risk surveillance system to help health care providers identify patients who may be at higher risk of forming blood clots and pulmonary embolisms.
- Developing policy recommendations to help improve patient awareness of blood clot risks.

³Johns Hopkins Medicine, *Pulmonary Embolism*, available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/pulmonary-embolism> (last visited Mar. 22, 2023).

- Developing policy recommendations to help improve surveillance and detection of patients who may be at a higher risk of forming blood clots in licensed health care facilities, including, hospitals, nursing homes, assisted living facilities, residential treatment facilities, and ambulatory surgical centers.
- Developing policy recommendations relating to guidelines used that affect the standard of care for patients at risk of forming blood clots.
- Developing policy recommendations relating to providing patients and their families with written notice of increased risks of forming blood clots.

The bill requires the workgroup to be composed of health care providers, patients who have experienced blood clots, family members of patients who have died from blood clots, advocates, and other interested parties and associations.

The bill requires the President of the Senate and the Speaker of the House of Representative to each appoint two members to the workgroup and the State Surgeon General to appoint the chair of the workgroup. The bill authorizes the chair to create subcommittees to help with research, scheduling speakers on important subjects, and drafting a workgroup report and policy recommendations.

The bill authorizes meetings of the workgroup to be held through teleconference or other electronic means and prohibits workgroup members from being compensated.

The Secretary is required to submit a final report detailing the findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 4, 2025.

Section 3 provides an effective date of July 1, 2023.

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:

The bill has no fiscal impact on state revenues or state expenditures.⁴

VI. Technical Deficiencies:

A “workgroup” is not defined in the Florida Statutes. However, s. 20.03, F.S., includes definitions related to the required organizational structure of task forces. In part, it defines a “task force” as an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.⁵

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 408.0621 of the Florida Statutes.

This bill creates one non-statutory section of the Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Health Policy on March 27, 2023:

The CS changes the citation for the Act to the “Emily Adkins Prevention Act” and establishes the workgroup in a newly created statute. The number of appointed members on the workgroup is reduced from 17 to five. The amendment is silent on reimbursement

⁴ Agency for Health Care Administration, HB 483 Bill Analysis (January 27, 2023) (on file with Senate Appropriations Committee on Health and Human Services).

⁵ Section 20.30(8). F.S.

for per diem or travel expenses. The CS streamlines the responsibilities of the workgroup and focuses the policy recommendations on the risks of forming blood clots and early detection and prevention. The CS requires an annual report that includes detailed findings and recommendations rather than an update on the workgroup's activities, findings, and recommendations. Submission of the final report is moved up from January 31, 2025, to January 4, 2025. The CS eliminates the sunset date for the workgroup included in the underlying bill.

B. Amendments:

None.

By the Committee on Health Policy; and Senators Yarborough,
Gruters, Davis, Book, and Osgood

588-03160-23

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A bill to be entitled

An act relating to the blood clot and pulmonary embolism policy workgroup; providing a short title; creating s. 408.0621, F.S.; requiring the Secretary of Health Care Administration, in conjunction with the State Surgeon General, to establish a blood clot and pulmonary embolism policy workgroup; providing for the duties, membership, and meetings of the workgroup; requiring the secretary to submit annual reports to the Governor and the Legislature; requiring the secretary to submit a final report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. This act may be cited as the "Emily Adkins Prevention Act."

Section 2. Section 408.0621, Florida Statutes, is created to read:

408.0621 Blood clot and pulmonary embolism policy workgroup.—

(1) The Secretary of Health Care Administration, in conjunction with the State Surgeon General, shall establish a blood clot and pulmonary embolism policy workgroup.

(2) The workgroup shall:

(a) Identify the aggregate number of people who experience blood clots and pulmonary embolisms each year in this state.

(b) Identify how data is collected regarding blood clots,

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pulmonary embolisms, and adverse health outcomes associated with these conditions.

(c) Identify how blood clots and pulmonary embolisms impact the lives of people in this state.

(d) Identify the standards of care for blood clot surveillance, detection, and treatment.

(e) Identify emerging treatments, therapies, and research relating to blood clots.

(f) Develop a risk surveillance system to help health care providers identify patients who may be at a higher risk of forming blood clots and pulmonary embolisms.

(g) Develop policy recommendations to help improve patient awareness of blood clot risks.

(h) Develop policy recommendations to help improve surveillance and detection of patients who may be at a higher risk of forming blood clots in licensed health care facilities, including, hospitals, nursing homes, assisted living facilities, residential treatment facilities, and ambulatory surgical centers.

(i) Develop policy recommendations relating to guidelines used that affect the standard of care for patients at risk of forming blood clots.

(j) Develop policy recommendations relating to providing patients and their families with written notice of increased risks of forming blood clots.

(3)(a) The workgroup shall be composed of health care providers, patients who have experienced blood clots, family members of patients who have died from blood clots, advocates, and other interested parties and associations.

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59 (b) The President of the Senate and the Speaker of the
60 House of Representatives shall each appoint two members to the
61 workgroup.

62 (c) Members of the workgroup shall serve without
63 compensation.

64 (d) The State Surgeon General shall appoint the chair of
65 the workgroup.

66 (e) The chair is authorized to create subcommittees to help
67 with research, scheduling speakers on important subjects, and
68 drafting a workgroup report and policy recommendations.

69 (f) Meetings of the workgroup may be held through
70 teleconference or other electronic means.

71 (4) (a) The Secretary of Health Care Administration shall
72 submit an annual report detailing his or her findings and
73 recommendations to the Governor, the President of the Senate,
74 and the Speaker of the House of Representatives.

75 (b) The Secretary of Health Care Administration shall
76 submit a final report detailing his or her findings and
77 recommendations to the Governor, the President of the Senate,
78 and the Speaker of the House of Representatives by January 4,
79 2025.

80 Section 3. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: March 30, 2023

I respectfully request that **Senate Bill #612**, relating to Blood Clot and Pulmonary Embolism Policy Workgroup, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.



Senator Clay Yarborough
Florida Senate, District 4

APPEARANCE RECORD

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting612
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Douglas Adkins

Phone

904-583-013

Address

863 Laguna

Email

davy@clasp.org, lwaelf

Street

Fernandina Beach FL 32034

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:I am appearing without
compensation or sponsorship.I am a registered lobbyist,
representing:I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules, df flsenate.gov](https://www.flsenate.gov/2020-2022/jointrules)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-12-23

Meeting Date

612

Bill Number or Topic

Health Approps

Committee

Amendment Barcode (if applicable)

Name

Janet Adkins

Phone

904-316-2008

Address

863 Laguna Dr.

Street

Email

janethadkins@bellsouth.net

Fernandine Beach FL

City

State

32034

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules, pdf, flsenate.gov](https://www.flsenate.gov/2020-2022/JointRules.pdf)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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4/12/20

Meeting Date

612

Bill Number or Topic

HHS Approps

Committee

Amendment Barcode (if applicable)

Name ADAM POTTS

Phone 850 591-5921

Address 113 G. College Ave Ste 400

Street

Email adam@libertypartnersfl.com

Tallahassee

City

FL

State

32302

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Assisted Living Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 704

INTRODUCER: Senator Boyd

SUBJECT: Substance Abuse Prevention

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Favorable
2.	Sneed	Money	AHS	Favorable
3.			FP	

I. Summary:

SB 704 expands the authority of pharmacies, pharmacists, pharmacy technicians, and emergency responders to possess, store, dispense, and administer, as applicable, emergency opioid antagonists. The bill also expands civil and criminal immunities for those who receive, possess, store, or administer an emergency opioid antagonist.

Additionally, the bill creates the Statewide Council on Opioid Abatement (Council) within the Department of Children and Families (DCF) for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims of the opioid crisis and their families.

The bill will have an indeterminate, yet insignificant negative fiscal impact on state government. See Section V.

The bill is effective upon becoming law.

II. Present Situation:

History of the Opioid Crisis in Florida

According to the National Institute on Drug Abuse:¹

- “In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates”; and

¹ Center on Positive Behavioral Interventions and Supports, *Opioid Crisis and Substance Misuse*, available at: <https://www.pbis.org/topics/opioid-crisis-and-substance-misuse> (last visited March 17, 2023).

- “This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive.”

Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the nation. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the country.²

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.³ “In 2016, the opioid prescription rate was 75 prescriptions for every 100 persons in Florida. This rate was down from a high of 83 prescriptions for every 100 persons.”⁴

As reported at the time by the Florida Attorney General’s Opioid Working Group:

Drug overdose is now the leading cause of non-injury related deaths in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall, the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).⁵

Early in 2017, the federal Centers for Disease Control and Prevention (CDC) declared the opioid crisis an epidemic.⁶ Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146, declaring the opioid epidemic a public health emergency in Florida.⁷

House Bill 21 (2018)

In 2018, the Florida Legislature passed CS/CS/HB 21 (Chapter 2018-13, Laws of Florida) to combat the opioid crisis. CS/CS/HB 21:

² Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, The New York Times (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited March 17, 2023).

³ See Chapters 2009-198, 2010-211, and 2011-141, Laws of Fla.

⁴ Attorney General’s Opioid Working Group, *Florida’s Opioid Epidemic: Recommendations and Best Practices*, 7 (Mar. 1, 2019), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf) (last visited March 17, 2023).

⁵ *Id.*

⁶ See Exec. Order No. 17-146, available at <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited March 17, 2023).

⁷ *Id.*

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the duration of prescriptions for Schedule II opioid medications to three days or up to seven days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

Status of the Opioid Crisis after HB 21

There is evidence that the passage of HB 21 reduced opioid use in Florida. For example, one study that reviewed pharmacy prescriptions claims for a health plan serving more than 45,000 Floridians found that, on average, the number of enrollees per month that began opioid use between April of 2019 and August of 2019 dropped from 5.5 per 1,000 patients to 4.6 per 1,000 patients.⁸

However, with the onset of the COVID-19 pandemic, the incidence of opioid use disorder and resulting overdose deaths has once again risen. A report from Project Opioid details provisional data from the Department of Health (DOH) showing that deaths from drug overdoses have increased by 43 percent between 2019 and 2020, from 56 deaths per 100,000 in 2019 to 94 deaths per 100,000 in 2020. Additionally, fentanyl, an extremely potent opioid drug, is the leading cause of overdose deaths in Florida, and the incidence of fentanyl overdose deaths increased by 38 percent, from 2,348 in 2019 to 3,244 in 2020.⁹ From the start of 2020 through the end of 2021, non-fatal opioid related emergency room visits and hospitalizations have increased from 4,992 to 5,913 and 1,940 to 2,130, respectively.¹⁰ Fatal opioid related overdoses during that time period have also trended upward with 6,089 occurring in 2020 and 6,442 occurring in 2021.¹¹

Multistate Opioid Lawsuit and Settlement

In 2018, Attorney General Pam Bondi filed suit against multiple opioid manufacturers and distributors. The suit was later expanded to include the pharmacies CVS and Walgreens.¹² The complaint alleged that the defendants caused the opioid crisis by, among other things:

- Engaging in a campaign of misrepresentations and omissions about opioid use designed to increase opioid prescriptions and opioid use, despite the risks.

⁸ Juan M. Hincapie-Castillo, et al., Changes in Opioid Use After Florida's Restriction Law for Acute Pain Prescriptions, JAMA Netw Open. 2020 Feb; 3(2): e200234, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7049083/>, (last visited March 17, 2023).

⁹ Project Opioid, A Pandemic Fueling an Epidemic in Florida in 2020, available at https://projectopioid.org/wp-content/uploads/2020/12/PO-2020-Data-Study-Final_New-Section.pdf (last visited March 17, 2023).

¹⁰ Q1 of 2020 compared to Q4 of 2021, Florida Health Charts, Substance Abuse Dashboard, available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=SubstanceUse.Overdose>, (last visited March 17, 2023)

¹¹ *Id.*

¹² See *Florida Sues Walgreens, CVS for Alleged Role in Opioid Crisis*, (November 19, 2018) available at <https://www.npr.org/2018/11/19/669146432/florida-sues-walgreens-cvs-for-alleged-role-in-opioid-crisis> (last visited on March 17, 2023).

- Funding ostensibly neutral and independent “front” organizations to publish information touting the benefits of opioids for chronic pain while omitting the information about the risks of opioid treatment.
- Paying ostensibly neutral medical experts called “key opinion leaders” who were really manufacturer mouthpieces to publish articles promoting the use of opioids to treat pain while omitting information regarding the risks.¹³

In 2021, McKesson, Cardinal Health, and AmerisourceBergen, the nation’s three largest pharmaceutical distributors, as well as manufacturer Janssen Pharmaceuticals, Inc., agreed to a national settlement in which the distributors agreed to pay \$21 billion over 18 years and Janssen agreed to pay \$5 billion over nine years.¹⁴ Of the \$26 billion available, approximately \$22.7 billion is earmarked for use by states that participated in the lawsuit, including Florida.¹⁵ In addition, Florida has negotiated individual settlements with multiple other companies including:

- A \$65 million settlement with Endo Health Solutions;
- A \$440 million settlement with CVS Pharmacy, Inc.;
- A \$177,114,999 settlement with Teva Pharmaceuticals Industries, Ltd.;
- A \$122 million settlement with Allergan Finance, LLC.;
- A \$620 million settlement with Walgreens Boots Alliance, Inc. and Walgreens Co.; and
- A \$215 million settlement with Walmart.¹⁶

These settlements will pay out over a period of time ranging from 10 years to 18 years. The monies from the settlements in general must be used on opioid abatement, including prevention efforts, treatment or recovery services,¹⁷ and to pay fees and costs incurred by the state, cities, and counties. Additionally, Teva Pharmaceuticals has agreed to provide the state with \$84 million worth of Naloxone Hydrochloride, which is an opioid overdose reversal medication.¹⁸

Opioid Antagonists

Opioid receptor antagonists block one or more of the opioid receptors in the central or peripheral nervous system. The two most commonly used, centrally-acting opioid receptor antagonists are naloxone and naltrexone. Naloxone comes in intravenous, intramuscular, and intranasal formulations and is FDA-approved for the use in an opioid overdose and the reversal of respiratory depression associated with opioid use. Naltrexone is available in both oral and long-acting injectable formulations and is FDA-approved for the treatment of opioid and/or alcohol maintenance treatment. The most commonly used peripheral opioid receptor antagonist is

¹³ See [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/\\$file/Complaint+summary.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/$file/Complaint+summary.pdf), (last visited on March 17, 2023).

¹⁴ Executive Summary of National Opioid Settlements, Feb. 3, 2023, available at <https://nationalopioidsettlement.com/executive-summary/#:~:text=In%20all%2C%20the%20Distributors%20will,additional%20manufacturers%E2%80%94Allergan%20and%20Teva.,> (last visited March 17, 2023).

¹⁵ Opioid Settlements: Who’s in?, Florida DLA, available at <https://myfloridalegal.com/opioidsettlement>, (last visited March 17, 2023).

¹⁶ *Id.*

¹⁷ *Id.* A portion of these funds will go to the state while another portion will go directly to the cities and counties.

¹⁸ *Id.*

methylnaltrexone, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.¹⁹

Emergency Administration of Opioid Antagonists

Section 381.887, F.S., provides that the purpose of the section is to provide for the prescribing, ordering, and dispensing of emergency opioid antagonists (EOAs) to patients and caregivers and to encourage the prescribing, ordering, and dispensing of EOAs by authorized health care practitioners. The section states that:

- An authorized health care practitioner may prescribe and dispense an EOA to, and a pharmacist may order an EOA with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.
- A pharmacist may dispense an EOA pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an EOA with an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist's order or pursuant to a non-patient specific standing order.
- A patient or caregiver is authorized to store and possess approved EOAs and, in an emergency situation when a physician is not immediately available, administer the EOA to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an EOA.

The section also authorizes emergency responders, crime laboratory personnel, and personnel of a law enforcement agency or another agency who, if they are likely to come in contact with a controlled substance or persons at risk of an overdose, to possess, store, and administer EOAs as clinically indicated and provides immunity for such persons as a result of administering an EOA.

Additionally, the section provides immunity to:

- A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, or a pharmacist, who possesses, administers, prescribes, dispenses, or stores an approved EOA in compliance with this section and s. 768.13, F.S.²⁰
- An authorized health care practitioner, acting in good faith and exercising reasonable care, for prescribing an EOA in accordance with this section.
- A dispensing health care practitioner or pharmacist, acting in good faith and exercising reasonable care, for dispensing an EOA in accordance with this section.

The Good Samaritan Act

Section 768.13, F.S., establishes the Good Samaritan Act. The Act provides civil immunity to any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a declared public health emergency, a declared state of emergency, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical

¹⁹ *Opioid Antagonists*, Theriot, Jonathan, et. al., (last updated July 23, 2021), available at <https://www.ncbi.nlm.nih.gov/books/NBK537079/#:~:text=3%5D%5B4%5D-,The%20two%20most%20commonly%20used%20centrally%20acting%20opioid%20receptor%20antagonists,depression%20associated%20with%20opioid%20use>. (last visited March 17, 2023).

²⁰ 768.12, F.S., is the Good Samaritan Act. Section 381.887, F.S., specifies that this immunity is the immunity afforded under the Good Samaritan Act.

equipment, without objection of the injured victim or victims thereof, for any damages resulting from the treatment or as a result of any act or failure to act in providing or arranging treatment where the person acts as an ordinary reasonably prudent person would.

The Good Samaritan Act also provides certain immunities to health care providers and health care practitioners providing emergency care in specified situations, to any person participating in emergency response activities under specified circumstances, and any person who renders emergency care or treatment to an injured animal in specified circumstances.

Statewide Drug Policy Advisory Council

Established by s. 397.333, F.S., the Statewide Drug Policy Advisory Council (DPAC) is a council located within the Department of Health and made up of the following members:

- The Attorney General, or his or her designee.
- The executive director of the DLA, or his or her designee.
- The Secretary of DCF, or his or her designee.
- The director of the Office of Planning and Budgeting in the Executive Office of the Governor, or his or her designee.
- The Secretary of Corrections, or his or her designee.
- The Secretary of Juvenile Justice, or his or her designee.
- The Commissioner of Education, or his or her designee.
- The executive director of the Department of Highway Safety and Motor Vehicles, or his or her designee.
- The Adjutant General of the state as the Chief of the Department of Military Affairs, or his or her designee.
- Seven Members appointed by the Governor:
 - One member must have professional or occupational expertise in drug enforcement;
 - One member must have professional or occupational expertise in substance abuse prevention;
 - One member must have professional or occupational expertise in substance abuse treatment;
 - Two members must have professional or occupational expertise in faith-based substance abuse treatment services; and
 - The remainder of the members appointed should have professional or occupational expertise in, or be generally knowledgeable about, issues that relate to drug enforcement and substance abuse programs and services.
- One member of the Florida Senate appointed by the President of the Senate.
- One member of the Florida House of Representatives appointed by the Speaker of the House of Representatives; and
- One member of the judiciary appointed by the Chief Justice of the Supreme Court.

The DPAC is required to:

- Meet at least quarterly or upon the call of the chairperson;
- Conduct a comprehensive analysis of the problem of substance abuse in this state and make recommendations to the Governor and Legislature for developing and implementing a state drug control strategy;

- Review and make recommendations to the Governor and Legislature on funding substance abuse programs and services;
- Review various substance abuse programs and recommend, where needed, measures that are sufficient to determine program outcomes;
- Review the drug control strategies and programs of other states and the Federal Government;
- Recommend to the Governor and Legislature applied research projects that would use research capabilities within the state;
- Recommend to the Governor and Legislature changes in law which would remove barriers to or enhance the implementation of the state drug control strategy;
- Make recommendations to the Governor and the Legislature on the need for public information campaigns;
- Ensure that there is a coordinated, integrated, and multidisciplinary response to the substance abuse problem in this state;
- Assist communities and families in pooling their knowledge and experiences with respect to the problem of substance abuse;
- Examine the extent to which all state programs that involve substance abuse treatment can include a meaningful work component;
- Recommend to the Governor and the Legislature ways to expand and fund drug courts; and
- Submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year.

III. Effect of Proposed Changes:

Authorizations for Emergency Opioid Antagonists (EOAs)

The bill amends the Good Samaritan Act, in 768.13, F.S., to provide that, in response to the recognized health emergency in Florida caused by the opioid crisis, the Legislature intends to:

- Maximize the ability of law enforcement officers, emergency medical technicians, firefighters, and other emergency responders to store, possess, and administer EOAs, as defined in s. 381.887(1), F.S., to persons who are experiencing an opioid overdose, appear to be experiencing an opioid overdose, or are at risk of experiencing an opioid overdose; and
- Encourage every licensed pharmacy, pharmacist, and pharmacy technician to dispense EOAs, pursuant to a standing order issued by or at the direction of the State Surgeon General, to law enforcement officers, emergency medical technicians, firefighters, and other emergency responders identified in such standing order, without fear of litigation or costs or damages arising from such litigation.

To meet these goals, the bill provides immunity from damages, penalties, fines, or costs for any licensed pharmacy, pharmacist, or pharmacy technician who:

- Possesses or stores an EOA for the purpose of dispensing the EOA to any law enforcement officer, emergency medical technician, firefighter, or other emergency responder.
- Dispenses an EOA to any law enforcement officer, emergency medical technician, firefighter, or other emergency responder in compliance with the terms and conditions set forth in a standing order issued by or at the direction of the State Surgeon General.

The bill also amends s. 381.887, F.S., to authorize:

- Pharmacies and pharmacists to prescribe, order, and dispense EOAs to patients, caregivers, and emergency responders;
- Pharmacies and pharmacists, licensed under ch. 465, F.S., to receive, store, possess, and dispense EOAs, delivered by a prescription drug manufacturer or an affiliate of the pharmacy, pursuant to agreements reached with the Department of Legal Affairs (DLA) and pursuant to a standing order issued by, or at the direction of, the Surgeon General to any emergency responder identified in the standing order;
- Pharmacy technicians to dispense EOAs pursuant to a standing order issued by, or at the direction of, the Surgeon General to any emergency responder identified in the standing order; and
- To authorize emergency responders to receive, store, and possess approved EOAs and, in an emergency situation when a physician is not immediately available, administer an EOA to a person who the emergency responder believes in good faith is experiencing an opioid overdose.

The bill adds pharmacy technicians and pharmacies, as well as the actions of receiving, possessing, storing an EOA, to the immunities granted under ss. 381.877 and 768.13, F.S. The bill also provides civil, and criminal immunity to dispensing health care practitioners, pharmacists, pharmacy technicians, and pharmacies who are acting in good faith and exercising reasonable care for receiving, possessing, storing, dispensing, prescribing, or administering an EOA in accordance with the requirements of s. 381.877, F.S.

Statewide Council on Opioid Abatement (Council)

The bill creates s. 397.335, F.S., to establish the Council within the DCF for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims of the opioid crisis and their families.

Membership

The bill provides that the Council be composed of 10 members as follows:

- The Attorney General, or a designee, who is the chair of the Council.
- The Secretary of the DCF, or a designee, who is the vice chair.
- A member appointed by the Governor.
- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House.
- Two members who are each a commissioner or mayor of a municipality, appointed by the Florida League of Cities. At least one such member must be from a municipality with a population of less than 50,000 people.
- Two members, one of whom is a county commissioner or mayor of a county with a population of less than 200,000 people and one of whom is a county commissioner or mayor of a county with a population in excess of 200,000 people, appointed by the Florida Association of Counties.
- One member who is either a county commissioner or county mayor, appointed by the Florida Association of Counties, or the commissioner or mayor of a municipality, appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for

the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities, and the Florida Association of Counties.

The bill specifies that members are appointed to two-year terms and the members may not receive a commission, fee, or financial benefit in connection with service on the Council except that members may be reimbursed for per diem and travel expenses in accordance with s. 112.061, F.S.,²¹ by the state agency that the member represents, or by the DCF if a member is not affiliated with a state agency.

Organization and Support

The bill requires the first meeting of the Council to occur no later than August 31, 2023, and quarterly thereafter, or upon the call of the chair or two other members. The bill allows meetings to take place in person or virtually and specifies that a majority of members constitutes a quorum.

The bill requires the DLA and the DCF to provide the Council with staff necessary to assist the Council with the performance of its duties. The Council is authorized to apply for and accept funds, grants, gifts, and services from the state, the federal government or any of its agencies, or any other public or private source for the purposes of defraying costs or performing its duties. The bill also requires that all members adhere to the rules, regulations, and laws of Florida including, but not limited to, s. 112.311, F.S., relating to disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

Duties of the Council

The bill imparts the Council with the following duties:

- Advising the state and local governments on resolving or abating the opioid epidemic and reviewing how settlement monies recovered from the opioid litigation brought by the state and political subdivisions have been spent, and the results that have been achieved from such expenditures.
- Working with, and providing and receiving information from, the Statewide Drug Policy Advisory Council (DPAC) and making sure that its recommendations and actions are consistent with the recommendations of the DPAC to the extent possible.
- Reviewing data from local, state, and national agencies, both on a regional and a statewide basis, to advise state and local governments on the status, severity, and stage of the opioid epidemic.
- Reviewing data from local, state, and national agencies regarding how moneys are being spent to abate the opioid epidemic, the success of such programs, and the appropriate metrics needed to assess the epidemic and progress in abating it.
- Developing and recommending metrics, measures, or data sets to assess the progress and success of programs funded by expenditures of opioid settlement funds. The Council must attempt to keep such metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration of the United States

²¹ Establishing set rates for travel and per diem reimbursement.

Department of Health and Human Services in connection with any grants received by the state.

- With assistance and support of the DCF, providing a system of documentation and reporting commensurate with the requirements of federal and other agencies providing funding to the state, including, but not limited to, auditing expenditures consistent with any requirements imposed by the Legislature.
- Beginning December 1, 2023, publishing an annual report on the websites of the DLA and the DCF by each December 1st. The report must contain information on how opioid settlement funds were spent the previous fiscal year by the state and by each of the managing entities, counties, and municipalities. Additionally, the report must contain recommendations to the Governor, the Legislature, and local governments for the prioritization of how funds should be spent during the subsequent fiscal year to effectively respond to the opioid epidemic.

Requirements for Other Governmental Entities and Managing Entities

The bill requires that:

- By July 30 of each year, each county, municipality, managing entity, or state agency that receives opioid settlement funds shall provide information to the Council on how it intends to use the funds and how it intends to collect data regarding its use of funds.
- By August 31 of each year, each county, municipality, managing entity, or state agency that receives opioid settlement funds must provide information to the Council on expenditures of settlement funds and the results obtained from those expenditures.
- Upon request of the Council, a county, municipality, managing entity, or state agency must provide the Council information required to develop metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services on grants received by the state. If a county, municipality, managing entity, or agency fails to provide the information requested, the DLA, acting on behalf of the Council, may acquire such information through a civil investigative demand or a subpoena or by commencing an action seeking the turnover of such information.

The bill is effective upon becoming law.

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:

The bill has an indeterminate fiscal impact on the DCF and the DLA associated with staffing the Council.²² The DOH is also expected to incur some nonrecurring costs to update the Licensing and Enforcement Information Database and other database systems for the Medical Quality Assurance Program.²³ However, the impact on each agency will likely be insignificant and can be absorbed by each department within their existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.887 and 768.13.

This bill creates section 397.335 of the Florida Statutes.

²² The Department of Children and Families, *Senate Bill 704 Fiscal Analysis* (March 2023) (on file with Senate Appropriations Committee on Health and Human Services).

²³ The Department of Health, *House Bill 783 Fiscal Analysis* (March 2023).

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 Boyd

20-01052-23

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1 A bill to be entitled
 2 An act relating to substance abuse prevention;
 3 amending s. 381.887, F.S.; revising legislative
 4 intent; revising authorizations for prescribing and
 5 dispensing emergency opioid antagonists by authorized
 6 health care practitioners; authorizing certain
 7 pharmacies, pharmacists, and pharmacy technicians to
 8 take certain actions relating to emergency opioid
 9 antagonists; conforming provisions to changes made by
 10 the act; creating s. 397.335, F.S.; creating the
 11 Statewide Council on Opioid Abatement within the
 12 Department of Children and Families; providing a
 13 purpose for the council; providing for membership of
 14 the council; prohibiting members from receiving
 15 commissions, fees, or financial benefits in connection
 16 with service on the council; authorizing members to be
 17 reimbursed for per diem and travel expenses by certain
 18 entities; providing meeting requirements for the
 19 council; requiring the department and the Department
 20 of Legal Affairs to provide staff for the council;
 21 authorizing the council to accept certain funds,
 22 grants, gifts, and services; requiring members to
 23 adhere to specified rules, regulations, and laws;
 24 providing duties of the council; requiring the council
 25 to work in partnership with the Statewide Drug Policy
 26 Advisory Council for specified purposes; requiring
 27 counties, municipalities, managing entities, and state
 28 agencies that receive settlement funds from an opioid
 29 settlement to annually provide specified information

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30 to the council by specified dates; requiring counties,
 31 municipalities, managing entities, and state agencies
 32 to provide certain information to the council upon
 33 request; authorizing the Department of Legal Affairs
 34 to acquire data through certain actions on behalf of
 35 the council; requiring the council to publish an
 36 annual report containing information and
 37 recommendations on the Department of Legal Affairs and
 38 the Department of Children and Families' websites by a
 39 specified date; amending s. 768.13, F.S.; providing
 40 legislative intent; exempting certain pharmacies,
 41 pharmacists, and pharmacy technicians from liability
 42 for damages, penalties, fines, or costs as a result of
 43 certain actions relating to emergency opioid
 44 antagonists; providing an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Subsection (2), paragraphs (a) and (c) of
 49 subsection (3), subsections (4) and (5), paragraph (b) of
 50 subsection (6), and subsection (7) of section 381.887, Florida
 51 Statutes, are amended, and paragraphs (d) and (e) are added to
 52 subsection (3) of that section, to read:

53 381.887 Emergency treatment for suspected opioid overdose.—

54 (2) The purpose of this section is to provide for the
 55 prescribing, ordering, and dispensing of emergency opioid
 56 antagonists to patients, and caregivers, and emergency
 57 responders and to encourage the prescribing, ordering, and
 58 dispensing of emergency opioid antagonists by authorized health

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care practitioners, pharmacies, and pharmacists.

(3) (a) An authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to, and a pharmacist may order an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system for, a patient, a ~~or~~ caregiver, or an emergency responder for use in accordance with this section.

(c) A patient, a ~~or~~ caregiver, or an emergency responder is authorized to receive, store, and possess approved emergency opioid antagonists and, in an emergency situation when a physician is not immediately available, administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

(d) A pharmacy or pharmacist licensed under chapter 465 is authorized to receive, store, possess, and dispense, as applicable, emergency opioid antagonists delivered by a manufacturer or an affiliate of the pharmacy, pursuant to agreements reached with the Department of Legal Affairs for the purpose of dispensing emergency opioid antagonists pursuant to a standing order issued by or at the direction of the State Surgeon General, to any emergency responder identified in the standing order.

(e) A pharmacist or pharmacy technician may dispense an emergency opioid antagonist, pursuant to a standing order issued by or at the direction of the State Surgeon General in a manner consistent with the terms of the standing order, to any emergency responder identified in the standing order.

(4) The following persons are authorized to receive,

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possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of receiving, possessing, storing, or administering an emergency opioid antagonist:

(a) Emergency responders, including, but not limited to, law enforcement officers, paramedics, and emergency medical technicians.

(b) Crime laboratory personnel for the statewide criminal analysis laboratory system as described in s. 943.32, including, but not limited to, analysts, evidence intake personnel, and their supervisors.

(c) Personnel of a law enforcement agency or another ~~an~~ ~~other~~ agency, including, but not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with a controlled substance or persons at risk of experiencing an opioid overdose.

(5) A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, ~~or~~ a pharmacist, or a pharmacy technician, or a pharmacy, that receives, ~~who~~ possesses, administers, prescribes, dispenses, or stores an approved emergency opioid antagonist in compliance with this section and s. 768.13 is afforded the civil liability immunity protections provided under s. 768.13.

(6)

(b) A dispensing health care practitioner, ~~or~~ pharmacist, pharmacy technician, or pharmacy acting in good faith and exercising reasonable care, is not subject to discipline or other adverse action under any professional licensure statute or

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rule and is immune from any civil or criminal liability as a result of receiving, possessing, storing, dispensing, prescribing, or administering an emergency opioid antagonist in accordance with this section.

(7) This section does not limit any existing immunities for emergency responders or other persons which are provided under this chapter or any other applicable provision of law. This section does not create a duty or standard of care for a person to prescribe, dispense, possess, store, or administer an emergency opioid antagonist.

Section 2. Section 397.335, Florida Statutes, is created to read:

397.335 Statewide Council on Opioid Abatement.—

(1) ESTABLISHMENT.—There is established in the department the Statewide Council on the Opioid Abatement. The council is created for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims of the opioid crisis and their families. The council shall comply with the requirements of s. 20.052 except as otherwise provided in this section.

(2) MEMBERSHIP.—

(a) Notwithstanding s. 20.052, the council shall be composed of the following members:

1. The Attorney General, or a designee, who shall serve as chair.

2. The Secretary of the Department of Children and Families, or a designee, who shall serve as vice chair.

3. A member appointed by the Governor.

4. A member appointed by the President of the Senate.

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5. A member appointed by the Speaker of the House.

6. Two members who are each a commissioner or mayor of a municipality, appointed by the Florida League of Cities. At least one such member must be from a municipality with a population of less than 50,000 people.

7. Two members, one of whom is a county commissioner or mayor of a county with a population of less than 200,000 people and one of whom is a county commissioner or mayor of a county with a population in excess of 200,000 people, appointed by the Florida Association of Counties.

8. One member who is either a county commissioner or county mayor, appointed by the Florida Association of Counties, or the commissioner or mayor of a municipality, appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities, and the Florida Association of Counties.

(b) Each member must be appointed to a 2-year term. Any vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term.

(c) A member may not receive a commission, fee, or financial benefit in connection with service on the council. Council members may be reimbursed for per diem and travel expenses in accordance with s. 112.061 by the state agency that the member represents. If a member is not affiliated with a state agency, the member must be reimbursed by the department.

(3) ORGANIZATION AND SUPPORT.—

(a) The first meeting of the council must occur no later

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than August 31, 2023.

(b) The council shall meet quarterly and upon the call of the chair or two other members. Meetings of the council may take place in person or virtually using communications media technology as defined in s. 120.54(5)(b)2.

(c) A majority of the members of the council constitutes a quorum.

(d) The Department of Legal Affairs and the Department of Children and Families shall provide the council with staff necessary to assist the council in the performance of its duties.

(e) The council may apply for and accept funds, grants, gifts, and services from the state, the Federal Government or any of its agencies, or any other public or private source for the purposes of defraying costs or performing its duties.

(f) All members must adhere to the rules, regulations, and laws of the state including, but not limited to, s. 112.311 relating to disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

(4) DUTIES.—

(a) The council must advise the state and local governments on resolving or abating the opioid epidemic and must review how settlement monies recovered from the opioid litigation brought by the state and political subdivisions have been spent, and the results that have been achieved from such expenditures.

(b) The council shall work with and provide and receive information from the Statewide Drug Policy Advisory Council and make sure that its recommendations and actions are consistent with the recommendations of that council to the extent possible.

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(c) The council shall review data from local, state, and national agencies, both on a regional and a statewide basis, to advise state and local governments on the status, severity, and stage of the opioid epidemic.

(d) The council shall review data from local, state, and national agencies regarding how moneys are being spent to abate the opioid epidemic, the success of such programs, and the appropriate metrics needed to assess the epidemic and progress in abating it.

(e) By July 30 of each year, each county, municipality, managing entity, or state agency that receives settlement funds from an opioid settlement shall provide information to the council related to how it intends to use settlement funds and how it intends to collect data regarding its use of funds.

(f) By August 31 of each year, each county, municipality, managing entity, or state agency that receives settlement funds from an opioid settlement must provide information to the council related to its expenditure of settlement funds and the results obtained from those expenditures.

(g) The council shall develop and recommend metrics, measures, or data sets to assess the progress and success of programs funded by expenditures of opioid settlement funds. The council must attempt to keep such metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services in connection with any grants received by the state. Upon request of the council, a county, municipality, managing entity, or

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state agency must provide the council data or information required to develop such metrics, measures, or data sets.

(h) If a county, municipality, managing entity, or agency fails to provide data or information requested under paragraph (g), the Department of Legal Affairs, acting on behalf of the council, may acquire such data through a civil investigative demand or a subpoena or by commencing an action seeking the turnover of such data or information.

(i) The council, with assistance and support of the department, shall provide a system of documentation and reporting commensurate with the requirements of federal and other agencies providing funding to the state, including, but not limited to, auditing expenditures consistent with any requirements imposed by the Legislature.

(j) Beginning December 1, 2023, the council shall publish an annual report on the websites of the Department of Legal Affairs and the Department of Children and Families no later than December 1st or the first business day after December 1, if December 1 falls on a weekend or holiday. The report must contain information on how settlement funds were spent the previous fiscal year by the state and by each of the managing entities, counties, and municipalities. The report must also contain recommendations to the Governor, the Legislature, and local governments for the prioritization of how funds should be spent during the subsequent fiscal year to effectively respond to the opioid epidemic.

Section 3. Paragraph (e) is added to subsection (2) of section 768.13, Florida Statutes, to read:

768.13 Good Samaritan Act; immunity from civil liability.—

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(2)

(e)1. As a response to the recognized health emergency in this state caused by the opioid crisis, the Legislature intends to:

a. Maximize the ability of law enforcement officers, emergency medical technicians, firefighters, and other emergency responders to store, possess, and administer emergency opioid antagonists as defined in s. 381.887(1) to persons who are experiencing an opioid overdose, appear to be experiencing an opioid overdose, or are at risk of experiencing an opioid overdose; and

b. Encourage every licensed pharmacy, pharmacist, and pharmacy technician to dispense emergency opioid antagonists, pursuant to a standing order issued by or at the direction of the State Surgeon General, to law enforcement officers, emergency medical technicians, firefighters, and other emergency responders identified in such standing order, without fear of litigation or costs or damages arising from such litigation.

2. Any licensed pharmacy, pharmacist, or pharmacy technician that does either of the following may not be held liable for any damages, penalties, fines, or costs as a result of any act or omission relating to such act:

a. Possesses or stores an emergency opioid antagonist for the purpose of dispensing the emergency opioid antagonist to any law enforcement officer, emergency medical technician, firefighter, or other emergency responder.

b. Dispenses an emergency opioid antagonist to any law enforcement officer, emergency medical technician, firefighter, or other emergency responder in compliance with the terms and

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291 conditions set forth in a standing order issued by or at the
292 direction of the State Surgeon General.

293 Section 4. This act shall take effect upon becoming a law.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

BILL INFORMATION

BILL NUMBER:	Senate Bill 704
BILL TITLE:	A bill to be entitled Substance Abuse Prevention
BILL SPONSOR:	Senator Boyd
EFFECTIVE DATE:	Upon becoming law

COMMITTEES OF REFERENCE

1) Health Policy
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

Appropriations Committee on Health and Human Services

SIMILAR BILLS

BILL NUMBER:	HB 783
SPONSOR:	Rep. Caruso

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	For further information, please contact Alexander Guzman at (850) 488-9410.
LEAD AGENCY ANALYST:	Jennifer Williams
ADDITIONAL ANALYST(S):	Jeff Cece, Heather Allman, Christi Anderson
LEGAL ANALYST:	SaVannah Reading
FISCAL ANALYST:	Julie Mayo

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate bill 704 impacts section 381.887 F.S., by expanding emergency responders' ability to receive, possess, store, and administer emergency opioid antagonist medications, such as naloxone, more commonly known as Narcan, without civil or criminal liability. This analysis will henceforth refer to emergency opioid antagonist medications as naloxone. Naloxone cannot be abused or used for any purpose other than to reverse an opioid overdose.¹ It expands pharmacies and pharmacists' ability to receive, possess, store, and administer naloxone without civil or criminal penalties, as well as give naloxone to first responders.

Senate bill 704 creates section 397.335 F.S., which calls for the establishment of a Statewide Council on Opioid Abatement. It outlines the requirements for the membership, duties, expectations, reporting requirements, and the repercussions if these requirements are not met.

Additionally, senate bill 704 revises section 768.13 F.S., to encourage pharmacists and pharmacies to possess, store, dispense and administer naloxone without the fear of litigation and costs associated. This section also encourages emergency responders to attend to an overdose without fear of litigation and costs associated.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department of Children and Families' (Department) Office of Substance Abuse and Mental Health (SAMH) is recognized as the single state authority for substance abuse and mental health services. The Office of SAMH is statutorily responsible for the planning and administration of all publicly funded substance abuse and mental health services, and for licensing substance abuse providers.

The Department's Overdose Prevention Program aims to reduce opioid overdose deaths by increasing access to naloxone to laypeople in the community most likely to experience or witness an overdose through a network of naloxone distribution providers. The purpose of the program is to provide overdose recognition and response training and distribute free naloxone kits to people in the community at risk of experiencing or witnessing an opioid overdose. Organizations enrolled to distribute naloxone include substance use and mental health treatment providers, shelters, harm reduction programs, hospital emergency departments, maternity units, federally qualified health centers, sober living homes, syringe service programs, and other community-based organizations.

Current Overdose Prevention Program Status:

	# Providers Enrolled	# Narcan Kits Distributed	# Self-Reported Reversals	# Individuals Trained
FY 2020/2021	115 (new)	105,412	5,455	10,215
FY 2021/2022	56 (new)	154,000	9,988	15,723
Total since inception in September of 2016 – December 31, 2022	386	453,273	27,002	*30,656

*Data on individuals trained is from May 2019 –December 2022.

*Please note that numbers are subject to change due to reporting activity.

Section 381.887 F.S., currently allows for healthcare practitioners and pharmacists to prescribe, order, and dispense emergency naloxone with an auto-injection delivery system or intranasal application, to patients and caregivers, under a non-patient-specific standing order. A standing order is signed by a licensed prescriber for a specific medication to authorize disbursement to a group of people that meet specific criteria outlined in the standing order. Section 381.887, F.S., defines patients as those at risk of experiencing an opioid overdose and caregiver as someone who has recurring contact with a person at risk of experiencing an opioid overdose. This section authorizes patients and caregivers to possess, store, and in emergency situations, administer naloxone. It also provides protection from civil and criminal liability, as well as immunity from professional repercussions against licenses and certifications resulting from possessing, storing, and administering naloxone. These protections cover patients, caregivers, healthcare practitioners, pharmacists, emergency responders, and law enforcement personnel.

¹<https://nida.nih.gov/publications/drugfacts/naloxone>

Section 768.13 F.S., provides civil and criminal protection for healthcare practitioners or individuals with good intentions responding to an emergency to render aid if these actions were responsible and reasonable actions.²

2. EFFECT OF THE BILL:

Section one revises section 381.887, F.S., to add emergency responders to the list of people to whom healthcare practitioners and pharmacists can dispense naloxone³. Adding emergency responders to the list of people to whom healthcare practitioners can dispense this medication increases access to naloxone because emergency responders interact daily with individuals who are experiencing an opioid overdose.

Section one also revises section 381.887(5), F.S., to add pharmacy technicians and pharmacies to the list that can receive, store, possess and dispense naloxone. This change will increase access to naloxone in communities.

The bill would allow a pharmacist or pharmacy technician to dispense naloxone under a non-patient specific standing order issued by the State Surgeon General, to any emergency responder identified in the standing order. The bill enables emergency responders, crime laboratory personnel, law enforcement, healthcare practitioners, pharmacists, pharmacies, and pharmacy technicians, to receive, possess, store, and administer naloxone without civil or criminal liability and without fear of repercussions on licenses or certifications, which is outlined in section 768.13.⁴ This action would enhance availability of naloxone in the community.

The bill allows emergency responders to dispense, possess, and store, naloxone while retaining the ability to prescribe and administer naloxone. This change would increase access to naloxone for emergency responders, patients, and caregivers.

The bill creates a new section of law in Chapter 397, which establishes a Statewide Council on Opioid Abatement within the Department and outlines the membership appointments and indicates two-year term limits.

The bill outlines the organization and support needed for the establishment of this council requiring that the first meeting take place no later than August 31, 2023, with quarterly meetings thereafter. Meetings may be held virtually or in person; virtual meetings must follow the requirements listed in subsection s. 120.54(5)(b)2. The bill requires the Department to reimburse approximately eight of the ten council members for travel expenses and per diem since they are not affiliated with a state agency. The bill requires the Department to provide staff to assist the Council.

The bill requires that the council include the following members:

- The Attorney General, or designee, as the chair
- The Secretary of the Department, or designee, as the vice chair
- A Governor appointee
- A President of the Senate appointee
- A Speaker of the House appointee
- Two appointees of the Florida League of Cities who are a commissioner or a mayor, at least one of which is from a municipality of less than 50,000 people
- Two appointees of the Florida Association of Counties who is a county commissioner or mayor of a county with less than 200,000 people and one from a county with a population of more than 200,000 people
- One appointee of the Florida Association of Counties for the first term and alternate with the Florida League of Cities thereafter who is a commissioner or mayor of a county, or a commissioner or mayor of a municipality

The bill outlines the duties of the council to:

- Advise state and local governments on how to improve the opioid epidemic and review how opioid settlement funds are spent and outcomes of these efforts.
- Work with the existing Drug Policy Advisory Council to align efforts.
- Review local, state, and national data to give awareness of the present state of the opioid crisis, locally and statewide.

²http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=768.13+good+samaritan&URL=0700-0799/0768/Sections/0768.13.html

³http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=381.887&URL=0300-0399/0381/Sections/0381.887.html

⁴http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=emergency%20responders&URL=0700-0799/0768/Sections/0768.13.html

- Review data from local, state, and national agencies pertaining to how the funds are spent and the effectiveness of the efforts.
- Any county, municipality, managing entity or state agency that receives funding from these opioid settlements to provide information on how that funding will be spent and how the agency intends to collect data related to the efforts funded by July 30th of each year.
- Any county, municipality, managing entity or state agency receiving funding from these lawsuits to report how those funds were spent and the results by August 31st of each year.
- Develop metrics or data sets to determine the success of these programs. These metrics or data sets need to align with the current data sets and metrics already required from agencies, as much as possible. The council can request information required to develop these sets from entities receiving these funds.
- Use legal action if necessary to obtain the requested information.

The bill requires the Department to assist the Council to provide a system for documentation and reporting to satisfy the requirements of the settlement funds.

Beginning December 1, 2023, the Council is required to publish an annual report on the Department of Legal Affairs and Department of Children and Families websites. This report must contain financial information on how the funds were spent by each recipient, as well as recommendations for future spending.

The Governor's Budget recommendation for Fiscal Year 2023-2024 proposes to use Opioid settlement funds to establish the Office of Opioid Recovery within the Department to oversee and monitor the funds and related statewide recovery initiatives; conduct research, develop clinical protocols, and evidence-based practices; and establish data frameworks.

The following core functions of the recommended Office of Opioid Recovery could assist the Statewide Council on Opioid Abatement:

- Overseeing the administration of the Council under the leadership of the Chair
- Planning, organization, and implementing the Council's annual report
- Identifying appropriate subject matter experts for presentations
- Filing public meeting notice in the Florida Administrative Register
- Meeting logistics such as; preparing agendas, meeting minutes, and travel arrangements

Section three of the bill proposes additional language for section 768.13 F.S., to maximize the availability of naloxone to emergency responders, law enforcement, pharmacies, and pharmacists. It also encourages the storage, possession, and dispensing naloxone without fear of litigation and costs associated. This provision is expected to increase access to naloxone.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

If yes, explain:	No
What is the expected impact to the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Possible opponents.
Provide a summary of the proponents' and opponents' positions:	The council membership does not include representation from behavioral health providers or individuals with lived experience.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	The council is required to publish an annual report on the Department of Legal Affairs and Department of Children and Families websites, no later than December 1. This report must contain financial information on how the funds were spent by each recipient, as well as recommendations for future spending.
Date Due:	Annually, beginning December 1, 2023.
Bill Section Number(s):	Section 2

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	Statewide Council on Opioid Abatement
Board Purpose:	To abate the opioid epidemic.
Who Appoints:	The Governor appoints one seat.
Appointee Term:	Two years.
Changes:	This bill creates a new Council; it does not change an existing Council.
Bill Section Number(s):	Section 2.

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	None
Expenditures:	Local governments will be required to comply with the requirements established in statutes. Costs associated with meeting compliance must be determined by counties and municipalities.
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None																																																																																
Expenditures :	There are expenditures required for the reimbursement of the Council members' travel and per diem if they are not employed within a state agency. The estimated cost for 8 members would be \$7,240 per in-person meeting. Based on an estimate of six meetings per year, the cost would be approximately \$44,520 annually. If the Council meets more frequently, costs will be higher. Based on 8 members with an average @ \$905 per person for each in person meeting (includes car rental, gas, airfare for some, hotel and meals). <table><tr><th>Purpose/ Description</th><th>Flight</th><th>Hotel</th><th>Car</th><th>Gas</th><th>Meals / Per Diem</th><th>Incidentals</th><th>Total</th></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$134.00</td><td>\$50.00</td><td>\$784.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$134.00</td><td>\$50.00</td><td>\$784.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$114.00</td><td>\$50.00</td><td>\$764.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$594.00</td><td>\$350.00</td><td>\$150.00</td><td>\$20.00</td><td>\$134.00</td><td>\$50.00</td><td>\$1,298.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$114.00</td><td>\$50.00</td><td>\$764.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$114.00</td><td>\$50.00</td><td>\$764.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$ -</td><td>\$350.00</td><td>\$150.00</td><td>\$100.00</td><td>\$134.00</td><td>\$50.00</td><td>\$784.00</td></tr><tr><td>In-person – 2.5 days (2 nights)</td><td>\$594.00</td><td>\$350.00</td><td>\$150.00</td><td>\$20.00</td><td>\$134.00</td><td>\$50.00</td><td>\$1,298.00</td></tr><tr><td>TOTAL</td><td>\$1,188.00</td><td>\$2,800.00</td><td>\$1,200.00</td><td>\$640.00</td><td>\$1,012.00</td><td>\$400.00</td><td>\$7,240.00</td></tr></table> There are expenditures required for Department staff to support the council. These expenditures would be absorbed by the Office of Opioid Recovery within the Department if approved as requested in the Governor' budget. There are expenditures required to collect data for analysis. See IT section.	Purpose/ Description	Flight	Hotel	Car	Gas	Meals / Per Diem	Incidentals	Total	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$134.00	\$50.00	\$784.00	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$134.00	\$50.00	\$784.00	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$114.00	\$50.00	\$764.00	In-person – 2.5 days (2 nights)	\$594.00	\$350.00	\$150.00	\$20.00	\$134.00	\$50.00	\$1,298.00	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$114.00	\$50.00	\$764.00	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$114.00	\$50.00	\$764.00	In-person – 2.5 days (2 nights)	\$ -	\$350.00	\$150.00	\$100.00	\$134.00	\$50.00	\$784.00	In-person – 2.5 days (2 nights)	\$594.00	\$350.00	\$150.00	\$20.00	\$134.00	\$50.00	\$1,298.00	TOTAL	\$1,188.00	\$2,800.00	\$1,200.00	\$640.00	\$1,012.00	\$400.00	\$7,240.00
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TOTAL	\$1,188.00	\$2,800.00	\$1,200.00	\$640.00	\$1,012.00	\$400.00	\$7,240.00																																																																										
Does the legislation contain a State Government appropriation ?	No																																																																																
If yes, was this appropriated last year?	N/A																																																																																

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
Expenditures:	None
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	Yes. There will be an impact on technology needs based on the information collected and reviewed for the Council. The Governor's budget include support for data related to the Opioid Settlement spending; if approved, this funding is expected to support the technology needs of the Council.
If yes, describe the anticipated impact to the agency including any fiscal impact.	See above

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

Section 1- The bill does not appear to allow emergency responders to distribute naloxone to patients and caregivers. If such distribution was authorized, it would further increase access.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	Substance abuse records are protected by the Health Insurance Portability and Accountability Act (HIPAA) and 42 C.F.R. Part 2. 42 C.F.R. Part 2 is more restrictive than HIPAA. Absent a specific exemption, under Florida law, council meetings must be open to the public and records must be made available for review. If the intent is for the council to review individual substance abuse records, the council's ability to do so will be severely limited since there is no specific exemption from Chapter 119 or Chapter 286, Florida Statutes.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture, *Vice Chair*
Appropriations Committee on Agriculture,
Environment, and General Government
Finance and Tax
Fiscal Policy
Judiciary
Rules
Transportation

SENATOR JIM BOYD

20th District

March 21, 2023

Senator Gayle Harrell
404 South Monroe Street
201 The Capitol
Tallahassee, FL 32399

Dear Madame Chair Harrell:

I respectfully request Senate Bill 704: Substance Abuse Prevention, be scheduled for a hearing in the Appropriations Committee on Health and Human Services, at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in blue ink, appearing to read "Jim Boyd".

Jim Boyd

cc: Tonya Money
Robin Jackson

REPLY TO:

- ☐ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- ☐ 418 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

4/12

Meeting Date

SB 704

Bill Number or Topic

07

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

LIBBY Guzzio

Phone

850 245 0155

Address

CAPITOL

Email

LIBBY.GUZZIO@myFLORIDA
LEGAL.COM

Street

Tallah

FL

32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information.

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

OFFICE OF ATTORNEY GENERAL

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

04/12/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

704

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Appropriations

Committee

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-855-7604

Address

1747 Orlando Central Pkwy

Street

Email

vp.education@floridapta.org

City

Orlando

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 768

INTRODUCER: Senator Martin

SUBJECT: Referral of Patients by Health Care Providers

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Favorable
2.	McKnight	Money	AHS	Favorable
3.			FP	

I. Summary:

SB 768 amends s. 456.053, F.S., regulating financial arrangements between referring health care providers and health care service providers, to alter a safe harbor provision for permitted referrals from a health care provider to another provider for designated health services that solely serves patients of the referring health care provider. The bill removes the direct supervision requirement and the requirement that the physician be present in the office suite, allowing general supervision of such services from locations outside of the office where the services are provided.

The bill allows self-referring health care providers to avoid the cost of having a physician present while health care services are provided. The change in state law also aligns with federal Stark law provisions regarding self-referrals by a health care provider to another provider in which the referring physician has a financial or other pecuniary interest.

The bill does not appear to have a fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2023.

II. Present Situation:

Florida Patient Self-Referral Act of 1992

The Patient Self-Referral Act of 1992 (Act) prohibits the referral of patients by a health care provider to an entity that the referring health care provider holds a financial interest, if the financial interest is a type that is regulated by the Act and an exemption does not apply.¹ The purpose of the Act is to prevent conflicts of interest relating to patient referrals by health care

¹ Section 456.053, F.S

providers to a provider of certain health care services in which the referring provider has an investment or other financial interest. The Legislature recognized that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. This section of statute also provides guidance to health care providers regarding prohibited, and authorized, patient referrals under Florida law.

Specifically, the Act prohibits a health care provider from referring a patient for the provision of designated health services (DHS) or any other health care items or service to an entity in which the health care provider is an investor or has an investment interest.² DHS include:³

- Clinical laboratory services,
- Physical therapy services,
- Comprehensive rehabilitative services (speech, occupational, or physical therapy services provided on an outpatient or ambulatory basis),⁴
- Diagnostic-imaging services (magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography, ultrasound, EEG, EKG, nerve conduction studies, and evoked potentials)⁵, and
- Radiation therapy services.

For purposes of the Act:

- A health care provider is a medical doctor, osteopathic physician, chiropractor, podiatrist, advanced practice registered nurse (APRN) who is registered to practice autonomously, optometrist, or dentist.⁶
- A group practice is a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:
 - In which substantially the full range of services provided by each member, including medical care, consultation, diagnosis, or treatment, are provided through the joint use of shared office space, facilities, equipment, and personnel;
 - For which substantially all of the services provided by the group members are provided through the group and are billed in the name of the group, and amounts so received are treated as receipts of the group; and
 - In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.⁷
- A sole provider is one health care provider who maintains a separate medical office and a medical practice separate from any other health care provider and who bills for his or her services separately from the services provided by any other health care provider. A sole

² Section 456.053(5)(a) and (b), F.S.

³ See s. 456.053(3)(c), F.S.

⁴ See s. 456.053(3)(b), F.S.

⁵ See s. 456.053(5)(d), F.S.

⁶ Section 456.053(3)(i), F.S., referring to a physician licensed under ch. 458, F.S., (medicine), ch. 459, F.S. (osteopathic medicine), ch. 460, F.S., (chiropractic medicine), or ch. 461, F.S. (podiatric medicine); an advanced practice registered nurse (APRN) registered for autonomous practice under s. 464.0123, F.S.; or any health care provider licensed under ch. 463, F.S., (optometry), or ch. 466, F.S., (dentistry).

⁷ Section 456.053(3)(h), F.S.

provider may not share overhead expenses or professional income with any other person or group practice.⁸

- A patient of a group practice or patient of a sole provider is a patient who receives a physical examination, evaluation, diagnosis, and development of a treatment plan if medically necessary by a physician who is a member of the group practice or the sole provider's practice.⁹

Numerous exceptions exist to the provisions prohibiting self-referral, either in the form of what constitutes an investment interest,^{10, 11} such as a limited investment in a publicly held corporation or exceptions to the definition of a referral. Within this statutory definition of a referral, there are 13 orders, recommendations, or plans of care by specified health care providers that do not constitute a referral by a health care provider and therefore are not prohibited self-referrals.¹²

The focus of the bill is on one of those exceptions, in s. 456.053(3)(p)3.f., F.S. This exception allows a sole provider or member of a group practice to prescribe or order DHS or other health care items or services for his or her own patients which are to be provided by the sole provider's practice or group practice and the services must be provided or performed under the direct supervision of the referring health care provider or group practice. The exception continues with the following: provided, however, a medical doctor, osteopathic physician, chiropractor, podiatrist, or autonomous APRN may refer a patient to a sole provider or group practice for diagnostic imaging services, excluding radiation therapy services, for which the sole provider or group practice bills both the technical and the professional fee for or on behalf of the patient, if the referring physician or autonomous APRN has no investment interest in the practice. Additional parameters for these diagnostic imaging services are provided in the statute.¹³

Under the Act, "direct supervision" means supervision by a physician who is present in the office suite and immediately available to provide assistance and direction throughout the time services are being performed. "Present in the office suite" is defined to mean that the physician is actually physically present, provided, however, that the health care provider is considered physically present during brief unexpected absences as well as during routine absences of a short duration if the absences occur during time periods in which the health care provider is otherwise scheduled and ordinarily expected to be present and the absences do not conflict with any other requirement in the Medicare program for a particular level of health care provider supervision.

Florida's level of supervision, direct supervision, applies to all DHS or other health care items or services for authorized referrals and is stricter than many of the state practice acts and the federal Stark Law.

The submission of claims for payment of services provided through a prohibited referral, without a timely refund of any collection, subjects the health care provider to a civil penalty of up to \$15,000 for each billing and collection, or up to \$100,000 for each billing and collection if cross-

⁸ Section 456.053(3)(r), F.S.

⁹ Section 456.053(3)(n), F.S.

¹⁰ Section 456.053(5)(b), F.S.

¹¹ Section 456.053(3)(k), F.S.

¹² See s. 456.053(3)(p), F.S.

¹³ See s. 456.053(3)(p)3.f., F.S.

referrals or similar schemes are involved.¹⁴ The health care provider is also subject to disciplinary action by the applicable state practitioner regulatory board.

The Federal Physician Self-Referral Law – Stark Law

The Physician Self-Referral Law, commonly referred to as the Stark law, prohibits physicians from referring patients to receive DHS payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship (ownership, investment, compensation arrangement), unless an exception applies.¹⁵ . The following items or services are DHS:

- Clinical laboratory services.
- Physical therapy services.
- Occupational therapy services.
- Outpatient speech-language pathology services.
- Radiology and certain other imaging services.
- Radiation therapy services and supplies.
- Durable medical equipment and supplies.
- Parenteral and enteral nutrients, equipment, and supplies.
- Prosthetics, orthotics, and prosthetic devices and supplies.
- Home health services.
- Outpatient prescription drugs.
- Inpatient and outpatient hospital services.¹⁶

The federal regulations implementing the Stark law were recently updated to coordinate the care among physicians and other health care providers to improve the care of the patients they serve.¹⁷ This rule provides exceptions to the referral prohibitions for, among other things, physician services and in-office ancillary services if the services are furnished personally; by another physician in the referring physician's group practice; or by another individual who is supervised by the referring physician or another physician in the group practice, provided that the supervision complies with all other applicable Medicare payment and coverage rules for the services.¹⁸

¹⁴ Section 456.053(5)(c),(d),(e), and (f), F.S.

¹⁵ 42 U.S.C. s. 1395nn, (1989)

¹⁶ See Centers for Medicare & Medicaid Services, *Physician Self-Referral*, available at <https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index?redirect=/physicianselfreferral/> (last visited Mar. 15, 2022).

¹⁷ See Centers for Medicare & Medicaid Services, *Newsroom Fact Sheet Modernizing and Clarifying the Physician Self-Referral Regulations Final Rule (CMS-1720-F)* dated November 20, 2020, available at <https://www.cms.gov/newsroom/fact-sheets/modernizing-and-clarifying-physician-self-referral-regulations-final-rule-cms-1720-f> (last visited Mar. 15, 2023).

¹⁸ See 85 Federal Register 77492, 77667; 42 C.F.R. s. 411.355, published December 2, 2020, effective January 19, 2021, available at <https://www.govinfo.gov/content/pkg/FR-2020-12-02/pdf/2020-26140.pdf> (last visited Mar. 13, 2023).

Several documents address the payment and coverage rules such as the Medicare Benefit Policy Manual,¹⁹ the Medicare Claims Processing Manual,²⁰ and the Code of Federal Regulations (CFR). These documents set forth, among other things, the level of supervision required as a condition of coverage for different health care services paid for by Medicare. For example, with respect to diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests 42 CFR s. 410.32(b)(3), requires:

Except where otherwise indicated, all diagnostic X-ray and other diagnostic tests subject to this provision and payable under the physician fee schedule must be furnished under at least a general level of supervision ... In addition, some of these tests also require either direct or personal supervision.²¹

As an example of an exception to the general level of supervision, 42 CFR s. 410.32(b)(4), requires:

For diagnostic tests that are performed by a registered radiologist assistant who is certified and registered by the American Registry of Radiologic Technologists ... and that would otherwise require a personal level of supervision ... may be furnished under a direct level of physician supervision to the extent permitted by state law and state scope of practice regulations.

The Centers for Medicare & Medicaid Services (CMS) establishes the required level of supervision based on the type of service performed, the setting where the service is performed and the physical location of where the service is performed. There are three levels of supervision:²²

- General supervision, which means the procedure is furnished under the supervising physician's overall direction and control but the physician's physical presence is not required during the procedure's performance.
- Direct supervision, which means the supervising physician must be present and immediately available to furnish assistance and direction throughout the procedure's performance. It does not mean the physician must be physically present in the room when the procedure is performed.²³
- Personal supervision, which means the physician must be physically present in the room during the procedure's performance.

III. Effect of Proposed Changes:

The bill amends s. 456.053, F.S., regulating financial arrangements between referring health care providers and health care service providers, to alter a safe harbor provision for permitted

¹⁹ See Section 80, chapter 15, of Pub. 100-02, Medicare Benefit Policy, which sets forth the various levels of physician supervision required for diagnostic tests, available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c15.pdf> (last visited Mar. 15, 2023).

²⁰ See Chapter 13, Medicare Claims Processing Manual – Radiology Services and other Diagnostic Procedures, available at <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/clm104c13.pdf> (last visited Mar. 15, 2023).

²¹ See 42 CFR s. 410.32(b); (10/1/21 edition), available at <https://www.govinfo.gov/content/pkg/CFR-2021-title42-vol2/pdf/CFR-2021-title42-vol2-part410.pdf> (last visited Mar. 15, 2023).

²² *Id.*

²³ Until the end of the calendar year in which the COVID-19 Public Health Emergency ends (which will be the end of 2023), the presence of the physician includes virtual presence through audio/video real-time communications technology (excluding audio-only).

referrals from a health care provider to another provider for designated health services (DHS) that solely serves patients of the referring health care provider. Under current law, such referrals, for purposes of the safe harbor protection from state self-referral and kickback prohibitions in state law, require that the DHS be provided under direct supervision of a physician who is present in the office suite where the services are provided. The bill removes the direct supervision requirement and the requirement that the physician be present in the office suite, allowing general supervision of such services from locations outside of the office where the services are provided.

The bill allows self-referring health care providers to avoid the cost of having a physician present while health care services are provided. The change in state law also aligns with federal Stark law provisions regarding self-referrals by a health care provider to another provider in which the referring physician has a financial or other pecuniary interest.

The bill also includes conforming statutory cross-references.

The bill provides an effective date of July 1, 2023.

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:

Relaxing the level of supervision so that the referring physician or a physician in the group practice is not required to be physically present when certain services are performed, may allow for a more efficient and cost-effective use of physician health care resources.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state revenues or state expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.053 and 641.316.

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.

By Senator Martin

33-00843-23

2023768__

A bill to be entitled

An act relating to referral of patients by health care providers; amending s. 456.053, F.S.; deleting the definitions of the terms "direct supervision" and "present in the office suite"; revising the definition of the term "referral" to remove reference to direct physician supervision and to require compliance with certain Medicare payment and coverage rules; amending s. 641.316, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Paragraphs (e) and (o) and present paragraph (p) of subsection (3) of section 456.053, Florida Statutes, are amended to read:

456.053 Financial arrangements between referring health care providers and providers of health care services.—

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

~~(e) "Direct supervision" means supervision by a physician who is present in the office suite and immediately available to provide assistance and direction throughout the time services are being performed.~~

~~(o) "Present in the office suite" means that the physician is actually physically present; provided, however, that the health care provider is considered physically present during brief unexpected absences as well as during routine absences of a short duration if the absences occur during time periods in~~

Page 1 of 6

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

33-00843-23

2023768__

~~which the health care provider is otherwise scheduled and ordinarily expected to be present and the absences do not conflict with any other requirement in the Medicare program for a particular level of health care provider supervision.~~

(n) ~~(p)~~ "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. The following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

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59 f. By a health care provider who is the sole provider or
 60 member of a group practice for designated health services or
 61 other health care items or services that are prescribed or
 62 provided solely for such referring health care provider's or
 63 group practice's own patients, and that are provided or
 64 performed by or under the ~~direct~~ supervision of such referring
 65 health care provider or group practice if such supervision
 66 complies with all applicable Medicare payment and coverage rules
 67 for services; provided, however, a physician licensed pursuant
 68 to chapter 458, chapter 459, chapter 460, or chapter 461 or an
 69 advanced practice registered nurse registered under s. 464.0123
 70 may refer a patient to a sole provider or group practice for
 71 diagnostic imaging services, excluding radiation therapy
 72 services, for which the sole provider or group practice billed
 73 both the technical and the professional fee for or on behalf of
 74 the patient, if the referring physician or advanced practice
 75 registered nurse registered under s. 464.0123 has no investment
 76 interest in the practice. The diagnostic imaging service
 77 referred to a group practice or sole provider must be a
 78 diagnostic imaging service normally provided within the scope of
 79 practice to the patients of the group practice or sole provider.
 80 The group practice or sole provider may accept no more than 15
 81 percent of their patients receiving diagnostic imaging services
 82 from outside referrals, excluding radiation therapy services.
 83 However, the 15 percent limitation of this sub-subparagraph and
 84 the requirements of subparagraph (4)(a)2. do not apply to a
 85 group practice entity that owns an accountable care organization
 86 or an entity operating under an advanced alternative payment
 87 model according to federal regulations if such entity provides

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88 diagnostic imaging services and has more than 30,000 patients
 89 enrolled per year.
 90 g. By a health care provider for services provided by an
 91 ambulatory surgical center licensed under chapter 395.
 92 h. By a urologist for lithotripsy services.
 93 i. By a dentist for dental services performed by an
 94 employee of or health care provider who is an independent
 95 contractor with the dentist or group practice of which the
 96 dentist is a member.
 97 j. By a physician for infusion therapy services to a
 98 patient of that physician or a member of that physician's group
 99 practice.
 100 k. By a nephrologist for renal dialysis services and
 101 supplies, except laboratory services.
 102 l. By a health care provider whose principal professional
 103 practice consists of treating patients in their private
 104 residences for services to be rendered in such private
 105 residences, except for services rendered by a home health agency
 106 licensed under chapter 400. For purposes of this sub-
 107 subparagraph, the term "private residences" includes patients'
 108 private homes, independent living centers, and assisted living
 109 facilities, but does not include skilled nursing facilities.
 110 m. By a health care provider for sleep-related testing.
 111 Section 2. Paragraph (b) of subsection (2) and subsection
 112 (6) of section 641.316, Florida Statutes, are amended to read:
 113 641.316 Fiscal intermediary services.—
 114 (2)
 115 (b) The term "fiscal intermediary services organization"
 116 means a person or entity that performs fiduciary or fiscal

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117 intermediary services to health care professionals who contract
 118 with health maintenance organizations other than a hospital
 119 licensed under chapter 395, an insurer licensed under chapter
 120 624, a third-party administrator licensed under chapter 626, a
 121 prepaid limited health service organization licensed under
 122 chapter 636, a health maintenance organization licensed under
 123 this chapter, or a physician group practice as defined in s.
 124 456.053(3) ~~s. 456.053(3)(h)~~ which provides services under the
 125 scope of licenses of the members of the group practice.
 126 (6) Any fiscal intermediary services organization, other
 127 than a hospital licensed under chapter 395, an insurer licensed
 128 under chapter 624, a third-party administrator licensed under
 129 chapter 626, a prepaid limited health service organization
 130 licensed under chapter 636, a health maintenance organization
 131 licensed under this chapter, a not-for-profit corporation that
 132 provides health care services directly to patients through
 133 employed, salaried physicians and that is affiliated with an
 134 accredited hospital licensed in this state, or a physician group
 135 practice as defined in s. 456.053(3) ~~s. 456.053(3)(h)~~ which
 136 provides services under the scope of licenses of the members of
 137 the group practice, must register with the office and meet the
 138 requirements of this section. In order to register as a fiscal
 139 intermediary services organization, the organization must comply
 140 with ss. 641.21(1)(c), (d), and (j), 641.22(6), and 641.27. The
 141 fiscal intermediary services organization must also comply with
 142 the provisions of ss. 641.3155, 641.3156, and 641.51(4). Should
 143 the office determine that the fiscal intermediary services
 144 organization does not meet the requirements of this section, the
 145 registration shall be denied. If the registrant fails to

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146 maintain compliance with this section, the office may revoke or
 147 suspend the registration. In lieu of revocation or suspension of
 148 the registration, the office may levy an administrative penalty
 149 in accordance with s. 641.25.

150 Section 3. This act shall take effect July 1, 2023.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations
Appropriations Committee on Criminal and Civil Justice
Appropriations Committee on Health and Human Services
Community Affairs
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JONATHAN MARTIN

33rd District

March 20, 2023

The Honorable Gayle Harrell
Senate Appropriations Committee on Health and Human Services, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 768 - An act relating to Referral of Patients by Health Care Providers

Dear Chair Harrell:

Please allow this letter to serve as my respectful request to place SB 768, relating to Referral of Patients by Health Care Providers, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin
Senate District 33

Cc: Tonya Money, Staff Director
Robin Jackson, Administrative Assistant

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Street

Email

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 824

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Collins

SUBJECT: Veterans' Services and Recognition

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>Money</u>	<u>AHS</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 824 establishes the Division of Long-term Care in the Department of Veterans' Affairs (department) and creates the Veterans' Adult Day Health Care of Florida Act to provide uniform basic standards for the operation of veterans' adult day health care programs (program) for eligible veterans in need of services. The act provides:

- For appointment of an operator by the Executive Director (director) of the department;
- Eligibility requirements for a veteran to participate in the program;
- Priority order for admission and authorizes a self-paying veteran to participate;
- That the program is subject to audit or inspection by the Auditor General or the Office of Program Policy Analysis and Government Accountability; and
- That unless the state's standards are more restrictive, the standards to be applied by the department to regulate program operations are those prescribed by the United States Department of Veterans Affairs (VA).

The bill also designates the week of November 11 as Veterans Week. The Governor may annually issue a proclamation designating Veterans Week. The bill encourages public officials, schools, private organizations, and all residents to commemorate the week, honoring those who served in times of war and peace.

In addition, the bill revises the requirements for employment as a veteran service officer to allow a veteran who served in the active military, naval, or air service and was discharged or released under honorable conditions, or later received an upgraded honorable discharge to qualify.

The bill may have an indeterminate negative fiscal impact on the department. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Definition of a Veteran

A veteran, as referenced in the bill, is a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions.¹

Department of Veterans' Affairs

The department is the state point of entry for Florida's 1.5 million veterans, the nation's third largest veteran population.² The department provides statewide outreach to connect veterans with earned federal and state services, benefits, and support.³ The department also operates nine state veterans' homes, one of which is an assisted living facility, and the others are nursing homes.⁴

The department oversees and operates the following:

- The Division of Administration and Public Information and the Bureau of Information and Research; and
- The Division of Veterans' Benefits and Assistance and the following bureaus within the division:
 - Bureau of Veteran Claims Services;
 - Bureau of Veteran Field Services; and
 - Bureau of State Approving for Veterans' Training.⁵

The department also provides veterans' claims examiners to assist veterans in securing earned services, benefits, and support. In 2022, veterans' claims examiners assisted more than 272,000 veterans. In addition, claims examiners have processed nearly 35,000 new claims on behalf of Florida veterans, and helped recover more than \$194 million in retroactive benefits for Florida veterans and their families.⁶

¹ Section 1.01(14), F.S.

² Fla. Dep't of Veterans' Affairs, Leadership, *Florida Department of Veterans' Affairs – Our Vision and Mission*, available at <https://www.floridavets.org/leadership/> (last visited April 4, 2023).

³ *Id.*

⁴ *Id.* The assisted living facility, otherwise known as a state veterans' domiciliary home, is located in Lake City, Florida. The nursing homes are located in the cities of Daytona Beach, Land O'Lakes, Pembroke Pines, Panama City, Port Charlotte, St. Augustine, Port St. Lucie, and Orlando.

⁵ Section 20.37(2), F.S.

⁶ Florida Dep't of Veterans Affairs, *supra* note 2.

County and City Veteran Service Officers

Each board of county commissioners may approve the hiring of a county veteran service officer.⁷ Likewise, the governing body of a city may employ a city veteran service officer.⁸ To qualify, an applicant must be a veteran who:

- Served in the United States Armed Forces during a period of war;
- Served at least 18 months' active duty; and
- Was discharged under honorable conditions.⁹

A surviving spouse may instead be hired if the veteran spouse meets those qualifications.¹⁰

Alternate qualification for employment as a veteran service officer is available to an honorably discharged wartime veteran who:

- Was discharged for service-connected or aggravated medical reasons before serving 18 months of active duty;
- Completed a tour of duty other than active duty for training, regardless of the length of the tour; or
- Satisfied his or her military obligation in a manner other than active duty for training or reserve duty.¹¹

The applicant must additionally have a minimum of a 2-year degree from an accredited institute of higher education or a high school degree or its equivalent and 4 years of administrative experience.¹²

The department provides the training program for county and city veteran service officers,¹³ and every county or city veteran service officer must attend training and successfully complete a test administered by the department. In addition, the department establishes periodic training refresher courses, and completion of these courses is a condition of continuing employment.¹⁴

Adult Day Care Centers

Adult day care centers provide therapeutic services and activities for adults in a noninstitutional setting.¹⁵ Participants may utilize a variety of services offered during any part of a day totaling less than 24 hours.¹⁶ Basic services provided by adult day care centers include leisure activities, self-care training, nutritional services, and respite care.¹⁷ These facilities are licensed by the

⁷ Section 292.11(1), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Section 291.11(4), F.S.

¹⁴ *Id.*

¹⁵ Section 429.901(3), F.S.

¹⁶ *Id.* and s. 429.905(2), F.S.

¹⁷ Section 429.901(1) and (3), F.S.

Agency for Health Care Administration.¹⁸ However, facilities that operate under the federal government or any agency thereof are exempt from current state law on adult day care centers.¹⁹ The VA's Adult Day Health Care Program (Program) was established by the VA with the goal of allowing veterans to have a place during the day for social activities, peer support, companionship, and recreation.²⁰ The Program is intended for veterans who need help with activities of daily living, those who are isolated, or whose caregiver is experiencing burden.²¹ Health services such as care from nurses, therapists, social workers, and others may also be provided. The Program may be provided at VA medical centers, state Veterans Homes, or through community organizations.²² To receive a federal grant or grant funding for an adult day health care program, the state must meet the following specific federal requirements:

- If an adult day health care program is located within a nursing home, domiciliary, or other care facility, the adult health care program must have its own separate designated space during operational hours.
- The indoor space for the adult day health care program must be at least 100 sq. ft. per participant including office space for staff, and must be 60 sq. ft. per participant excluding office space for staff.
- Each program will need to design and partition its space to meet its own needs, but must make available certain federally mandated functional areas.²³
- Furnishings must be available for all participants, including functional furniture appropriate to the participants' needs.²⁴

Legal Holidays and Observances

Examples of legal holidays are New Year's Day (January 1), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Veterans' Day (November 11), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).²⁵

In addition to legal holidays, special observances are recognized and observed by the state. Special observance days include Law Enforcement Memorial Day²⁶, Arbor Day²⁷, and Law Day and Law Week²⁸.

III. Effect of Proposed Changes:

The bill addresses veterans' services and recognition.

¹⁸ Section 429.903, F.S.

¹⁹ Section 429.905, F.S.

²⁰ U.S. Dep't. of Veterans Affairs, *Adult Day Health Care*, available at https://www.va.gov/geriatrics/pages/Adult_Day_Health_Care.asp (last visited Mar. 20, 2023).

²¹ *Id.*

²² *Id.*

²³ For the list of federally mandated functional areas, see 38 C.F.R. s. 59.160(c)(1)-(11).

²⁴ 38 C.F.R. s. 59.160.

²⁵ Section 683.01, F.S.

²⁶ Section 683.115, F.S.

²⁷ Section 683.04, F.S.

²⁸ Section 683.22, F.S.

Division of Long-term Care

The bill amends s. 20.37, F.S., to establish in the Department of Veterans' Affairs (department) the Division of Long-term Care.

Veteran Service Officers

The bill amends s. 292.11, F.S., to revise the qualifications for employment as a city or county veteran service officer. Pursuant to the bill, a veteran can qualify as a veteran service officer if the veteran served in the active military, naval, or air service and was discharged or released under honorable conditions, or later received an upgraded discharge under honorable conditions.

The education requirement is unchanged.

Veterans' Adult Day Health Care of Florida Act

The bill creates ss. 296.42 through 296.49, F.S., to create the Veterans' Adult Day Health Care of Florida Act. The act's purpose is to provide uniform basic standards for the operation of veterans' adult day health care or adult day care programs for eligible veterans in need of services. The bill defines a "program" as a licensed facility operated by the department as an adult day care center.

Eligibility of a Veteran

The department will determine the eligibility of applicants for admission to the program. The program is available to a veteran as defined in s. 1.01(14), F.S., or a veteran who served in eligible peacetime service, and who must:

- Be in need of adult day health care;
- Be a resident of the state at the time of application;
- Not owe money to the department for services rendered during a previous stay at a department facility;
- Have applied for all financial assistance reasonably available through governmental resources; and
- Have been approved as eligible for care and treatment by the United States Department of Veteran Affairs (VA).

Residency requirements may be waived for an applicant in the limited circumstance that the veteran is a disaster evacuee of a state under a declared state of emergency and who otherwise qualifies.

Admittance priority must be given to eligible veterans in the following order:

- An eligible veteran who is a state resident.
- An eligible veteran who has a service-connected disability as determined by the VA, or who was discharged or released from service for a disability incurred or aggravated in the line of duty, and the disability is the basis for need of adult day health care.

- An eligible veteran who has a non-service-connected disability and is unable to defray the expense of adult day health care as provided under oath by a notary or other officer authorized to administer an oath.

If there is room, an eligible veteran who pays the full cost of his or her support services may be admitted to the program.

Facility Administrator

The director of the department will appoint an operator, a contractor, or an administrator of a veterans' nursing home or assisted living facility to serve as the entity responsible for day-to-day operations of the program.

If a contractor is appointed, the contractor may be for profit or nonprofit entity but will remain under the direction of the executive director of the department.

The administrator of a veterans' nursing home or the veterans' domiciliary may serve as the operator if the facility is colocated at an existing veterans' nursing home or assisted living facility.

Employment

Unless the operator is assigned to a contractor, the position of operator is classified as Selected Exempt Service and employees of the program are state employees subject to classification by the department in state law.

Unless the operator is assigned to a contractor, the director shall give veterans preference in selecting an operator.

Nondiscrimination Policy

The program will admit state residents regardless of race, age, sex, creed, religion, national origin, or anything else that would create a practice of discrimination. However, consideration of an applicant's veteran status does not constitute discrimination.

Program Audit and Inspection

The program is subject to audit and inspection by the Auditor General and the Office of Program Policy Analysis and Government Accountability, the department, and the VA, and any other audit or inspection required in law to maintain appropriate standards.

The standards that the department must use to regulate the operation of the program are those prescribed by the VA, unless the state's standards are more restrictive.

Rulemaking Authority

The department must adopt rules necessary to properly administer the program, including rules for preservation of order and enforcement of discipline, which may include dismissal from the program, subject to approval by the director. Rules will conform as nearly as possible to rules and regulations for comparable facilities of the VA.

Veterans Week

The bill creates s. 683.1475, F.S., to designate the week of November 11 of each year as “Veterans Week”, with the week starting the Sunday before November 11. If November 11 falls on a Sunday, “Veterans Week” begins on that day. The Governor may annually issue a proclamation designating this week as Veterans Week. Public officials, schools, private organizations, and all residents are encouraged to commemorate the week and honor those who served in times of war and peace.

The bill takes effect July 1, 2023.

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:

A veteran may be able to stay at home longer, with the provision of long-term care and access to a meaningful day activity at an adult day care center. These services may also provide respite for a family caretaker.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the department. The bill creates the Division of Long-term Care within the department, and establishes the

Veterans' Adult Day Health Care of Florida Act to provide veterans with adult day care services. According to the department, the costs of staffing the new division can be absorbed within existing resources.²⁹

The adult day care services program is expected to be revenue generating but may require upfront funding to cover costs associated with renovations of existing homes and equipment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.37 and 292.11.

This bill creates the following sections of the Florida Statutes: 296.42, 296.43, 296.44, 296.45, 296.46, 296.47, 296.48, 296.49, and 683.1475.

IX. Additional Information:

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

**CS by Military and Veterans Affairs, Space, and Domestic Security on
March 29, 2023:**

The committee substitute:

- Clarifies that a board of county commissioners and governing body of any city may employ a veteran service officer;
- Replaces the authority of the operator to determine eligibility of applicants with that of the department;
- Corrects a technical deficiency by removing the authority of the operator to adopt rules; and
- Corrects a technical deficiency by specifying when “Veterans Week” begins.

- B. Amendments:

None.

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

²⁹ Florida Dep't of Veterans Affairs, *2023 Agency Legislative Bill Analysis, SB 824* (July 1, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senator Collins

583-03301-23

2023824c1

A bill to be entitled

An act relating to veterans' services and recognition; amending s. 20.37, F.S.; creating the Division of Long-term Care within the Department of Veterans' Affairs; amending s. 292.11, F.S.; revising qualifications for employment of county and city veteran service officers; creating part III of ch. 296, F.S.; creating the "Veterans' Adult Day Health Care of Florida Act"; providing a purpose and definitions; providing for the appointment of an operator; requiring the department to determine applicant eligibility; requiring the department to adopt specified rules; specifying the qualifications, duties, and responsibilities of the operator; establishing a nondiscrimination policy for the program; providing for eligibility and priority of admittance; providing for participants' contribution to support; providing for program audits, inspections, and operational standards; creating s. 683.1475, F.S.; designating the week of November 11 of each year as "Veterans Week" in Florida; authorizing the Governor to issue an annual proclamation; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (2) of section 20.37, Florida Statutes, to read:
20.37 Department of Veterans' Affairs.—There is created a

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Department of Veterans' Affairs.

(2) The following divisions, and bureaus within these divisions, of the Department of Veterans' Affairs are established:

(c) Division of Long-term Care.

Section 2. Subsection (1) of section 292.11, Florida Statutes, is amended to read:

292.11 County and city veteran service officer.—

(1) Each board of county commissioners or the governing body of any city may employ a ~~county~~ veteran service officer; provide office space, clerical assistance, and the necessary supplies incidental to providing and maintaining a ~~county~~ service office; and pay related ~~said~~ expenses and salaries from the moneys hereinafter provided for. ~~The governing body of any city may employ a city veteran service officer; provide such office space, clerical assistance, and supplies; and pay expenses and salaries. A county or city veteran service officer must be a veteran as defined in s. 1.01(14) who served as a member of the Armed Forces of the United States during a period of war, as defined in Title 38, U.S.C.; who served at least 18 months' active duty in the Armed Forces; and who was separated from such service under honorable conditions, or the surviving spouse of any such a veteran and must. Any honorably discharged wartime veteran who was so discharged for service-connected or aggravated medical reasons before serving 18 months of active duty; who completed a tour of duty other than active duty for training, regardless of the length of the tour; or who satisfied his or her military obligation in a manner other than active duty for training or reserve duty shall be eligible for~~

Page 2 of 7

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59 ~~employment as a county or city veteran service officer. Every~~
 60 ~~county or city veteran service officer, in order to be eligible~~
 61 ~~for employment as a county or city veteran service officer,~~
 62 ~~shall~~ have a 2-year degree from an accredited university,
 63 college, or community college or a high school degree or
 64 equivalency diploma and 4 years of administrative experience.

65 Section 3. Part III of chapter 296, Florida Statutes,
 66 consisting of sections 296.42 through 296.49, Florida Statutes,
 67 is created to read:

68 PART III

69 VETERANS' ADULT DAY HEALTH CARE OF FLORIDA ACT

70 296.42 Short title.—This part may be cited as the
 71 "Veterans' Adult Day Health Care of Florida Act."

72 296.43 Purpose.—The purpose of this part is to provide for
 73 the establishment of basic standards for the operation of
 74 veterans' adult day health care programs for eligible veterans
 75 in need of such services.

76 296.44 Definitions.—As used in this part, the term:

77 (1) "Contractor" means an entity responsible for the day-
 78 to-day operations of an adult day health care facility or adult
 79 day care center as prescribed by 38 C.F.R. s. 59.160 or part III
 80 of chapter 429, respectively. The contractor may be a for-profit
 81 or nonprofit entity that operates the adult day health care
 82 facility or adult day care center under the direction of the
 83 executive director of the department.

84 (2) "Department" means the Department of Veterans' Affairs.

85 (3) "Director" means the executive director of the
 86 department.

87 (4) "Operator" means the person designated to have and who

583-03301-23 2023824c1

88 has the general administrative charge of an adult day health
 89 care facility or adult day care center. The administrator of a
 90 veterans' nursing home under s. 296.34 or the administrator of
 91 the Veterans' Domiciliary Home of Florida under s. 296.04 may
 92 serve as the operator if the adult day health care facility or
 93 adult day care center is colocated at an existing veterans'
 94 nursing home or the Veterans' Domiciliary Home of Florida or is
 95 a freestanding facility.

96 (5) "Participant" means an eligible veteran recipient of
 97 basic services or of supportive and optional services provided
 98 by an adult day health care facility or adult day care center.

99 (6) "Program" means a licensed facility operated by the
 100 department under part III of chapter 429.

101 (7) "Veteran" has the same meaning as in s. 1.01(14).

102 296.45 Operator; qualifications, duties, and
 103 responsibilities.—

104 (1) The director shall appoint an operator who is
 105 responsible for the overall operation of the program and for the
 106 care of the participant or shall designate a contractor to
 107 perform the same duties.

108 (2) The department shall determine the eligibility of
 109 applicants for admission to the program in accordance with
 110 provisions of this part and shall adopt rules necessary for the
 111 proper administration of the program, including rules for the
 112 preservation of order and enforcement of discipline in the
 113 program. Rules governing the program must conform as nearly as
 114 possible to the rules and regulations for comparable facilities
 115 of the United States Department of Veterans Affairs.

116 (3) The operator position is assigned to the Selected

583-03301-23

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Exempt Service under part V of chapter 110 unless the operation of the program is assigned to a contractor. The director must give veterans preference in selecting an operator as provided in ss. 295.07 and 295.085 if the operation of the program is not assigned to a contractor.

(4) Employees who fill authorized and established positions appropriated for the program must be state employees unless the operation of the program is assigned to a contractor. The department shall classify such employees in the manner prescribed in chapter 110.

(5) The operator shall administer and enforce all rules of the program, including rules of discipline, and may dismiss a participant in the program for an infraction of the rules, subject to the approval of the director.

296.46 Nondiscrimination policy of the program.—It is the policy of the state to admit residents into the program without regard to race, age, sex, creed, religion, national origin, or any other reason that would thereby create a practice of discrimination. However, consideration of an applicant's veteran status does not constitute discrimination.

296.47 Eligibility and priority of admittance.—

(1) To be eligible for admittance to the program, the person must be a veteran or have eligible peacetime service as defined in s. 296.02 and must:

(a) Be in need of adult day health care;

(b) Be a resident of this state at the time of application for admission to the program;

(c) Not owe money to the department for services rendered during any previous stay at a department facility;

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(d) Have applied for all financial assistance reasonably available through governmental sources; and

(e) Have been approved as eligible for care and treatment by the United States Department of Veterans Affairs.

(2) The operator may waive the residency requirement for a veteran who is otherwise eligible under Florida law for admittance to a program. The waiver must be limited to a veteran who is a disaster evacuee of a state that is under a declared state of emergency.

(3) Admittance priority must be given to eligible veterans in the following order of priority:

(a) An eligible veteran who is a resident of this state.

(b) An eligible veteran who has a service-connected disability as determined by the United States Department of Veterans Affairs, or was discharged or released from military service for a disability incurred or aggravated in the line of duty, and the disability is the condition for which adult day health care is needed.

(c) An eligible veteran who has a non-service-connected disability and is unable to defray the expense of adult day health care and so states under oath before a notary public or other officer authorized to administer an oath.

296.48 Participants; contribution to support.—The operator may, if there is room, admit to participation in the program a veteran who has sufficient means for his or her own support but is otherwise eligible to become a participant in the program, upon payment of the full cost of his or her support, which cost and method of collection must be fixed from time to time by the operator.

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175 296.49 Audit; inspection; standards for the program.—The
176 program must be open at any time to audit and inspection by the
177 Auditor General and the Office of Program Policy Analysis and
178 Government Accountability, as provided by law, the department,
179 and the United States Department of Veterans Affairs, and to any
180 other audits or inspections as required by law to maintain
181 appropriate standards in the program. The standards that the
182 department must use to regulate the operation of the program are
183 those prescribed by the United States Department of Veterans
184 Affairs, provided that when the state's standards are more
185 restrictive, the standards of the state must apply.

186 Section 4. Section 683.1475, Florida Statutes, is created
187 to read:

188 683.1475 Veterans Week.—

189 (1) The week of November 11 of each year is designated as
190 "Veterans Week," with the week starting with the Sunday
191 preceding November 11. If November 11 falls on a Sunday,
192 "Veterans Week" begins on that day.

193 (2) The Governor may annually issue a proclamation
194 designating the week of November 11 as "Veterans Week." Public
195 officials, schools, private organizations, and all residents of
196 this state are encouraged to commemorate Veterans Week and honor
197 the men and women who answered the call during times of war and
198 peace to protect and preserve the treasured freedom of all
199 citizens of the United States.

200 Section 5. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Veterans' Affairs

BILL INFORMATION

BILL NUMBER:	<u>SB 824</u>
BILL TITLE:	<u>Veterans' Services and Recognition</u>
BILL SPONSOR:	<u>Collins</u>
EFFECTIVE DATE:	<u>July 1, 2023</u>

COMMITTEES OF REFERENCE

1) Military and Veterans Affairs, Space, and Domestic Security
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Military and Veterans Affairs, Space, and Domestic Security

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 485
SPONSOR:	Salzman

Is this bill part of an agency package?

Yes

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	3/9/2023
LEAD AGENCY ANALYST:	Alyssa Deines
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Linda Williams
FISCAL ANALYST:	Click or tap here to enter text.

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill creates the Division of Long-term Care within the Department of Veterans Affairs (“department”), revises the qualifications of county and city veteran services offices, creates the Veterans Adult Day Health Care of Florida Act and designates the week of November 11 of each year as Veterans week.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

- a. At the present time, there is no Division of Long-term Care in Florida statute.
- b. The current qualification for county and city veteran service officers includes being a wartime veteran or the surviving spouse thereof.
- c. At the present time, there is no Veterans Adult Day Health Care of Florida Act.
- d. At the present time, there is no designation for Veterans Week.

2. **EFFECT OF THE BILL:**

- a. Paragraph (c) is added to subsection (2) of section 20.37, Florida Statutes to include “Division of Long-term Care.”
- b. Subsection (1) of 292.11, Florida Statutes, would be amended to remove the qualification of being a wartime veteran or a surviving spouse thereof and would be replaced by being a veteran as defined in s. 1.01 (14), Florida Statutes, or a surviving spouse thereof.
- c. Creates the Veterans Adult Day Health Care of Florida Act for the purpose of providing veterans’ adult day health care programs to eligible veterans in need of such services. This would also establish of basic standards for the operation, definitions, provide for the appointment of an operator, specifying the qualifications, duties, and responsibilities of the operator, establish a nondiscrimination policy for the program, provide for eligibility and priority of admittance, provide for participants’ contribution to support, provide for program audits, and inspections.
- d. Designates the week of November 11 of each year as Veterans Week in Florida and authorizing the Governor to issue an annual proclamation.

3. **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency’s core mission?	Y ☒ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	Please provide rulemaking authority for this provision to be consistent with department’s other long-term care: Chapter 296, Florida Statutes, Part I for State Veterans Domiciliary and Rule 55-11, F.A.C., and Part II for State Veterans Nursing Home and Rule 55-12, F.A.C. Rulemaking authority will be appropriate to create operational details for Adult Day Health Care.

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Removing the qualification of being a wartime veteran and changing it to a veteran qualification as defined in 1.01(14) F.S., would expand the candidate pool for county or city veteran service officers, making it easier to fill the position with qualified individuals to better serve those veterans in need. The establishment of Veterans Adult Day Health Care would expand health care services provided to veterans across Florida by the department to fit their individual needs more closely. Currently long-term care is provided at

	department domiciliary and nursing homes, but the addition of Adult Day Health Care could keep more veterans in the own homes longer, with day care support to enable quality care to more people with respite for family caregivers.
Opponents and summary of position:	No Opponents known

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☒ N ☐

Revenues:	Adult Day Health Care will increase number of permanent health care jobs within local government jurisdictions, and therefore, may generate revenues from the consumer population increase.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	May increase tax base from occupational licensure.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Not applicable.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	This program is intended to be a revenue producer as FDVA intends to bill the USDVA for the care provided under the Adult Day Health Care model. The current USDVA State Adult Day Healthcare rate is \$103.55 daily per resident. FDVA's model is to contract with a reputable adult day health care contractor to operate the program in space within our existing and future State Veteran Homes
Expenditures:	During the first year, we do not anticipate any additional expenditures. It will take at least one year to negotiate contracts with the USDVA and an adult day health care operator as well as prepare the space. FDVA will pilot it in its new St Lucie State Veteran Nursing Home and planning for our future homes. FDVA plans to implement the program with existing facilities and personal. May create new liabilities, especially if facilities are operated by contractors.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	Not applicable.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☒ N ☐

Revenues:	Salaries paid to employees hired by contractor will provide cash to be spent in local economy.
Expenditures:	Cannot be determined at this time.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.

Ongoing need for IT for all aspects of care.

FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.

State licensure of facility in addition to various

ADDITIONAL COMMENTS

Please note Line 120 in paragraph (3) Recommend citing veterans' preference as:
ss. 295.065 – 295.11, Florida Statutes.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

Be cognizant of § 59.160 Adult day health care requirements: <https://www.ecfr.gov/current/title-38/chapter-I/part-59/section-59.160> and other requirements for State construction grants: <https://www.ecfr.gov/current/title-38/chapter-I/part-59?toc=1>

See also 38 CFR Part 51.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JAY COLLINS

14th District

April 6, 2023

Senator Gayle Harrell
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chair Harrell,

I respectfully request that SB 824 – Veterans’ Services and Recognition be added to the calendar for the next available Appropriations Committee on Health and Human Services meeting. This bill is to empower post-9/11 veterans to receive the care that they need, and also to establish the proper recognition of our veterans by establish Veterans’ Week in the week of November 11th.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", written over a horizontal line.

Senator Jay Collins
Senate District 14

Cc: Tonya Money, Staff Director
Robin Jackson, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 0824 ~~9~~ 9

Bill Number or Topic

4/12/2023

Meeting Date

HHS APPROPRIATIONS

Committee

Name Bob ASZTALOS

Phone (850) 487-1533

Amendment Barcode (if applicable)

Address 400 S. Monroe St. Suite 2105 The Capitol

Email ASZTALOSB@FDVA. State.FL.US

Street

Tallahassee

FL

32399

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FDVA



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

This form is part of the public record for this meeting.

S-001 (08/10/2021)

Tab 9

824

The Florida Senate

APPEARANCE RECORD

04/12 /2023

Meeting Date

Appropriations

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name AARP Ivonne Fernandez Phone 954-850-7262

Address 215 S Monroe Street - 603 Email ifernandez@aarp.org

Street

Tallahassee

FL

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 976

INTRODUCER: Senator Harrell

SUBJECT: Certification of Individuals Who Provide Child and Adult Protective Services

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

I. Summary:

SB 976 amends s. 415.101, F.S., to require the Department of Children and Families (DCF) to approve a third-party credentialing entity to certify Adult Protective Services (APS) program staff. This change will require all current and future APS staff to be credentialed by a third-party credentialing entity.

The bill also creates an explicit right to a ch. 120, F.S., administrative hearing for certain child welfare professionals who receive an adverse determination by a third-party credentialing entity. The bill details timelines and requirements to request the administrative hearing.

The bill will have a significant negative fiscal impact on state government. See Section V.

The bill takes effect upon becoming a law.

II. Present Situation:

Third-Party Credentialing Entities

In 2011, the Legislature required the Department of Children and Families (DCF) to authorize third-party entities to develop and provide a process for child welfare professionals to become certified.¹ The law required the DCF to approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs.² A third-party credentialing entity must be a nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.³ To be approved by the DCF, a third-party credentialing entity must:

¹ Chapter 2011-163, L.O.F.; codified as s. 402.40, F.S.

² *Id.*

³ Section 402.40(2)(g), F.S.

- Establish professional requirements and standards that applicants must achieve;
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards;
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification;
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations;
- Require annual continuing education for persons holding child welfare certification;
- Administer a continuing education provider program;
- Review the findings and all relevant records involving the death of a child or other critical incident following completion of any reviews by the department, the inspector general, or the Office of the Attorney General; and
- Maintain an advisory committee, including representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent.⁴

Child Welfare Certifications

Child protective investigators, case managers, and licensing specialists are all child welfare professionals currently required to obtain a valid child welfare credential.⁵ An approved third-party credentialing entity is responsible for the internal monitoring of all training, certification activities, and the certification status of every Child Welfare Professional⁶ employed by the DCF, sheriffs' office, and community-based care lead agency.⁷ Child welfare certifications are valid for a two-year period.⁸

The DCF contracts with the Florida Certification Board (FCB) to provide the third-party credentialing service for Child Welfare Professionals.⁹ The current number of valid credentials is approximately 3,280 for child protective investigators, 4,880 for case managers, and 615 for licensing specialists, a total of 8,775.¹⁰

The Florida Certification Board

Currently, the DCF has only approved the FCB as a third-party credentialing entity for child welfare certifications. However, the FCB is larger than just child welfare certifications; it designs, develops and manages programs for over 30 health and human services professions and certifies more than 20,000 professionals statewide, including those in the child welfare, mental health, addiction and health fields, by ensuring that they meet education, training, experience and testing criteria.¹¹

⁴ Section 402.40(3), F.S.

⁵ Rule 65C-33.002, F.A.C.

⁶ Rule 65C-33.001(5), F.A.C.

⁷ *Id.*

⁸ *Id.*

⁹ The Department of Children and Families, 2023 Agency Bill Analysis, SB 976, p. 2, February 28, 2023 (on file with Committee for Children, Families, and Elder Affairs). (hereinafter cited as "DCF Bill Analysis")

¹⁰ *Id.*

¹¹ The Florida Certification Board, *About Us*, available at <https://flcertificationboard.org/about/> (last viewed March 28, 2023).

Current law is silent as to any ch. 120, F.S., administrative hearing rights in relation to the denial, revocation, or suspension of a child welfare certification.

Chapter 120 Administrative Hearings

In 1974, the Legislature created ch. 120, F.S., establishing the Administrative Procedures Act (APA),¹² to outline a comprehensive administrative process by which agencies exercise authority granted to them by the Legislature.¹³ The APA details processes and procedures related to topics such as:

- Meetings, hearings, and workshops.¹⁴
- Rulemaking.¹⁵
- Declaratory statements.¹⁶
- Mediation of disputes.¹⁷
- Investigations.¹⁸
- Licensing.¹⁹
- Agency final orders.²⁰

The APA serves to protect the citizens of Florida from unauthorized rules that could otherwise be in effect by providing state agencies a uniform procedure for enacting rules, issuing orders, and allowing citizens to challenge an agency's action or decision.²¹ Agency action is broadly defined to include a rule or its equivalent, an order or its equivalent, and the denial of a petition to adopt a rule or to issue an order.²²

Adult Protective Services

Chapter 415, F.S., authorizes comprehensive protective services for Florida's elderly and abused adults.²³ The DCF Adult Protective Services (APS) program is required to investigate allegations

¹² Chapter 1974-310 s. 1, L.O.F.; codified as Chapter 120, F.S.

¹³ Florida Administrative Law Central Online Network, Publications, *A Pocket Guide to Florida's Administrative Procedure Act*, p2022, available at <https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last viewed March 31, 2023) (hereinafter cited as "APA Pocket Guide")

¹⁴ Section 120.525, F.S.

¹⁵ Section 120.54, F.S.

¹⁶ Section 120.565, F.S.

¹⁷ Section 120.573, F.S.

¹⁸ Section 120.62, F.S.

¹⁹ Section 120.60, F.S.

²⁰ Sections 120.53 and 120.533, F.S.

²¹ APA Pocket Guide, p. 1

²² *Id.*

²³ Section 415.101, F.S.

of abuse,²⁴ neglect,²⁵ and exploitation²⁶ of vulnerable adults²⁷ and vulnerable adults in need of services.²⁸

Upon a report of alleged abuse, neglect, or exploitation, the central abuse hotline (hotline) makes an assessment of an individual's need for protective services.²⁹ The hotline must determine if the report requires an immediate, 24-hour, or next-working-day response priority.³⁰ For reports requiring an immediate onsite protective investigation, the hotline must immediately notify the department's designated protective investigative staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.³¹ This investigation initiates an assessment of individual need for protective services.³² Services provided by APS include the following:

- On-site investigation of reports of alleged abuse, neglect, exploitation or self-neglect;
- Determination of immediate risk to the victim and provision of necessary emergency services;
- Evaluation of the need for and provision of protective supervision; and
- Provision of on-going protective services.³³

Pursuant to the Florida Community Care for Disabled Adults Act,³⁴ the APS program also assists vulnerable disabled adults to live dignified and reasonably independent lives in their own homes

²⁴ Section 415.102(1), F.S., defines “abuse” to mean any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

²⁵ Section 415.102(16), F.S., defines “neglect” to mean the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term “neglect” also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. “Neglect” is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

²⁶ Section 415.102(8), F.S., defines “exploitation” to mean (1) a person who stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or (2) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

²⁷ Section 415.102(28), F.S., defines “vulnerable adult” to mean a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

²⁸ Section 415.102(29), F.S., defines “vulnerable adult in need of services” to mean a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.

²⁹ See generally s. 415.103, F.S.

³⁰ Section 415.103(1)(b), F.S.

³¹ Section 415.103(2), F.S.

³² The Department of Children and Families, *About Adult Protective Services*, available at <https://www.myflfamilies.com/services/abuse/adult-protective-services/about-adult-protective-services> (last viewed March 28, 2023) (hereinafter cited as “DCF APS Webpage”)

³³ *Id.*

³⁴ See ss. 410.602 through 410.606, F.S.

or in the homes of relatives or friends so that they may be assured the least restrictive environment suitable to their needs.³⁵

Subject matter experts within the APS program, in collaboration with partner state agencies and the National Adult Protective Services Association, developed all current APS staff training programs.³⁶ Each position has performance expectations and failure to meet performances standards will results in disciplinary actions that can result in or escalate to termination based on severity and response.³⁷

Currently, the DCF reports 520 current APS program staff members who provide adult protective services and there is no requirement for APS program staff to obtain certification through a third-party credentialing entity.³⁸

III. Effect of Proposed Changes:

The bill amends s. 415.101, F.S., to require the Department of Children and Families (DCF) to approve a third-party credentialing entity to certify Adult Protective Services (APS) program staff. This change will require the DCF to identify and contract with a third-party credentialing entity to develop and administer a certification program for current and future APS program staff.

The bill amends s. 402.40, F.S., to create an explicit right to a ch. 120, F.S., administrative hearing for a Child Welfare Professional in relation to the denial, revocation, or suspension of a child welfare certification by a third-party credentialing entity. A Child Welfare Professional may request an administrative hearing to review an adverse determination within 30 days after completing any appeals process provided by the third-party credentialing entity or the DCF. This change has the potential to increase the number of administrative hearings the DCF must attend in relation to actions taken by a credentialing entity against a child welfare professional's credential.

The bill provides that the DCF may review any decision by a third-party credentialing entity to deny, revoke, or suspend a child welfare certification or otherwise impose sanctions on an individual who is certified.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁵ The Department of Children and Families, *About Adult Protective Services*, available at <https://www.myflfamilies.com/services/abuse/adult-protective-services/about-adult-protective-services> (last viewed March 28, 2023).

³⁶ The Department of Children and Families, 2023 Agency Bill Analysis, *SB 976*, p. 2, February 28, 2023 (on file with Committee for Children, Families, and Elder Affairs). (hereinafter cited as "DCF Bill Analysis")

³⁷ *Id.*

³⁸ *Id.*

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:

None.

C. Government Sector Impact:

Administrative Hearings³⁹

The bill has a significant yet indeterminate fiscal impact on the Department of Children and Families due to the bill's provisions which allow a child welfare professional, who receives an adverse determination from a third party credentialing entity, to request an administrative hearing. This provision may require the department to participate in an increased number of ch. 120, F.S., proceedings, however, the number of proceedings is unknown at this time.

Credential Costs

The bill has a significant negative fiscal impact on the department due to the bill's provisions which require third party credentialing of Adult Protective Services (APS) staff. According to the department, the estimated recurring cost to implement third party credentialing of all APS is \$156,520. The estimated nonrecurring cost to implement third party credentialing of APS in year-one is \$233,600.⁴⁰

³⁹ The Department of Children and Families, 2023 Agency Bill Analysis, SB 976, p. 4, February 28, 2023 (on file with Committee for Children, Families, and Elder Affairs). (hereinafter cited as "DCF Bill Analysis")

⁴⁰ *Id.*

The DCF bases the estimate on the current fee structure for the Child Welfare certification program as administered by the Florida Certification Board:

- Provisional Application fee: \$107.50
- Test fee: \$107.50
- Upgrade Application fee: \$107.50
- Certification fee: \$107.50
- Biennial Renewal fee: \$215

The total nonrecurring cost to credential all APS staff is calculated as follows:

- Provisional application fee + test fee + upgrade application fee + certification fee = \$430 per employee
- $\$430 \times 520$ APS employees (if fully staffed) = **\$233,600**

The DCF estimates a 40 percent turnover rate among child welfare professionals. The total recurring costs associated with certifying new employees due to turnover and the biennial renewal fee for stable positions is calculated as follows:

- $520 \times 0.4 = 208$ new employees each year due to turnover (40%)
- $208 \times \$430 = \$89,440$
- $312 \times \$215 = \$67,080$ biennial renewal fee for stable employees
- $\$89,440 + \$67,080 = \mathbf{\$156,520}$

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 402.40 and 415.101.

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.

By Senator Harrell

31-01094A-23

2023976__

1 A bill to be entitled
 2 An act relating to the certification of individuals
 3 who provide child and adult protective services;
 4 amending s. 402.40, F.S.; providing a review and
 5 appeal process for child welfare administration
 6 certifications that are denied, revoked, or suspended
 7 or sanctions that are imposed by a third-party
 8 credentialing entity; amending s. 415.101, F.S.;
 9 revising legislative intent regarding the
 10 certification of individuals who provide adult
 11 protective services; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (3) of section 402.40, Florida
 16 Statutes, is amended to read:
 17 402.40 Child welfare training and certification.—
 18 (3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
 19 shall approve one or more third-party credentialing entities for
 20 the purpose of developing and administering child welfare
 21 certification programs for persons who provide child welfare
 22 services. A third-party credentialing entity must ~~shall~~ request
 23 such approval in writing from the department. In order to obtain
 24 approval, the third-party credentialing entity must:
 25 (a) Establish professional requirements and standards that
 26 applicants must achieve in order to obtain a child welfare
 27 certification and to maintain such certification.
 28 (b) Develop and apply core competencies and examination
 29 instruments according to nationally recognized certification and

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30 psychometric standards.
 31 (c) Maintain a professional code of ethics and a
 32 disciplinary process that apply to all persons holding child
 33 welfare certification.
 34 (d) Maintain a database, accessible to the public, of all
 35 persons holding child welfare certification, including any
 36 history of ethical violations.
 37 (e) Require annual continuing education for persons holding
 38 child welfare certification.
 39 (f) Administer a continuing education provider program to
 40 ensure that only qualified providers offer continuing education
 41 opportunities for certificateholders.
 42 (g) Review the findings and all relevant records involving
 43 the death of a child or other critical incident following
 44 completion of any reviews by the department, the inspector
 45 general, or the Office of the Attorney General. Such review may
 46 occur only upon the filing of a complaint from an outside party
 47 involving certified personnel. This review shall assess the
 48 certified personnel's compliance with the third-party
 49 credentialing entity's published code of ethical and
 50 professional conduct and disciplinary procedures.
 51 (h) Maintain an advisory committee, including
 52 representatives from each region of the department, each
 53 sheriff's office providing child protective services, and each
 54 community-based care lead agency, who shall be appointed by the
 55 organization they represent. The third-party credentialing
 56 entity may appoint additional members to the advisory committee.
 57
 58 Any decision by a third-party credentialing entity to deny,

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59 revoke, or suspend a certification, or otherwise impose
 60 sanctions on an individual who is certified, is reviewable by
 61 the department. Upon receiving an adverse determination, the
 62 person aggrieved may request an administrative hearing pursuant
 63 to ss. 120.569 and 120.57(1) within 30 days after completing any
 64 appeals process offered by the credentialing entity or the
 65 department, as applicable.

66 Section 2. Subsection (2) of section 415.101, Florida
 67 Statutes, is amended to read:

68 415.101 Adult Protective Services Act; legislative intent.—

69 (2) The Legislature recognizes that there are many persons
 70 in this state who, because of age or disability, are in need of
 71 protective services. These ~~Such~~ services should allow such an
 72 individual the same rights as other citizens and, at the same
 73 time, protect the individual from abuse, neglect, and
 74 exploitation. It is the intent of the Legislature to provide for
 75 the detection and correction of abuse, neglect, and exploitation
 76 through social services and criminal investigations and to
 77 establish a program staffed by persons who hold a professional
 78 certification from a third-party credentialing entity approved
 79 by the Department of Children and Families to provide of
 80 protective services for all vulnerable adults in need of them.
 81 It is intended that the mandatory reporting of such cases will
 82 cause the protective services of the state to be brought to bear
 83 in an effort to prevent further abuse, neglect, and exploitation
 84 of vulnerable adults. In taking this action, the Legislature
 85 intends to place the fewest possible restrictions on personal
 86 liberty and the exercise of constitutional rights, consistent
 87 with due process and protection from abuse, neglect, and

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88 exploitation. Further, the Legislature intends to encourage the
 89 constructive involvement of families in the care and protection
 90 of vulnerable adults.

91 Section 3. This act shall take effect upon becoming a law.

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2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

BILL INFORMATION

BILL NUMBER:	SB 976
BILL TITLE:	<u>Certification of Individuals who Provide Child and Adult Protective Services</u>
BILL SPONSOR:	Senator Harrell
EFFECTIVE DATE:	Upon becoming law

COMMITTEES OF REFERENCE

1) Children, Families, and Elder Affairs
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

Children, Families, and Elder Affairs

SIMILAR BILLS

BILL NUMBER:	HB 1055
SPONSOR:	Rep. Daley

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION

BILL NUMBER:	SB 272
SPONSOR:	Senator Harrell
YEAR:	2022
LAST ACTION:	Died in Children, Families, and Elder Affairs

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 28, 2023 For further information, please contact Alexander Guzman at (850) 488-9410.
LEAD AGENCY ANALYST:	Milton Perinon
ADDITIONAL ANALYST(S):	Lee Ann Christenson
LEGAL ANALYST:	Laura Battaglia
FISCAL ANALYST:	Sharon Bufford

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill provides, for persons who provide child welfare services, a review and appeal process for certifications that are denied, revoked, suspended, or otherwise have sanctions imposed upon them by the third-party credentialing entity. The bill also requires the Department of Children and Families (Department) to approve a third-party credentialing entity to certify staff within the APS program. The bill goes into effect upon becoming law.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1:

Current Child Welfare Credentials

In 2011, the Legislature passed CS/HB 273, enacted as Ch. 2011-163, Laws of Florida. One of the key points of this bill was to remove from the Department its child welfare training program and to require the Department to authorize third-party entities to develop and provide a certification process. Only the Florida Certification Board had such a certification available. Child protective investigators (CPI), case managers, and licensing specialists are currently required to obtain a valid child welfare credential. The Department contracts with the Florida Certification Board to provide the credentialing service. The current number of valid credentials is approximately 3,280 for CPI, 4,880 for case managers, and 615 for licensing specialists, a total of 8775.

Section 2:

Adult Protective Services

The Department's Adult Protective Services (APS) program currently investigates allegations of abuse, neglect, financial exploitation, and self-neglect of Florida's vulnerable adult population, as well as provides protective services to prevent further abuse, neglect, exploitation, or self-neglect.

All training programs (pre-service and in-service) for Florida APS staff were developed by subject matter experts within the program, partner state agencies (Agency for Persons with Disabilities, Agency for Health Care Administrations, and the Department of Elder Affairs) as well as the National Adult Protective Services Association (NAPSA). APS specialists conduct standardized APS training programs throughout the state. Each position has performance expectations and is evaluated based upon these expectations. Failure to meet performance standards will result in disciplinary actions that can result in or escalate to termination based on severity and response.

There are approximately 520 current staff members in the program who provide adult protective services.

2. EFFECT OF THE BILL:

Section 1:

This section adds an explicit Chapter 120 right to CPIs, case managers, and licensing specialists in relation to their credential, which has the potential to increase the instances of administrative hearings to appeal the suspension, revocation, or denial of a certification.

This section also provides that the Department may review any decision by a third-party credentialing entity to deny, revoke, or suspend such a certification, or otherwise impose sanctions on an individual who is certified. To fulfill this function, the Department may need hire staff who have experience with the credential requirements.

Section 2:

The bill amends s. 415.101, F.S., to require the Department to approve a third-party credentialing entity to certify staff within the APS program. These changes may result in the credentialing of as many as 520 APS staff. As there is currently no requirement for APS staff to obtain certification credentials, the Department would be required to identify and contract with a third-party credentialing entity to develop and administer a certification program.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? NO

If yes, explain:	Section 402.40(6), F.S. requires the Department to adopt rules necessary to carry out this section.
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	65C-33

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? UNKNOWN

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None

Expenditures:

Legal Costs

The potential legal costs associated with the ss. 120.569 and 120.57(1), F.S., hearing rights are estimated below:

The Department estimates that 5% of the child welfare professionals being certified or re-certified may request an administrative hearing due to suspension, revocation, or denial of certification, at a conservative estimate of \$5,000 per hearing. Each hearing takes legal counsel approximately 25-30 hours. The cost calculation is below:

- The cost per hearing estimate includes approximately \$2,500 for the Division of Administrative Hearings (DOAH) and \$2,500 (attorney staff time, court reporter, etc.) for the Department's costs.
- 8775 (total employees) x .05 = Approximately 440 employees
- 440 (hearings) x 5,000 (estimated hearing cost) = **\$2,200,000**

Last year, 21 lawyers handled approximately 200 administrative hearing cases statewide. For 440 new hearings, or approximately 12,100 additional hours of legal work, the Department will likely need to expand the size of its Office of General Counsel.

Credential Costs

The following expenditures are based on the current fee structure for the Child Welfare certification program as administered by the Florida Certification Board.

Provisional Application fee: \$107.50

Test fee: \$107.50

Upgrade Application fee: \$107.50

Certification fee: \$107.50

Biennial Renewal fee: \$215

Total APS cost: 520 employees (if fully staffed) (40% turnover)

- Provisional Application fee: \$55,900
- Test fee: \$55,900
- Upgrade Application fee: \$55,900
- Certification fee: \$55,900
- Biennial Renewal fee: \$111,800
- Year 1: **\$223,600** (provisional, test, upgrade, and certification fee)
- Ongoing Costs:
 - $\$223,600 \times .40$ (turnover) = \$89,440
 - $.60$ (stable workforce) x 520 = 312 positions
 - $312 \times \$215$ (biennial renewal) = \$67,080
 - Total: **\$156,520**

Item	Cost
Legal	\$2,200,000
Credential: Year 1	\$223,600
Credential: On-going	\$156,520
Total Cost	
	Nonrecurring: \$223,600
	Recurring: \$2,356,520
	\$2,580,120

	The contracted costs for a third party to develop and administer the certification program for the APS staff is indeterminate at this time.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
Expenditures:	None
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No.
If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	Including 120 rights for persons affected by the third-party credentialing entity's decision contradicts the plain language in Chapter 120, Florida Statutes. Section 120.52(13)(b), F.S., defines party as including, "[a]ny other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party." Administrative hearings under ss. 120.569 and 120.57 are designed for persons affected by agency action. Allowing the Department to review the credentialing entity's actions duplicates their processes, since the Department is deferring to their standards, and likely undermines their authority. Employees of the Department, such as CPIs and licensing specialists, are already able to dispute action taken against their credentials via a hearing before the Public Employees Relations Commission, or "PERC." Providing 120 rights may create confusion and may cause contradicting opinions. For example, the person may fail at PERC and prevail at DOAH, causing a jurisdictional conflict.

APPEARANCE RECORD

April 12, 2023

Meeting Date

Appropriations H & S

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting1001010
SB 976

Bill Number or Topic

Amendment Barcode (if applicable)

Name Amy Farrington

Phone 850 264 7195

Address Florida Certification Board

Street

Email afarrington@flcertification
board.org

tall, FL 32301

City

State

Zip

Speaking:

☒ For☐ Against☒ Information

if requested

OR

Waive Speaking:

☒ In Support☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☒ I am appearing without
compensation or sponsorship.☐ I am a registered lobbyist,
representing:☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 988

INTRODUCER: Health Policy Committee and Senator Burton

SUBJECT: Medicaid Coverage of Continuous Glucose Monitors

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
2.	<u>Barr</u>	<u>Money</u>	<u>AHS</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 988 creates s. 409.9063, F.S., requiring the Agency for Health Care Administration (AHCA) to provide coverage for continuous glucose monitors (CGM) under the Medicaid pharmacy benefit to treat Medicaid recipients diagnosed with diabetes who meet certain criteria and requirements, subject to the availability of funds and any limitations or directions provided in the General Appropriations Act (GAA).

The bill requires the AHCA to seek federal approval, if needed, to implement the bill, and to include the bill's impact in Medicaid managed care plan capitation rates that are scheduled to take effect October 1, 2023.

This bill has a significant negative fiscal impact on the Agency for Health Care Administration and the Florida Medicaid program. See Section V of this analysis.

The bill takes effect on October 1, 2023.

II. Present Situation:

What Is Diabetes?

Diabetes is a chronic health condition that affects how the human body converts food into energy.

The human digestive system breaks down carbohydrates consumed as food into glucose¹ and releases it into the bloodstream, which increases the blood's glucose level. Such an increase in blood glucose should signal the pancreas to release the hormone insulin, which acts as a catalyst to allow the body's cells to metabolize the glucose and convert it to energy, or to convert the glucose into forms suitable for short-term or long-term storage.

With diabetes, depending on the type of diabetes, the pancreas either does not make any insulin or does not make enough insulin, or the body cannot use insulin as well as it should. When there is not enough insulin or cells stop responding to insulin, blood glucose levels elevate and stay elevated for extended periods. Over time, that can cause serious health problems, such as heart disease, vision loss, kidney disease, vascular disease, and other maladies. Such outcomes are often known as long-term complications of diabetes.

Approximately 2,164,009 people in Florida have diabetes, according to the American Diabetes Association.

Types of Diabetes

There are three main types of diabetes: Type 1, Type 2, and gestational diabetes.

Type 1 Diabetes

Type 1 diabetes is thought to be caused by an autoimmune reaction in which the body's immune system attacks and destroys the cells in the pancreas that normally produce insulin. Approximately 5 to 10 percent of the people with diabetes have Type 1. Symptoms of Type 1 often develop quickly. It is usually diagnosed in children, teens, and young adults. Someone with Type 1 diabetes must take insulin, usually through subcutaneous injection, on a regular basis to survive, usually one or more times per day. Currently, Type 1 diabetes can neither be prevented nor cured.²

Type 2 Diabetes

With Type 2 diabetes, the body does not use insulin well and cannot keep blood glucose at normal levels. About 90 to 95 percent of people with diabetes have Type 2. It develops over many years and is usually diagnosed in overweight, middle-aged adults, although it can sometimes manifest in adolescents and young adults. Type 2 diabetes can often be prevented or delayed, or even eliminated altogether, with healthy lifestyle changes, such as losing weight, eating healthy food, and exercising regularly.³ Type 2 diabetes is usually treated with oral medications but can require insulin injections in some cases.

¹ Glucose is the simplest type of carbohydrate (chemical formula C₆H₁₂O₆), and all carbohydrates consumed as food must be broken down into glucose before the body can metabolize them.

² Centers for Disease Control and Prevention, *What Is Diabetes?*, available at: <https://www.cdc.gov/diabetes/basics/diabetes.html> (last visited March 9, 2023).

³ *Id.*

Gestational Diabetes

Gestational diabetes develops in pregnant women who have never had diabetes. In pregnant women with gestational diabetes, the baby could be at higher risk for health problems. Gestational diabetes usually goes away after the baby is born. However, it correlates to a higher risk for Type 2 diabetes later in life. A baby delivered by a woman with gestational diabetes is more likely to become obese as a child or teen and to develop Type 2 diabetes later in life.⁴

Managing Diabetes

In order for Type 1 or Type 2 diabetics to avoid long-term complications, or for a pregnant woman with gestational diabetes to mitigate the effects of that condition, blood glucose levels must be managed to stay as close to normal ranges as possible.

A widely accepted “normal” level of blood glucose is 100 milligrams of glucose per deciliter (mg/dL) of whole blood, although normal levels may vary. A normal fasting blood glucose level for someone without diabetes is 70 to 99 mg/dL.⁵

Testing blood glucose levels is key to managing diabetes. Years of elevated blood glucose levels can lead to diabetes’ costly and disabling long-term complications, while levels that are too low (hypoglycemia) can be dangerous in an immediate sense and can lead to unconsciousness, brain damage, or death.

Blood Glucose Meters

Blood glucose meters are small devices used to measure a person’s blood glucose level at a specific point in time. To use a meter, a person inserts a test strip into the metering device, pricks one of his or her fingers with a lancing device (lancet) to draw a drop of blood, and then puts the blood drop onto the test strip, which causes a chemical reaction based on the presence of glucose in the blood. That chemical reaction can be detected and measured by the meter, which then displays a blood glucose reading, usually within a few seconds.⁶ After the reading, the used test strip must be discarded and a new one inserted in order to conduct a subsequent test.

Continuous Glucose Monitors

Continuous glucose monitoring makes use of a specialized device to automatically track blood glucose levels throughout the day and night. Using a continuous glucose monitor (CGM) allows a diabetic to monitor glucose levels any time at a glance and to review how glucose levels have changed over a few minutes, hours, or days, to see trends, without drawing blood by pricking a finger. Seeing glucose levels in real time and over periods of time can help diabetics make more

⁴ *Id.*

⁵ Cleveland Clinic, *Blood Glucose (Sugar) Test*, available at: <https://my.clevelandclinic.org/health/diagnostics/12363-blood-glucose-test> (last visited March 9, 2023).

⁶ DiaTribe Learn: Making Sense of Diabetes, *Blood Glucose Meters and Strips*, available at: <https://diatribe.org/blood-glucose-meters-and-strips> (last visited March 9, 2023).

informed decisions throughout the day about how to balance food intake, physical activity, and medicines.⁷

CGMs are approved in the U.S. for adults and children with a health care practitioner's prescription. A CGM works through a tiny sensor inserted under the skin, usually via a small plastic disk or pod adhered to the abdomen or the backside of the upper arm. The sensor measures interstitial glucose level, which is the glucose found in the fluid between the cells. The sensor tests glucose every minute or every few minutes. A transmitter within the sensor wirelessly sends the information to a monitor, which can be a dedicated device or, in some cases, an app on a smartphone.⁸

CGMs are always on and recording glucose levels. Many CGMs have special features that work with information from glucose readings, such as:⁹

- An alarm can sound when the glucose level goes too low or too high.
- Data can be entered manually, regarding meals, physical activity, and medicines, so that such pertinent information can be recorded alongside glucose levels.
- Some models can send information in real time to a second person's smartphone, such as a parent or caregiver. For example, if a child's glucose drops dangerously low overnight, the CGM could be set to wake a parent in the next room.
- CGM data can be stored on the Internet and made accessible to a diabetic's treating health care practitioner, who can use the data to help monitor and manage the diabetic's treatment.

Benefits of a CGM

Compared with a standard blood glucose meter, using a CGM system can help a diabetic to:

- Better manage blood glucose levels every day.
- Have fewer emergencies relating to hypoglycemia.
- Need fewer finger sticks, which helps because the pain and bruising from repeated finger sticks can discourage the use of a blood glucose meter.

A graphic on the CGM screen shows whether the blood glucose level is rising or dropping, and how quickly it may be rising or dropping, allowing the diabetic to make better decisions about his or her behavior in the short-term regarding the need for insulin, food, or whether exercise is a good or bad idea for that point in time.

Over time, good management of glucose levels greatly helps people with diabetes stay healthy and prevent costly and potentially disabling complications of the disease.¹⁰

The Florida Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid

⁷ National Institute of Diabetes and Digestive and Kidney Diseases, *Continuous Glucose Monitoring*, available at: <https://www.niddk.nih.gov/health-information/diabetes/overview/managing-diabetes/continuous-glucose-monitoring> (last visited March 9, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

program is a partnership of federal and state governments established to provide coverage for health services for eligible persons. Florida's program is financed through state and federal funds.¹¹

The Agency for Health Care Administration (AHCA) is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act (SSA). This authority includes establishing and maintaining a Medicaid state plan approved by the Centers for Medicare & Medicaid Services (CMS) and maintaining any Medicaid waivers needed to operate the Florida Medicaid program as directed under the Florida Statutes,¹² the General Appropriations Act (GAA), and other legislation accompanying the GAA.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements. State Medicaid programs may request from CMS a formal waiver of the requirements codified in the SSA. Federal waivers give states flexibility not afforded through their Medicaid state plan.

In Florida, a large majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.¹³ Other recipients who are not eligible for managed care, are not subject to mandatory managed care enrollment, or are not yet enrolled in a plan, are provided services directly from health care practitioners or facilities, and in those cases, providers are paid on a fee-for-service (FFS) basis.

SMMC has three components:

- Managed Medical Assistance (MMA), under which the AHCA makes payments for primary and acute medical treatments and related services using a managed care model;
- Long-term Care Managed Care (LTCMC), under which the AHCA makes payments for long-term care, including home and community-based services, using a managed care model; and
- The Medicaid Prepaid Dental Health Program (Prepaid Dental), under which the AHCA makes payments for dental services for children and adults using a managed care model.

SMMC benefits are authorized through federal waivers and are specifically required by the Florida Legislature in ss. 409.973 and 409.98, F.S. SMMC benefits cover primary, acute, preventive, behavioral health, prescribed drugs, long-term care, and dental services.

¹¹ Section 20.42, F.S.

¹² See parts III and IV of ch. 409, F.S., available at:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0409/0409ContentsIndex.html (last visited March 9, 2023).

¹³ As of January 31, 2023, Florida Medicaid's total enrollment comprised 5,696,638 persons. Eighty-seven percent were enrolled in a Medicaid managed care plan. See:

https://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/docs/ENR_202301.xls (last visited March 9, 2023).

Medicaid Coverage of Prescribed Drugs

Medicaid managed care plans are required to provide all prescription drugs listed on the AHCA's Florida Medicaid Prescribed Drug List (PDL). As such, AHCA's contracts with the managed care plans prevent them implementing their own plan-specific formularies or PDLs and require them to provide a link to the AHCA's Medicaid PDL on their websites.¹⁴

Medicaid covers all U.S. Food and Drug Administration (FDA) approved prescription medications. Section 409.91195, F.S., outlines the development and management of the PDL. The AHCA uses clinical factors and its negotiations with drug manufacturers for monetary rebates when determining drugs to include on the PDL. State-negotiated supplemental rebates, along with federally required rebates, frequently result in discounted prescription cost for brand name drugs, potentially resulting in a cost to the state lower than that of its generic equivalent.¹⁵

Drugs not included on the PDL must be authorized by the AHCA's pharmacy benefit manager (PBM) for Medicaid FFS or a managed care plan prior to being dispensed. Additionally, CMS allows states to cover non-pharmaceutical products under the pharmacy benefit if that product is FDA-approved and has been assigned a National Drug Code (NDC).¹⁶

Medicaid Coverage of Diabetes Equipment and Supplies

Florida Medicaid FFS recipients presently acquire diabetic supplies from a durable medical equipment (DME) provider. DME providers are reimbursed according to an AHCA fee schedule containing fixed payment amounts for all products falling under the same billable codes. Currently, Florida Medicaid covers CGM for recipients younger than 21 years of age; however, the managed care plans can be less restrictive, and some have already elected to cover CGM for adults as an expanded benefit or to provide CGM as a pharmacy benefit.¹⁷

In 2021, Florida Medicaid spent nearly \$40 million on diabetic supplies, including expenditures in the FFS delivery system and SMMC. Nearly half the expense was for glucose test strips, totaling \$19 million for SMMC diabetic enrollees and \$500,000 for FFS recipients. Additional diabetic supplies, such as glucose sensors, transmitters, insulin pumps, needles, lancets, CGM, syringes, glucose meters, and alcohol swabs, accounted for the approximate \$19 million in SMMC diabetic enrollee expenses.¹⁸

Currently, more than 20 other states cover diabetic supplies for both Type 1 and Type 2 diabetes through the pharmacy benefit, thereby collecting rebates from manufacturers of equipment and supplies. Diabetic supplies in these arrangements include CGMs, test strips, lancets, meters, transmitters, and sensors.¹⁹

¹⁴ Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 988*, on files with the Senate Committee on Health Policy.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Diabetes and Medicaid

Approximately 14 percent of Medicaid enrollees nationwide have diabetes. Within the Medicaid population, health care costs for people with diabetes are 1.5 to 4.4 times higher than for those without diabetes. Studies show CGM use is associated with reductions in rates of acute diabetes-related events and rates of hospitalization in people with Type 2 diabetes being treated with insulin.²⁰

III. Effect of Proposed Changes:

Section 1 creates s. 409.9063, F.S. The bill defines “continuous glucose monitor” (GCM) to mean an instrument or a device designed for the purpose of aiding in the treatment of diabetes by measuring glucose levels on demand or at set intervals through a small, electronic sensor that slightly penetrates a person’s skin when applied and that is designed to remain in place and active for at least seven days.

The bill requires the Agency for Health Care Administration (AHCA), subject to the availability of funds and subject to any limitations or directions provided in the General Appropriations Act, to provide coverage for a continuous glucose monitor under the Medicaid pharmacy benefit for the treatment of a Medicaid recipient if:

- The recipient has been diagnosed by his or her primary care physician, or another licensed health care practitioner authorized to make such diagnosis, with Type 1 diabetes, Type 2 diabetes, gestational diabetes, or any other type of diabetes that may be treated with insulin; and
- A health care practitioner with the applicable prescribing authority has prescribed insulin to treat the recipient’s diabetes and a continuous glucose monitor to assist the recipient and practitioner in managing the recipient’s diabetes.

The bill requires that CGM coverage include the cost of any necessary repairs or replacement parts.

To qualify for continued CGM coverage, the bill requires a Medicaid recipient to participate in follow-up care with his or her treating health care practitioner, in person or through telehealth, at least once every six months during the first 18 months after the CGM has first been prescribed to the patient under the bill, to facilitate an assessment of the efficacy of using the monitor for treatment of the recipient’s diabetes. After the first 18 months, such follow-up care must occur at least once every 12 months.

The bill requires the AHCA to seek federal approval, if needed, to implement the bill.

Section 2 requires the AHCA to include the rate impact of the bill in the Medicaid Managed Medical Assistance program and the Long-term Care Managed Care program rates, as applicable, that take effect on October 1, 2023.

²⁰ Center for Health Care Strategies, *Expanding Medicaid Access to Continuous Glucose Monitors*, January 2022, p. 3, available at: https://www.chcs.org/media/Expanding-Medicaid-Access-to-Continuous-Glucose-Monitors_011222.pdf (last visited March 9, 2023).

Section 3 provides an effective date of October 1, 2023.

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:

To the extent CS/SB 988 provides for Medicaid recipients with diabetes to better manage their conditions and stay healthier, the bill could allow such persons to avoid fiscal disadvantages associated with poor health or the inability to work due to disability caused by long-term complications of diabetes.

C. Government Sector Impact:

The Agency for Health Care Administration (AHCA) reports that the bill has a negative fiscal impact on state expenditures as it directs the agency to expand continuous glucose monitor (CGM) coverage to include adults.

The state currently does not cover CGMs for adults aged 21 or older. Thus, there are no Florida Medicaid fee for service claims data available for cost projections. However, in state fiscal year 2021-2022, there were 43,924 Medicaid recipients that required diabetic supplies. If five percent of that population were eligible and were prescribed a CGM under the bill, the overall increase in CGM expenditures in state fiscal year 2023-2024

would be approximately \$13,152,603, with \$5,329,435 being the general revenue impact.²¹

Participation %	Number of Potential Recipient Participation	Total Potential Expense	Potential Impact to General Revenue
1%	439	\$ 2,630,521	\$ 1,065,887
3%	1318	\$ 7,891,562	\$ 3,197,661
5%	2196	\$ 13,152,603	\$ 5,329,435
15%	6589	\$ 39,457,808	\$ 15,988,304
50%	21962	\$ 131,526,026	\$ 53,294,346

The projection above does not account for a potential reduction in Medicaid health care costs resulting from adult diabetics in the Medicaid program being better able to manage their conditions and stay healthier. It also does not provide an estimate or contemplate a potential dollar amount for the revenue the AHCA will receive by negotiating for rebates from CGM manufacturers in exchange for placement on the state Prescribed Drug List. Those mitigating effects on the bill's fiscal impact are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 409.9063 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on March 13, 2023:

The CS provides that a continuous glucose monitor must be designed to stay in place and remain active for at least seven days after being applied, as opposed to at least 10 days in the underlying bill.

²¹ Agency for Health Care Administration, 2023 Agency Legislative Bill Analysis: SB 988, on files with the Senate Committee on Health Policy.

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 the Committee on Health Policy; and Senator Burton

588-02516-23

2023988c1

A bill to be entitled

An act relating to Medicaid coverage of continuous glucose monitors; creating s. 409.9063, F.S.; defining the term "continuous glucose monitor"; requiring the Agency for Health Care Administration, subject to the availability of funds and certain limitations and directions, to provide coverage for continuous glucose monitors for certain Medicaid recipients; providing construction; providing requirements for Medicaid recipients to continue receiving coverage for their continuous glucose monitors; requiring the agency to seek federal approval for implementation of the act, if needed; requiring the agency to include the rate impact of the act in certain rates that become effective on a specified date; providing an effective date.

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

Section 1. Section 409.9063, Florida Statutes, is created to read:

409.9063 Coverage of continuous glucose monitors for Medicaid recipients.—

(1) As used in this section, the term "continuous glucose monitor" means an instrument or a device designed for the purpose of aiding in the treatment of diabetes by measuring glucose levels on demand or at set intervals through a small, electronic sensor that slightly penetrates a person's skin when applied and that is designed to remain in place and active for

Page 1 of 3

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

588-02516-23

2023988c1

at least 7 days.

(2) Subject to the availability of funds and subject to any limitations or directions provided in the General Appropriations Act, the agency must provide coverage for a continuous glucose monitor under the Medicaid pharmacy benefit for the treatment of a Medicaid recipient if:

(a) The recipient has been diagnosed by his or her primary care physician, or another licensed health care practitioner authorized to make such diagnosis, with Type 1 diabetes, Type 2 diabetes, gestational diabetes, or any other type of diabetes that may be treated with insulin; and

(b) A health care practitioner with the applicable prescribing authority has prescribed insulin to treat the recipient's diabetes and a continuous glucose monitor to assist the recipient and practitioner in managing the recipient's diabetes.

(3) Coverage under this section includes the cost of any necessary repairs or replacement parts for the continuous glucose monitor.

(4) To qualify for continued coverage under this section, the Medicaid recipient must participate in follow-up care with his or her treating health care practitioner, in person or through telehealth, at least once every 6 months during the first 18 months after the first prescription of the continuous glucose monitor for the recipient has been issued under this section, to assess the efficacy of using the monitor for treatment of his or her diabetes. After the first 18 months, such follow-up care must occur at least once every 12 months.

(5) The agency shall seek federal approval, if needed, for

Page 2 of 3

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

588-02516-23

2023988c1

59 the implementation of this section.

60 Section 2. The Agency for Health Care Administration shall
61 include the rate impact of this act in the Medicaid managed
62 medical assistance program and long-term care managed care
63 program rates, as applicable, that take effect on October 1,
64 2023.

65 Section 3. This act shall take effect October 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Judiciary, *Vice Chair*
Appropriations Committee on Education
Appropriations Committee on Health
and Human Services
Banking and Insurance
Fiscal Policy
Rules
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON

12th District

March 13th, 2023

The Honorable Gayle Harrell
Appropriations Committee on Health and Human Services
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Harrell,

I respectfully request SB 988: Medicaid Coverage of Continuous Glucose Monitors be placed on the Appropriations Committee on Health and Human Services agenda at your earliest convenience.

Thank you for your consideration.

Regards,

A handwritten signature in blue ink that reads "Colleen Burton".

Colleen Burton
State Senator, District 12

CC: Tonya Money, Staff Director
Robin Jackson, Administrative Assistant

REPLY TO:

- ☐ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
- ☐ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

988 11
Bill Number or Topic

4/12/23
Meeting Date

HHS HHS
Committee

Amendment Barcode (if applicable)

Name

Doug Bell

Phone

850 205 9000

Address

119 S. Monroe St.

Email

doug.belle@mhdfirm.com

Street

City

TLH

State

FL

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Chapter of the American Academy of Pediatrics

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules, df.flh.state.fl.us

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5-001 (08/10/2021)

APPEARANCE RECORDTab # 11
988

APRIL 12, 2023

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Health care APPROPS

Committee

Amendment Barcode (if applicable)

Name

DAWN SPRINGS

Phone

850-459-3072

Address

2961 GOLDEN EAGLE DR E

Street

Email

dawnsprings2@gmail.com

TAUNAWASSEE

City

FL

State

32312

Zip

Speaking: ☒ For ☐ Against ☐ Information**OR**Waive Speaking: ☐ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**I am appearing without
compensation or sponsorship.I am a registered lobbyist,
representing:I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/12/23

Meeting Date

Health care approps

Committee

SB 988

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Amanaa Fraser

Phone

Address

Street

Tallahassee

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

American Diabetes
Association

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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Tab 211

04/12 /2023

The Florida Senate

APPEARANCE RECORD

988

Meeting Date

Appropriations

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name AARP Ivonne Fernandez Phone 954-850-7262

Address 215 S Monroe Street - 603 Email ifernandez@aarp.org
Street

Tallahassee FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

- ☐ I am appearing without compensation or sponsorship.
- ☒ I am a registered lobbyist, representing:
AARP
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

4/12/23

The Florida Senate
APPEARANCE RECORD

10011
988

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Geoffrey Becker

Phone

850-528-3717

Address

2840 Pale Tiger Ct.

Email

geoffrey.p.becker@
medtronic.com

Street

TLH

FL

32309

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Medtronic

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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S-001 (08/10/2021)

4/12

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

988

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

DAVID MICA, Jr

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Hospital Assoc.

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules of the Florida Senate](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 1064

INTRODUCER: Appropriations Committee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Yarborough

SUBJECT: Children Removed from Caregivers

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Fav/CS
2.	Sneed	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1064 expands the duties of the community-based care lead agencies (CBC or lead agency), to work in coordination with the local managing entity, to provide a trauma-focused screening to a child who has been removed from his or her parent, legal custodian, or caregiver as soon as practicable, but no later than 14 days after the shelter hearing. This must be followed by a prompt referral of the child to appropriate trauma services, including clinical evaluation and intervention, if needed.

If evaluation or intervention is recommended, it must address the impact of trauma on the child, including trauma related to adverse experiences prior to removal, the events that immediately precipitated the removal, and any trauma related to the removal itself. The evaluation or intervention must, to the extent possible, be integrated into the child's overall behavioral health treatment planning.

The bill also requires a lead agency to offer voluntary trauma screening and trauma services to children and families in the event that a court denies the shelter petition and the child is returned to the parent, legal custodian, or caregiver.

The bill also requires the Department of Children and Families to include the bill's requirements in the CBC contracts.

The bill will have an indeterminate negative fiscal impact on state government and the private sector. See Section V.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children. Out-of-home placements can include a temporary placement with a family member, family foster home, residential child-caring agency, or a permanent adoptive placement with a family previously unknown to the child.¹

Community-Based Care Organizations and Services

The Department of Children and Families (DCF) contracts for case management, out-of-home care, including foster care, and other court-approved arrangements, adoption, and other related services with lead agencies, also known as community-based care organizations (CBCs). The CBC model is designed to increase local community ownership of service delivery and design of child welfare services.²

The DCF, through the CBCs, administers a system of care³ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁴

The CBCs must give priority to services that are evidence-based and trauma informed.⁵ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁶ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case

¹ Section 409.175, F.S.

² The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 7, 2023) (hereinafter cited as "DCF").

³ *Id.*

⁴ *Id.*; Also see generally s. 409.988, F.S.

⁵ Section 409.988(3), F.S.

⁶ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

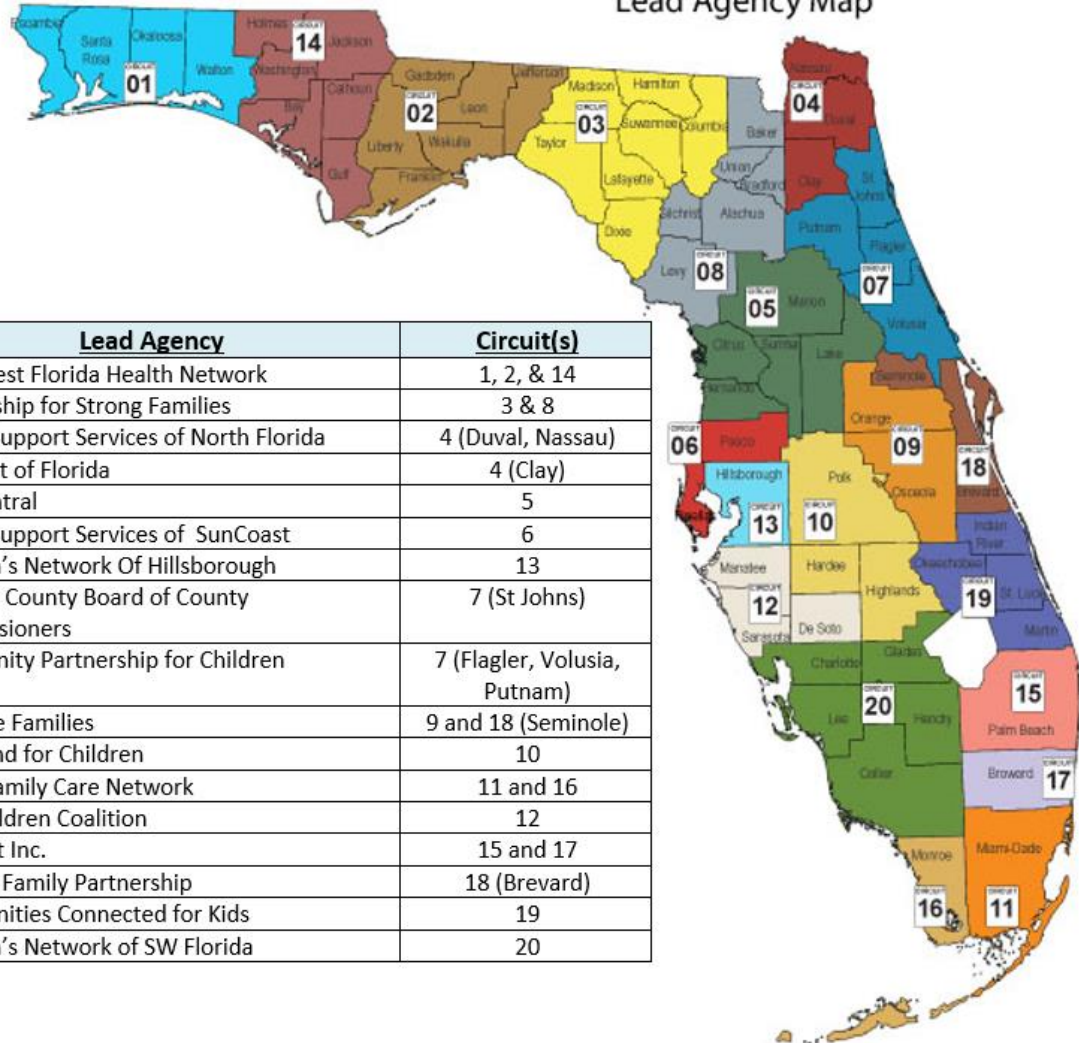
managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.⁷

The DCF contracts with the following lead agencies as illustrated in the table and map below:

Community-Based Care

Lead Agency Map

Lead Agency	Circuit(s)
Northwest Florida Health Network	1, 2, & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida	4 (Duval, Nassau)
Kids First of Florida	4 (Clay)
Kids Central	5
Family Support Services of SunCoast	6
Children's Network Of Hillsborough	13
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children's Network of SW Florida	20



Dependency Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida's central abuse hotline (hotline), including incidents of domestic violence.⁸ A child protective investigation begins if the

⁷ Section 409.988(1), F.S.

⁸ Section 39.201(1), F.S.

hotline determines the allegations meet the statutory definition of abuse,⁹ abandonment,¹⁰ or neglect.¹¹ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.¹²

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home.¹³ When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹⁴ The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

⁹ Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

¹⁰ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

¹¹ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

¹² Section 39.101(2), F.S.

¹³ See generally ss. 39.401 through 39.4024, F.S.

¹⁴ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent.”

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

In-Home and Out-of-Home Care

The DCF is required to administer a system of care that endeavors to keep children with their families and provides interventions to allow children to remain safely in their own homes.¹⁵ Protective investigators and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes and places the child with a safe and appropriate temporary placement.¹⁶ These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship.¹⁷

The CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.¹⁸ Legislative intent is to place a child

¹⁵ See s. 39.001, F.S.

¹⁶ Sections 39.401 through 39.4022, F.S.

¹⁷ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited March 7, 2023).

¹⁸ Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.¹⁹ The DCF is required to follow an enumerated priority list for out-of-home placement, which includes the below-mentioned specified placements in descending order:

- Non-offending parent;
- Relative caregiver;
- Adoptive parent of the child's sibling;
- Fictive kin with a close relationship to the child;
- Nonrelative caregiver without an existing relationship to the child;
- Licensed foster care; and then
- Licensed group or congregate care.²⁰

Trauma and Trauma-informed Care

Trauma is a widespread, harmful, and costly public health problem.²¹ Children and adolescents are particularly affected by trauma.²² A growing body of research points to the effects of trauma on mental and physical health, family functioning, academic outcomes, housing stability, and employment.²³ For many youth, exposure to childhood adversity increases the likelihood of involvement with multiple systems, including health care, behavioral health, child welfare, and juvenile justice.²⁴

The term trauma is used to describe an event, series of events, or set of circumstances that is experienced as physically or emotionally harmful or life-threatening, overwhelms one's ability to cope, and has adverse effects on a person's mental, physical, social, emotional, or spiritual well-being.²⁵ Exposure to traumatic experiences can alter how people view themselves and others by challenging their beliefs that the world is a safe place, that other people can be trusted, and that they are worthy of care and protection.²⁶ Whether an event or set of circumstances is experienced as traumatic is influenced by many factors, including our internal coping resources, our external supports, and broader community, cultural, and societal factors that shape how we understand and respond to our experiences.²⁷

The term trauma-informed care refers to a universal approach to addressing trauma and promoting resilience through policies, procedures, practices, and programs adopted by the entire workforce, at all levels or roles, and in all parts of the system, for all people receiving services.²⁸ The term trauma-informed care is often mistakenly used interchangeably with trauma-specific

¹⁹ Sections 39.001(1) and 39.4021(1), F.S.

²⁰ Section 39.4021(2)(a), F.S.

²¹ Chapin Hall at the University of Chicago, Building a Multi-System Trauma-informed Collaborative, 2020, p. V, available at <https://www.chapinhall.org/wp-content/uploads/PDF/Multi-System-Trauma-Informed-Care-MSTIC-Guide.pdf> (last viewed March 7, 2023) (hereinafter cited as "Chapin Hall").

²² *Id.*

²³ *Id.* at p. 1

²⁴ *Id.*

²⁵ Substance Abuse and Mental Health Services Administration, *SAMHSA's concept of trauma and guidance for a trauma-informed approach*, HHS Publication SMA14-4884, 2014, p. 7, available at <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf> (last viewed March 7, 2023).

²⁶ Chapin Hall at p. 3

²⁷ *Id.*

²⁸ *Id.* at p. 4

clinical interventions.²⁹ However, a trauma-informed approach encompasses a much more comprehensive model within and across systems that often requires that systems engage in certain fiscal, policy, and workforce development reform efforts.³⁰

Service systems designed to help people who have experienced trauma can sometimes re-traumatize the people they serve.³¹ This results from recreating situations or experiences that mirror or replicate past trauma, causing survivors to experience a similar level of distress in the present.³² Research has shown that the removal incident by child welfare services to protect the immediate safety and well-being of a child is often a traumatic experience.³³ Trauma is traditionally examined through the lens of what happened to a child before removal and sometimes what occurred to the child after removal; however, it is critical to consider how a child may experience trauma due to the removal.³⁴ Research, policy, and practice all indicate that child removal and entry into foster care evokes emotional and psychological trauma and is the most drastic safety intervention utilized by a child welfare agency.³⁵ Significant gaps exist in policy and practice, which fail to address the impact of child removal on children and their parents. The practice of removal, intended to mitigate serious, imminent harm, has the potential to cause serious, imminent harm itself.³⁶

Trauma screening and assessment

Trauma screening and assessment is designed to be able to be administered to every child within a given system (such as child welfare) to determine whether the child has experienced trauma, displays symptoms related to trauma exposure, and/or should be referred for a comprehensive trauma-informed mental health assessment.³⁷ A trauma screening should evaluate the presence of two critical elements:

- Exposure to potentially traumatic events and experiences, including traumatic loss; and
- Traumatic stress symptoms and reactions.³⁸

Not all children who experience negative events suffer posttraumatic or trauma-specific reactions as a result.³⁹ Trauma screening should measure a wide range of experiences and identify common reactions and symptoms of trauma as well as other commonly reported difficulties.⁴⁰

²⁹ *Id.*

³⁰ *Id.*

³¹ Chapin Hall at p. 10

³² *Id.*

³³ See Sankaran, V., Church, et al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, University of Michigan Law School Scholarship Repository, 2019, available at <https://repository.law.umich.edu/articles/2055/> (last viewed March 7, 2023) (hereinafter cited as “A Cure”).

³⁴ *Id.* at p. 1166

³⁵ *Id.* at p. 1167

³⁶ *Id.* at p. 1168

³⁷ The National Child Traumatic Stress Network, *Trauma Screening, What is a Trauma Screening Tool or Process?*, available at <https://www.nctsn.org/treatments-and-practices/screening-and-assessments/trauma-screening> (last viewed March 7, 2023) (hereinafter cited as “NCTSN”).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

With proper training, various professionals or paraprofessionals from child-serving systems can administer trauma screening tools or instruments.⁴¹

There are multiple requirements throughout law for specific screenings within the child welfare system; however there is not a requirement for a trauma specific screening or assessment.⁴²

Comprehensive Assessment

Current law defines a “comprehensive assessment” as the gathering of information to evaluate a child and caregiver’s physical, psychiatric, psychological, or mental health; developmental delays or challenges; and educational, vocational, and social condition and family environment.⁴³ This assessment is to evaluate the need for services, including substance abuse, mental health, developmental, literacy, medical, family, and other specialized services.⁴⁴

Comprehensive Behavioral Health Assessment (CBHA)

The DCF requires a CBHA for all children entering out-of-home care who are Medicaid eligible.⁴⁵ Any needs identified through the CBHA and recommendations for services must be included in the family’s case plan.⁴⁶ The CBHA is a Medicaid funded assessment with the following goals:

- Provide assessment of areas where no other information exists;
- Update pertinent information;
- Provide functional information;
- Provide specific information and recommendations to accomplish family preservation, reunification, or permanency planning;
- Provide data to promote the most appropriate out-of-home placement; and
- Provide information for development of an effective individualized treatment plan.⁴⁷

⁴¹ *Id.*

⁴² See generally s. 39.0016(2)(b)3.a., F.S., requiring a referral for screening for a child who has or is suspected of having a disability; s. 39.0(65), F.S., defining “preliminary screening” to mean the gathering of information to be used to determine a child’s need for substance abuse services; s. 39.407(1), F.S., authorizing the DCF to perform a medical screening on a child to examine a child for injury, illness, and communicable diseases; s. 39.407(4)(c), F.S., allowing a judge to order a screening for learning disabilities, other handicaps, and the need for alternative education; s. 39.4085, F.S., finding that a goal of the child welfare system is to have a full risk, health, educational, medical, and psychological screening; ss. 39.524 and 409.1754, F.S., requiring an assessment and screening for a child that is suspected of being or found to be a victim of commercial sexual exploitation; and s. 409.996(16), F.S., requiring the DCF to work with the Agency for Health Care Administration to provide a Medicaid-eligible child with a 72-hour screening under the Medicaid early and periodic screening, diagnosis, and treatment requirements.

⁴³ Section 39.01(17), F.S.

⁴⁴ *Id.*

⁴⁵ The DCF, Children and Families Operating Procedures (CFOP) 170-18 ch. 2-1, August 21, 2020, available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_170-18_chapter_02_comprehensive_behavioral_health_assessments.pdf (last viewed March 7, 2023).

⁴⁶ *Id.*

⁴⁷ Agency for Health Care Administration, *Specialized Therapeutic Services Coverage and Limitations Handbook*, 2-10, March 2014, available at https://ahca.myflorida.com/medicaid/review/Specific/59G-4.295_Specialized_Therapeutic_Services_and_Limitations_Handbook_Adoption.pdf (last viewed March 7, 2023).

The CBHA requires information gathering in many components related to the child and the child's family, including the following:

- Personal and family history;
- Placement history;
- Cognitive functioning;
- Medications;
- Substance use and abuse history;
- Mental health treatment history;
- Educational analysis;
- Cultural analysis;
- Present function; and
- Strengths.⁴⁸

A child protective investigator or dependency case manager must refer a child that has been removed from his or her home for a CBHA within seven calendar days of removal.⁴⁹ The CBHA provider must complete the assessment and send the report of the findings within 24 calendar days of receipt of the referral.⁵⁰ If at any point during the CBHA process a dependency case manager determines a child has an urgent need for immediate behavioral health treatment, the case manager will see appropriate services for the child.⁵¹

Trauma, including trauma specifically related to the child's removal, is not specifically referenced in the CBHA component requirements or process.

Managing Entities

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally established priority populations.⁵²

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.⁵³ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.⁵⁴ Full implementation of the

⁴⁸ *Id.* at 2-6 through 2-9.

⁴⁹ CFOP 170-18 at ch. 2-5a.

⁵⁰ *Id.* at d.

⁵¹ *Id.* at g.

⁵² See chs. 394 and 397, F.S.

⁵³ Chapter 2001-191, L.O.F.

⁵⁴ Chapter 2008-243, L.O.F.

statewide managing entity system occurred in 2013 and all geographic regions are now served by a managing entity.⁵⁵

Contracted MEs

The MEs are required to comply with various statutory duties, including, in part, to:

- Maintain a governing board;
- Promote and support care coordination;⁵⁶
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.⁵⁷

The DCF contracts with seven MEs as shown in the map below and summarized as follows:

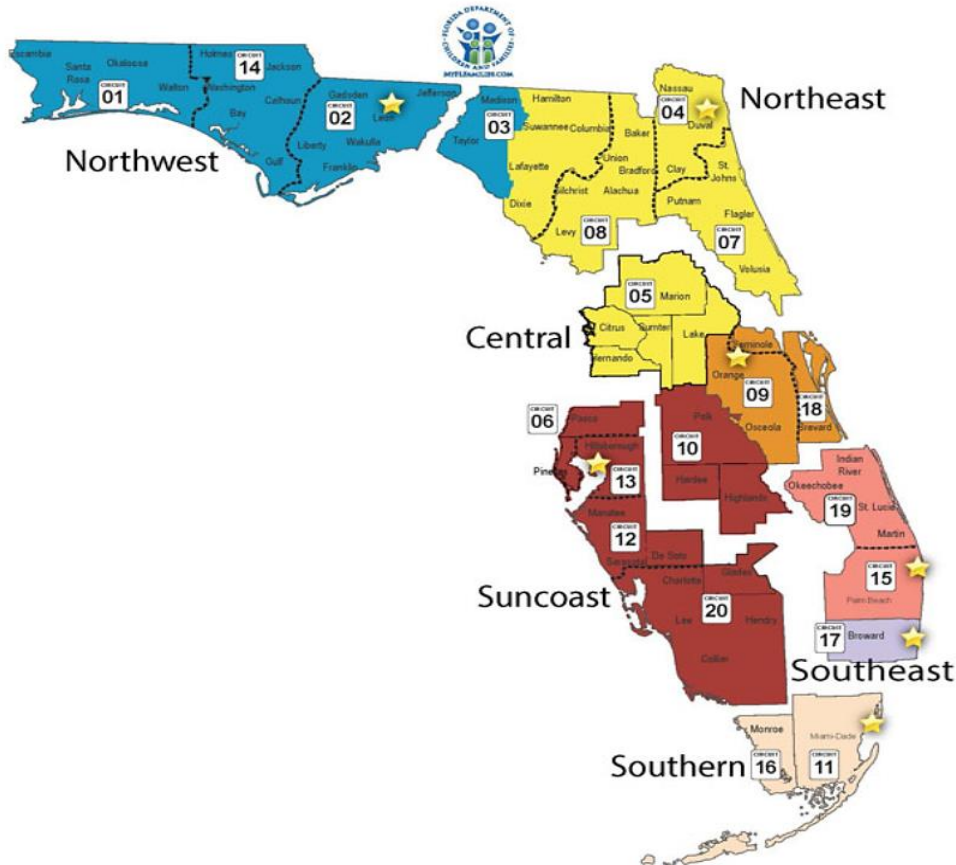
- Big Bend Community Based Care, Inc., d/b/a NWF Health Network (blue);
- Lutheran Services Florida (yellow);
- Central Florida Cares Health System (orange);
- Central Florida Behavioral Health Network, Inc. (red);
- Southeast Florida Behavioral Health Network (pink);
- Broward Behavioral Health Network, Inc. (purple); and
- Thriving Mind South Florida (South Florida Behavioral Health Network, Inc.) (beige).⁵⁸

⁵⁵ Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4, March 2015, available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model> (last visited March 14, 2023).

⁵⁶ Section 394.9082(6), F.S., sets out the network accreditation and systems coordination agreement requirements.

⁵⁷ Section 394.9082(5), F.S.

⁵⁸ The DCF, *Managing Entities*, <https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/managing-entities> (last visited March 14, 2023).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.⁵⁹

III. Effect of Proposed Changes:

The bill expands the duties of a lead agency under s. 409.988, F.S., and the contract requirements of the Department of Children and Families under s. 409.996, F.S., to require a lead agency, in coordination with the local managing entity, to provide a validated trauma-focused screening to a child removed from his or her parent, legal custodian, or caregiver as soon as practicable, but no later than 14 days after the shelter hearing.

The screening must ensure prompt referral for a child to appropriate trauma services, to include clinical evaluation and intervention if needed, and must address the impact of trauma on the child, including trauma related to adverse experiences prior to removal, the events that immediately precipitated the removal, and any trauma related to the removal incident. The evaluation or intervention must, to the extent possible, be integrated into the child's overall behavioral health treatment planning and must not be considered an additional or adjunct service or treatment.

⁵⁹ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

The bill requires child welfare professionals who administer trauma screenings to request all relevant information from the child protective investigator (CPI) to complete the trauma screening.

The bill also requires a lead agency to offer voluntary trauma screening and appropriate trauma services to a child and his or her family in the event that a court denies the shelter petition and the child is returned to his or her parent, legal custodian, or caregiver.

The bill has an effective date of July 1, 2023

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:

The bill will likely have an indeterminate negative fiscal impact on the CBC lead agencies and the managing entities (MEs) as they may incur workload increases or operational changes to provide the required trauma screenings and trauma services within the expedited timeframe. Such changes may result in additional costs that cannot be absorbed by some CBCs or MEs and may require increases in their contracts with the DCF.⁶⁰

⁶⁰ The Department of Children and Families, *Senate Bill 1064 Fiscal Analysis* (March 2023) (on file with Senate Appropriations Committee on Health and Human Services).

C. Government Sector Impact:

Although there may be some families whose shelter hearing is denied, but choose to voluntarily receive trauma services, the DCF estimates the cost of the screenings and services to be indeterminate, yet insignificant.⁶¹ In addition, there is an indeterminate cost increase to DCF's contracts with the CBCs and the MEs that provide the expedited trauma screenings and services.⁶²

VI. Technical Deficiencies:

None.

VII. Related Issues:

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.988 and 409.996.

IX. Additional Information:

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

CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute delays implementation for a CBC, in coordination with the local managing entity, to administer validated trauma-focused screenings until July 1, 2024, and requires:

- The child welfare professional administering the trauma screening to request all relevant information from the CPI to complete the trauma screening.
- Any further evaluation or intervention to address adverse experiences by the child in general, the issue that caused the removal, and the removal incident itself.
- To the extent possible, any evaluation or intervention to be integrated into the child's overall mental health treatment plan, and not considered an additional or adjunct service or treatment.

CS by Children, Families, and Elder Affairs on March 14, 2023:

The committee substitute specifies that a lead agency must administer a "validated trauma-focused screening" to a child removed from his or her home, replacing the more general "trauma assessment."

B. Amendments:

None.

⁶¹ *Id.*

⁶² *Id.*

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Yarborough) recommended the following:

Senate Amendment

Delete lines 29 - 39
and insert:

(b)1. Shall, on or before July 1, 2024, in coordination
with the local managing entity, administer a validated trauma-
focused screening to a child removed from his or her parent,
legal custodian, or caregiver to ensure that any acute trauma,
if present, is timely identified and that the child is promptly
referred to appropriate trauma services, including clinical



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evaluation and intervention if needed. This trauma-focused screening must occur as soon as practicable after the child's removal but no later than 14 days after the shelter hearing. A child welfare professional administering a trauma screening pursuant to this subparagraph must request all relevant information from the child protective investigator necessary to complete the trauma screening. Any need for further evaluation or intervention, if identified, must address the impact of trauma on the child, including any trauma related to adverse experiences prior to removal, the event or events that immediately precipitated removal, if applicable, and any trauma related to the removal incident. To the extent possible, any evaluation or intervention shall be integrated into the child's overall mental and behavioral health treatment planning and shall not be considered an additional or adjunct service or treatment.

By the Committee on Children, Families, and Elder Affairs; and
Senator Yarborough

586-02540-23

20231064c1

A bill to be entitled

An act relating to children removed from caregivers; amending s. 409.988, F.S.; requiring community-based care lead agencies, in coordination with the local managing entity, to administer a trauma-focused screening within a specified timeframe to children removed from certain caregivers; specifying requirements of the screening and therapy, if recommended; requiring community-based care lead agencies to offer voluntary trauma-focused screening and services under certain circumstances; amending s. 409.996, F.S.; requiring the Department of Children and Families to require in its contracts with the community-based care lead agencies that such agencies and managing entities administer a trauma-focused screening within a specified timeframe to children removed from certain caregivers; conforming a cross-reference; providing an effective date.

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

Section 1. Present paragraphs (b) through (n) of subsection (1) of section 409.988, Florida Statutes, are redesignated as paragraphs (c) through (o), respectively, and a new paragraph (b) is added to that subsection, to read:

409.988 Community-based care lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(b)1. Shall, in coordination with the local managing

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

586-02540-23

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entity, administer a validated trauma-focused screening to a child removed from his or her parent, legal custodian, or caregiver to ensure any trauma related to the child's removal is timely identified, if present, and that the child is referred promptly to appropriate trauma services, including clinical evaluation and intervention if needed. The trauma-focused screening must occur as soon as practicable after the child's removal but no later than 14 days after the shelter hearing. The screening and therapy, if recommended, must evaluate and address the impact of the removal to the child.

2. Shall offer voluntary trauma-focused screening and appropriate trauma services to a child and his or her family in the event that a shelter petition is denied and the child is returned to his or her parent, legal custodian, or caregiver.

Section 2. Present paragraphs (b) through (f) of subsection (1) of section 409.996, Florida Statutes, are redesignated as paragraphs (c) through (g), respectively, a new paragraph (b) is added to that subsection, and paragraph (b) of subsection (4) of that section is amended, to read:

409.996 Duties of the Department of Children and Families.—
The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that, at a minimum, services are delivered in accordance with applicable federal and state statutes and regulations and the performance standards and metrics specified in the strategic plan created under s. 20.19(1).

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

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(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies established in s. 409.988. At a minimum, the contracts must do all of the following:

(b) Require lead agencies and managing entities to coordinate to administer a validated trauma-focused screening to a child removed from his or her parent, legal custodian, or caregiver to ensure that any trauma related to the child's removal is timely identified, if present, and that the child is referred promptly to appropriate trauma services, including clinical evaluation and intervention if needed, as required by s. 409.988(1)(b).

(4)

(b) The department shall collect and publish on its website, and update monthly, the information required under s. 409.988(1)(1) ~~s. 409.988(1)(k)~~.

Section 3. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 1064
BILL TITLE:	<u>Children Removed from Caregivers</u>
BILL SPONSOR:	Senator Yarborough
EFFECTIVE DATE:	July 1, 2023

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

<u>CURRENT COMMITTEE</u>
Not yet assigned

<u>SIMILAR BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 1007
SPONSOR:	Rep. Borrero

<u>Is this bill part of an agency package?</u>
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	3/8/2023 For further information, please contact Alexander Guzman at (850) 488-9410.
LEAD AGENCY ANALYST:	Max Kruse
ADDITIONAL ANALYST(S):	Jessica Johnson, Jessica Andrews, Ashley Dowdy
LEGAL ANALYST:	Laura Battaglia
FISCAL ANALYST:	Sue Zwirz

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill requires community-based care lead agencies (Lead Agencies) and managing entities to coordinate to provide a trauma-focused assessment of children in out-of-home care as soon as practical but no later than within 14 days of the shelter hearing. The assessment, and therapy if recommended, must evaluate and address the impact of the removal on the child. These entities are further required to offer voluntary trauma services to children and families in the event that a shelter petition is denied. The bill also directs the Department of Children and Families (Department) to include language in contracts with Lead Agencies that requires the trauma assessments contemplated in the bill. The bill provides for an effective date of July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Community-Based Care Lead Agencies

Through Part V of Section 409, F.S., the legislature has directed the Department to provide child protection and child welfare services to children through community-based care lead agencies (Lead Agencies). These Lead Agencies are contracted with the Department and operate in communities based on judicial circuits. Lead Agencies are funded by a grant of general revenue, other applicable state funds, and applicable federal funding sources.

Section 409.988(1), F.S., establishes the duties of the Lead Agencies. Section 409.996(1), F.S., establishes minimum requirements that the Department must include in contracts with Lead Agencies. The Department currently has 19 contracts with Lead Agencies for foster care and related services, including, but not limited to child abuse prevention and protection, adoptions, family preservation, independent living, emergency shelter, residential group care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, post-placement supervision, permanent foster care, and family reunification.

Comprehensive Assessments

Section 39.01(17), F.S., defines “comprehensive assessment” or “assessment” as the gathering of information for the evaluation of a child’s and caregiver’s physical, psychiatric, psychological, or mental health; developmental delays or challenges; and educational, vocational, and social condition and family environment as they relate to the child’s and caregiver’s need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

Chapter 65C-28.014, Florida Administrative Code (F.A.C.) requires a child to be referred for a Comprehensive Behavioral Health Assessment (CBHA) in the following circumstances:

- a) When a child is in shelter status, the child welfare professional responsible for the case shall refer the child for a CBHA within seven calendar days of being removed from his or her household, or
- b) If a child is already in out-of-home care and is exhibiting emotional or behavioral issues that might result, or may have already resulted, in the child losing his or her placement, the child welfare professional responsible for the case may refer the child for a CBHA to assist in determining services that would allow the child to maintain his or her placement. This may be done if a CBHA has not been conducted on the child within the past year; and,
- c) The child has been determined to be Medicaid enrolled. If the child is not Medicaid enrolled, the child welfare professional responsible for the case shall take all steps necessary to ensure the child becomes enrolled as soon as possible, including assisting the child’s out-of-home caregiver to establish enrollment.

The child welfare professional must review and consider any interventions or services recommended in a CBHA. The child welfare professional has the primary responsibility throughout the case for coordinating, managing, and monitoring all aspects of the child’s care and treatment.

It is important to note that a child protective investigator completes the CBHA referral prior to the case being transferred to a case management team within the Lead Agency. The actual assessment is completed by a provider during the provision of case management services.

2. EFFECT OF THE BILL:**Section 1., s. 409.988(1), F.S., Community-based care lead agency duties; general provisions. —**

Section 409.988(1), F.S., is amended to include additional duties of the Lead Agencies requiring they coordinate with local Managing Entities to provide a trauma-focused assessment to a child who is removed from their parent, legal custodian, or caregiver to ensure the child is referred promptly to appropriate trauma services, including clinical evaluation and intervention if needed. The trauma-focused assessment must occur as soon as practicable after the child's removal but no later than 14 days after the shelter hearing. The assessment and therapy, if recommended, must evaluate and address the impact of the removal on the child.

This section is also amended to require Lead Agencies and Managing Entities offer voluntary trauma services to a child and his or her family in the event that a shelter petition is denied, and the child is returned to his or her parent, legal custodian, or caregiver. Currently in the state of Florida, most individuals have other credible coverage. The Managing Entities are responsible for providing care for uninsured and underinsured individuals, utilizing federal block grant funds. Florida's estimate population is 21.3 million individuals of which 18.7 million have insurance. Approximately 12.9% of the population is uninsured. To enact this portion of the proposed bill additional state funds would be needed to support these services for children and families who have insurance if they elect to seek the voluntary trauma services.

Assessment rates and services are negotiated by the Managing Entities with the service providers.

Section 2., s. 409.996(1), F.S., Duties of the Department of Children and Families. —

Section 409.996(1), F.S., is amended to direct the Department to include language in Lead Agency contracts that requires coordination with managing entities to provide a trauma-focused assessment to a child removed from his or her parent, legal custodian, or caregiver to ensure that the child is referred promptly to appropriate trauma services, including clinical evaluation and intervention if needed as contemplated in this bill.

To implement these requirements, the Department will need to amend existing contracts with the Lead Agencies and managing entities.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? NO

If yes, explain:	N/A
What is the expected impact to the agency's core mission?	None.
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? UNKNOWN

List any known proponents and opponents:	N/A
Provide a summary of the proponents' and opponents' positions:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	None.
Expenditures:	None.
Does the legislation increase local taxes or fees?	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None.
Expenditures:	Although there may be some families whose shelter is denied, but choose to voluntarily receive services, based on the small percentage of the population that does not have insurance, the cost will be small: The average assessment \$83.31 per hour and average therapy cost per hour \$84.37. The Department estimates a shelter hearing is denied in approximately 100 cases. If half of those cases accept voluntary services, the cost for the initial assessment and 10 sessions per year would be approximately under \$50,000; if families choose to continue counseling the annual cost may grow.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None.

Expenditures:	The bill would require Lead Agencies, in coordination with the local managing entity, to complete a trauma-focused assessment no later than 14 days after the shelter hearing. This could potentially lead to a workload increase and fiscal impact depending on the specific structure of each Lead Agency and Managing Entities.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No.
Does the bill decrease taxes, fees or fines?	No.
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No.
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

Does the legislation have a federal impact (i.e., federal compliance, federal funding, federal agency involvement, etc.)?	None.
If yes, describe the anticipated impact including any fiscal impact.	N/A

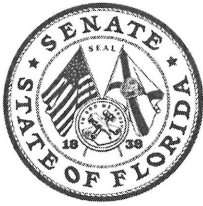
ADDITIONAL COMMENTS

Lines 29-38: It is unclear if the coordination between the Lead Agency and the managing entity is required only for the assessment, or if that coordination is to extend to any services that are recommended as a result of the assessment.

Lines 39-42: The bill does not contemplate which entity is responsible for paying for the voluntary services offered to a family when the shelter petition is denied, and the family does not have Medicaid or private insurance.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	The Department's Office of General Counsel has no comments on this bill.



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: March 15, 2023

I respectfully request that **Senate Bill #1064**, relating to Children Removed from Caregivers, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Clay Yarborough".

Senator Clay Yarborough
Florida Senate, District 4

4/12/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

1064 12

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Appropriations

Committee

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-855-7604

Address

1747 Orlando Central PKWY

Email

vp.education@florida
pta.org

Street

Orlando FL 32809

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:



In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

5-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 1182

INTRODUCER: Appropriations Committee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Simon and others

SUBJECT: Education and Training for Alzheimer's Disease and Related Forms of Dementia

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>Barr</u>	<u>Money</u>	<u>AHS</u>	Fav/CS
3.	<u></u>	<u></u>	<u>FP</u>	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1182 creates s. 430.5025, F.S., to establish the Florida Alzheimer's Disease and Dementia Training Act. The bill establishes universal Alzheimer's disease and related disorder (ADRD) training requirements to be used by nursing homes, home health agencies, nurse registries, companion or homemaker service providers, health care services pools, assisted living facilities (ALF), adult family-care homes (AFCH), adult day care centers (ADCC), and ADCCs that provide specialized Alzheimer's services to replace each license type's individual training requirements on that topic.

The bill defines a number of terms, including "covered provider," "department," "employee," "personal care," and "regular contact."

The bill requires that all employees of covered providers receive basic written information about interacting with persons who have ADRD upon beginning employment. Employees of covered providers who provide personal care to or have regular contact with patients, participants, or residents, must also complete one hour of dementia-related training within 30 days of his or her initial employment.

The bill also requires that each employee of a home health agency, nurse registry, or companion or homemaker service provider who provides personal care receive two hours of additional training within the first seven months of employment. Each employee of a nursing home, ALF,

AFCH or ADCC who provides personal care must receive three hours of additional training within the first seven months of employment. Employees of ALFs with a limited mental health license are not required to complete this additional training.

Additionally, an employee of an ALF, AFCH, or ADCC that advertises and provides specialized care for persons with Alzheimer's disease must also receive the following additional training:

- Three hours of additional training within the first three months of employment, rather than the first seven months as with the non-specialize facilities;
- Four hours of dementia-specific training within the first six months of employment; and
- Four hours of continuing education each calendar year through:
 - Contact hours;
 - On-the-job training, limited to a certain amount of credit in each calendar year; or
 - Electronic learning technology.

Employees of a health care services pool must complete the training that correlates with the training required for the position and facility in which the employee will be working.

The bill directs the Department of Elder Affairs (DOEA) to provide the initial one hour of dementia-related training in an online format at no cost. The training must contain information on the following topics:

- Understanding the basics about the most common forms of dementia;
- How to identify the signs and symptoms of dementia; and
- Skills for communicating and interacting with persons with ADRD.

The bill requires the DOEA to make a record of the completion of the one-hour training program available to covered providers. The record must include the training, the name of the employee, and the date of completion. The bill also requires covered providers to maintain a record of each employee's completion of the training and, upon request, provide the employee with a copy of the completion record consistent with the employer's written policies.

Employees hired, contracted, or referred to provide services before July 1, 2023, must complete the training before July 1, 2026. However, proof of completion of equivalent training that has been completed prior to July 1, 2023, may substitute for the training. Employees hired, contracted, or referred to provide services on or after July 1, 2023, may satisfy training requirements by completing current training curricula approved by the DOEA until the effective date of the rules adopted by the DOEA under the bill.

The bill also requires the DOEA to offer education to the general public about ADRD. The education must provide basic information about:

- The most common forms of dementia;
- How to identify the signs and symptoms of dementia;
- Coping skills;
- How to respond to changes;
- Planning for the future; and
- How to access additional resources about dementia.

The bill may have a negative fiscal impact on private sector health care providers and an insignificant negative fiscal impact on the Department of Elder Affairs. *See* Section V of this analysis.

The bill takes effect on July 1, 2023.

II. Present Situation:

Dementia and Alzheimer's Disease

Dementia is the loss of cognitive functioning—thinking, remembering, and reasoning—and behavioral abilities to such an extent that it interferes with a person's daily life and activities. These functions include memory, language skills, visual perception, problem solving, self-management, and the ability to focus and pay attention. Some people with dementia cannot control their emotions, and their personalities may change. Dementia ranges in severity from the mildest stage, when it is just beginning to affect a person's functioning, to the most severe stage, when the person must depend completely on others for basic activities of living.¹

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and can lead to loss of the ability to carry on a conversation and respond to one's environment. Alzheimer's disease affects parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, what causes Alzheimer's disease is unknown.²

There are an estimated 580,000 individuals living with Alzheimer's disease in the state of Florida.³ By 2025, it is projected that 720,000 Floridians will have Alzheimer's disease. More than 6 million Americans are living with Alzheimer's and the cost of caring for Alzheimer's disease and related disorders (ADRD) patients is estimated to total nearly \$1 trillion by mid-century.⁴

¹ National Institute on Aging, *What is Dementia? Symptoms, Types, and Diagnosis*, available at <https://www.nia.nih.gov/health/what-dementia-symptoms-types-and-diagnosis>, (last visited on March 11, 2023).

² Centers for Disease Control and Prevention, *Alzheimer's Disease and Healthy Aging*, available at <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease>, (last visited March 11, 2023).

³ Alzheimer's Association, *Alzheimer's Statistics Florida*, available at <https://www.alz.org/media/Documents/florida-alzheimers-facts-figures-2022.pdf> (last visited March 11, 2023).

⁴ *Id.*

Dementia and Alzheimer's Disease Training***Overview of Current ADRD Training by Facility/Agency Type***

Entity	All Employees	Employees with Expected or Required Direct Contact	Employees Providing Direct Care	Health Care Practitioner Continuing Education Sufficient?	Training Approved By?	Additional Reqs.
Nursing Homes	Provided with basic written information about interacting with persons with ADRD upon beginning employment	1 hour of training within the first 3 months of employment	3 additional hours of training within the first 9 months of employment	Yes	DOEA	
Home Health Agencies (HHA)		Not specified	2 hours of training within the first 9 months of employment	Yes	DOEA	HHAs that serve 90% individuals under age 21 are exempt.
Hospice Providers	ADRD upon beginning employment	1 hour of training within the first 3 months of employment	3 additional hours of training within the first 9 months of employment	Yes	DOEA	
Special Care Assisted Living Facilities (ALF)⁵	Employees with incidental contact must be given information within 3 months	4 hours within 3 months of employment	4 additional hours within 9 months of employment + 4 hours CE annually	Not specified.	DOEA	
Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice	1 hour of training within the first 3 months of employment	3 additional hours of training within the first 9 months of employment	Yes	DOEA	
Specialized Alzheimer's Services Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice	4 hours of training within the first 3 months of employment	4 additional hours of training within the first 6 months of employment	Yes	DOEA	
Adult Family-Care Homes	None	None	None	Not Specified.	AHCA	
Nurse Registries/ Companion or Homemaker Services	None	None	None	Not specified.		

⁵ Training is required if the ALF advertises that it provides special care for persons with Alzheimer's disease or related disorders. Section 429.178, F.S.

Specific details for each facility/agency type are below:

Nursing Homes

A nursing home is a facility that provides 24-hour nursing care, personal care, or custodial care to individuals who are ill or physically infirm.⁶ Nursing homes are licensed and regulated by the Agency for Health Care Administration (AHCA) under part II of ch. 400, F.S.

Section 400.1755, F.S., requires each nursing home to provide the following training:

- Provide employees basic written information about interacting with persons with ADRD upon beginning employment.
- All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with ADRD must also have an initial training of at least one hour completed in the first three months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
- An individual who provides direct care must complete the required initial training and an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers. Health care practitioners' continuing education can be counted toward the required training hours.
- The Department of Elder Affairs (DOEA) or its designee must approve the initial and continuing training provided in the facilities. The DOEA must approve training offered in a variety of formats, including, but not limited to, internet-based training, videos, teleconferencing, and classroom instruction. The DOEA must keep a list of current providers who are approved to provide initial and continuing training. The DOEA must adopt rules to establish standards for the trainers and the training required in this section of statute.
- Upon completing any training listed in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must also comply with other applicable continuing education requirements.

Home Health Agencies

A home health agency provides one or more of the following home health services: nursing care; therapy; home health aide services; dietetics and nutrition; or medical supplies.⁷ Home health agencies are licensed and regulated by the AHCA under part III of ch. 400, F.S.

Section 400.4785, F.S., requires a home health agency to provide the following staff training:

⁶ Section 400.021(7), F.S.

⁷ Section 400.462(12) and (14), F.S.

- Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have ADRD.
- Newly-hired home health agency personnel who will be providing direct care to patients must complete two hours of training in ADRD within nine months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required two hours of training are part of the total hours of training required annually.
- For a health care practitioner, as defined in s. 456.001, F.S.,⁸ continuing education hours taken as required by that practitioner's licensing board are counted toward the total of two hours.
- For an employee who is a licensed health care practitioner, training that is sanctioned by that practitioner's licensing board must be considered to be approved by the DOEA.
- The DOEA, or its designee, must approve the required training. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the two-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing the training listed in the section, the employee must be issued a certificate that states that the training mandated under the section has been received. The certificate must be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.
- A licensed home health agency whose unduplicated census during the most recent calendar year was composed of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from the training requirements in this section of statute.

Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁹ ALFs are licensed and regulated by the AHCA under part I of ch. 429, F.S. An ALF that advertises that it provides special care for individuals with ADRD is required to meet certain staffing and ADRD training requirements that are not required of other ALFs.¹⁰

⁸ Section 456.001(4), F.S., defines “health care practitioner” as any person licensed under ch. 457, F.S.; ch. 458, F.S.; ch. 459, F.S.; ch. 460, F.S.; ch. 461, F.S.; ch. 462, F.S.; ch. 463, F.S.; ch. 464, F.S.; ch. 465, F.S.; ch. 466, F.S.; ch. 467, F.S.; part I, part II, part III, part V, part X, part XII, or part XIV of ch. 468, F.S.; ch. 478, F.S.; ch. 480, F.S.; part I or part II of ch. 483, F.S.; ch. 484, F.S.; ch. 486, F.S.; ch. 490, F.S.; or ch. 491, F.S.

⁹ Section 429.02(5), F.S.

¹⁰ Sections 429.177 and 429.178(1), F.S.

All ALF employees are required to attend a preservice orientation provided by the facility prior to interacting with residents. The preservice orientation must be at least two hours and must cover certain topics, including resident's rights and the services offered by the facility.¹¹ ADRD training is only required for employees of ALFs that provide special care for residents with ADRD.¹² Further, s. 429.178, F.S., requires an ALF that advertises it provides special care for persons with ADRD to provide the following training:

- An employee who has regular contact with such residents must complete up to four hours of initial dementia-specific training developed or approved by the DOEA. The training must be completed within three months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- A direct caregiver who provides direct care to such residents must complete the required initial training and four additional hours of training developed or approved by the DOEA. The training must be completed within nine months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- An individual who is employed by a facility that provides special care for residents with ADRD, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with ADRD, within three months after beginning employment.
- A direct caregiver must also participate in a minimum of four contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training, developed or approved by the DOEA, in which the caregiver has not received previous training.
- Upon completing any specified training, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.
- The DOEA, or its designee, must approve the initial and continuing education courses and providers.
- The DOEA must keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with ADRD.

Adult Family-Care Homes

An adult family-care home (AHCA) is a private home, under which a person who owns or rents the home provides room, board, and personal care in a family-like living arrangement, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives of the homeowner.¹³ AFCHs are licensed and regulated by the AHCA under part II of ch. 429, F.S.

¹¹ Section 429.52(1), F.S., and Rule 59A-36.011(2), F.A.C.

¹² Section 429.178(1), F.S., requires an ALF that advertises that it provides special care for persons with ADRD to meet certain standards of operation that are not required of other ALFs. This is not a separate licensure category. The additional standards of operation include: have an awake staff member on duty 24 hours a day, if the facility has 17 or more residents; if the facility has fewer than 17 residents, the facility may have mechanisms in place to monitor residents instead of having an awake staff member on duty 24 hours a day; offer activities specifically designed for persons who are cognitively impaired; have a physical environment that provides for the safety and welfare of the residents; and employ staff who have completed the required training and continuing education.

¹³ Section 429.65(2), F.S.

AFCH providers are required to undergo 12 hours of training some of which must be related to Identifying and meeting the special needs of disabled adults and frail elders. However, providers are not currently required to undergo training specific to ADRD.¹⁴

Adult Day Care Centers

Adult day care centers (ADCC) provide therapeutic services and activities for adults in a non-institutional setting.¹⁵ Participants may utilize a variety of services offered during any part of a day totaling less than 24-hours. Basic services provided by ADCCs include leisure activities, self-care training, nutritional services, and respite care.¹⁶

Section 429.917, F.S., requires an ADCC to provide the following staff training:

- Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have ADRD.
- In addition to the information provided, newly-hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have ADRD must complete initial training of at least one hour within the first three months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- In addition to the previous requirements, an employee who will be providing direct care to a participant who has ADRD must complete an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required four hours of training is part of the total hours of training required annually.
- For a health care practitioner as defined in s. 456.001, F.S., continuing education hours taken as required by that practitioner's licensing board are counted toward the total of four hours.
- For an employee who is a licensed health care practitioner as defined in s. 456.001, F.S., training that is sanctioned by that practitioner's licensing board is considered to be approved by the DOEA.
- The DOEA or its designee must approve the one-hour and three-hour training provided to employees and direct caregivers under this section of statute. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the one-hour and three-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing any training described in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat

¹⁴ See s. 429.75, F.S., and Fla. Admin. Code R. 59A-37.007 (2020).

¹⁵ Section 429.901(3), F.S.

¹⁶ *Id.*

training in that topic if the employee or direct caregiver changes employment to a different ADCC or to an ALF, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.

Specialized Alzheimer's Services Adult Day Care Centers

An ADCC may hold a license designated by the AHCA as a specialized Alzheimer's services adult day care center if it meets certain requirements.¹⁷ Employees of specialized Alzheimer's services ADCCs, who have direct contact with, or provide direct care to, individuals with ADRD are required to receive four hours of ADRD training within three months of beginning employment.¹⁸ Employees of specialized Alzheimer's services ADCCs who provide direct care to participants with ADRD are required to receive an additional four hours of training within six months of beginning employment. The curriculum for the additional four hours of training must address the following subject areas:

- Understanding brain disease;
- Normal brain functions and normal aging;
- Understanding treatable and irreversible dementia;
- Mental status tests;
- Communication and the effects of damage to brain cells;
- Influences on behavior and brain deterioration;
- Interventions;
- Physical causes and pain indications;
- Common ADRD medications and side effects;
- Malnutrition and dehydration;
- Activities of daily living;
- Validation therapy;
- Safety; and
- Caregiver stress management.¹⁹

Employees of specialized Alzheimer's services ADCCs who provide direct care to participants with ADRD are also required to receive 4-hours of continuing education annually in topics related to ADRD.²⁰

Nurse Registries and Companion and Homemaker Services

A nurse registry is an agency licensed to secure employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, and homemakers, who are compensated by fees as independent contractors to provide services in a patient's home or with health care facilities or other entities.²¹ Nurse registries are governed by part II of chapter 408, F.S., and the nurse registry rules in ch. 59A-18, F.A.C. A nurse registry must be licensed by

¹⁷ Section 429.918(4), F.S.

¹⁸ Rule 59A-16.111(2), F.A.C.

¹⁹ Rule 59A-16.111(3), F.A.C.

²⁰ Rule 59A-16.111(5), F.A.C.

²¹ Section 400.462(21), F.S.

the AHCA to offer contracts in Florida.²² Current law does not require contracted personnel of nurse registries to complete training on ADRD.

Companions spend time with and care for elderly, handicapped, or convalescent individuals, prepare and serve meals to such individuals, and accompany such individuals on trips and outings. Companions are prohibited from providing hands-on personal care to a client.²³ Homemakers perform household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for elderly, handicapped, or convalescent individuals. Homemakers are prohibited from providing hands-on personal care to a client.²⁴ Current law does not require companions or homemakers to complete training on ADRD.

Health Care Services Pools

A health care services pool is a business that provides licensed, certified, or trained health care personnel to work as temporary staff in health care facilities and residential facilities to support or supplement the facilities' work force as necessary to cover employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.²⁵ Health care services pools are governed by part II of chapter 408, F.S., and Rule 59A-27, F.A.C., and must be licensed by the AHCA to offer services to Florida facilities.²⁶

A health care services pool must document that each temporary employee provided to a health care facility has met the licensing, certification, training, or continuing education requirements for the position in which her or she will be working.²⁷

ADRD Training Providers and Curricula

The DOEA or its designee is responsible for approving ADRD training providers and curricula for employees of nursing homes, home health agencies, ALFs, and adult day care centers.²⁸ The University of South Florida (USF) administers the program through a contract with DOEA.²⁹ To be approved as a training provider, an applicant must provide proof of certain educational and experience requirements, including:

- A Master's degree from an accredited college in health care, human services, or gerontology; or
- A Bachelor's degree from an accredited college, or licensure as a registered nurse; and
- One year of experience as an educator of caregivers for individuals with ADRD; or
- Completion of a specialized training program relating to ADRD and a minimum of two years of practical experience in a program providing direct care to individuals with ADRD; or

²² Section 400.506(1), F.S.

²³ Section 400.462(7), F.S.

²⁴ Section 400.462(18), F.S.

²⁵ Section 400.980(1), F.S.

²⁶ Rule 58A-27.002, F.A.C.

²⁷ Section 400.980(5), F.S.

²⁸ Sections 400.1755(5), 400.4785(1)(f), 429.178(5), and 429.917(1)(g), F.S.

²⁹ The University of South Florida, College of Behavioral & Community Sciences, USF's Training Academy on Aging, *Alzheimer's Disease and Related Disorders*

Frequently Asked Questions, available at <http://www.trainingonaging.usf.edu/products/faq.cfm> (last visited March 11, 2023).

- Three years of practical experience in a program providing direct care to individuals with ADRD.³⁰

Upon successful completion of training, the trainer is required to issue the trainee a certificate of completion.³¹ Training curricula is certified for a period of three years and must be resubmitted for approval.³² Approval of training curricula is based on how well it addresses the required subject areas.³³

The table below depicts the number of approved trainers and training curricula by facility/provider type.³⁴

Facility/Provider Type	Approved Training Providers	Approved Training Curricula
Nursing Home	1,865	24
Assisted Living Facility	800	66
Home Health Agency	750	22
Adult Day Care Center	133	17
Total	3,548	129

Quality of Long-Term Care Facility Improvement Trust Fund

The Quality of Long-Term Care Facility Improvement Trust Fund (“Trust Fund”), created in 2001,³⁵ supports innovative ideas that directly impact quality of care or quality of life of nursing home residents beyond minimum standards.³⁶ Section 400.0239, F.S., places the Trust Fund within the AHCA.³⁷ Trust Fund expenditures can be made for:

- Development and operation of a mentoring program for increasing the competence, professionalism, and career preparation of long-term care facility direct care staff, including nurses, nursing assistances, and social service and dietary personnel;
- Development and implementation of specialized training programs for long-term care facility personnel who provide direct care of residents:
 - With ADRD;
 - At risk of developing pressure sores; and
 - With special nutrition and hydration needs.
- Provision of economic and other incentives to enhance the stability and career development of the nursing home direct care workforce, including paid sabbaticals for exemplary direct

³⁰ Rule 58A-5.0194(1)(a), F.A.C.

³¹ Rule 58A-5.0194(3), F.A.C.

³² Rule 58A-5.0194(1)(b), F.A.C.

³³ *Id.*

³⁴ The University of South Florida’s Training Academy on Aging, *Find Approved Applications*, available at <https://usfweb.usf.edu/trainingonAging/default.aspx>, (last visited March 11, 2023).

³⁵ Ch. 2001-205, L.O.F.

³⁶ The AHCA, *Quality of Long-Term Care Facility Improvement Trust Fund*, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Trust_Fund.shtml (last visited March 11, 2023).

³⁷ Section 400.0239(1), F.S.

care career staff to visit facilities throughout the state to train and motivate younger workers to commit to long-term care careers; and

- Promotion and support for the formation and active involvement of resident and family councils in the improvement of nursing home care.³⁸

The Trust Fund is funded through a combination of:

- General Revenue;
- The Civil Money Penalty Fund; and
- Fifty percent of any punitive damages awarded in lawsuits against a nursing home or ALF.³⁹

III. Effect of Proposed Changes:

Alzheimer's Disease and Related Disorders (ADRD) Training Requirements

Section 1 creates s. 430.5025, F.S., which may be cited as the “Florida Alzheimer’s Disease and Dementia Training Act”, to establish universal Alzheimer’s disease and related disorders (ADRD) training requirements for nursing homes, home health agencies, nurse registries, companion and homemaker service providers, health care services pools, assisted living facilities (ALF), adult family-care homes (AFCH), and adult day care centers (ADCC) with limited exception.

The bill defines the following terms:

- “Covered provider” means a nursing home, a home health agency, a nurse registry, health care services pool, a companion or homemaker service provider, an ALF, an AFCH, or an ADCC licensed or registered under ch. 400, F.S., or ch. 429, F.S.
- “Department” means the Department of Elderly Affairs.⁴⁰
- “Employee” means a person, contracted staff, or independent contractor employed or referred by a covered provider who is required to have a level 2 background screening as required by s. 408.809, F.S., and ch. 435, F.S.
- “Personal care” means providing, through in-person contact, assistance with activities of daily living, assistance with self-administration of medication, homemaker or companion services, nursing services, or other services that promote the physical, mental, and psychosocial well-being of participants, patients, and residents of covered providers. The term does not include duties involving administrative functions or maintaining the physical environment of a licensed facility, including grounds maintenance, building maintenance, housekeeping, laundry, or food preparation.
- “Regular contact” means the performance of duties other than personal care which may require employees to interact in person on a daily basis with participants, patients, or residents.

The bill requires the Department of Elder Affairs (DOEA) to offer education about ADRD to the general public. The education must provide basic information about:

- The most common forms of dementia;

³⁸ Section 400.0239(2), F.S.

³⁹ Section 400.0238(4), F.S.

⁴⁰ Also known as the Department of Elder Affairs (DOEA).

- How to identify the signs and symptoms of dementia;
- Coping skills;
- How to respond to changes;
- Planning for the future; and
- How to access additional resources about dementia.

The bill also requires employees of covered providers who provide personal care to or have regular contact with patients, participants, or residents, one hour of dementia-related training within 30 days of his or her employment. All employees must also receive basic written information about interacting with persons who have ADRD upon beginning employment.

The bill directs the DOEA to provide the initial one hour of dementia-related training. The training must be provided in an online format at no cost and must contain information on the following topics:

- Understanding the basics about the most common forms of dementia;
- How to identify the signs and symptoms of dementia; and
- Skills for communicating and interacting with persons with ADRD.

The table below summarizes the changes (indicated by red font) to training requirements for all employees of covered providers.

Initial Training for all “Employees”					
		Basic Written Info		Hours	
		Current	Effect of the Bill	Current	Effect of the Bill
Nursing Homes		Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Home Health Agencies		Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Nurse Registry Companion or Homemaker Service		None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
ALFs	Generally	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	Basic written info w/in 1 st 3 months	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Adult Family-Care Home	Generally	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Adult Day Care Centers	Generally	Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days

The bill also makes the following changes (indicated by red font) to the ADRD training requirements for direct care workers employed by nursing homes, home health agencies, nurse registries, ALFs, and ADCCs.

Direct Care Workers Providing Personal Care to Individuals with ADRD ⁴¹							
		Initial Training ⁴²		Additional 1 st Year Training		Continuing	
		Current	Effect of the Bill	Current	Effect of the Bill	Current	Effect of the Bill
Nursing Homes		1 hr. w/in 1 st 3 months	1 hr w/in 1st 30 days	3 hrs. w/in 1 st 9 months	3 hrs. w/in 1 st 7 months	None.	No change.
Home Health Agencies		None.	1 hr w/in 1st 30 days	2 hrs. w/in 1 st 9 months	2 hrs. w/in 1 st 7 months	None.	No change.
Nurse Registry Companion or Homemaker Service		None.	1 hr w/in 1st 30 days	None.	2 hrs. w/in 1st 7 months	None.	No change.
ALFs	Generally	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1st 7 months⁴³	None.	No change.
	Special Care	4 hrs. w/in 1 st 3 months	1 hr w/in 1st 30 days	4 hrs. w/in 1 st 9 months	3 hrs. w/in 1st 3 months plus 4 hrs. w/in 1st 6 months	4 hrs., annually	No change.
Adult Family- Care Home	Generally	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1st 7 months	None.	No change.
	Special Care	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1st 3 months plus 4 hrs. w/in 1st 6 months	None.	4 hrs., annually
Adult Day Care Centers	Generally	1 hr. w/in 1 st 3 months	1 hr w/in 1st 30 days	3 hrs. w/in 1 st 9 months	3 hrs. w/in 1 st 7 months	None.	No change.
	Special Care	4 hrs. w/in 1 st 3 months	1 hr w/in 1st 30 days	4 hrs. w/in 1 st 6 months	3 hrs. w/in 1st 3 months plus 4 hrs. w/in 1st 6 months	4 hrs., annually, per rule	4 hrs., annually, per statute

⁴¹ Note: New training requirements only apply to employees providing direct care to patients/residents with ADRD, as compared to training requirements in current law which apply to employees providing direct care to any patient/resident.

⁴² Current law only provides an initial hour-based training requirement for the direct care workers of certain provider types. The proposed initial hourly training requirement applicable to all “employees” is repeated here since all “direct care workers” will have to complete this training. This initial training requirement is not in addition to the initial hour-based training that is currently applicable.

⁴³ Note: Employees of an ALF licensed as a limited mental health facility will not be required to complete the additional three hours of training within the first seven months of employment.

The bill requires each employee of a home health agency, nurse registry, or companion or homemaker service provider who provides personal care to receive two hours of additional training within the first seven months of employment. The additional training must include, but is not limited to:

- Behavior management;
- Promoting the person's independence in activities of daily living; and
- Skills for working with families and caregivers.

Each employee of a nursing home, ALF, AFCH or ADCC who provides personal care must receive three hours of additional training within the first seven months of employment. The additional training must include the three above-mentioned topics and also include, but not be limited to:

- Group and individual activities;
- Maintaining an appropriate environment; and
- Ethical issues.

Each employee of an ALF, AFCH, or ADCC that advertises and provides specialized care for persons with Alzheimer's disease must also receive the following additional training if such employee provides personal care, as defined in the bill:

- Three hours of additional training within the first three months of employment, rather than the first seven months;
- Four hours of dementia-specific training within the first six months of employment; and
- Four hours of continuing education each calendar year through:
 - Contact hours;
 - On-the-job training⁴⁴ which can account for no more than 2 hours of continuing education credit each calendar year; or
 - Electronic learning technology.

The bill requires the continuing education to cover at least one of the topics included in the dementia-specific training in which the employee has not received previous training within the last calendar year.

The bill allows ADRD training hours required under the bill to count toward the total hours of training required for certified nursing assistants to maintain certification. The bill also allows ADRD training hours to count toward the total hours of continuing education required for health care practitioners, as defined in s. 456.001, F.S.

Employees of a health care services pool must complete the training that correlates with the training required for the position and facility in which the employee will be working.

⁴⁴ The bill defines "on-the-job training" to mean a form of direct coaching in which a facility administrator or his or her designee instructs an employee who provides personal care with guidance, support, or hands-on experience to help develop and refine the employee's skills for caring for a person with ADRD.

ADRD Training Providers and Curricula

Current law authorizes DOEA or its designee to approve the initial 1-hour training curricula, the additional training (post-initial training) curricula, and the continuing education curricula for nursing homes, ALFs, adult family-care homes, home health agencies, and adult day care centers. The bill adds the authority for DOEA to approve such training curricula for nurse registries and homemaker and companion services.

The bill provides that any ADRD training and curriculum that has been approved before July 1, 2023 remains in effect until the curriculum's expiration date. The bill authorizes the DOEA to create training curricula guidelines and adopt rules to establish requirements for the approval of other qualified training providers, and to conduct samplings of training curricula as necessary to monitor for compliance with curriculum guidelines. The bill also permits the DOEA to develop or provide continuing education training or curricula as an option for covered providers and employees.

For the post-initial training and continuing education, the bill allows training providers who meet certain qualifications to offer training without prior approval, including:

- A person approved by the DOEA or its designee before July 1, 2023.
- An individual who is approved by an applicable board or the Department of Health (DOH) to provide training, is registered with the DOH electronic continuing education tracking system, and meets one of the following experience requirements:
 - At least one year of teaching experience as an educator for caregivers of persons with ADRD;
 - At least one year of practical experience in a program providing care to persons with ADRD; or
 - Completion of a specialized ADRD training program from an accredited health care, human services, or gerontology education provider.

Training Records

Under the bill, employees are not required to repeat any of the training requirements in the bill upon a change of employment to a different covered provider. To facilitate this, the bill addresses employee access to their own training records.

For the initial training, the bill requires trainers to provide a record of an employee's completion of training to the covered provider. The bill requires the covered provider to maintain a record of the employee's completion of the training, and upon written request by the employee, provide a copy of the record of completion to the employee.

For post-initial training and continuing education, the bill requires trainers to provide a record of an employee's completion of training and continuing education, but it does not specify to whom the record must be provided (covered provider or employee). Further, the bill does not require a covered provider to maintain the record of completion or provide a copy of the record of completion as it does for records of completion of initial training.

Health care services pools will be required to verify and maintain documentation that each employee or independent contractor has met the ADRD training requirements of the position in which he or she will be working prior to assigning or referring the employee. The health care services pool must provide supporting documentation to the covered provider upon request.

Implementation

The bill requires all employees hired before July 1, 2023, to complete the training requirements of the bill by July 1, 2026. Individuals newly employed, contracted, or referred to provide services on or after the effective date of the bill may complete training using any existing training curriculum approved by DOEA. The bill provides a grandfather clause for an employee who shows proof of completion of training that is equivalent to the training requirements of the bill.

Section 2 amends s. 400.0239, F.S., to allow funds from the Quality of Long-Term Care Facility Improvement Trust Fund to be allocated for direct support of the development and implementation of specialized training programs for long-term care facility personnel who provide direct care for residents with ADRD as provided under the bill.

Section 3 amends s. 400.1755, F.S., to repeal the individual ADRD training requirements in the licensure statutes for nursing homes and related facilities in favor of the uniform training requirements established by the bill.

Section 4 amends s. 400.4785, F.S., to repeal the specific ADRD training requirements for home health agencies in favor of the uniform training requirements established by the bill.

Section 5 creates s. 400.51, F.S., implementing the training requirements established by the bill for persons employed, contracted, or referred by a nurse registry or a person registered with an agency to provide companion or homemaker services.

Section 6 amends s. 400.980, F.S., to require a health care services pool to verify and maintain documentation that each employee or independent contractor provided, assigned, or referred to a health care facility has met all training and certification requirements for the position in which he or she will be working. The bill specifically prohibits a health care services pool from delegating this responsibility to another provider.

Section 7 amends s. 429.178, F.S., to repeal the specific ADRD training requirements for ALFs in favor of the uniform training requirements established by the bill.

Section 8 amends s. 429.52, F.S., to require all ALF employees to complete the training requirements established by the bill. An exception is created for an employee of an ALF licensed as a limited mental health facility who is not required to complete the additional three hours of training within seven months after beginning employment that is required under the newly created s. 430.5025(4)(d), F.S.

The bill also allows the 1-hour training requirement for ALF employees to count toward an existing mandatory 2-hour preservice orientation, if completed before interacting with residents.

Section 9 amends s. 429.83, F.S., to require all adult family-care homes to provide ADRD staff training pursuant to the requirements established in the bill.

Section 10 amends s. 429.917, F.S., to repeal the specific ADRD training requirements for AFCHs in favor of the uniform training requirements established by the bill.

Section 11 amends s. 429.918, F.S., to repeal the specific ADRD training requirements for ADCCs and specialized Alzheimer's services ADCCs in favor of the uniform training requirements established by the bill.

Section 12 provides an effective date of July 1, 2023.

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:

The bill is likely to have a negative fiscal impact on health care facilities and providers as a result of the increased training requirements of the bill. The level of fiscal impact is indeterminate.

C. Government Sector Impact:

The Department of Elder Affairs (DOEA) states that there are potential expenditures to develop and distribute informational materials beyond what is currently provided, potential expenditures for developed training curricula, approval and monitoring beyond what is currently provided, and potential expenditures to develop a database to store training participant information.⁴⁵ The DOEA anticipates that any expenditures generated by the bill can be absorbed by existing resources.⁴⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.0239, 400.1755, 400.4785, 400.980, 429.178, 429.52, 429.83, 429.917, and 429.918.

This bill creates the following sections of the Florida Statutes: 430.5025 and 400.510.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:**

The committee substitute:

- Requires employees who are provided, assigned, or referred by a health care services pool to complete the Alzheimer's training and continuing education contemplated by the bill as applicable to the covered provider and position in which the employee will be working;
- Requires a health care services pool to verify and maintain proper documentation before providing, assigning, or referring an employee to a covered provider;
- Requires a health care services pool to provide documentation verifying the completed training and continuing education of the employee to the covered provider upon request;
- Prohibits health care service pools from delegating documentation and verification of the training requirements to other employers; and

⁴⁵ E-mail from Tyler Jefferson, Legislative Affairs Director, the DOEA, *RE: SB 1182 - Education and Training for Alzheimer's Disease and Related Forms of Dementia*, March 11, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁶ *Id.*

- Clarifies that employees of assisted living facilities licensed as limited mental health facilities are exempt from a portion of the training requirements of the bill.

CS by Children, Families, and Elder Affairs on March 14, 2023:

- Removes authority for the Department of Elder Affairs (DOEA) to delegate the administration of any of the bill provisions;
- Makes employees responsible for compliance with the training requirements instead of employers;
- Requires the DOEA to provide a record of the completion of the 1-hour training program to the covered provider, rather than a record of the training program;
- Makes the training requirements apply to employees who provide personal care to any resident of a facility, instead of only to residents with Alzheimer's disease.
- Authorizes the DOEA to develop or provide continuing education training or curricula;
- Removes authority for a person with a master's or doctoral degree in health care, social services, or gerontology to act as a training provider;
- Authorizes the DOEA to adopt rules to create training curriculum guidelines;
- Retains current law relating to training requirements on Alzheimer's disease for hospice employees;
- Clarifies that all assisted living facility (ALF) employees must complete Alzheimer's disease and related disorder training under the bill, rather than adding training as a topic on the core competency test for ALF administrators; and
- Allows the 1-hour training requirement for ALF employees to count toward the 2-hour preservice orientation, if completed before interacting with residents.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
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	.	
	.	

The Appropriations Committee on Health and Human Services
(Simon) recommended the following:

Senate Amendment (with title amendment)

Delete lines 77 - 494
and insert:
provider, a health care services pool, an assisted living
facility, an adult family-care home, or an adult day care center
licensed or registered under chapter 400 or chapter 429.
(b) "Department" means the Department of Elderly Affairs.
(c) "Employee" means a person, contracted staff, or an
independent contractor employed or referred by a covered



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11 provider who is required to undergo a level 2 background
12 screening under s. 408.809 and chapter 435.

13 (d) "Personal care" means providing, through in-person
14 contact, assistance with activities of daily living, assistance
15 with self-administration of medication, homemaker or companion
16 services, nursing services, or other services that promote the
17 physical, mental, and psychosocial well-being of participants,
18 patients, and residents of covered providers. The term does not
19 include duties involving administrative functions or maintaining
20 the physical environment of a licensed facility, including
21 grounds maintenance, building maintenance, housekeeping,
22 laundry, or food preparation.

23 (e) "Regular contact" means the performance of duties other
24 than personal care which may require employees to interact in
25 person on a daily basis with participants, patients, or
26 residents.

27 (3) The department shall offer to the general public
28 education about Alzheimer's disease and related forms of
29 dementia. Such education must provide basic information about
30 the most common forms of dementia, how to identify the signs and
31 symptoms of dementia, coping skills, how to respond to changes,
32 planning for the future, and how to access additional resources
33 about dementia.

34 (4) Employees of covered providers must complete the
35 following training for Alzheimer's disease and related forms of
36 dementia:

37 (a) Upon beginning employment, each employee must receive
38 basic written information about interacting with persons who
39 have Alzheimer's disease or related forms of dementia.



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(b) Within 30 days after beginning employment, each employee who provides personal care to or has regular contact with participants, patients, or residents must complete a 1-hour training program provided by the department.

1. The department shall provide the training in an online format at no cost. The 1-hour training program must contain information on understanding the basics about the most common forms of dementia, how to identify the signs and symptoms of dementia, and skills for communicating and interacting with persons with Alzheimer's disease or related forms of dementia. A record of the completion of the training program must be made available to the covered provider which identifies the training course, the name of the employee, and the date of completion.

2. A covered provider must maintain a record of the employee's completion of the training and, upon written request of the employee, must provide the employee with a copy of the record of completion consistent with the employer's written policies.

3. An employee who has completed the training required in this subsection is not required to repeat the program upon changing employment to a different covered provider.

(c) Within 7 months after beginning employment for a home health agency, nurse registry, or companion or homemaker service provider, each employee who provides personal care must complete 2 hours of training in addition to the training required in paragraphs (a) and (b). The additional training must include, but is not limited to, behavior management, promoting the person's independence in activities of daily living, and skills in working with families and caregivers.



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(d) Within 7 months after beginning employment for a nursing home, an assisted living facility, an adult family-care home, or an adult day care center, each employee who provides personal care must complete 3 hours of training in addition to the training required in paragraphs (a) and (b). The additional training must include, but is not limited to, behavior management, promoting the person's independence in activities of daily living, skills in working with families and caregivers, group and individual activities, maintaining an appropriate environment, and ethical issues.

(e) For an assisted living facility, adult family-care home, or adult day care center that advertises and provides, or is designated to provide, specialized care for persons with Alzheimer's disease or related forms of dementia, in addition to the training specified in paragraphs (a) and (b), employees must receive the following training:

1. Within 3 months after beginning employment, each employee who provides personal care to or has regular contact with the residents or participants must complete the additional 3 hours of training as provided in paragraph (d).

2. Within 6 months after beginning employment, each employee who provides personal care must complete an additional 4 hours of dementia-specific training. Such training must include, but is not limited to, understanding Alzheimer's disease and related forms of dementia, the stages of Alzheimer's disease, communication strategies, medical information, and stress management.

3. Thereafter, each employee who provides personal care must participate in at least 4 hours of continuing education



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each calendar year through contact hours, on-the-job training, or electronic learning technology. For this subparagraph, the term "on-the-job training" means a form of direct coaching in which a facility administrator or his or her designee instructs an employee who provides personal care with guidance, support, or hands-on experience to help develop and refine the employee's skills for caring for a person with Alzheimer's disease or a related form of dementia. The continuing education must cover at least one of the topics included in the dementia-specific training in which the employee has not received previous training in the previous calendar year. The continuing education may be fulfilled and documented in a minimum of one quarter-hour increments through on-the-job training of the employee by a facility administrator or his or her designee or by an electronic learning technology chosen by the facility administrator. On-the-job training may not account for more than 2 hours of continuing education each calendar year.

(f)1. An employee provided, assigned, or referred by a health care services pool must complete the training required in paragraph (c), paragraph (d), or paragraph (e) as applicable to the covered provider and the position in which the employee will be working. The documentation verifying the completed training and continuing education of the employee must, if applicable, be provided to the covered provider upon request.

2. A health care services pool must verify and maintain documentation as required under s. 400.980(5) before providing, assigning, or referring an employee to a covered provider.

(5) The department may establish training curricula guidelines for the training required in paragraphs (4)(c), (d),



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and (e). The department may approve training providers and training curricula and maintain a list of approved providers. Approved training may be offered in a variety of formats, including, but not limited to, in person, electronically, or on-the-job by a facility administrator or his or her designee. Continuing education under this section does not require the adoption of training curricula guidelines by the department or approval of the training provider and curricula by the department. The department may develop or provide continuing education training or curricula as an option for covered providers and employees.

(a) A training provider meeting one of the following qualifications may offer training in compliance with the training curricula guidelines without prior approval of the department:

1. A person approved by an applicable board or the Department of Health to provide training who is registered with the electronic continuing education tracking system under s. 456.025; or

2. A training provider approved by the department or its designee before July 1, 2023.

(b) Training providers qualified under subparagraph (a)1. must also have:

1. At least 1 year of teaching experience as an educator for caregivers of persons with Alzheimer's disease or related forms of dementia;

2. At least 1 year of practical experience in a program providing care to persons with Alzheimer's disease or related forms of dementia; or



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156 3. Completed a specialized training program in the subject
157 matter of Alzheimer's disease and related forms of dementia from
158 an accredited health care, human services, or gerontology
159 education provider.

160 (c) Upon an employee's completion of the training specified
161 in paragraphs (4)(c), (d), and (e), the training provider must
162 provide a record of the completion of the training which
163 includes the name of the employee, the name of the training
164 provider, the topics covered, and the date of completion. The
165 training record is evidence of completion of training in the
166 identified topic and the employee is not required to repeat
167 training in that topic if the employee changes employment to a
168 different covered provider.

169 (d) Any Alzheimer's disease and related forms of dementia
170 training curriculum approved by the department or its designee
171 before July 1, 2023, remains in effect until the curriculum's
172 expiration date.

173 (6) The department may adopt rules to establish training
174 curriculum guidelines, requirements for the approval of other
175 qualified training providers, and a process for conducting a
176 sampling of training or training curricula as necessary to
177 monitor for compliance with curricula guidelines.

178 (7) For a certified nursing assistant as defined in s.
179 464.201, training hours completed as required under this section
180 may count toward the total hours of training required to
181 maintain certification as a nursing assistant.

182 (8) For a health care practitioner as defined in s.
183 456.001, training hours completed as required under this section
184 may count toward the total hours of continuing education



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required by that practitioner's licensing board.

(9) Each person employed, contracted, or referred to provide services before July 1, 2023, must complete the training required in this section before July 1, 2026. Proof of completion of equivalent training completed before July 1, 2023, shall substitute for the training required in subsection (4). Each person employed, contracted, or referred to provide services on or after July 1, 2023, may satisfy the training requirements by completing training using approved curricula as specified in paragraph (5)(d) until the effective date of the rules adopted by the department under subsection (6).

Section 2. Paragraph (b) of subsection (2) of section 400.0239, Florida Statutes, is amended to read:

400.0239 Quality of Long-Term Care Facility Improvement Trust Fund.—

(2) Expenditures from the trust fund shall be allowable for direct support of the following:

(b) Development and implementation of specialized training programs for long-term care facility personnel who provide direct care for residents with Alzheimer's disease and other dementias, including training provided under s. 430.5025, residents at risk of developing pressure sores, and residents with special nutrition and hydration needs.

Section 3. Section 400.1755, Florida Statutes, is amended to read:

400.1755 Care for persons with Alzheimer's disease or related disorders; staff training requirements.—

~~(1)~~ As a condition of licensure, the employees of facilities licensed under this part must complete the training



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~~required under s. 430.5025 provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.~~

~~(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.~~

~~(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.~~

~~(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.~~

~~(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.~~

~~(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is~~



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~~sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.~~

~~(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family care home. The direct caregiver must comply with other applicable continuing education requirements.~~

Section 4. Section 400.4785, Florida Statutes, is amended to read:

400.4785 Patients with Alzheimer's disease or other related disorders; staff training requirements; certain disclosures.—

(1) The employees of a home health agency must complete the



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~~training required under s. 430.5025 A home health agency must provide the following staff training:~~

~~(a) Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders.~~

~~(b) In addition to the information provided under paragraph (a), newly hired home health agency personnel who will be providing direct care to patients must complete 2 hours of training in Alzheimer's disease and dementia-related disorders within 9 months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client's independence in activities of daily living, and instruction in skills for working with families and caregivers.~~

~~(c) For certified nursing assistants, the required 2 hours of training shall be part of the total hours of training required annually.~~

~~(d) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward the total of 2 hours.~~

~~(e) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(f) The Department of Elderly Affairs, or its designee,~~



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~~must approve the required training. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 2-hour training. The department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.~~

~~(g) Upon completing the training listed in this section, the employee shall be issued a certificate that states that the training mandated under this section has been received. The certificate shall be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.~~

~~(2)(h)~~ A licensed home health agency whose unduplicated census during the most recent calendar year was composed ~~comprised~~ of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from the training requirements in this section.

~~(3)(2)~~ An agency licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The agency must give a copy of all such advertisements or a copy of the document to each person who requests information about the agency and must maintain a copy of all such advertisements and documents in its records. The Agency for Health Care Administration shall examine all such



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advertisements and documents in the agency's records as part of the license renewal procedure.

Section 5. Section 400.51, Florida Statutes, is created to read:

400.51 Patients with Alzheimer's disease or other related disorders; staff training requirements.—A person employed, contracted, or referred by a nurse registry or a person registered with the agency to provide companion or homemaker services must complete the training required under s. 430.5025.

Section 6. Subsection (5) of section 400.980, Florida Statutes, is amended to read:

400.980 Health care services pools.—

(5) A health care services pool shall verify and maintain documentation ~~document~~ that each temporary employee or independent contractor provided, assigned, or referred to a health care facility has met the licensing, certification, training, or continuing education requirements, as established by the appropriate regulatory agency, for the position in which he or she will be working. The requirements of this subsection may not be delegated to another provider as defined in s. 408.803.

Section 7. Section 429.178, Florida Statutes, is amended to read:

429.178 Special care for persons with Alzheimer's disease or other related disorders.—

~~(1)~~ A facility that ~~which~~ advertises that it provides special care for persons with Alzheimer's disease or other related disorders must meet the following standards of operation:



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(1) ~~(a) 1.~~ If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or

~~(b) 2.~~ If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents.

~~(2) (b)~~ Offer activities specifically designed for persons who are cognitively impaired.

~~(3) (c)~~ Have a physical environment that provides for the safety and welfare of the facility's residents.

~~(4) (d)~~ Require employed ~~Employ~~ staff to complete ~~who have completed~~ the training and continuing education required under ~~s. 430.5025 in subsection (2).~~

~~(2) (a) An individual who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders, and who has regular contact with such residents, must complete up to 4 hours of initial dementia-specific training developed or approved by the department. The training must be completed within 3 months after beginning employment and satisfy the core training requirements of s. 429.52(3) (g).~~

~~(b) A direct caregiver who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders and provides direct care to such residents must complete the required initial training and 4 additional hours of training developed or approved by the department. The training must be completed within 9 months after beginning employment and satisfy the core training requirements of s. 429.52(3) (g).~~



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~~(c) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's disease or other related disorders, within 3 months after beginning employment.~~

~~(3) In addition to the training required under subsection (2), a direct caregiver must participate in a minimum of 4 contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training developed or approved by the department, in which the caregiver has not received previous training.~~

~~(4) Upon completing any training listed in subsection (2), the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.~~

~~(5) The department, or its designee, shall approve the initial and continuing education courses and providers.~~

~~(6) The department shall keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with~~



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~~Alzheimer's disease or other related disorders.~~

~~(7) Any facility more than 90 percent of whose residents receive monthly optional supplementation payments is not required to pay for the training and education programs required under this section. A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility. A facility that does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for such training and education programs.~~

~~(8) The department shall adopt rules to establish standards for trainers and training and to implement this section.~~

Section 8. Subsection (1) of section 429.52, Florida Statutes, is amended to read:

429.52 Staff training and educational requirements.—

(1)(a) Each new assisted living facility employee who has not previously completed core training must attend a preservice orientation provided by the facility before interacting with residents. The preservice orientation must be at least 2 hours in duration and cover topics that help the employee provide responsible care and respond to the needs of facility residents. Upon completion, the employee and the administrator of the facility must sign a statement that the employee completed the required preservice orientation. The facility must keep the signed statement in the employee's personnel record.

(b) Each assisted living facility employee must complete the training required under s. 430.5025. However, an employee of an assisted living facility licensed as a limited mental health



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facility under s. 429.075 is exempt from the training
requirements under s. 430.5025(4)(d).

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

And the title is amended as follows:

Delete lines 57 - 62

and insert:

made by the act; creating s. 400.51, F.S.; requiring a
person employed, contracted, or referred by a nurse
registry or a person registered with the Agency for
Health Care Administration to provide companion or
homemaker services to complete specified training;
amending s. 400.980, F.S.; requiring health care
services pools to verify and maintain documentation
that certain employees or independent contractors have
met specified licensing, certification, training, and
continuing education requirements; prohibiting
delegation of specified responsibilities; amending s.
429.178, F.S.; conforming provisions to changes made
by the act; amending s. 429.52, F.S.; conforming
provisions to changes made by the act; exempting
certain employees of assisted living facilities from
specified training requirements; amending ss. 429.83,
429.917, and

By the Committee on Children, Families, and Elder Affairs; and
Senators Simon and Book

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1 A bill to be entitled
2 An act relating to education and training for
3 Alzheimer's disease and related forms of dementia;
4 creating s. 430.5025, F.S.; providing a short title;
5 defining terms; requiring the Department of Elderly
6 Affairs to offer certain education about Alzheimer's
7 disease and related forms of dementia to the general
8 public; specifying uniform dementia-related education
9 and training for employees of covered providers;
10 requiring the department to provide certain dementia-
11 related employee training in an online format and at
12 no cost; providing minimum requirements for the
13 training; requiring the department to make a record of
14 the completion of the training; providing requirements
15 for the record; requiring covered providers to
16 maintain such records of training completion for their
17 employees; providing that an employee does not have to
18 repeat such training after changing employment to
19 another covered provider; providing additional
20 training and continuing education requirements for
21 certain employees who provide direct care to patients
22 with Alzheimer's disease or related forms of dementia;
23 authorizing the department to establish training
24 curriculum guidelines; authorizing the department to
25 approve training providers and curricula and maintain
26 a list of approved providers; authorizing training to
27 be offered in a variety of formats; providing that
28 certain continuing education does not require the
29 adoption of curriculum guidelines by the department or

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30 provider or curriculum approval by the department;
31 authorizing the department to develop or provide
32 continuing education training or curricula as an
33 option for covered providers and their employees;
34 providing qualifications and requirements for training
35 providers; providing that training curricula approved
36 before the effective date of the act remain in effect
37 until their respective expiration dates; authorizing
38 the department to adopt rules related to training
39 curriculum guidelines, qualified training providers,
40 and compliance monitoring procedures; authorizing
41 certified nursing assistants to count the dementia-
42 related training toward their annual certification
43 training requirements; authorizing health care
44 practitioners to count the dementia-related training
45 requirements toward their continuing education
46 requirements for licensure; authorizing persons
47 employed, contracted, or referred to provide services
48 before the effective date of the act to complete the
49 required training by a specified date; providing for
50 the substitution of equivalent training for training
51 required by this act; authorizing persons to satisfy
52 the training requirements of this act using training
53 curricula approved before the effective date of the
54 act until the department adopts rules for training
55 curricula guidelines; amending ss. 400.0239, 400.1755,
56 and 400.4785, F.S.; conforming provisions to changes
57 made by the act; creating s. 400.510, F.S.; requiring
58 a person employed, contracted, or referred by a nurse

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registry or a person registered with the Agency for Health Care Administration to provide companion or homemaker services to complete specified training; amending ss. 429.178, 429.52, 429.83, 429.917, and 429.918, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 430.5025, Florida Statutes, is created to read:

430.5025 Alzheimer's disease and related forms of dementia; education and training.-

(1) This section may be cited as the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act."

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

(a) "Covered provider" means a nursing home, a home health agency, a nurse registry, a companion or homemaker service provider, an assisted living facility, an adult family-care home, or an adult day care center licensed or registered under chapter 400 or chapter 429.

(b) "Department" means the Department of Elderly Affairs.

(c) "Employee" means a person, contracted staff, or an independent contractor employed or referred by a covered provider who is required to undergo a level 2 background screening under s. 408.809 and chapter 435.

(d) "Personal care" means providing, through in-person contact, assistance with activities of daily living, assistance with self-administration of medication, homemaker or companion

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services, nursing services, or other services that promote the physical, mental, and psychosocial well-being of participants, patients, and residents of covered providers. The term does not include duties involving administrative functions or maintaining the physical environment of a licensed facility, including grounds maintenance, building maintenance, housekeeping, laundry, or food preparation.

(e) "Regular contact" means the performance of duties other than personal care which may require employees to interact in person on a daily basis with participants, patients, or residents.

(3) The department shall offer to the general public education about Alzheimer's disease and related forms of dementia. Such education must provide basic information about the most common forms of dementia, how to identify the signs and symptoms of dementia, coping skills, how to respond to changes, planning for the future, and how to access additional resources about dementia.

(4) Employees of covered providers must complete the following training for Alzheimer's disease and related forms of dementia:

(a) Upon beginning employment, each employee must receive basic written information about interacting with persons who have Alzheimer's disease or related forms of dementia.

(b) Within 30 days after beginning employment, each employee who provides personal care to or has regular contact with participants, patients, or residents must complete a 1-hour training program provided by the department.

1. The department shall provide the training in an online

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format at no cost. The 1-hour training program must contain information on understanding the basics about the most common forms of dementia, how to identify the signs and symptoms of dementia, and skills for communicating and interacting with persons with Alzheimer's disease or related forms of dementia. A record of the completion of the training program must be made available to the covered provider which identifies the training course, the name of the employee, and the date of completion.

2. A covered provider must maintain a record of the employee's completion of the training and, upon written request of the employee, must provide the employee with a copy of the record of completion consistent with the employer's written policies.

3. An employee who has completed the training required in this subsection is not required to repeat the program upon changing employment to a different covered provider.

(c) Within 7 months after beginning employment for a home health agency, nurse registry, or companion or homemaker service provider, each employee who provides personal care must complete 2 hours of training in addition to the training required in paragraphs (a) and (b). The additional training must include, but is not limited to, behavior management, promoting the person's independence in activities of daily living, and skills in working with families and caregivers.

(d) Within 7 months after beginning employment for a nursing home, an assisted living facility, an adult family-care home, or an adult day care center, each employee who provides personal care must complete 3 hours of training in addition to the training required in paragraphs (a) and (b). The additional

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training must include, but is not limited to, behavior management, promoting the person's independence in activities of daily living, skills in working with families and caregivers, group and individual activities, maintaining an appropriate environment, and ethical issues.

(e) For an assisted living facility, adult family-care home, or adult day care center that advertises and provides, or is designated to provide, specialized care for persons with Alzheimer's disease or related forms of dementia, in addition to the training specified in paragraphs (a) and (b), employees must receive the following training:

1. Within 3 months after beginning employment, each employee who provides personal care to or has regular contact with the residents or participants must complete the additional 3 hours of training as provided in paragraph (d).

2. Within 6 months after beginning employment, each employee who provides personal care must complete an additional 4 hours of dementia-specific training. Such training must include, but is not limited to, understanding Alzheimer's disease and related forms of dementia, the stages of Alzheimer's disease, communication strategies, medical information, and stress management.

3. Thereafter, each employee who provides personal care must participate in at least 4 hours of continuing education each calendar year through contact hours, on-the-job training, or electronic learning technology. For this subparagraph, the term "on-the-job training" means a form of direct coaching in which a facility administrator or his or her designee instructs an employee who provides personal care with guidance, support,

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or hands-on experience to help develop and refine the employee's skills for caring for a person with Alzheimer's disease or a related form of dementia. The continuing education must cover at least one of the topics included in the dementia-specific training in which the employee has not received previous training in the previous calendar year. The continuing education may be fulfilled and documented in a minimum of one quarter-hour increments through on-the-job training of the employee by a facility administrator or his or her designee or by an electronic learning technology chosen by the facility administrator. On-the-job training may not account for more than 2 hours of continuing education each calendar year.

(5) The department may establish training curricula guidelines for the training required in paragraphs (4)(c), (d), and (e). The department may approve training providers and training curricula and maintain a list of approved providers. Approved training may be offered in a variety of formats, including, but not limited to, in person, electronically, or on-the-job by a facility administrator or his or her designee. Continuing education under this section does not require the adoption of training curricula guidelines by the department or approval of the training provider and curricula by the department. The department may develop or provide continuing education training or curricula as an option for covered providers and employees.

(a) A training provider meeting one of the following qualifications may offer training in compliance with the training curricula guidelines without prior approval of the department:

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1. A person approved by an applicable board or the Department of Health to provide training who is registered with the electronic continuing education tracking system under s. 456.025; or

2. A training provider approved by the department or its designee before July 1, 2023.

(b) Training providers qualified under subparagraph (a)1. must also have:

1. At least 1 year of teaching experience as an educator for caregivers of persons with Alzheimer's disease or related forms of dementia;

2. At least 1 year of practical experience in a program providing care to persons with Alzheimer's disease or related forms of dementia; or

3. Completed a specialized training program in the subject matter of Alzheimer's disease and related forms of dementia from an accredited health care, human services, or gerontology education provider.

(c) Upon an employee's completion of the training specified in paragraphs (4)(c), (d), and (e), the training provider must provide a record of the completion of the training which includes the name of the employee, the name of the training provider, the topics covered, and the date of completion. The training record is evidence of completion of training in the identified topic and the employee is not required to repeat training in that topic if the employee changes employment to a different covered provider.

(d) Any Alzheimer's disease and related forms of dementia training curriculum approved by the department or its designee

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before July 1, 2023, remains in effect until the curriculum's expiration date.

(6) The department may adopt rules to establish training curriculum guidelines, requirements for the approval of other qualified training providers, and a process for conducting a sampling of training or training curricula as necessary to monitor for compliance with curricula guidelines.

(7) For a certified nursing assistant as defined in s. 464.201, training hours completed as required under this section may count toward the total hours of training required to maintain certification as a nursing assistant.

(8) For a health care practitioner as defined in s. 456.001, training hours completed as required under this section may count toward the total hours of continuing education required by that practitioner's licensing board.

(9) Each person employed, contracted, or referred to provide services before July 1, 2023, must complete the training required in this section before July 1, 2026. Proof of completion of equivalent training completed before July 1, 2023, shall substitute for the training required in subsection (4). Each person employed, contracted, or referred to provide services on or after July 1, 2023, may satisfy the training requirements by completing training using approved curricula as specified in paragraph (5)(d) until the effective date of the rules adopted by the department under subsection (6).

Section 2. Paragraph (b) of subsection (2) of section 400.0239, Florida Statutes, is amended to read:

400.0239 Quality of Long-Term Care Facility Improvement Trust Fund.—

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(2) Expenditures from the trust fund shall be allowable for direct support of the following:

(b) Development and implementation of specialized training programs for long-term care facility personnel who provide direct care for residents with Alzheimer's disease and other dementias, including training provided under s. 430.5025, residents at risk of developing pressure sores, and residents with special nutrition and hydration needs.

Section 3. Section 400.1755, Florida Statutes, is amended to read:

400.1755 Care for persons with Alzheimer's disease or related disorders; staff training requirements.—

~~(1) As a condition of licensure, the employees of facilities licensed under this part must complete the training required under s. 430.5025 provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.~~

~~(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.~~

~~(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required~~

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~~initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.~~

~~(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.~~

~~(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.~~

~~(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.~~

~~(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic~~

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~~covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family care home. The direct caregiver must comply with other applicable continuing education requirements.~~

Section 4. Section 400.4785, Florida Statutes, is amended to read:

400.4785 Patients with Alzheimer's disease or other related disorders; staff training requirements; certain disclosures.—

(1) The employees of a home health agency must complete the training required under s. 430.5025 A home health agency must provide the following staff training:

~~(a) Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders.~~

~~(b) In addition to the information provided under paragraph (a), newly hired home health agency personnel who will be providing direct care to patients must complete 2 hours of training in Alzheimer's disease and dementia-related disorders within 9 months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client's independence in~~

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activities of daily living, and instruction in skills for working with families and caregivers.

~~(c) For certified nursing assistants, the required 2 hours of training shall be part of the total hours of training required annually.~~

~~(d) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward the total of 2 hours.~~

~~(e) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(f) The Department of Elderly Affairs, or its designee, must approve the required training. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 2-hour training. The department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.~~

~~(g) Upon completing the training listed in this section, the employee shall be issued a certificate that states that the training mandated under this section has been received. The certificate shall be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.~~

~~(2)(h)~~ A licensed home health agency whose unduplicated

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census during the most recent calendar year was composed ~~comprised~~ of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from the training requirements in this section.

~~(3)(2)~~ An agency licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The agency must give a copy of all such advertisements or a copy of the document to each person who requests information about the agency and must maintain a copy of all such advertisements and documents in its records. The Agency for Health Care Administration shall examine all such advertisements and documents in the agency's records as part of the license renewal procedure.

Section 5. Section 400.510, Florida Statutes, is created to read:

400.510 Patients with Alzheimer's disease or other related disorders; staff training requirements.—A person employed, contracted, or referred by a nurse registry or a person registered with the agency to provide companion or homemaker services must complete the training required under s. 430.5025.

Section 6. Section 429.178, Florida Statutes, is amended to read:

429.178 Special care for persons with Alzheimer's disease or other related disorders.—

~~(1)~~ A facility that ~~which~~ advertises that it provides special care for persons with Alzheimer's disease or other

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related disorders must meet the following standards of operation:

(1) ~~(a) 1-~~ If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or

~~(b) 2-~~ If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents.

~~(2) (b)~~ Offer activities specifically designed for persons who are cognitively impaired.

~~(3) (e)~~ Have a physical environment that provides for the safety and welfare of the facility's residents.

~~(4) (d)~~ Require employed ~~Employ~~ staff to complete ~~who have completed~~ the training and continuing education required under ~~s. 430.5025 in subsection (2).~~

~~(2) (a) An individual who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders, and who has regular contact with such residents, must complete up to 4 hours of initial dementia-specific training developed or approved by the department. The training must be completed within 3 months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g).~~

~~(b) A direct caregiver who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders and provides direct care to such residents must complete the required initial training and 4 additional hours of training developed or approved by the department. The training must be completed within 9 months after~~

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~~beginning employment and satisfy the core training requirements of s. 429.52(3)(g).~~

~~(e) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's disease or other related disorders, within 3 months after beginning employment.~~

~~(3) In addition to the training required under subsection (2), a direct caregiver must participate in a minimum of 4 contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training developed or approved by the department, in which the caregiver has not received previous training.~~

~~(4) Upon completing any training listed in subsection (2), the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.~~

~~(5) The department, or its designee, shall approve the initial and continuing education courses and providers.~~

~~(6) The department shall keep a current list of providers~~

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~~who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with Alzheimer's disease or other related disorders.~~

~~(7) Any facility more than 90 percent of whose residents receive monthly optional supplementation payments is not required to pay for the training and education programs required under this section. A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility. A facility that does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for such training and education programs.~~

~~(8) The department shall adopt rules to establish standards for trainers and training and to implement this section.~~

Section 7. Subsection (1) of section 429.52, Florida Statutes, is amended to read:

429.52 Staff training and educational requirements.—

(1) (a) Each new assisted living facility employee who has not previously completed core training must attend a preservice orientation provided by the facility before interacting with residents. The preservice orientation must be at least 2 hours in duration and cover topics that help the employee provide responsible care and respond to the needs of facility residents. Upon completion, the employee and the administrator of the facility must sign a statement that the employee completed the required preservice orientation. The facility must keep the signed statement in the employee's personnel record.

(b) Each employee must complete the training required under

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s. 430.5025.

(c) If completed before interacting with residents, the 1-hour training required in s. 430.5025 concerning information on Alzheimer's disease and related forms of dementia may count toward the 2 hours of preservice orientation required under paragraph (a).

Section 8. Section 429.83, Florida Statutes, is amended to read:

429.83 Residents with Alzheimer's disease or other related disorders; training; certain disclosures.—

(1) The employees of an adult family-care home must complete the training required under s. 430.5025.

(2) An adult family-care home licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The home must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the home and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the home's records as part of the license renewal procedure.

Section 9. Subsection (1) of section 429.917, Florida Statutes, is amended to read:

429.917 Patients with Alzheimer's disease or other related disorders; staff training requirements; certain disclosures.—

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(1) The employees of an adult day care center licensed under this part must complete the training required under s. 430.5025 provide the following staff training:

~~(a) Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders.~~

~~(b) In addition to the information provided under paragraph (a), newly hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia related disorders must complete initial training of at least 1 hour within the first 3 months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.~~

~~(c) In addition to the requirements of paragraphs (a) and (b), an employee who will be providing direct care to a participant who has Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.~~

~~(d) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.~~

~~(e) For a health care practitioner as defined in s.~~

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20231182c1

~~456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward the total of 4 hours.~~

~~(f) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(g) The Department of Elderly Affairs or its designee must approve the 1-hour and 3-hour training provided to employees and direct caregivers under this section. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 1-hour and 3-hour training. The department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.~~

~~(h) Upon completing any training described in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.~~

~~(i) An employee who is hired on or after July 1, 2004, must complete the training required by this section.~~

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581 Section 10. Subsection (6) of section 429.918, Florida
582 Statutes, is amended to read:

583 429.918 Licensure designation as a specialized Alzheimer's
584 services adult day care center; ~~training.~~-

585 (6) ~~(a)~~ An adult day care center having a license designated
586 under this section must provide the following staff training and
587 supervision:

588 (a)1- A registered nurse or licensed practical nurse must
589 be on site daily for at least 75 percent of the time that the
590 center is open to ADRD participants. Each licensed practical
591 nurse who works at the center must be supervised in accordance
592 with chapter 464.

593 (b) Each employee must complete the training and continuing
594 education required under s. 430.5025.

595 ~~2. Upon beginning employment with the center, each employee~~
596 ~~must receive and review basic written information about~~
597 ~~interacting with ADRD participants.~~

598 ~~3. In addition to the information provided in subparagraph~~
599 ~~2., every employee hired on or after July 1, 2012, who has~~
600 ~~direct contact with ADRD participants shall complete 4 hours of~~
601 ~~dementia-specific training within 3 months after employment.~~

602 ~~4. In addition to the requirements of subparagraphs 2. and~~
603 ~~3., each employee hired on or after July 1, 2012, who provides~~
604 ~~direct care to ADRD participants shall complete an additional 4~~
605 ~~hours of dementia-specific training within 6 months after~~
606 ~~employment.~~

607 ~~(b) The Department of Elderly Affairs or its designee shall~~
608 ~~approve the training required under this section. The department~~
609 ~~shall adopt rules to establish standards for employees who are~~

586-02539-23

20231182c1

610 ~~subject to this training, for trainers, and for the training~~
611 ~~required in this section.~~

612 ~~(c) Upon completing any training described in this section,~~
613 ~~the employee shall be issued a certificate that includes the~~
614 ~~name of the training provider, the topics covered, and the date~~
615 ~~and signature of the training provider. The certificate is~~
616 ~~evidence of completion of training in the identified topics, and~~
617 ~~the employee is not required to repeat training in those topics~~
618 ~~if the employee changes employment to a different adult day care~~
619 ~~center.~~

620 (c) ~~(d)~~ Each employee hired on or after July 1, 2012, who
621 provides direct care to ADRD participants, must receive and
622 review an orientation plan that includes, at a minimum:

623 1. Procedures to locate an ADRD participant who has
624 wandered from the center. These procedures must ~~shall~~ be
625 reviewed regularly with all direct care staff.

626 2. Information on the Silver Alert program in this state.

627 3. Information regarding available products or programs
628 used to identify ADRD participants or prevent them from
629 wandering away from the center, their home, or other locations.

630 Section 11. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: March 14, 2023

I respectfully request that **Senate Bill # 1182**, relating to Education and Training for Alzheimer's Disease and Related Forms of Dementia, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

Corey Simon

Senator Corey Simon
Florida Senate, District 3

Tablo

04/12 /2023

Meeting Date

Appropriations

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1182

Bill Number or Topic

Amendment Barcode (if applicable)

Name **AARP** **Ivonne Fernandez**

Phone **954-850-7262**

Address **215 S Monroe Street - 603**

Email **ifernandez@aarp.org**

Street

Tallahassee

FL

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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Meeting Date

4/12
HHS

Appropriations

Committee

Name

Alex Anderson

Phone

904 502 2506

Address

Street

Email

AJAnderson@ALZ.org

City

State

Zip

10010
SB 1182
Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Alzheimer's
Association

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](#), [pdf](#) [flsenate.gov](#)

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S-001 (08/10/2021)

4/12/23

Meeting Date

AHS

Committee

The Florida Senate
APPEARANCE RECORD

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1182

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jason Hand**

Phone **850-443-0024**

Address **2292 Wednesday Street, Suite 1**

Email **jhand@floridaseniorliving.org**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Senior Living Assn

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1.

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S-001 (08/10/2021)

4/12/2023

Meeting Date

The Florida Senate

APPEARANCE RECORD

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13
SB1182

Bill Number or Topic

Senate Appropriations Committee
on Health & Human Services

Committee

Amendment Barcode (if applicable)

Name Hayden Dempsey

Phone (850) 521-8563

Address 101 East College Ave.

Email dempseyh@gtlaw.com

Street

Tallahassee, FL

City

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Leading Age Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Meeting Date

3/12/23

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Bill Number or Topic

1182

Committee

HHS Approps

Amendment Barcode (if applicable)

Name

ADAM POTTS

Phone

850 591-5921

Address

Street

113 E. College Ave

Email

adam@libertypartnersfl.com

City

Tallahassee FL

State

Zip

32302

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Assisted Living
Association

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

4/12/23

Meeting Date

AHS

Committee

The Florida Senate
APPEARANCE RECORD

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Senate professional staff conducting the meeting

1182

Bill Number or Topic

194392

Amendment Barcode (if applicable)

Name

Jason Hand

Phone

850-443-0024

Address

2292 Wednesday Street, Suite 1

Street

Email

jhand@floridaseniorliving.org

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Senior Living Assn

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 1190

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Garcia and others

SUBJECT: Step into Success Workforce Education and Internship Pilot Program

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>Gerbrandt</u>	<u>Money</u>	<u>AHS</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1190 creates s. 409.1455, F.S., cited as the “Step into Success Act,” establishing the Step into Success Workforce Education and Internship Program (program) as a three-year pilot administered by the Department of Children and Families’ (DCF) Office of Continuing Care (OCC). The program consists of an independent living professionalism and workforce education component and, for youth that complete that component, an onsite workforce training internship component that uses employees of participating organizations as mentors. The purpose of the program is to assist foster youth transitioning to adulthood to:

- Develop essential workforce and professional skills;
- Transition from the custody of the DCF to independent living; and
- Become best prepared for an independent and successful future.

The bill details numerous requirements for the operation of each component of the program as well as for participating organizations, mentors, and foster and former foster youth who participate. Some of the specific requirements are:

- The program is available to foster and former foster youth between the ages of 16 and 25 who are currently or were previously in foster care. A foster youth may participate in the education component at age 16 years of age or older, but a former foster youth may not begin the internship portion until turning 18 years of age.
- The internship component matches mentors in participating organizations with the youth participating to ensure that the youth acquire as many skills as possible. Mentors are

provided a \$1,200 per year payment with a limitation on the number of interns a mentor may be paired with in a given year.

- The DCF is required to include specific information about the program and recommendations for improvement in an annual report.
- The DCF must implement the workforce education component on or before January 1, 2024 and the internship component on or before July 1, 2024.

The bill provides a monthly financial assistance payment of \$1,517 to former foster youth participating in the internship component and ensures that the payment does not count toward income in the determination of federal and state benefit eligibility. Further, the bill provides a specified increase in the stipend payment amount if the youth does have a loss or reduction of any benefits.

The bill requires the Board of Governors and State Board of Education to adopt rules and regulations to award postsecondary credit or career education clock hours to program participants.

The bill will have significant negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (CBC) 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 until a permanency option can be identified.

Florida Central Abuse Hotline

The 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. Law requires any person who knows or suspects that 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

¹ Section 39.101(1)(a), F.S.

² Section 39.201(1)(a), F.S.

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. For a report to be accepted and initiate an investigation the hotline counselor must have reasonable cause to believe that the child is at risk of or was harmed by abuse, abandonment, or neglect.³

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 is commenced immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁴ The child protective investigator assesses the safety and perceived needs of the child and family and whether the child should receive in-home services or be removed and placed in out-of-home care.

Community-Based Care Organizations and Services

If a child protective investigation results in verified findings of abuse or neglect, the child will receive a case plan and services are provided to the family to address the problems that are endangering the child. The DCF contracts with CBCs for case management, out-of-home care, adoption and other related services. The use of CBCs to provide child welfare services is intended to increase local community ownership of service delivery and design.⁵

The DCF, through the CBCs, administers a system of care⁶ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁷

The CBCs must give priority to services that are evidence-based and trauma informed.⁸ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁹ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. Case managers

³ See ss. 39.101(1)(b) and 39.101(2), F.S.

⁴ Section 39.201(2)(a), F.S.

⁵ The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 7, 2023) (hereinafter cited as "DCF").

⁶ *Id.*

⁷ *Id.*; Also see generally s. 409.988, F.S.

⁸ Section 409.988(3), F.S.

⁹ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.¹⁰

Transition to Independent Living

Sometimes a child's particular case results in that child not finding permanency through reunification, adoption, or another arrangement and that child transitions to young adulthood while in the care of the DCF. In these instances, the DCF is required to assist children who are transitioning out of foster care to independent living and self-sufficiency, including the requirement to:

- Identify important life skills that children in out-of-home care should acquire;
- Develop a list of age-appropriate activities and responsibilities for children and caregivers;
- Design and disseminate training for caregivers related to building needed life skills;
- Regularly assess the degree of life skills acquired by each child beginning after the child's 13th birthday, and support the caregiver in implementing an updated transition plan as necessary;
- Provide opportunities for children to interact with qualified, trained mentors; and
- Develop and implement procedures for children of sufficient age and understanding to directly access and manage the personal allowance they receive from the DCF.¹¹

During the year after a child reaches 16 years of age, the DCF and the CBC as well as other specified individuals are required to assist the child in developing a transition plan.¹² The plan must include specific resources that the child may use to obtain services, such as housing, health insurance and education, and tasks to establish and maintain naturally occurring mentoring relationships.¹³ The DCF and CBC are required to periodically meet with the young adult to review and update the transition plan beyond the young adults 18th birthday if the young adult is participating in Independent Living Services.¹⁴

Florida provides Independent Living Services to assist young adults in obtaining the skills, education, and support necessary to become self-sufficient after his or her exit from foster care into adulthood.¹⁵ The program comprises three main programs: postsecondary education services and support, extended foster care, and aftercare.¹⁶ The categories of services to assist in the successful transition to adulthood include:

- Independent living needs assessment;
- Academic support;
- Postsecondary educational support;
- Career preparation;

¹⁰ Section 409.988(1), F.S.

¹¹ Section 409.14515, F.S.

¹² Section 39.6035(1), F.S.

¹³ *Id.*

¹⁴ Section 39.6035(5), F.S.

¹⁵ Section 409.1451, F.S. The Road-to-Independence program was created in statute in 2002. Over the last 21 years the program has been expanded and added to larger initiatives focused on independent living. Today, the independent living services provided under Road-to-Independence are generally referred to as "Independent Living Services" as the overall construction of the program has grown outside of s. 409.1451, F.S., and the term "Road-to-Independence" is rarely used.

¹⁶ See generally ss. 409.1451 and 39.6251, F.S.

- Employment programs or vocational training;
- Budget and financial management;
- Housing education and home management training;
- Health education and risk prevention;
- Family support and healthy marriage education;
- Mentoring;
- Supervised independent living;
- Room and board financial assistance;
- Education financial assistance: and
- Other financial assistance.¹⁷

Postsecondary Education Services and Support (PESS)

PESS is a program that provides monthly financial support for foster youth to secure housing, utilities, and assist with cost of living while attending certain postsecondary educational institutions.¹⁸

A young adult is eligible for PESS if certain criteria are met, including:

- Specified criteria with respect to when the child was living in foster care;
- Earned a standard high school diploma;¹⁹
- Has been admitted for enrollment as a full-time²⁰ student or its equivalent in an eligible postsecondary institution as provided in s. 1009.533, F.S.;²¹
- Has reached 18 years of age, but is not yet 23 years of age;
- Has applied for any other grants and scholarships for which he or she may qualify;
- Submitted a complete and error-free Free Application for Federal Student Aid; and
- Signed an agreement to allow the DCF and the CBC to access his or her school records.²²

¹⁷ Daniel Kids, *Florida's Independent Living Resource Center*, available at <https://www.danielkids.org/our-programs/floridas-i-l-resource-center/> (last visited March 7, 2023) (hereinafter cited as “Daniel”).

¹⁸ The DCF, *Postsecondary Education Services and Support (PESS)*, available at <https://www.myflfamilies.com/services/child-family/independent-living/youth-young-adults/postsecondary-education-services-and> (last visited March 7, 2023).

¹⁹ Pursuant to s. 1002.3105(5), F.S., s. 1003.4281, F.S., or s. 1003.4282, F.S., or its equivalent pursuant to s. 1003.435, F.S.

²⁰ Section 409.1451(2)(a)4., F.S., defines “full-time” as 9 credit hours or the vocational school equivalent.

²¹ Section 1009.533, F.S., provides for eligible postsecondary education institutions, including: (1) a Florida public university, Florida College System institution, or career center; (2) An independent Florida college or university that is accredited by an accrediting association whose standards are comparable to the minimum standards required to operate an institution at that level in Florida and which has operated in the state for at least 3 years; (3) an independent Florida postsecondary education institution that is licensed by the Commission for Independent Education and meets other specified criteria; (4) a Florida independent postsecondary education institution that offers a nursing diploma approved by the Board of Nursing; and (5) A Florida independent postsecondary education institution that is licensed by the Commission for Independent Education.

²² Section 409.1451(2)(a), F.S.

Extended Foster Care

A child who is living in foster care on his or her 18th birthday and who has not achieved permanency in accordance with s. 39.621, F.S.,²³ is eligible to remain in licensed care under the care of the DCF and the jurisdiction of the court if he or she is:

- Completing secondary education or equivalent program;
- Enrolled in a postsecondary or vocational education institution;
- Participating in a program to eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in any of the above-listed programs or activities.²⁴

A young adult²⁵ who participates in extended foster care must reside in a DCF-approved supervised living environment. The young adult must live independently in this approved placement, but the DCF and CBC must provide the young adult with supervision, case management, and supportive services.²⁶

Aftercare Services

Aftercare services are available for a young adult who has reached 18 years of age but is not yet 23 years of age and is:

- Not in foster care.
- Temporarily not receiving financial assistance to pursue postsecondary education.²⁷

The specific aftercare services to be provided are determined by an assessment of an eligible young adult, and may include, in part:

- Mentoring and tutoring;
- Mental health services and substance abuse counseling;
- Life skills classes;
- Parenting classes;
- Job and career skills training;
- Counselor consultations;
- Temporary assistance for necessities and emergency situations; and
- Financial literacy skills training.²⁸

²³ Section 39.621(3), F.S., provides that the permanency goals available under ch. 39, F.S., listed in order of preference, are reunification; adoption, if a petition for termination of parental rights has been or will be filed; permanent guardianship of a dependent child under s. 39.6221, F.S.; permanent placement with a fit and willing relative under s. 39.6231, F.S.; or placement in another planned permanent living arrangement under s. 39.6241, F.S.

²⁴ Section 39.6251(2), F.S.

²⁵ Section 39.6251(1), F.S., defines “young adult” as an individual who has attained 18 years of age but who has not attained 21 years of age.

²⁶ Section 39.6251(4)(a), F.S.

²⁷ Section 409.1451(3)(a), F.S. Additionally, subject to available funding, aftercare services are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance for postsecondary education, who is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation.

²⁸ Section 409.1451(3)(b), F.S.

Office of Continuing Care

In 2021, the Legislature established the Office of Continuing Care (OCC) within the DCF. The Legislature created the OCC to provide ongoing support and care coordination to youth and young adults who age out of the foster care system between 18 and 21 years of age, or 22 years of age with a documented disability.²⁹ The OCC has specified duties, including, but not limited to:

- Providing young adults who age out of the foster care system with certain information about the office, including its purpose, services offered and contact information;
- Providing assistance in accessing services and supports; and
- Collaborating with CBCs to identify local resources and assist young adults in accessing such support services.³⁰

The OCC is also part of Hope Florida – A Pathway to Prosperity, a program that assists Floridians to navigate the myriad systems and programs created to stabilize and help families in crisis.³¹ Hope Navigators guide, amongst others, foster youth on an individualized path to prosperity, economic self-sufficiency, and hope.³²

Fostering Success Program

In 2014, the Legislature appropriated \$75,000 to fund the Fostering Success Pilot Project for young adults who aged out of foster care to obtain internships/professional shadowing positions.³³ In 2016, the legislature funded an expansion of the pilot program with \$100,000 appropriated in recurring general revenue funds to a program known as “Fostering Success Youth Readiness Training and Placement Services” (Fostering Success).³⁴ The program was designed for young adults ages 18 to 24 to gain employment skills that would enable them to achieve economic self-sufficiency and professional success through a program that provided year-long, part-time, Other Personal Services (OPS) positions with a participating state agency.³⁵ Funding for Fostering Success ceased in Fiscal Year 2020-2021.³⁶

III. Effect of Proposed Changes:

The bill creates s. 409.1455, F.S., cited as the “Step into Success Act,” establishing the Step into Success Workforce Education and Internship Program (program) as a three-year pilot administered by the Department of Children and Families (DCF) Office of Continuing Care. The program must consist of an independent living professionalism and workforce education component and, for youth that complete that component, an onsite workforce training internship

²⁹ Chapter 2021-169, s. 20, L.O.F., codified as s. 414.56, F.S.

³⁰ *Id.*

³¹ The DCF, *Hope Florida – A Pathway to Prosperity*, available at <https://www.myflfamilies.com/services/hope-florida> (last visited March 7, 2023).

³² *Id.*

³³ Chapter 2014-51, Specific Appropriation 1393, L.O.F.

³⁴ Chapter 2016-66, Specific Appropriation 1351, L.O.F.

³⁵ Florida Fish and Wildlife Conservation Commission, *Fostering Success*, available at <https://myfwc.com/get-involved/internships/fostering-success/> (last visited March 11, 2023).

³⁶ Governor Ron DeSantis, *2020 Veto List*, p. 8 lines 1384 and 1388, available at <https://www.flgov.com/wp-content/uploads/2020/06/2020-Veto-List.pdf> (last visited March 7, 2023).

component that uses employees of participating organizations as mentors. The purpose of the program is to assist foster youth transitioning to adulthood to:

- Develop essential workforce and professional skills;
- Transition from the custody of the DCF to independent living; and
- Become best prepared for an independent and successful future.

For the purposes of the bill, the term “foster youth” is defined as an individual older than 16 but younger than 18 years of age who is currently in licensed care, excluding Level I licensed placements and the term “former foster youth” is defined as an individual 18 years of age or older but younger than 26 years of age who is currently or was previously placed in licensed care, excluding Level I licensed placements.

A “participating organization” is defined as a state agency; a corporation under ch. 607, F.S., or ch. 617, F.S.; or another relevant entity that has agreed to collaborate with the OCC in the development and implementation of a trauma-informed onsite workforce training internship program.

The program must be provided as part of an eligible foster youth’s regular transition planning or as a post-transition service for eligible former foster youth.

Independent Living Professionalism and Workforce Education Component

The Office of Continuing Care (OCC) must meet the following requirements in development and implementation of the independent living professionalism and workforce education component:

- Ensure that there is sufficient qualified staff to implement and maintain operation of the program.
- Develop workshops, presentations, and curricula to educate youth on topics such as interview skills, professionalism, teamwork, leadership, problem solving, and conflict resolution in the workplace.³⁷
- Provide relevant written materials and tools to ensure successful transition to internships.
- Provide materials to youth to ensure that they are aware of the requirements for participating in the program and contact information for the program office. Community-based care lead agencies (CBC) must provide any of their subcontracted providers that directly serve youth with such material.
- Advertise and promote the availability of the program.
- Assess each eligible foster youth’s career interests and determine the most appropriate internship opportunities.

The OCC must begin operations of the Independent Living Professionalism and Workforce Education Component on or before January 1, 2024.

³⁷ This component must be provided in addition to any other life skills or employment training required by law and may be developed or administered by the DCF, community-based care lead agencies, or the lead agencies’ subcontracted providers or through collaboration with the approved agencies, colleges or universities, or non-profit organizations in the community that have workforce training resources.

Onsite Workforce Training Internship Component

The OCC must meet the following requirements in development and implementation of the onsite workforce training internship component:

- Develop processes and procedures to implement a trauma-informed onsite workforce training internship component, designed to be replicated and scaled to meet various organizational structures and sizes, that includes:
 - Recruitment of agencies, corporations, and other entities to host interns as participating organizations;
 - Assisting participating organizations with mentor recruitment, training, and matching;
 - Mentor-led performance reviews, including the intern's work product, professionalism, time management, communication style, and stress management strategies;
 - Daily mentorship and coaching on professionalism, teamwork, leadership, problem solving, and conflict resolution;
 - Development of employment opportunities for interns; and
 - Reporting requirements.
- Develop a minimum of 1 hour of required trauma-informed training for mentors.
- Provide assistance to eligible youth interested in the internship component.
- Publicize internship positions in an easily accessible manner to inform eligible youth.
- Develop a process and schedule for the distribution of \$1,517 monthly financial assistance payments to former foster youth participating in the component, subject to availability.
- Distribute funds appropriated for the compensation of mentors at \$1,200 per intern per fiscal year, to be issued as \$100 monthly payments for every month of service as a mentor. A mentor may only mentor a maximum of three interns at one time for a maximum of \$3,600 in compensation per fiscal year.
- By May 1, 2024, provide the Board of Governors and State Board of Education all relevant internship information necessary to support the award of postsecondary credit or career education clock hours.
- Develop and conduct follow-up surveys with former foster youth, mentors, and any other persons the OCC deems relevant for continued improvement of the internship component.

Requirements for Participating Organizations

The participating organizations must meet the following requirements in implementation of the onsite workforce training internship component:

- Collaborate with the OCC to implement a trauma-informed approach to mentoring former foster youth.
- Recruit employees that meet certain requirements to serve as mentors.
- Have discussions around the creation of corrective action plans, when necessary, and not discharging an intern until he or she is given a reasonable opportunity to comply with the corrective action plan.
- Provide relevant feedback and certain information for reporting purposes to the DCF.

The bill requires that mentors within participating organizations must:

- Have worked for the participating agency for a minimum of one year;
- Have experience relevant to the employment responsibilities of the intern;

- Complete a minimum of one hour of trauma-informed training;
- Sign a monthly hour statement for the intern;
- Allocate at least 1 hour per month for performance reviews; and
- Complete a minimum of 1 hour of trauma-informed training.

The OCC begin operations of the Onsite Workforce Training Internship Component on or before July 1, 2024.

Requirements for Former Foster Youth Participating in the Internship Component

Former foster youth must complete the training component with the DCF before being eligible to apply for an internship under the internship component and must have attained the age of 18 years before working as an intern.

If offered an internship, a former foster youth must be classified as an intern and work 80 hours per month to be eligible for the financial assistance payment. Any stipend specified for clothing must be spent on clothing that is in compliance with the dress code requirements of the participating organization and comply with the participating organizations' dress code and can be awarded separate from the monthly financial assistance payment related to the internship component.

If offered an internship, a former foster youth may hold the position for no more than one year. The participating organization may extend the internship beyond the one year or hire the foster youth as a full-time employee, but it may not be as an intern under the program. A foster youth may intern at more than one participating organization but not at the same time.

A former foster youth participating in an internship may only be discharged from the internship component after the participating organization engages the intern's assigned mentor and the internship program staff to assist the intern in performing the duties of the internship. Before discharging the former foster youth, the participating organization must document the intern's failure to comply with a corrective action plan after being given a reasonable opportunity to do so.

The financial assistance payment earned pursuant to the internship component may not be considered earned income for the purposes of computing eligibility for federal or state benefit programs. If there is a reduction or loss of benefits due to the receipt of the Step into Success financial payment, that reduction or loss may be offset by an additional financial assistance payment equal to the value of the maximum benefit amount for a single person allowed under the Supplemental Nutrition Assistance Program.³⁸

Postsecondary Credits or Career Education Clock Hours

A former foster youth may, at the discretion of the postsecondary institution within Florida in which such youth is enrolled, earn postsecondary credit or career education clock hours for work

³⁸ Currently \$250 for a single person household in Florida. The DCF, *Food Assistance Program Fact Sheet*, p. 3, available at https://www.myflfamilies.com/sites/default/files/2022-10/fafactsheet_1.pdf (last visited March 29, 2023).

performed as an intern under the internship component. Postsecondary credit or career education clock hours earned may be in addition to any financial payment for the same work performed under the internship component and may be awarded for completion of the whole or any part of the internship component. Participating organizations must provide any information that is necessary for the postsecondary educational institution to determine whether to grant the former foster youth postsecondary credit or career education clock hours toward his or her degree.

The Board of Governors and the State Board of Education are required to adopt regulations and rules, respectively, to award postsecondary credit or career education clock hours for eligible former foster youth participating in the internship component.

Reporting Requirement

The bill requires the DCF to include a section on the Step into Success Program in the annual independent living report required by s. 409.1451(6), F.S. The report must include, but is not limited to:

- Whether the pilot program is in compliance with statute, and if not, barriers to compliance.
- A list of participating organizations and interns.
- A summary of recruitment efforts.
- A summary of feedback and surveys received from former foster youth, mentors, and others.
- Recommendations for actions necessary to improve the quality, effectiveness, and outcomes of the pilot program.
- Employment outcomes of former foster youth who participated in the pilot program, including employment status, employment location, job description, and salary information, if available.

The bill also amends s. 414.56, F.S., to add the development and administration of the Step into Success program as one of the enumerated duties of the OCC. The bill requires the DCF to adopt rules to implement the program.

The bill takes effect July 1, 2023.

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:

None.

C. Government Sector Impact:

The bill will have a significant negative fiscal impact on state expenditures, yet is dependent on the number of participants in the program. The number of participants in the program may be limited by the amount of appropriation provided to fund the new program. The estimated annual cost to develop and implement the Step into Success program for 10 interns is \$500,000 in general revenue funds (\$447,895 in recurring funds and \$52,105 in nonrecurring funds). A breakdown of the costs are as follows:

Program Cost	Number of Interns		
	10 Interns	20 Interns	30 Interns
Intern Financial Assistance Payment	\$182,040	\$364,080	\$546,120
Mentor Payment ³⁹	\$15,265	\$30,530	\$45,796
Estimated Clothing Stipend ⁴⁰	\$5,000	\$10,000	\$15,000
Additional Stipend due to Loss of Benefits ⁴¹	\$30,000	\$60,000	\$90,000
DCF Operational Costs	\$267,695	\$267,695	\$375,359
Total Year-One Program Costs	\$500,000	\$732,305	\$1,072,275

³⁹ The mentor payment includes applicable taxes of \$27.21 per month per mentor.

⁴⁰ The clothing stipend is estimated at \$500 per former foster youth.

⁴¹ The additional stipend due to loss of benefits is calculated as the maximum benefit amount (\$250) for a single person allowed under the Supplemental Nutrition Assistance Program. The total amount assumes 100% of the financial assistance payment recipients will lose their benefits.

The DCF operational costs include recurring and nonrecurring funding to hire a program manager, and to provide training curriculum development and marketing services. To incentivize participation, the DCF also recommends a stipend for foster youth who participate in the training component of the program, however, this additional amount is not contemplated in the fiscal analysis above.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 414.56 of the Florida Statutes.

This bill creates section 409.1455 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 14, 2023:

The amendment provides \$1,517 as the amount of the monthly financial assistance payment to former foster youth participating in the internship component of the Step into Success Program.

- B. Amendments:

None.

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

⁴² The Department of Children and Families, *Senate Bill 1190 Fiscal Analysis* (March 2023) (on file with Senate Appropriations Committee on Health and Human Services).

By the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

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1 A bill to be entitled
2 An act relating to the Step into Success Workforce
3 Education and Internship Pilot Program; creating s.
4 409.1455, F.S.; providing a short title; requiring the
5 Department of Children and Families to establish the
6 pilot program; specifying the purposes and components
7 of the pilot program; requiring the department's
8 Office of Continuing Care, in consultation with
9 certain entities, to develop and administer the pilot
10 program; authorizing the department to contract with
11 certain entities to collaborate with the office on
12 development and administration of the pilot program;
13 requiring the independent living professionalism and
14 workforce education component of the pilot program to
15 culminate in a specified certificate; providing that
16 completion of that component allows former foster
17 youth to participate in the onsite workforce and
18 training internship component; defining terms;
19 providing requirements for the administration of the
20 pilot program; requiring the office to initiate the
21 respective components of the pilot program by
22 specified dates; specifying the duties of the office
23 related to the two components; requiring the
24 components to address specified topics; providing
25 requirements for organizations participating in the
26 onsite workforce training internship component;
27 specifying time limitations for former foster youth
28 participating in the onsite workforce training
29 internship component; requiring the Board of Governors

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30 and the State Board of Education to adopt certain
31 regulations and rules, respectively; specifying
32 conditions for participation in the onsite workforce
33 internship component; requiring the department to
34 include a section on the pilot program in a specified
35 annual report which must include specified
36 information; requiring the department to adopt rules;
37 amending s. 414.56, F.S.; conforming a provision to
38 changes made by the act; providing an effective date.
39

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

41
42 Section 1. Section 409.1455, Florida Statutes, is created
43 to read:

44 409.1455 Step into Success Workforce Education and
45 Internship Pilot Program for foster youth and former foster
46 youth.—

47 (1) SHORT TITLE.—This section may be cited as the "Step
48 into Success Act."

49 (2) CREATION.—The department shall establish the 3-year
50 Step into Success Workforce Education and Internship Pilot
51 Program to give eligible foster youth and former foster youth an
52 opportunity to learn and develop essential workforce and
53 professional skills, to transition from the custody of the
54 department to independent living, and to become better prepared
55 for an independent and successful future. The pilot program must
56 consist of an independent living professionalism and workforce
57 education component and, for youth who complete that component,
58 an onsite workforce training internship component. In

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consultation with subject-matter experts and the community-based care lead agencies, the office shall develop and administer the pilot program for interested foster youth and former foster youth; however, the department may contract with entities that have demonstrable subject-matter expertise in the transition to adulthood for foster youth, workforce training and preparedness, professional skills, and related subjects to collaborate with the office in the development and administration of the pilot program. The independent living professionalism and workforce education component of the program must culminate in a certificate that allows a former foster youth to participate in the onsite workforce training internship.

(3) DEFINITIONS.—For purposes of this section, the term:

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

(b) "Former foster youth" means an individual 18 years of age or older but younger than 26 years of age who is currently or was previously placed in licensed care, excluding Level I licensed placements pursuant to s. 409.175(5)(a)1., for at least 60 days within this state.

(c) "Foster youth" means an individual older than 16 years of age but younger than 18 years of age who is currently in licensed care, excluding Level I licensed placements pursuant to s. 409.175(5)(a)1.

(d) "Office" means the department's Office of Continuing Care.

(e) "Participating organization" means a state agency, a corporation under chapter 607 or chapter 617, or another relevant entity that has agreed to collaborate with the office

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in the development and implementation of a trauma-informed onsite workforce training internship program pursuant to subsections (6) and (7).

(4) REQUIREMENTS OF THE DEPARTMENT AND OFFICE.—The department shall establish and the office shall develop and administer the pilot program for eligible foster youth and former foster youth. The pilot program must be administered as part of an eligible foster youth's regular transition planning under s. 39.6035 or as a post-transition service for eligible former foster youth. The office must begin the professionalism and workforce education component of the program on or before January 1, 2024, and the onsite workforce training internship component of the program on or before July 1, 2024.

(5) INDEPENDENT LIVING PROFESSIONALISM AND WORKFORCE EDUCATION COMPONENT REQUIREMENTS.—The office shall do all of the following in connection with the independent living professionalism and workforce education component for eligible foster youth and former foster youth:

(a) Designate and ensure that the number of qualified staff is sufficient to implement and administer the component, which may be part of a larger independent living or life skills training program if the larger program meets the requirements of this subsection.

(b) Develop all workshops, presentations, and curricula for the component, including, but not limited to, all written educational and training materials for foster youth and former foster youth. Resources may include, but are not limited to, workshops and materials to assist with preparing resumes, mock interviews, experiential training, and assistance with securing

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an internship or employment. The office must review and update these materials as necessary. The training materials must address, but are not limited to, the following:

1. Interview skills;
2. Professionalism;
3. Teamwork;
4. Leadership;
5. Problem solving; and
6. Conflict resolution in the workplace.

(c) Require that the training provided be in addition to any other life skills or employment training required by law. The training may be developed or administered by the department, community-based care lead agencies, or the lead agencies' subcontracted providers, or in collaboration with colleges or universities or other nonprofit organizations in the community with workforce education and training resources.

(d) Provide relevant written materials from the component and any relevant tools developed to ensure participants' successful transition to internships to all participating organizations that offer workforce training internship opportunities.

(e) Provide materials to inform eligible foster youth and former foster youth of the program, the requirements for participation, and contact information for enrollment. The community-based care lead agencies shall ensure that any subcontracted providers that directly serve youth receive this information.

(f) Advertise and promote the availability of the education and internship program to engage as many eligible foster youth

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and former foster youth as possible.

(g) Assess the career interests of each eligible foster youth and former foster youth who expresses interest in participating in the program and determine the most appropriate internship and post-internship opportunities for that youth based on his or her expressed interests.

(6) ONSITE WORKFORCE TRAINING INTERNSHIP COMPONENT REQUIREMENTS.—The office shall do all of the following in connection with the onsite workforce training internship program for eligible former foster youth:

(a) Develop processes and procedures to implement a trauma-informed onsite workforce training internship component. The processes and procedures of the internship component must be designed so that they can be replicated and scaled to meet various organizational structures and sizes. The component must include:

1. Recruitment of agencies, corporations, and other entities to host interns as participating organizations;
2. Assisting participating organizations with mentor recruitment, training, and matching;
3. Mentor-led performance reviews, including a review of the intern's work product, professionalism, time management, communication style, and stress-management strategies;
4. Daily mentorship and coaching on topics such as:
 - a. Professionalism;
 - b. Teamwork;
 - c. Leadership;
 - d. Problem solving; and
 - e. Conflict resolution in the workplace;

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175 5. Development of opportunities for interns to become
 176 employees of the participating organization; and
 177 6. Reporting requirements specified in subsection (11).
 178 (b) Develop a minimum of 1 hour of required trauma-informed
 179 training for mentors to teach the skills necessary to engage
 180 with participating eligible former foster youth.
 181 (c) Provide assistance to eligible foster youth and former
 182 foster youth interested in participating in the internship
 183 component, including, but not limited to, identifying and
 184 monitoring internship opportunities, being knowledgeable of the
 185 training and skills needed to match eligible foster youth and
 186 former foster youth with appropriate internships, and assisting
 187 eligible foster youth and former foster youth with applying for
 188 post-internship employment opportunities.
 189 (d) Publicize specific internship positions in an easily
 190 accessible manner and inform eligible foster youth and former
 191 foster youth of where to locate such information.
 192 (e) Provide a participating former foster youth with
 193 financial assistance in the amount of \$1,517 monthly and develop
 194 a process and schedule for the distribution of payments to
 195 former foster youth participating in the component, subject to
 196 the availability of funds.
 197 (f) Distribute funds appropriated for the compensation of
 198 mentors who are participating in the component as provided in
 199 paragraph (7) (b) .
 200 (g) By May 1, 2024, provide to the Board of Governors and
 201 the State Board of Education all relevant internship information
 202 necessary to support the award of postsecondary credit or career
 203 education clock hours for internship positions held by former

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204 foster youth participating in the onsite workforce training
 205 internship component.
 206 (h) Develop and conduct follow-up surveys with:
 207 1. Former foster youth within 3 months after their
 208 internship start date to ensure successful transition into the
 209 work environment and to gather feedback on how to improve the
 210 experience for future participants.
 211 2. Mentors assigned to participating former foster youth.
 212 Such data must be collected by October 1, 2024, and by October 1
 213 annually thereafter, for inclusion in the independent living
 214 services annual report.
 215 3. Any other persons the office deems relevant for purposes
 216 of continued improvement of the internship component.
 217 (7) REQUIREMENTS FOR PARTICIPATING ORGANIZATIONS.—Each
 218 organization participating in the onsite workforce training
 219 internship component shall:
 220 (a) Collaborate with the office to implement a trauma-
 221 informed approach to mentoring and training former foster youth.
 222 (b) Recruit employees to serve as mentors for former foster
 223 youth interning with such organizations.
 224 1. To serve as a mentor, an employee must:
 225 a. Have worked for the participating organization for at
 226 least 1 year;
 227 b. Have experience relevant to the job and task
 228 responsibilities of the intern;
 229 c. Sign a monthly hour statement for the intern;
 230 d. Allocate at least 1 hour per month to conduct mentor-led
 231 performance reviews, to include a review of the intern's work
 232 product, professionalism, time management, communication style,

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and stress-management strategies; and

e. Complete a minimum of 1 hour of trauma-informed training to gain skills critical for successfully engaging former foster youth.

2. Subject to available funding, an employee who serves as a mentor and receives the required trauma-informed training is eligible for a maximum payment of \$1,200 per intern per fiscal year, to be issued as a \$100 monthly payment for every month of service as a mentor.

3. An employee may serve as a mentor for a maximum of three interns at one time and may not receive more than \$3,600 in compensation per fiscal year for serving as a mentor. Any time spent serving as a mentor to an intern under this section counts toward the minimum service required for eligibility for payments pursuant to subparagraph 2. and this subparagraph.

(c) When necessary, have a discussion with an intern's assigned mentor, the participating organization's internship program liaison, and the office about the creation of a corrective action plan to address issues related to the intern's professionalism, work product, or performance and, if applicable, after giving the intern a reasonable opportunity to comply with the corrective action plan, document the intern's failure to do so before discharging him or her.

(d) Provide relevant feedback to the office at least annually for the office to comply with paragraph (6)(h).

(e) Collaborate with the department to provide any requested information necessary to prepare the annual report required under subsection (11).

(8) TIME LIMITATIONS FOR PARTICIPATION.—A former foster

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youth who obtains an internship with a participating organization may participate in the internship component for no more than 1 year, calculated as 12 monthly stipend periods. The year begins on his or her start date with a participating organization. A former foster youth may intern under the internship program with more than one participating organization, but may not intern with more than one participating organization at the same time. A participating organization may hire the intern as an employee, but the hiring of a former foster youth may not be for an internship under this section.

(9) AWARD OF POSTSECONDARY CREDIT.—The Board of Governors and the State Board of Education shall adopt regulations and rules, respectively, to award postsecondary credit or career education clock hours for eligible former foster youth participating in the internship component pursuant to subsection (4). The regulations and rules must include procedures for the award of postsecondary credit or career education clock hours, including, but not limited to, equivalency and alignment of the internship component with appropriate postsecondary courses and course descriptions.

(10) CONDITIONS OF PARTICIPATION IN THE INTERNSHIP COMPONENT.—

(a) To become a participant in the internship component of the program, the applicant must be a foster youth or a former foster youth as those terms are defined in subsection (3) at the time such youth applies for an internship position with a participating organization. A foster youth or former foster youth who has completed the training component with the

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department may apply for a position with a participating organization but may not begin an internship until attaining the age of 18 years.

(b) If offered an internship, a former foster youth must be classified as an intern and must work 80 hours per month to be eligible for the stipend payment.

(c) A former foster youth must spend any stipend funds specified for clothing on clothing that is in compliance with the dress code requirements of the participating organization with which the former foster youth is interning. Notwithstanding any limitation on funds provided to purchase clothing, the former foster youth must comply with any dress code requirements of the participating organization with which he or she is interning.

(d) Stipend money earned pursuant to the internship component may not be considered earned income for purposes of computing eligibility for federal or state benefits, including, but not limited to, the Supplemental Nutrition Assistance Program, a housing choice assistance voucher program, the Temporary Cash Assistance Program, the Medicaid program, or the school readiness program. Notwithstanding this paragraph, any reduction in the amount of benefits or loss of benefits due to receipt of the Step into Success stipend may be offset by an additional stipend payment equal to the value of the maximum benefit amount for a single person allowed under the Supplemental Nutrition Assistance Program.

(e) A former foster youth may, at the discretion of a postsecondary educational institution within this state in which such youth is enrolled, earn postsecondary credit or career

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education clock hours for work performed as an intern under the internship component. Postsecondary credit and career education clock hours earned for work performed under the internship component may be in addition to any compensation earned for the same work performed under the internship component and may be awarded for completion of all or any part of the internship component. Participating organizations shall cooperate with postsecondary educational institutions to provide any information about internship positions which is necessary to enable the institutions to determine whether to grant the participating former foster youth postsecondary credit or career education clock hours toward his or her degree.

(f) A former foster youth who accepts an internship with a participating organization pursuant to this section may only be discharged from the internship component after the participating organization engages the intern's assigned mentor and the participating organization's internship program staff to assist the intern in performing the duties of the internship. Before discharging the former foster youth, the participating organization must also document the intern's failure to comply with a corrective action plan after being given a reasonable opportunity to do so.

(11) REPORT.—The department shall include a section on the Step into Success Workforce Education and Internship Pilot Program in the independent living annual report prepared pursuant to s. 409.1451(6) which includes, but is not limited to, all of the following:

(a) Whether the pilot program is in compliance with this section, and if not, barriers to compliance.

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349 (b) A list of participating organizations and the number of
 350 interns.

351 (c) A summary of recruitment efforts to increase the number
 352 of participating organizations.

353 (d) A summary of the feedback and surveys received pursuant
 354 to paragraph (6) (h) from participating former foster youth,
 355 mentors, and others who have participated in the pilot program.

356 (e) Recommendations, if any, for actions necessary to
 357 improve the quality, effectiveness, and outcomes of the pilot
 358 program.

359 (f) Employment outcomes of former foster youth who
 360 participated in the pilot program, including employment status
 361 after completion of the program, whether he or she is employed
 362 by the participating organization in which he or she interned or
 363 by another entity, and job description and salary information,
 364 if available.

365 (12) RULEMAKING.—The department shall adopt rules to
 366 implement this section.

367 Section 2. Subsection (5) is added to section 414.56,
 368 Florida Statutes, to read:

369 414.56 Office of Continuing Care.—The department shall
 370 establish an Office of Continuing Care to ensure young adults
 371 who age out of the foster care system between 18 and 21 years of
 372 age, or 22 years of age with a documented disability, have a
 373 point of contact until the young adult reaches the age of 26 in
 374 order to receive ongoing support and care coordination needed to
 375 achieve self-sufficiency. Duties of the office include, but are
 376 not limited to:

377 (5) Developing and administering the Step into Success

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

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378 Workforce Education and Internship Pilot Program for foster
 379 youth and former foster youth as required under s. 409.1455.

380 Section 3. This act shall take effect July 1, 2023.

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



2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 1190
BILL TITLE:	<u>Step into Success Workforce Education and Internship Pilot Program</u>
BILL SPONSOR:	Senator Garcia
EFFECTIVE DATE:	July 1, 2023.

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	SB 764 HB 757
SPONSOR:	Sen. Albritton Rep. Roach
YEAR:	2022
LAST ACTION:	Died in Appropriations

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 1337
SPONSOR:	Rep. Overdorf

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>Is this bill part of an agency package?</u>
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	For further information, please contact John Paul Fiore at (850) 488-9410.
LEAD AGENCY ANALYST:	Taylor Peck
ADDITIONAL ANALYST(S):	Cal Walton, Abigail Phelps, Max Kruse
LEGAL ANALYST:	Laura Battaglia
FISCAL ANALYST:	Sue Swirz

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates the Step into Success Workforce Education and Internship Pilot Program and directs the Office of Continuing Care (OCC), within the Department of Children and Families (Department) to administer the program. The bill establishes the Internship Program as a three-year pilot that consists of two distinct components: the independent living professionalism and workforce education component and the onsite workforce and training internship component. The bill provides for eligibility requirements and definitions for “foster youth” and “former foster youth” and requires a mentor for each participant at their onsite internship. The bill contemplates a stipend for each eligible participant and a monthly payment to mentors as well. The bill specifies conditions and requirements for participation in the onsite workforce internship component of both the intern, the mentor and participating organization. The bill provides an effective date of July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Transition Planning

Each community-based care lead agency (CBC) provides transition services to foster youth beginning at age 13. These services include information on Extended Foster Care (EFC), Postsecondary Education Services and Support (PESS), Aftercare, tuition and fee exemptions, and support from their case manager on how to reach educational, career, and independence goals. At age 15, eligible foster youth are able to participate in the Keys to Independence program, which assists with obtaining a driver's license and car insurance. Foster youth are also provided information on how to enroll in vocational programs along with how and when to apply for Medicaid. At age 16, foster youth begin charting their My Pathways to Success Plan and participate in financial literacy classes. At age 17 they are able to open their own bank account and allowed to work, if the job does not interfere with their schoolwork. Young adults between the ages of 18 and 21, 22 with a documented disability, who are enrolled in EFC, receive a monthly allowance, based on a needs assessment, to pay for things like child care expenses, clothing, extracurricular activities, internet service, personal items, recreational activities, nonessential transportation, savings, telephone, and car expenses. PESS is a state program for eligible former foster youth to receive the skills, education, and support necessary to become self-sufficient and have lifelong connections to supportive adults. Eligible youth may receive a monthly financial payment to secure housing, utilities, and assist with cost of living while attending a Florida Bright Futures-eligible postsecondary educational institution. Aftercare is typically used as a bridge between EFC or PESS. Aftercare requires a plan to include specific activities for the young adult in order to make a successful transition. Those activities may include mentoring, tutoring, mental health and substance abuse counseling, job training, and temporary financial assistance of necessities.

Postsecondary Education Services and Support (PESS)

Pursuant to 409.1451, F.S., PESS is a state program available to former foster youth who have completed high school or the equivalent and are pursuing post-secondary education. Young adults who choose to participate in the program receive the skills, education, and support necessary to become self-sufficient and leave foster care with a lifelong connection to supportive adults.

A young adult is eligible for services and support if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;
2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;
3. Earned a standard high school diploma
4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. [1009.533](#).
5. Has reached 18 years of age but is not yet 23 years of age;
6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;
7. Submitted a Free Application for Federal Student Aid which is complete and error free; and
8. Signed an agreement to allow the department and the community-based care lead agency access to school records.

Young adults in the PESS program receive a monthly stipend of \$1720 to support housing and utilities while in postsecondary education. Prior to receiving the PESS stipend, the Department assesses young adults' life skills and capabilities to manage their stipend with six-month financial and transition planning.

Young adults who are enrolled in PESS must be enrolled as "full-time" which is 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance.

Office of Continuing Care

In 2021 the legislature created the Office of Continuing Care (OCC) within the Department. This program operates as a point of contact for young adults who age out of the foster care system until they reach the age of 26. The purpose of the OCC is to ensure this population receives ongoing support and care coordination needed to achieve self-sufficiency. The duties of the OCC include:

- Inform eligible young adults about the OCC and the types of supports it offers;
- Provide information on how to access services to support the young adult's self-sufficiency;
- Assist eligible young adults in accessing services and supports, and;
- Collaborate with CBC lead agencies to identify local resources.

The Department, in an effort to increase the level of lived experience voice, staffs the OCC primarily with individuals with lived experience. These employees use their unique viewpoint and focus to provide information, access to ongoing supports, and care navigation for the specific population they serve.

The Office of Continuing Care has served nearly 500 clients since it launched in October 2021. The top requested services or referrals requested by OCC clients include information to understand available services as a youth who has aged out of care, connection to an Independent Living Specialist, and housing.

Fostering Success 2014-2020

The Florida Department of Agriculture and Consumer Services (FDACS), in partnership with the Department operated the Fostering Success program from 2014-2020. This program offered young adults aged 18-24 who have former experience in the foster care system, an opportunity to gain professional life skills and employment readiness training in a year-long, part-time, paid OPS position within a state agency. Agencies named in the program created positions for youth as well as several agencies that volunteered to participate and support the youth including Department of Economic Opportunity (FDEO) and Department of Health (FDOH). After 2020 the program was not provided an appropriation and the Department narrowed the scope and renamed the program Fueling Futures. Fueling Futures operates out of the Northwest Region and offers youth training, mentoring, employment, and networking opportunities as well as partners with community agencies to provide wrap around support services to remove any barriers to success such as bus passes, professional clothing for interviews, and food assistance. There have been 51 participants in Fueling Futures since 2020.

Hope Florida

Hope Florida - A Pathway to Prosperity is an initiative implemented by the Florida Department of Children and Families with a goal of uniting communities by utilizing Hope Navigators who guide Floridians on an individualized path to prosperity, economic self-sufficiency, and hope. Hope Florida focuses on building community collaboration between the private sector, faith-based community, nonprofits, and government entities to break down traditional community silos, in an effort to maximize resources and uncover opportunities. A key component of this initiative is developing pathways to prosperity by working with local workforce agencies to provide training and employment opportunities. To ensure Floridians who seek assistance through the Hope Florida initiative are able to find their own version of self-sufficiency, Hope Navigators work with each participant to establish their goals and identify barriers to achieving those goals.

2. EFFECT OF THE BILL:

Section 1., s. 409.1455, F.S., Step into Success Workforce Education and Internship Pilot Program for foster youth and former foster youth.—

Section 409.1455, F.S., is created and titled the "Step Into Success Act". The section establishes the program as a three-year pilot for the purpose of giving eligible foster youth and former foster youth an opportunity to learn and develop essential workforce and professional skills, to transition from the custody of the Department to independent living, and to become better prepared for an independent and successful future. The section

contemplates two specific components that the program must include a workforce education component and an onsite internship component.

The Office of Continuing Care (OCC or Office), in consultation with subject-matter experts and the community-based care lead agencies, must develop and administer the pilot program for interested foster youth and former foster youth. The bill allows the department to contract with entities that have demonstrable subject-matter expertise in the necessary areas to collaborate with the Office in the development and administration of the pilot program. The independent living professionalism and workforce education component of the program must culminate in a certificate that allows a former foster youth to participate in the onsite workforce training internship.

In order to implement this section, the Department will need to hire one Director to oversee daily operations and ensure fidelity to the vision and mission. Additional FTE needs are addressed in following sections.

Section 409.1455(3), F.S., provides definitions for relevant terms, including but not limited to:

- “Former foster youth” means an individual 18 years of age or older but younger than 26 years of age who is currently or was previously placed in licensed care, excluding Level I licensed placements pursuant to s. 409.175(5)(a)1, F.S., for at least 60 days within this state.
- “Foster youth” means an individual older than 16 years of age but younger than 18 years of age who is currently in licensed care, excluding Level I licensed placements pursuant to s. 409.175(5)(a)1, F.S.
- “Participating organization” means a state agency, a corporation under chapter 607 or chapter 617, or another relevant entity that has agreed to collaborate with the Office in the development and implementation of a trauma-informed onsite workforce training internship program pursuant to subsections (6) and (7).

The Department estimates the total populations for former foster youth and foster youth below:

Population	Total Number of Eligible Participants ¹
Former foster youth (18-25 years old)	39,698
Foster youth (16-17 years old)	1,224

Although the total population is roughly 41,000, the Department does not anticipate all eligible former foster youth and foster youth will participate. The Department intends to build the program over 3 years ending with a statewide program in year three. Each year is anticipated to have increased participation as the program grows and is advertised to clients. The percentage of foster youth participating in the certification program is likely to be higher given that their case management team can provide direct access. The participation from former foster youth will likely be limited by the ability to reach clients no longer participating in case management as well as initial cohort size for the first year of the pilot build out. To ensure high quality and highly individualized client interaction the Department would anticipate a year-one internship cohort of up to 30 participants in the Northwest Region. Each following year, the program would expand throughout the state with an anticipated 180 participants statewide in the final year. This limited cohort is based on best practices established through the iterations of Fostering Success, Fueling Futures, and the Office of Continuing Care which focus on providing the necessary daily wrap around support to ensure professional success.

Section 409.1455(4), F.S., requires the internship program to be administered as part of an eligible foster youth’s regular transition planning under s. 39.6035, F.S., or as a post-transition service for eligible former foster youth. The OCC must begin providing the professionalism and workforce education on or before January 1, 2024, and begin providing the onsite workforce training internships on or before July 1, 2024. Transition Planning pursuant to s.39.6035, F.S., is currently required for youth in out-of-home care, young adults in extended foster care (EFC), Postsecondary Education Services and Support (PESS), and Aftercare; the definition proposed for the internship includes many young adults who would not be eligible for transition planning services because they are no longer in care. Those youth who are no longer involved with the system would not be assigned case management assistance to administer the plan as outlined in this bill.

Section 409.1455(5), F.S., establishes the requirements for the independent living professionalism and workforce education component to include:

- a) Designate and ensure that the number of qualified staff is sufficient to implement and administer the component, which may be part of a larger independent living or life skills training program if the larger program meets the requirements of this subsection.

¹ Data source: Ad hoc report from the Florida Safe Families Network Data Repository as of March 1, 2023

- b) Develop all workshops, presentations, and curricula for the component, including, but not limited to, all written educational and training materials for foster youth and former foster youth. The office must review and update these materials as necessary. The training materials must address, but are not limited to, the following:
 - 1) Interview skills;
 - 2) Professionalism;
 - 3) Teamwork;
 - 4) Leadership;
 - 5) Problem solving; and
 - 6) Conflict resolution in the workplace.
- c) Require that the training provided be in addition to any other life skills or employment training required by law.
- d) Provide relevant written materials from the component and any relevant tools developed to ensure participants' successful transition to internships to all participating organizations that offer workforce training internship opportunities.
- e) Provide materials to inform eligible foster youth and former foster youth of the program, the requirements for participation, and contact information for enrollment. The community-based care lead agencies shall ensure that any subcontracted providers that directly serve youth receive this information.
- f) Advertise and promote the availability of the education and internship program.
- g) Assess the career interests of each eligible foster youth and former foster youth who expresses interest in participating in the program and determine the most appropriate internship and post-internship opportunities.

In order to implement this section, the Department will need to hire a team of three Engagement Specialists in year one. These Engagement Specialists will interact directly with clients and mentors and to create a supportive and consistent environment for professional development. The team of Engagement Specialists will be supervised by a Engagement Specialist Manager. In future years, the Department will onboard more Engagement Specialists and Managers. To provide youth with an internship experience that results in ongoing workforce success and promotion, these Engagement Specialists will provide access to curriculum and follow up coaching to ensure continuing development of the youth, including financial literacy, interview preparedness, leadership, professional networking, listening skills, office software programs, mindfulness, mock interviews, negotiation, networking, personal mission and vision, prioritization, professionalism, public speaking, relationship building – in and out of the workplace, resume writing, self-awareness and self-care, social media and email etiquette, stress management, teamwork, time management, and working in multi-generational teams. The Engagement Specialist will also support the mentor as they balance their existing workload in addition to providing the daily leadership and support needed by the youth. The Specialist, intern and the mentor will keep consistent communication and work as a team to ensure the internship is a successful learning opportunity. The Department's current lived experience team within the Office of Continuing Care offered an opportunity to develop the best practices on the supports and services needed to ensure the success of this team. In addition to the supports outlined in the bill, to implement a highly successful and transformative program the Department would require a low client to staff caseload and continued hands-on support.

This team will collaborate with and be supported by the current OCC Navigation team on trauma responsive customer service and creating productive and positive client interactions.

The Department will need to contract for the development of training and the development of an advertising campaign; and hire an Education Workforce Position to work with vendors to customize content and ensure the efficacy of the programs. The fiscal listed is based on similar statewide campaigns previously administered by the Department.

The certificate program would be overseen by the Workforce Education Specialist. The certificate would lay the groundwork for the aforementioned professional skill-building and the internship support would build on this knowledge to deepen skills. The Department will implement a certification process with an estimated 40 hours of coursework, the Department would also pay the youth and young adults for their time in the workforce education training process.

Section 409.1455(6), F.S., establishes the requirements of the onsite workforce internship component to include:

- a) Develop processes and procedures to implement a trauma informed onsite workforce internship component. The processes and procedures of the internship component must be designed so that they can be replicated and scaled to meet various organizational structures and sizes. The component must include:
 - 1) Recruitment of agencies, corporations, and other entities to host interns as participating organizations;

- 2) Assisting participating organizations with mentor recruitment, training, and matching;
 - 3) Mentor-led performance reviews, including a review of the intern's work product, professionalism, time management, communication style, and stress-management strategies;
 - 4) Daily mentorship and coaching on topics such as:
 - a) Professionalism;
 - b) Teamwork;
 - c) Leadership;
 - d) Problem solving; and
 - e) Conflict resolution in the workplace;
 - 5) Development of opportunities for interns to become employees of the participating organization; and
 - 6) Reporting requirements specified in subsection (11).
- b) Develop a minimum of one hour of required trauma-informed training for mentors to teach the skills necessary to engage with participating eligible former foster youth.
 - c) Provide assistance to eligible foster youth and former foster youth interested in participating in the internship component, including, but not limited to, identifying and monitoring internship opportunities, being knowledgeable of the training and skills needed to match eligible foster youth and former foster youth with appropriate internships, and assisting eligible foster youth and former foster youth with applying for post-internship employment opportunities.
 - d) Publicize specific internship positions in an easily accessible manner and inform eligible foster youth and former foster youth of where to locate such information.
 - e) Develop a process and schedule for the distribution of stipends to former foster youth participating in the component, subject to the availability of funds.
 - f) Distribute funds appropriated for the compensation of mentors who are participating in the component as provided in paragraph (7)(b).
 - g) By May 1, 2024, provide to the Board of Governors and the State Board of Education all relevant internship information necessary to support the award of postsecondary credit or career education clock hours for internship positions held by former foster youth participating in the onsite workforce training internship component.
 - h) Develop and conduct follow-up surveys with:
 - 1) Former foster youth within 3 months after their internship start date to ensure successful transition into the work environment and to gather feedback on how to improve the experience for future participants.
 - 2) Mentors assigned to participating former foster youth. Such data must be collected by October 1, 2024, and by October 1 annually thereafter, for inclusion in the independent living services annual report.
 - 3) Any other persons the office deems relevant for purposes of continued improvement of the internship component.

In order to implement this section, the Department will need to hire a team of six Outreach Specialists to recruit participating organizations and serve as a liaison between the organizations, the mentors, and the Department. By year three one Outreach Specialist will be assigned and outposted in each region. This team will be supervised by the Partnership and Outreach Manager. The Department will also need to determine the stipend amount paid to participants, develop a method of payment from the OCC to the participants, and hire a Financial Services Specialist to monitor and process payments made to former foster youth and eligible mentors.

Section 409.1455(7), F.S., establishes requirements for the participating organizations to include:

- a) Collaborate with the office to implement a trauma informed approach to mentoring and training former foster youth.
- b) Recruit employees to serve as mentors for former foster youth interning with such organizations.
 - 1) To serve as a mentor, an employee must:
 - a) Have worked for the participating organization for at least 1 year;
 - b) Have experience relevant to the job and task responsibilities of the intern;
 - c) Sign a monthly hour statement for the intern;
 - d) Allocate at least one hour per month to conduct mentor-led performance reviews, to include a review of the intern's work product, professionalism, time management, communication style, and stress-management strategies; and
 - e) Complete a minimum of one hour of trauma-informed training to gain skills critical for successfully engaging former foster youth
 - 2) Subject to available funding, an employee who serves as a mentor and receives the required trauma-informed training is eligible for a maximum payment of \$1,200 per intern per fiscal year, to be issued as a \$100 monthly payment for every month of service as a mentor.

- 3) An employee may serve as a mentor for a maximum of three interns at one time and may not receive more than \$3,600 in compensation per fiscal year for serving as a mentor. Any time spent serving as a mentor to an intern under this section counts toward the minimum service required for eligibility for payments pursuant to subparagraph 2. and this subparagraph.
- c) When necessary, have a discussion with an intern's assigned mentor, the participating organization's internship program liaison, and the office about the creation of a corrective action plan to address issues related to the intern's professionalism, work product, or performance and, if applicable, after giving the intern a reasonable opportunity to comply with the corrective action plan, document the intern's failure to do so before discharging him or her.
- d) Provide relevant feedback to the office at least annually for the office to comply with paragraph (6)(h).
- e) Collaborate with the department to provide any requested information necessary to prepare the annual report required under subsection (11).

In order to implement this section, the Department will need to develop participant agreements for young adults, their mentors and the partner organizations. The workload associated with this section will be the responsibility of Engagement Specialist and Outreach Specialist positions.

Section 409.1455(8), F.S., establishes time limits for participation in the internship program to be no more than one year, calculated as 12 monthly stipend periods. The former foster youth may intern with more than one participating organization within the 12 months but may not intern with more than one participating organization at the same time.

Section 409.1455(9), F.S., directs the Board of Governors and the State Board of Education to adopt a process for awarding postsecondary credit or career education credit hours for participants on the internship program.

Section 409.1455(10), F.S., establishes conditions of participation in the onsite internship component of the program to include:

- a) The applicant must meet the definition of a foster youth or a former foster at the time they apply for an internship position with a participating organization. A foster youth or former foster youth who has completed the training component with the department may apply for a position with a participating organization but may not begin an internship until they are 18 years old.
- b) If offered an internship, a former foster youth must be classified as an intern and must work 80 hours per month to be eligible for the stipend payment.
- c) A former foster youth must spend any stipend funds specified for clothing on attire that is in compliance with the dress code requirements of the participating and comply with any dress code requirements of the participating organization.
- d) Stipend money earned pursuant to the internship component may not be considered earned income for purposes of computing eligibility for federal or state benefits, including, but not limited to, the Supplemental Nutrition Assistance Program, a housing choice assistance voucher program, the Temporary Cash Assistance Program, the Medicaid program, or the school readiness program. Notwithstanding this paragraph, any reduction in the amount of benefits or loss of benefits due to receipt of the Step into Success stipend may be offset by an additional stipend payment equal to the value of the maximum benefit amount for a single person allowed under the Supplemental Nutrition Assistance Program.
- e) A former foster youth may, at the discretion of a postsecondary educational institution within this state in which such youth is enrolled, earn postsecondary credit or career education clock hours for work performed as an intern under the internship component. Postsecondary credit and career education clock hours earned for work performed under the internship component may be in addition to any compensation earned for the same work performed under the internship component and may be awarded for completion of all or any part of the internship component. Participating organizations shall cooperate with postsecondary educational institutions to provide any information about internship positions which is necessary to enable the institutions to determine whether to grant the participating former foster youth postsecondary credit or career education clock hours toward his or her degree.
- f) A former foster youth who accepts an internship with a participating organization pursuant to this section may only be discharged from the internship component after the participating organization engages the intern's assigned mentor and the participating organization's internship program staff to assist the intern in performing the duties of the internship. Before discharging the former foster youth, the participating organization must also document the intern's failure to comply with a corrective action plan after being given a reasonable opportunity to do so.

The stipend is calculated based on the 80 hours listed in the bill and a pay rate of \$20 an hour. The flexibility to offer tiered entrance levels for the internship programs will ensure a diverse set of clients is served, including those just beginning their professional careers and those who may have been working for several years and would like to invest in a professional career path. Flexibility to offer additional hours for those who may need full time pay to support themselves and their family would also allow the Department to serve a broader array of clients.

In order to implement this section, the Department will need to promulgate rules.

According to the U.S Department of Agriculture, the 2023 maximum monthly SNAP allotment for a household of one is \$281².

Section 409.1455(11), F.S., establishes reporting requirements that direct the Department to include a section on the Step into Success Workforce Education and Internship Program in the independent living annual report prepared pursuant to s. 409.1451(6), F.S., which include:

- a) Whether the program is in compliance with the section, and if not, barriers to compliance.
- b) Lists of participating organizations and number of interns.
- c) A summary of recruitment efforts to increase the number of participating organizations.
- d) A summary of the feedback and surveys received pursuant to paragraph (6)(h) from participating former foster youth, mentors, and others who have participated in the program.
- e) Recommendations, if any, for actions necessary to improve the quality, effectiveness, and outcomes of the pilot program.
- f) Employment outcomes of former foster youth who participated in the pilot program, including employment status after completion of the program, whether he or she is employed by the participating organization in which he or she interned or by another entity, and job description and salary information, if available.

In order to implement this section, the Department will need to procure, or develop internally, an IT solution to track the necessary elements of the report.

Section 409.1455(12), F.S., authorizes the Department to establish rules to implement the program.

Section 2. s. 414.56, F.S., Office of Continuing Care. —

This section is amended to include the administration of the internship program as contemplated in s. 409.1455, F.S., as a responsibility of the OCC.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES

If yes, explain:	The bill directs the Department to establish rules to implement the program.
What is the expected impact to the agency's core mission?	None.
Rule(s) impacted (provide references to F.A.C., etc.):	New rules will need to be established.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? UNKNOWN

List any known proponents and opponents:	N/A
Provide a summary of the proponents' and opponents' positions:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? YES

² Source: "SNAP – Fiscal Year 2023 Cost-of-Living Adjustments," USDA, August 9, 2022, <https://www.fns.usda.gov/snap/fy-2023-cola>.

If yes, provide a description:	Section 409.1455(11), F.S., establishes reporting requirements that direct the Department to include a section on the Step into Success Workforce Education and Internship Program in the independent living annual report prepared pursuant to s. 409.1451(6), F.S.,
Date Due:	January 31
Bill Section Number(s):	Section 1

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	None.
Expenditures:	None.
Does the legislation increase local taxes or fees?	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None.
Expenditures:	The Department will require access to year one and year two funding as well as the staff allocations at the outset of implementation to account for bridging the fiscal years. <u>Staffing:</u> Year 1: The Department estimates a year one cohort of 30 eligible participants.

In order to best serve the population, the Department has estimated an engagement specialist can support up to 10 interns and their mentors.
 $30 \text{ participants} / 10 = 3 \text{ Engagement Specialist}$

The Department will also need the administrative staff necessary for establishing the program including the Director, financial services specialist, workforce education specialist, engagement specialist Manager, partnership and outreach manager, and an outreach specialist.

Year 2:

The Department estimates following the model established in year 1 and expanding the program to two additional regions, for a total of three, in year 2:
 $30 \text{ region 1 participants} + 30 \text{ region 2 participants} + 30 \text{ region 3 participants} = 90 \text{ participants total}$
 $90 \text{ participants} / 10 = 9 \text{ Engagement Specialists}$

Year 3:

The Department estimates expanding the program statewide and following the model established in year 1:
 $30 \text{ participants} \times 6 \text{ regions} = 180 \text{ statewide participants.}$
 $180 \text{ participants} / 10 = 18 \text{ Engagement Specialists}$

Staffing Needs Overview			
FTE Type	FTE Count	Salary	Total Cost
YEAR 1 FTE Needed			
Director - SES	1	\$70,000	\$121,688
Financial Services Specialist	1	\$46,898	\$82,950
Workforce Education Specialist	1	\$50,000	\$92,403
Engagement Specialist Manager - SES	1	\$60,000	\$105,579
Partnership and Outreach Manager - SES	1	\$60,000	\$109,682
Engagement Specialist	3	\$150,000	\$277,209
Outreach Specialist	1	\$50,000	\$96,506
TOTAL YEAR 1	9	\$486,898	\$886,017
YEAR 2 Additional FTE			
Engagement Specialist	6	\$300,000	\$554,418
Outreach Specialist	2	\$100,000	\$193,012
Engagement Specialist Manager - SES	1	\$60,000	\$105,579
TOTAL YEAR 2	9	\$460,000	\$863,009
YEAR 3 Additional FTE			
Engagement Specialist	9	\$450,000	\$831,627
Outreach Specialist	3	\$150,000	\$289,518
TOTAL YEAR 3	12	\$960,000	\$1,121,145

Training Stipend:

The Department estimates paying a stipend to eligible participants after completing the independent living professionalism and workforce education component.

	The training stipend was determined in the following way: 40 hours of training X \$15 an hour = \$600 training stipend Year 1: 30 participants X \$600 = \$18,000 Year 2: 90 participants X \$600 = \$54,000 Year 3: 180 participants X \$600 = \$108,000 <u>Internship Stipend:</u> Year 1: The Department estimates paying a \$20 an hour stipend to eligible participants. \$20 an hour X 80 work hours per month = \$1,600 monthly stipend. 30 eligible participants X \$1,440 monthly stipend = \$48,000 per month 12 months X \$48,000 monthly stipend = \$576,000 annual internship stipend cost. Year 2: The Department estimates paying a \$20 an hour stipend to eligible participants. \$20 an hour X 80 work hours per month = \$1,600 monthly stipend. 90 eligible participants X \$1,600 monthly stipend = \$144,000 per month 12 months X \$144,000 monthly stipend = \$1,728,000 annual internship stipend cost. Year 3: The Department estimates paying a \$20 an hour stipend to eligible participants. \$20 an hour X 80 work hours per month = \$1,600 monthly stipend. 180 eligible participants X \$1,600 monthly stipend = \$288,000 per month 12 months X \$288,000 monthly stipend = \$3,456,000 annual internship stipend cost. <u>Additional Stipend</u> Year 1: 30 participants X \$281 = \$8,430 per month 12 months X \$8,430 per month = \$101,160 Year 2: 90 participants X \$281 = \$25,290 per month 12 months X \$25,290 per month = \$303,480 Year 3: 180 participants X \$281 = \$50,580 per month 12 months X \$50,580 per month = \$606,960

Mentor Payment:

Year 1:

30 participants X 12 months = 360 payments

\$100 statutory payment + \$27.21 applicable taxes = total monthly payment cost per mentor

360 payments X \$127.21 total payment per mentor = \$45,796

Year 2:

90 participants X 12 months = 1080 payments

\$100 statutory payment + \$27.21 applicable taxes = \$127.21 total monthly payment cost per mentor

1080 payments X \$127.21 total payment per mentor = \$137,387

Year 3:

180 participants X 12 months = 2,160 payments

\$100 statutory payment + \$27.21 applicable taxes = \$127.21 total monthly payment cost per mentor

720 payments X \$127.21 total payment per mentor = \$274,774

Participant and Mentor Costs Overview	
Need	Cost
YEAR 1	
Training Stipend	\$18,000
Internship Stipend	\$518,400
Additional Stipend	\$101,160
Mentor Payment	\$45,796
Total Cost Year 1	\$683,356
YEAR 2	
Training Stipend	\$54,000
Internship Stipend	\$1,555,200
Additional Stipend	\$303,480
Mentor Payment	\$137,387
Total Cost Year 2	\$2,050,067
YEAR 3	
Training Stipend	\$108,000
Internship Stipend	\$3,110,400
Additional Stipend	\$606,960
Mentor Payment	\$274,774
Total Cost Year 3	\$3,916,951

Training Development:

The Department estimates the training development costs to be approximately \$500,000.

Advertising Campaign:

The Department estimates the advertising campaign costs for be approximately \$500,000.

	Total Program Cost					
	Year 1		Year 2		Year 3	
			New FTEs (9)	\$853,009	New FTEs (12)	\$1,121,145
	New FTEs (9)	\$886,017	Net FTEs (18)	\$1,739,026	30 (12 new) FTE	\$2,860,171
	Training Stipend	\$18,000	Training Stipend	\$54,000	Training Stipend	\$108,000
	Internship Stipend	\$518,400	Internship Stipend	\$1,555,200	Internship Stipend	\$3,110,400
	Additional Stipend	\$101,160	Additional Stipend	\$303,480	Additional Stipend	\$606,960
	Mentor Payment	\$45,796	Mentor Payment	\$137,387	Mentor Payment	\$274,774
	Training Development	\$500,000				
	Advertising Campaign	\$500,000				
	Year 1 Total		Year 2 Total		Year 3 Total	
	Total	\$2,569,373	Total	\$3,789,093	Total	\$6,960,305
Please see Technology Impact for IT related fiscal impact.						
Does the legislation contain a State Government appropriation?	No.					
If yes, was this appropriated last year?	N/A					

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None.
Expenditures:	None.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No.
Does the bill decrease taxes, fees or fines?	No.
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	Yes.
If yes, describe the anticipated impact to the agency including any fiscal impact.	Costs to systems, resources, and application enhancements projected at \$300,000 to \$600,000 depending on the exact technology strategy elected to support operationalization.

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No.
If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

There are many existing definitions that reference a youth or young adult's custody or placement as grounds for program eligibility including IL programs like EFC, PESS, Aftercare, the tuition waiver, or services from the Office of Continuing Care. From a client perspective this creates confusion on what programs they may qualify for and requires additional staff resources to identify eligibility. Using an existing definition instead of the creation of an additional criteria would likely result in more streamlined promotion and program uptake.

Young adults in PESS are required to be enrolled in at least 9 credit hours or its equivalent in a technical or vocational institution in order to be eligible for the program. Although the bill directs the Board of Governors and the State Board of Education to develop a process for awarding credit hours for the internship, it doesn't state how many credit hours the internship will be worth. If a standard class is 3 credit hours and the internship only counts for 2 credit hours, a young adult would either need to maintain a 9 credit-hour course load and participate in the internship program, or choose between PESS and the internship program.

Lines 91-99 references transition plans however Transition Planning pursuant to s.39.6035, F.S., is required for youth in out-of-home care, young adults in extended foster care (EFC), Postsecondary Education Services and Support (PESS), and Aftercare. The population eligible for the internship would include youth and young adults who would not qualify for transition plan services. In addition, those youth who are no longer involved with the system would not be assigned case management assistance to administer the plan as outlined in this bill. The language seems to suggest that case management and transition planning would be offered to young adults no longer in case, clarification that the audience goes beyond the scope of those in care and therefore, receiving services, is suggested.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	The Department's Office of General Counsel has no comments on this bill.



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: March 14, 2023

I respectfully request that **Senate Bill #1190**, relating to Step into Success Workforce Education and Internship Pilot Program , be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Ileana Garcia", is written over a horizontal line.

Senator Ileana Garcia
Florida Senate, District 36

APPEARANCE RECORD

1190 14

Bill Number or Topic

04/12/2023

Meeting Date

Appropriations

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-855-7604

Address

1747 Orlando Central Pkwy

Email

vp.education@florida
pta.org

Street

Orlando FL 32809

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐ I am appearing without
compensation or sponsorship.☐ I am a registered lobbyist,
representing:☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 1352

INTRODUCER: Appropriations Committee on Health and Human Services; Senators Rouson and Davis

SUBJECT: Medicaid Enrollees with Sickle Cell Disease

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Favorable
2.	McKnight	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1352 requires the Agency for Health Care Administration (AHCA) to conduct a biennial review of Medicaid enrollees with sickle cell disease (SCD) and report the findings and recommendations from the preceding two year period. The first report is due November 1, 2024, and by November 1 of every other year thereafter, and reports are to be submitted to the Governor, President of the Senate, Speaker of the House of Representatives, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council, and published by the AHCA on a publicly accessible website.

The objective of the review is to determine whether available covered medications, treatment, and services are adequate to meet the needs of Medicaid enrollees diagnosed with SCD and whether the AHCA should seek coverage of additional medications, treatment, or services.

The AHCA is also required to assess existing payment methodologies for approved SCD treatments and medications in the inpatient setting and whether they result in barriers to access. If barriers to access are identified, the AHCA must assess whether the payment methodologies may be modified or improved.

In addition, the bill:

- Requires the Department of Health (DOH) to contract with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry to track

outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant.

- Requires a screening provider to notify the primary care physician of an infant who tests positive for sickle cell hemoglobin variant and to submit the results of the screening to the DOH for inclusion in the sickle cell registry.
- Requires the primary care physician to provide the information on the availability and benefits of genetic counseling to the parent or guardian of the newborn.

The bill authorizes \$250,000 in nonrecurring funds from the General Revenue Fund to the DOH to contract with a community-based SCD medical treatment and research center to establish and maintain the sickle cell registry.

The bill will have an indeterminate, significant negative fiscal impact to the AHCA and the DOH. See Section V of this analysis.

The bill takes effect on July 1, 2023.

II. Present Situation:

Sickle Cell Disease and Sickle Cell Trait

Sickle cell disease (SCD) is a group of inherited red blood cell disorders. Red blood cells contain hemoglobin, a protein that carries oxygen. Healthy red blood cells are round, and they move through small blood vessels to carry oxygen to all parts of the body. In someone who has SCD, the hemoglobin is abnormal, which causes the red blood cells to become hard and sticky and look like a C-shaped farm tool called a sickle. The sickle cells die early, which causes a constant shortage of red blood cells. Also, when they travel through small blood vessels, they get stuck and clog the blood flow. This can cause pain and other serious health complications such as infection, acute chest syndrome, and stroke.¹

The exact number of people living with SCD in the U.S. is unknown. The U.S. Centers for Disease Control and Prevention (CDC) estimates:²

- SCD affects approximately 100,000 Americans.
- SCD occurs among about one out of every 365 Black or African-American births.
- SCD occurs among about one out of every 16,300 Hispanic-American births.
- Roughly 7.7 percent of Black or African-American babies are born with sickle cell trait (SCT).

There are several types of SCD. The specific type a person has depends on the genes they inherited from their parents. People with SCD inherit genes that contain instructions, or code, for abnormal hemoglobin. The most common types of SCD include:³

¹ U.S. Centers for Disease Control and Prevention, *Sickle Cell Disease*, available at <https://www.cdc.gov/ncbddd/sicklecell/facts.html#:~:text=In%20someone%20who%20has%20SCD,shortage%20of%20red%20blood%20cells> (last visited Mar. 29, 2023)

² U.S. Centers for Disease Control and Prevention, *Data and Statistics on Sickle Cell Disease*, available at <https://www.cdc.gov/ncbddd/sicklecell/data.html> (last visited Mar. 29, 2023).

³ *Id.*

- HbSS. People who have this form of SCD inherit two genes, one from each parent, that code for hemoglobin “S.” Hemoglobin S is an abnormal form of hemoglobin that causes the red cells to become rigid, and sickle shaped. This is commonly called *sickle cell anemia* and is usually the most severe form of the disease.
- HbSC. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for a different type of abnormal hemoglobin called “C” from the other parent. This is usually a milder form of SCD.
- HbS beta thalassemia. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for beta thalassemia, another type of hemoglobin abnormality, from the other parent. There are two types of beta thalassemia: “zero” (HbS beta⁰) and “plus” (HbS beta⁺). Those with HbS beta⁰-thalassemia usually have a severe form of SCD. People with HbS beta⁺-thalassemia tend to have a milder form of SCD.

There also are a few rare types of SCD, such as HbSD, HbSE, and HbSO. People who have these forms of SCD inherit one hemoglobin “S” gene and one gene that codes for another abnormal type of hemoglobin (“D”, “E”, or “O”). The severity of these rarer types of SCD varies.

SCD is diagnosed with a simple blood test. In children born in the U.S., it most often is found at birth during routine newborn screening tests at the hospital. In addition, SCD can be diagnosed while the baby is in the womb. Because children with SCD are at an increased risk of infection and other health problems, early diagnosis and treatment are important.

People with SCD may start to have signs of the disease during the first year of life, usually around five months of age. Symptoms and complications of SCD are different for each person and can range from mild to severe.

Management of SCD is focused on preventing and treating pain episodes, anemia, and other complications. Prevention strategies include lifestyle behaviors as well as medical screening and interventions to prevent SCD complications. Lifestyle behaviors might include drinking plenty of water and avoiding getting too hot or cold, high altitudes, or extreme exertion. Vaccines can prevent against harmful infections. Other intervention strategies might include prevention of severe anemia through blood transfusions which has its own set of complications such as iron overload that can cause life-threatening damage to the liver, heart, and other organs.

SCD is a disease that worsens over time. Currently the U.S. Food and Drug Administration (FDA) has approved four treatments. However, the only therapy approved by the FDA that may be able to cure SCD is a bone marrow or stem cell transplant, which can be very risky.⁴

SCT presents itself in people who inherit one sickle cell gene and one normal gene. People with SCT usually do not have any symptoms of SCD, although in rare cases they might experience complications of SCD. A person with SCT can pass the trait on to their children. SCT is diagnosed with a blood test.⁵

⁴ U.S. Centers for Disease Control and Prevention, *What is Sickle Cell Disease?*, available at <https://www.cdc.gov/ncbddd/sicklecell/facts.html> (last visited Mar. 29, 2023).

⁵ U.S. Centers for Disease Control and Prevention, *Sickle Cell Trait*, available at <https://www.cdc.gov/ncbddd/sicklecell/traits.html> (last visited Mar. 29, 2023)

Florida Medicaid Study of Enrollees with Sickle Cell Disease

In the Fiscal Year 2022-2023 General Appropriations Act,⁶ the AHCA was directed to conduct a review and provide a written report concerning the impact of SCD in the Florida Medicaid program. As directed, the AHCA contracted with the Florida Medical School Quality Network, including key personnel of the Foundation for Sickle Cell Disease Research and the Sickle Care and Research Network, which is a dedicated SCD medical treatment and research center headquartered in Hollywood, Florida, and maintains a sickle cell patient database and tracks SCD outcome measures. The report was submitted on February 1, 2023.⁷

Findings in this report indicate the number of people with SCD in the Florida Medicaid program (program) averages 7,328 people per year. The prevalence rate of SCD in the program is twice as high as the national average for Medicaid and the program has one of the highest numbers of SCD patients in the U.S., indicating a disproportionate impact from a national perspective. The program's SCD population was predominately female (58 percent), young (median age 18 years), and Black (63 percent). Geographically, the highest number of Medicaid SCD patients live in Central and South Florida.

Further, the report states that over the last four years, nearly all Medicaid SCD patients were evaluated at least once by a physician, 85 percent were evaluated and treated in an outpatient clinic, 61 percent were treated in the ER, and 52 percent were hospitalized. Stroke screening with transcranial doppler ultrasound in Medicaid children and adolescents with SCD was very low. SCD-relevant medications were prescribed and filled in 77 percent of Medicaid SCD patients. Guideline-recommend treatments with penicillin or hydroxyurea were observed in 58 percent or 22 percent, respectively, of program SCD patients, indicating a gap between use and evidence-based treatments. Newer therapies with L-glutamine, voxelotor, or crizanlizumab have been used in the program's SCD population, albeit at low utilization. Supportive care with iron chelating agents or opioids have also been used in the program's SCD population, at low utilization.

Among medical services in the program, the highest expenditure was inpatient hospitalization, although this amount has decreased each year for the past four years. The total expenditures for program recipients with SCD in calendar year 2021 was over \$91 million, which averaged approximately \$4,500 per person with SCD. In comparison, this per capita Medicaid SCD spending was below the amount spent on Medicaid recipients with diabetes in State Fiscal Year 2020-2021, despite SCD having higher morbidity and mortality. Within the Medicaid SCD population, 54 percent were determined high-utilizers of acute care facilities. Their expenditures made up 70 percent of the total cost of care for the SCD population. There was slightly higher prevalence of high-utilizers in West Florida compared to other regions. Clinical treatment centers specializing in SCD were identified in Florida and found predominantly in Central and South Florida.

⁶ See Chapter 2022-156, Laws of Fla., Specific Appropriation 189.

⁷ See Agency for Health Care Administration, *Florida Medicaid Study of Enrollees with Sickle Cell Disease*, available at [Florida Medicaid Study of Enrollees with Sickle Cell Disease.pdf \(myflorida.com\)](https://myfloridaclear.com/Florida-Medicaid-Study-of-Enrollees-with-Sickle-Cell-Disease.pdf) (last visited Mar. 29, 2023).

Office of Minority Health and Equity

The Office of Minority Health and Health Equity is established in the Department of Health (DOH).⁸ It is responsible for developing and promoting the statewide implementation of policies, programs, and practices that increase health equity in this state, including, but not limited to, increased access to, and quality of health care services for, racial and ethnic minority populations.

Rare Disease Advisory Council

Florida's Rare Disease Advisory Council (RDAC) was established in 2021, in s. 381.99, F.S., to assist the DOH in providing recommendations to improve health outcomes for individuals residing in this state who have a rare disease.⁹ Rare diseases include genetic disorders, infectious diseases, cancers, and other various pediatric and adult conditions. SCD is classified as a genetic and rare disease.¹⁰

The RDAC is composed of representatives from state agencies, health care providers, researchers, advocacy groups, insurance and pharmaceutical industries, as well as individuals with rare diseases and caregivers of individuals with rare diseases.¹¹ Council members hold a shared vision: to improve health outcomes for individuals residing in Florida who have rare diseases.¹²

III. Effect of Proposed Changes:

Section 1 creates s. 383.147, F.S., to require the Department of Health (DOH) to contract with a community-based sickle cell disease (SCD) medical treatment and research center to establish and maintain a registry to track outcome measures of newborns who are identified as carrying a sickle cell hemoglobin variant. The bill requires a screening provider to notify the primary care physician of an infant who tests positive for sickle cell hemoglobin variant and to submit the results of the screening to the DOH for inclusion in the sickle cell registry. The primary care physician must provide information on the availability and benefits of genetic counseling to the parent or guardian of the newborn.

The bill requires the DOH to establish a system to ensure that the sickle cell research center notifies the parent or guardian of a child included in the registry that a follow-up consultation with a physician is recommended, at least once during early adolescence and once during late adolescence. The bill also requires the DOH to provide individuals who are 18 years of age and that are included in the registry with information regarding available educational services, genetic counseling, and other beneficial resources.

⁸ Section 20.43(9), F.S.

⁹ See Department of Health, *Rare Disease Advisory Council*, available at <https://www.floridahealth.gov/provider-and-partner-resources/rdac/index.html> (last visited Mar. 31, 2023).

¹⁰ See NIH National Center for Advancing Translational Sciences, *Genetic and Rare Diseases Information Center*, available at <https://rarediseases.info.nih.gov/diseases?category=&page=1&letter=&search=sickle%20cell> (last visited Mar. 31, 2023).

¹¹ A list of the council members as of July 1, 2022, is available in the Rare Disease Advisory Council Annual Report dated July 1, 2022, available at https://www.floridahealth.gov/provider-and-partner-resources/rdac/documents/Rare-Disease-Advisory-Council-Legislative-Report_2022.pdf (last visited Mar. 31, 2023).

¹² *Id.* Executive Summary.

The bill provides rulemaking authority to the DOH to create the registry and requires the DOH to adopt rules to establish a process for removing individuals from the registry.

Section 2 creates s. 409.91235, F.S., to require the Agency for Health Care Administration (AHCA), in consultation with the Florida Medical Schools Quality Network and a dedicated SCD medical treatment and research center that maintains a sickle cell patient database and tracks SCD outcome measures, to biannually conduct a review and develop a written report that details the review findings.

The objective of the review is to determine whether available covered medications, treatment, and services are adequate to meet the needs of Medicaid enrollees diagnosed with SCD and whether the AHCA should seek coverage of additional medications, treatment, or services.

The first report is due November 1, 2024, and by November 1 of every other year thereafter, and reports are to be submitted to the Governor, President of the Senate, Speaker of the House of Representatives, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council, and published by the AHCA on a publicly accessible website.

The bill also requires the AHCA to assess their existing Medicaid payment methodologies for approved SCD treatments and medications in the inpatient setting and whether such payment methodologies result in barriers to access. If barriers to access are identified, the AHCA must assess whether the payment methodologies may be modified or improved.

Section 3 authorizes \$250,000 in nonrecurring funds from the General Revenue Fund to the DOH to contract with a community-based SCD medical treatment and research center to establish and maintain the sickle cell registry.

Section 4 provides an effective date of July 1, 2023.

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:

The Department of Health (DOH) indicates it will need \$3,096,181 in recurring general revenue funds to meet the requirements of the bill, including but not limited to:

- One (1) full-time equivalent (FTE) position with associated salary rate of 59,776, and \$85,152 in salary and benefits.
- \$2,750,000 to contract with a vendor for the sickle cell registry.
- \$250,000 to contract with a vendor for a sickle cell campaign.¹³

For Fiscal Year 2023-2024, the bill authorizes \$250,000 in nonrecurring funds from the General Revenue Fund to the DOH to contract with a community-based sickle cell disease medical treatment and research center to establish and maintain the sickle cell registry.

The Agency for Health Care Administration (AHCA) may incur costs to conduct the review and develop the report every two years. The AHCA has not provided an estimate of CS/SB 1352's fiscal impact, but was appropriated \$250,000 in nonrecurring general revenue funds in Fiscal Year 2022-2023 for a comparable review and report.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 383.147 and 409.91235.

¹³ Email from the Department of Health to Senate Appropriations Committee on Health and Human Services (Apr. 10, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

¹⁴ Chapter 2022-156, Specific Appropriation 189.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute:

- Requires the Department of Health (DOH) to contract with a community-based sickle cell disease (SCD) medical treatment and research center to establish and maintain a registry, which tracks SCD outcome measures, for newborns who are identified as carrying a sickle cell hemoglobin variant.
- Requires a screening provider to notify the primary care physician of an infant who tests positive for sickle cell hemoglobin variant and to submit the results of the screening to the DOH for inclusion in the sickle cell registry.
- Requires the primary care physician to provide the parent or guardian of the newborn or infant information regarding the availability and benefits of genetic counseling.
- Requires the DOH to:
 - Adopt a rule to create a process for a parent or guardian of a newborn to request to have their child removed from the registry.
 - Establish a system to ensure that the sickle cell research center notifies the parent or guardian of a child included in the registry that a follow-up consultation with a physician is recommended, at least once during early adolescence and once during late adolescence.
 - Make every reasonable effort to notify individuals who are 18 years of age that they may be removed from the registry, and requires the DOH to adopt a rule to create a process for such notification.
 - Provide individuals who are 18 years of age and that are included in the registry with information regarding available educational services, genetic counseling, and other beneficial resources.
- Provides rulemaking authority to the DOH.
- Requires the Agency for Health Care Administration (AHCA) to consult with the Florida Medical Schools Quality Network and a dedicated SCD medical treatment and research center that maintains a sickle cell database and tracks SCD outcomes for the bill's underlying biannual review and written report.
- Authorizes \$250,000 in nonrecurring funds from the General Revenue Fund to the DOH to contract with a community-based SCD medical treatment and research center to establish and maintain the sickle cell registry.

B. Amendments:

None.



678952

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 383.147, Florida Statutes, is created to
read:

383.147 Newborn and infant screenings for sickle cell
hemoglobin variants; registry.—

(1) If a screening provider detects that a newborn or an
infant, as those terms are defined in s. 383.145(2), is carrying



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a sickle cell hemoglobin variant, it must notify the primary care physician of the newborn or infant and submit the results of such screening to the Department of Health for inclusion in the sickle cell registry established under paragraph (2)(a). The primary care physician must provide to the parent or guardian of the newborn or infant information regarding the availability and benefits of genetic counseling.

(2)(a) The Department of Health shall contract with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry for newborns and infants who are identified as carrying a sickle cell hemoglobin variant. The sickle cell registry must track sickle cell disease outcome measures. A parent or guardian of a newborn or an infant in the registry may request to have his or her child removed from the registry by submitting a form prescribed by the department by rule.

(b) The Department of Health shall also establish a system to ensure that the community-based sickle cell disease medical treatment and research center notifies the parent or guardian of a child who has been included in the registry that a follow-up consultation with a physician is recommended. Such notice must be provided to the parent or guardian of such child at least once during early adolescence and once during late adolescence. The department shall make every reasonable effort to notify persons included in the registry who are 18 years of age that they may request to be removed from the registry by submitting a form prescribed by the department by rule. The department shall also provide to such persons information regarding available educational services, genetic counseling, and other beneficial



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resources.

(3) The Department of Health shall adopt rules to implement this section.

Section 2. Section 409.91235, Florida Statutes, is created to read:

409.91235 Agency review and report on medications, treatments, and services for sickle cell disease.—

(1) The Agency for Health Care Administration, in consultation with the Florida Medical Schools Quality Network and a dedicated sickle cell disease medical treatment and research center that maintains a sickle cell patient database and tracks sickle cell disease outcome measures, shall, every 2 years:

(a) Conduct a review to determine whether the available covered medications, treatments, and services for sickle cell disease are adequate to meet the needs of Medicaid recipients diagnosed with such disease and whether the agency should seek to add additional medications, treatments, or services to improve outcomes.

(b)1. Develop a written report that details the review findings.

2. Beginning November 1, 2024, and by November 1 of every other year thereafter, post the report on the agency's website.

3. Submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Department of Health's Office of Minority Health and Health Equity, and the Rare Disease Advisory Council.

(2)(a) The report developed under subsection (1) must be based on the data collected from the prior 2 years and must



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include any recommendations for improvements in the delivery of and access to medications, treatments, or services for Medicaid recipients diagnosed with sickle cell disease.

(b) The report must provide detailed information on Medicaid recipients diagnosed with sickle cell disease, including:

1. The total number of Medicaid recipients diagnosed with sickle cell disease.

2. The age and population demographics of the Medicaid recipients diagnosed with sickle cell disease.

3. The health care utilization patterns and total expenditures, both pharmaceutical and medical, for services provided by Medicaid for all Medicaid recipients diagnosed with sickle cell disease.

4. The number of Medicaid recipients diagnosed with sickle cell disease within the general sickle cell patient population who have experienced two or more emergency room visits or two or more hospital inpatient admissions in a 12-month period, including length of stay, and the expenditures, both pharmaceutical and medical, for those Medicaid recipients.

5. The number of clinical treatment programs available for the care of Medicaid recipients diagnosed with sickle cell disease which are specifically designed or certified to provide health care coordination and health care access for individuals diagnosed with sickle cell disease and the number of those clinical treatment programs, per region, with which managed care plans have contracted.

6. An assessment of the agency's existing payment methodologies for approved treatments or medications for the



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treatment of sickle cell disease in the inpatient setting and
whether such payment methodologies result in barriers to access.
If barriers to access are identified, the report must include an
assessment of whether such methodologies may be modified or
improved through the adoption of new or additional policies.

Section 3. For the 2023-2024 fiscal year, the sum of
\$250,000 in nonrecurring funds from the General Revenue Fund is
appropriated for the Department of Health to contract with a
community-based sickle cell disease medical treatment and
research center to establish and maintain the sickle cell
registry established under s. 383.147, Florida Statutes, as
created by this act.

Section 4. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to sickle cell disease medications,
treatment, and screening; creating s. 383.147, F.S.;
requiring newborn and infant screening providers to
notify primary care physicians of newborns and infants
of certain screening results and to submit the results
to the Department of Health for a specified purpose;
requiring such physicians to provide certain
information to parents and guardians of such newborns
or infants; requiring the department to contract with
a certain center to establish and maintain a sickle



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cell registry; providing a requirement for the
registry; authorizing parents and guardians of
children in the registry to request to have them
removed from the registry; providing duties of the
department and the center; providing requirements for
certain notification that the center must provide to
parents and guardians; requiring the department to
adopt rules; creating s. 409.91235, F.S.; requiring
the Agency for Health Care Administration, in
consultation with certain entities, to review sickle
cell disease medications, treatments, and services for
Medicaid recipients and develop a written report, post
the report on its website, and submit a copy of the
report to the Governor, the Legislature, and certain
entities by a specified date and every 2 years
thereafter; providing requirements for the report;
providing an appropriation; providing an effective
date.

By Senator Rouson

16-01044-23

20231352__

A bill to be entitled

An act relating to Medicaid enrollees with sickle cell disease; creating s. 409.9129, F.S.; requiring the Agency for Health Care Administration to conduct a biennial review of Medicaid enrollees with sickle cell disease to determine if the available covered medications, treatment, and services are adequate to meet their needs; providing minimum requirements for the review; requiring the agency to submit a report of its findings to the Governor, the Legislature, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council by a specified date every 2 years; requiring the agency to publish the report on its website in an easily accessible manner; requiring the agency to develop its review and report in consultation with a certain dedicated sickle cell disease medical treatment and research center; providing an effective date.

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

Section 1. Section 409.9129, Florida Statutes, is created to read:

409.9129 Biennial review of Medicaid enrollees with sickle cell disease.—

(1) Every two years, the agency shall conduct a review of Medicaid enrollees to determine if the available covered medications, treatment, and services are adequate to meet the needs of enrollees who are diagnosed with sickle cell disease

16-01044-23

20231352__

and whether the agency should seek coverage of additional medications, treatment, or services to adequately meet their needs.

(2) Using data collected under the Medicaid program from the preceding 2-year period, the agency's review must provide for all of the following, at a minimum:

(a) The total number of Medicaid enrollees diagnosed with sickle cell disease.

(b) The age and other demographic characteristics of Medicaid enrollees diagnosed with sickle cell disease.

(c) Health care utilization patterns and total expenditures, both pharmaceutical and medical, for services provided by the Medicaid program for all enrollees diagnosed with sickle cell disease.

(d) Of the enrollees diagnosed with sickle cell disease, the number of enrollees who experienced two or more emergency room visits or two or more hospital inpatient admissions in a 12-month period, including the length of stay and the total related expenditures, both medical and pharmaceutical, for those enrollees.

(e) The number of clinical treatment programs available for the care of Medicaid enrollees which are specifically designed or certified to provide health care coordination and health care access for individuals with sickle cell disease and the number of those clinical treatment programs contracted, per region, with managed care plans.

(f) An assessment of the agency's existing payment methodologies for approved treatment or drug products for the treatment of sickle cell disease in the inpatient setting and

16-01044-23 20231352__

whether such payment methodologies result in barriers to access.
If barriers to access are identified, an assessment of whether
such methodologies may be modified or improved through the
adoption of revised or new policies.

(3) By November 1, 2024, and every 2 years thereafter, the
agency shall submit a report of its findings and recommendations
from the preceding 2-year review to the Governor, the President
of the Senate, the Speaker of the House of Representatives, the
Office of Minority Health and Health Equity, and the Rare
Disease Advisory Council. The agency shall also publish the
report on its website in a manner easily accessible by the
public.

(4) The agency shall develop its review and report in
consultation with a dedicated sickle cell disease medical
treatment and research center that maintains a sickle cell
patient database and tracks sickle cell disease outcome
measures.

Section 2. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

April 4, 2023

Senator Gayle Harrell
Chair, Appropriations Committee on Health and Human Services
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Harrell,

I write today respectfully requesting that SB 1352, Medicaid Enrollees with Sickle Cell Disease, be added to the agenda of a forthcoming meeting of the Appropriations Committee on Health and Human Services for consideration. I look forward to the opportunity to present SB 1352 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/12/23

Meeting Date

1352

Bill Number or Topic

Health and Human
Services Appropriations
Committee

Committee

Amendment Barcode (if applicable)

Name

Crystal Stickle

Phone

850 445 4544

Address

Street

Email

crystal@magnoliaadvice
llc.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:

Vertex

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 1408

INTRODUCER: Appropriations Committee on Health and Human Services; Health Policy Committee;
and Senator Davis

SUBJECT: Sick Cell Program

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	Fav/CS
2.	Howard	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1408 establishes a grant program within the Department of Health (department) for the prevention, care, and treatment of sickle cell disease (SCD) and sickle cell trait or sickle cell trait carriers and for community-based educational programs concerning the prevention, care, and treatment of the disease. The act is named the “Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act.”

The department must develop application criteria and standards of eligibility for funds under the grant program. The bill directs that priority for grant awards be given to established SCD and sickle cell trait or sickle cell trait carrier community-based applicants throughout the state. Further priority must be given to ensuring the establishment of SCD and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of SCD and sickle cell trait or sickle cell trait carrier patients.

The department is also tasked with conducting a study to determine the prevalence, impact, and needs of patients diagnosed with SCD or sickle cell trait or sickle cell trait carriers in this state.

The bill is estimated to have a significant negative fiscal impact on the department requiring four additional positions and \$3.5 million in General Revenue funding. See Section V. of this analysis.

The bill takes effect July 1, 2023.

II. Present Situation:

Sickle Cell Disease and Sickle Cell Trait

Sickle cell disease is a group of inherited red blood cell disorders. Red blood cells contain hemoglobin, a protein that carries oxygen. Healthy red blood cells are round, and they move through small blood vessels to carry oxygen to all parts of the body. In someone who has SCD, the hemoglobin is abnormal, which causes the red blood cells to become hard and sticky and look like a C-shaped farm tool called a sickle. The sickle cells die early, which causes a constant shortage of red blood cells. Also, when they travel through small blood vessels, they get stuck and clog the blood flow. This can cause pain and other serious health complications such as infection, acute chest syndrome, and stroke.¹

The exact number of people living with SCD in the U.S. is unknown. The U.S. Centers for Disease Control and Prevention (CDC) estimates:²

- SCD affects approximately 100,000 Americans.
- SCD occurs among about one out of every 365 Black or African-American births.
- SCD occurs among about one out of every 16,300 Hispanic-American births.
- Roughly 7.7 percent of Black or African-American babies are born with sickle cell trait (SCT).

There are several types of SCD. The specific type a person has depends on the genes they inherited from their parents. People with SCD inherit genes that contain instructions, or code, for abnormal hemoglobin. The most common types of SCD include:³

- HbSS. People who have this form of SCD inherit two genes, one from each parent, that code for hemoglobin “S.” Hemoglobin S is an abnormal form of hemoglobin that causes the red cells to become rigid, and sickle shaped. This is commonly called *sickle cell anemia* and is usually the most severe form of the disease.
- HbSC. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for a different type of abnormal hemoglobin called “C” from the other parent. This is usually a milder form of SCD.
- HbS beta thalassemia. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for beta thalassemia, another type of hemoglobin abnormality, from the other parent. There are two types of beta thalassemia: “zero” (HbS beta⁰) and “plus” (HbS beta⁺). Those with HbS beta⁰-thalassemia usually have a severe form of SCD. People with HbS beta⁺-thalassemia tend to have a milder form of SCD.

¹ Centers for Disease Control and Prevention, Sickle Cell Disease available at: <https://www.cdc.gov/ncbddd/sicklecell/facts.html#:~:text=In%20someone%20who%20has%20SCD,shortage%20of%20red%20blood%20cells>. (last visited March 29, 2023)

² Centers for Disease Control and Prevention, Data and Statistics on Sickle Cell Disease, available at: <https://www.cdc.gov/ncbddd/sicklecell/data.html> (last visited March 29, 2023).

³ *Id.*

There also are a few rare types of SCD, such as HbSD, HbSE, and HbSO. People who have these forms of SCD inherit one hemoglobin “S” gene and one gene that codes for another abnormal type of hemoglobin (“D”, “E”, or “O”). The severity of these rarer types of SCD varies.

SCD is diagnosed with a simple blood test. In children born in the U.S., it most often is found at birth during routine newborn screening tests at the hospital. In addition, SCD can be diagnosed while the baby is in the womb. Because children with SCD are at an increased risk of infection and other health problems, early diagnosis and treatment are important.

People with SCD may start to have signs of the disease during the first year of life, usually around five months of age. Symptoms and complications of SCD are different for each person and can range from mild to severe.

Management of SCD is focused on preventing and treating pain episodes, anemia, and other complications. Prevention strategies include lifestyle behaviors as well as medical screening and interventions to prevent SCD complications. Lifestyle behaviors might include drinking plenty of water and avoiding getting too hot or cold, high altitudes, or extreme exertion. Vaccines can prevent against harmful infections. Other intervention strategies might include prevention of severe anemia through blood transfusions which has its own set of complications such as iron overload that can cause life-threatening damage to the liver, heart, and other organs.

SCD is a disease that worsens over time. Currently the Food and Drug Administration (FDA) has approved four treatments. However, the only therapy approved by the FDA that may be able to cure SCD is a bone marrow or stem cell transplant, which can be very risky.⁴

Sickle cell trait (SCT) presents itself in people who inherit one sickle cell gene and one normal gene. People with SCT usually do not have any symptoms of SCD, although in rare cases they might experience complications of SCD. A person with SCT can pass the trait on to their children. SCT is diagnosed with a blood test.⁵

Florida’s Sickle Cell Program

The Sickle Cell Program is found in s. 381.815, F.S. Under this section, the department is required, to the extent that resources are available, to provide education to Floridians about SCD, work cooperatively with not-for-profit centers to provide community-based education, patient teaching and counseling, and to encourage diagnostic screening. The department is directed to make grants or enter into contract with not-for-profit centers.

Office of Minority Health and Health Equity

The Office of Minority Health and Health Equity within the department is responsible for developing and promoting the statewide implementation of policies, programs, and practices that increase health equity in this state, including, but not limited to, increased access to, and quality of health care services for, racial and ethnic minority populations. As a part of this responsibility,

⁴ Center for Disease Control and Prevention, <https://www.cdc.gov/ncbddd/sicklecell/facts.html> (last visited March 29, 2023).

⁵ Centers for Disease Control and Prevention, Sickle Cell Trait available at: <https://www.cdc.gov/ncbddd/sicklecell/traits.html> (last visited March 29, 2023)

the department administers the Closing the Gap grant program found in s. 381.7353, F.S. A Closing the Gap grant proposal must address one or more of 12 priority areas. One of those areas is decreasing racial and ethnic disparities in morbidity and mortality rates relating to SCD.

Closing the Gap grants are awarded on a match basis with one dollar in local matching funds required for each three dollars in grant payment from the state. Exceptions are based on population in which case in-kind contributions may be used to offset some or all of the required match and grant awards to Front Porch Florida Communities are exempt from providing a match.⁶

The amount of a grant award is based on the merits of the application. Awards are made on an annual basis and may be renewed upon application and approval by the department, subject to the achievement of quality standards, objectives, and outcomes and to the availability of funds. The Closing the Gap grant program is subject to a specific appropriation provided in the General Appropriations Act.⁷

The 2022-2023 General Appropriations Act provided \$283,860 to the Sickle Cell Disease Association of Florida, Inc. – Sickle Cell Outreach⁸ and \$3 million to the Foundation for Sickle Cell Disease Research.⁹

III. Effect of Proposed Changes:

The act is named the “Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act.”

The bill amends s. 381.815, F.S., by rewriting subsection (3) of that statute to establish a grant program to be administered by the department for the prevention, care, and treatment of SCD and sickle cell trait or sickle cell trait carriers and for community-based educational programs concerning the disease. All grant funds issued under the bill must be used for these purposes. The educational programs must include an outreach program that provides for the dissemination of information relating to the prevention, care, and treatment of SCD and sickle cell trait or sickle cell trait carriers.

The bill directs the department to develop application criteria and standards of eligibility for groups or organizations. Established SCD and sickle cell trait or sickle cell trait carrier community-based applicants must be given priority. Further priority must be given to ensuring the establishment of SCD and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of SCD and sickle cell trait or sickle cell trait carrier patients.

The department is also tasked under the bill with conducting a study to determine the prevalence, impact and needs of patients diagnosed with SCD or sickle cell trait or sickle cell trait carriers in this state.

⁶ See s. 381.7356(2), F.S.

⁷ See s. 381.7356(6) and (7), F.S.

⁸ See HB 5001 (2022) General Appropriations Act at line 524.

⁹ See HB 5001 (2022) General Appropriations Act at line 476.

The department is directed to adopt rules necessary to implement the bill's provisions.

The bill takes effect July 1, 2023.

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:

The Department of Health projects it will need four full-time equivalent (FTE) positions and \$3,531,944 in additional General Revenue appropriation will be needed to establish the Sickle Cell Prevention, Care, and Treatment Act. This additional appropriation includes \$3,512,588 in recurring funding and \$19,356 in nonrecurring funding. The funding includes \$362,409 for Salaries and Benefits including 254,410 in salary rate authority, \$68,168 for operating Expenses, \$1,367 for Human Resources Outsourcing, and \$3,100,000 for Contracted Services.

The Contracted Services funding includes \$2,500,000 for the Sickle Cell Grant Program for Prevention, Care and Treatment contracts (assuming 10 contracts at \$250,000 each), \$300,000 for a Sickle Cell Study, and \$300,000 for a Sickle Cell Campaign. .¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.815 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.)

CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute eliminates a technical deficiency by removing catchline language from the bill referencing a voluntary registry. The requirement to develop a sickle cell disease registry was removed from the bill.

CS by Health Policy on April 4, 2023:

The CS expands the scope of the bill to include sickle cell trait and sickle cell trait carriers. The CS also removes from the underlying bill a duty for the department to develop and maintain a voluntary sickle cell disease registry for persons diagnosed with sickle cell disease.

B. Amendments:

None.

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

¹⁰ Email from the Department of Health to the Senate Appropriations Committee on Health and Human Services, April 3, 2023, (on file with the Senate Appropriations Committee on Health and Human Services).



125072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
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	.	
	.	

The Appropriations Committee on Health and Human Services
(Davis) recommended the following:

Senate Amendment

Delete lines 23 - 24
and insert:
381.815 Sickle cell ~~Sickle-cell~~ program.—The Department of
Health shall, to the extent that

By the Committee on Health Policy; and Senator Davis

588-03491-23

20231408c1

A bill to be entitled

An act relating to the sickle cell program; providing a short title; amending s. 381.815, F.S.; requiring the Department of Health to establish a grant program for the prevention, care, and treatment of sickle cell disease and sickle cell trait or sickle cell trait carriers and for certain educational programs; requiring the department to develop application criteria and standards of eligibility for grants under the program; requiring the department to ensure that grant funds are used for specified purposes; requiring the department to conduct a specified study; requiring the department to adopt rules; providing an effective date.

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

Section 1. This act may be known as the "Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act."

Section 2. Subsections (1) and (3) of section 381.815, Florida Statutes, are amended to read:

381.815 Sickle cell ~~Sickle-cell~~ program; voluntary registry.—The Department of Health shall, to the extent that resources are available:

(1) Provide education to the citizens of Florida about sickle cell ~~sickle-cell~~ disease.

(3)(a)1. Establish a grant program for the prevention, care, and treatment of sickle cell disease and sickle cell trait

588-03491-23

20231408c1

or sickle cell trait carriers and for community-based educational programs concerning the disease.

2. The community-based educational programs shall include an outreach program that provides for the dissemination of information relating to the prevention, care, and treatment of sickle cell disease and sickle cell trait or sickle cell trait carriers.

(b) Develop application criteria and standards of eligibility for applicants for funds under the grant program.

1. Groups or organizations that meet the eligibility standards developed by the department may apply for funds under the program.

2.a. Priority for grants shall be given to established sickle cell disease and sickle cell trait or sickle cell trait carrier community-based applicants throughout this state.

b. Further priority shall be given to ensuring the establishment of sickle cell disease and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of sickle cell disease and sickle cell trait or sickle cell trait carrier patients.

(c) Require that all program grant funds be used for the purpose of prevention, care, and treatment of sickle cell disease or sickle cell trait or sickle cell trait carriers or for educational programs concerning the disease.

(d) Conduct a study to determine the prevalence, impact, and needs of patients diagnosed with sickle cell disease or sickle cell trait or sickle cell trait carriers in this state.

(e) Adopt rules necessary to implement this subsection ~~Make grants or enter into contracts with not-for-profit centers.~~

588-03491-23

20231408c1

59

Section 3. This act shall take effect July 1, 2023.

Howard, Jay

From: Freidin, Ashley E <Ashley.Freidin@flhealth.gov>
Sent: Monday, April 3, 2023 10:14 AM
To: Howard, Jay
Cc: Gentle, Ty
Subject: RE: Fiscal Impact to DOH
Attachments: 2023-24 Bill Analysis - SB 1408.xlsx

Hi Jay,

This is from our Legislative Tracking System for Bill SB 1408. I will send SB 1338 in a few minutes.

Passage of this bill will require four (4) Full Time Equivalents (FTEs) and recurring/non-recurring expenditures in the following categories:

Salary and Benefits category(010000): \$362,409/Recurring
Units of Associated Salary Rate: 254,410/Recurring
Expense category (040000): \$68,168 | \$48,812 Recurring / \$19,356 Non-Recurring
Contracted Services category (100777): \$3,550,000 Recurring
Human Resources Outsourcing category (107040): \$1,367 Recurring

Thank you,

Ashley E. Freidin

Chief of Budget
Florida Department of Health
850-245-4539 (O)
850-661-3400 (C)
[Customer Service Survey](#)

From: Gentle, Ty <Ty.Gentle@flhealth.gov>
Sent: Monday, April 3, 2023 9:43 AM
To: Freidin, Ashley E <Ashley.Freidin@flhealth.gov>
Subject: Fwd: Fiscal Impact to DOH

Ashley, please send Jay the version that's on the bill tracking system.

Ty R. Gentle, Director
Office of Budget and Revenue Management
Florida Department of Health
850-661-6151

From: Howard, Jay <Jay.Howard@LASPBS.STATE.FL.US>
Sent: Monday, April 3, 2023 8:56:24 AM
To: Gentle, Ty <Ty.Gentle@flhealth.gov>; Freidin, Ashley E <Ashley.Freidin@flhealth.gov>
Subject: FW: Fiscal Impact to DOH

BILL ANALYSIS WORKSHEET
FTE Worksheet

SB 1408
Sickle Cell
Program
Worksheet

	FTE	Bi-Weekly Payroll	Annualized Salary	Annual Salary	Fringe @ 43%	Year 1 Total Sal and Fr	25% Lapse	Year 1-if lapsed Adjusted Sal & Fr	Year 2 Total Sal and Fr
SALARY AND FRINGE									
PG 15 & Below Non-professional (Please calculate bi-weekly salaries at mid-point of salary range)			Per FTE						
Enter Paygrade	0.00		-	-	-	-	-	-	-
Enter Paygrade	0.00		-	-	-	-	-	-	-
Enter Paygrade	0.00		-	-	-	-	-	-	-
Total Non-professional	0.00								
PG 16 & Up Professional (Please calculate bi-weekly salaries at mid-point of salary range)									
SENIOR PROGRAM ANALYST (027)	1.00	\$ 3,053.78	79,398.28	79,398.28	34,141.26	113,540	28,384.89	85,155	113,540
ENVIRONMENTAL EPIDEMIOLOGIST (024)	1.00	\$ 2,604.07	67,705.82	67,705.82	29,113.50	96,819	24,204.83	72,614	96,819
GOVERNMENT ANALYST I (022)	1.00	\$ 2,290.25	59,546.50	59,546.50	25,605.00	85,151	21,287.87	63,864	85,151
ADMINISTRATIVE ASSISTANT II (018)	1.00	\$ 1,799.31	46,782.06	46,782.06	20,116.29	66,898	16,724.59	50,174	66,898
Total Professional	4.00					362,409		271,807	362,409
OPS (from OPS worksheet)	0.00								
Total Salary and Fringe	4.00					362,409		271,807	362,409
Non-Recurring Expense									
Non-professional			FTE	Standard					
Professional			4.00	4,839	19,356				
Total Non-Recurring Expense			4.00		19,356				
Other Non-recurring (need details/explanation-example Computer Software Purchase)									
Other Expenses - Non-Recurring									
Other Expenses - Non-Recurring									
Total Non-recurring						19,356			
Recurring Expense									
Non-professional (no travel)									
Professional			4.00	7,433	29,732			29,732	29,732
Total Regular Expense Standard			4.00		29,732			29,732	29,732
Recurring Professional Travel Standard									
Maximum Travel			1.00	13,512	13,512			13,512	13,512
Medium Travel			-	9,606	-			-	-
Limited Travel			1.00	5,568	5,568			5,568	5,568
Total Recurring Expense Standard for Travel			2.00		19,080			19,080	19,080
Total Recurring Expense Standard						48,812		48,812	48,812
Other recurring expense (need details/explanation - example TV/Radio/Billboard Advertising)									
Sickle Cell Study: 1 contract @ 300,000						300,000		300,000	300,000
Sickle Cell Registry : 1 contract @ \$450,000						450,000		450,000	450,000
Sickle Cell Grant Program for Prevention, Care and Treatment: 10 contracts @ \$250,000 each						2,500,000		2,500,000	2,500,000
Sickle Cell Campaign: 1 contract @ \$300,000						300,000		300,000	300,000
Other Expenses - Recurring						-		-	-
Total Recurring Expenses						3,598,812		3,598,812	3,598,812
HR Outsourcing (107040)									
FTE			4.00	341.56	1,366.24			1,366.24	1,366.24
CHD			-	217.30	-			-	-
OPS			-	97.61	-			-	-
			4.00		1,367.00			1,367.00	1,367.00
Total Recurring with HR Outsourcing						3,962,588		3,871,986	3,962,588
Total Non-recurring & Recurring						3,981,944		3,871,986	3,962,588



The Florida Senate

Committee Agenda Request

To: Senator Gayle Harrell, Chair
Appropriations Committee on Health and Human Services

Subject: Committee Agenda Request

Date: April 4, 2023

I respectfully request that **Senate Bill #1408**, relating to sickle cell program, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

A handwritten signature in blue ink, appearing to read "Tracie Davis", is written over a horizontal line.

Senator Tracie Davis
Florida Senate, District 5

4/12/2023

Meeting Date

Appropriations

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1408 16

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-855-7604

Address

1747 Orlando Central PKwy

Street

Orlando FL 32809

City

State

Zip

Email

vp.education@florida
pta.org

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒

In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/SB 1412

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Bradley

SUBJECT: Mental Health

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>Barr</u>	<u>Money</u>	<u>AHS</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1412 authorizes the Department of Children and Families (DCF) to issue conditional designations for Baker Act receiving and treatment facilities as an alternative to the suspension or withdrawal of a standard facility designation.

The bill also modifies ch. 916, F.S., regarding competency determination, treatment options, and restoration:

- Requires local sheriffs or the DCF to administer psychotropic medications to forensic clients in jails if clinically indicated prior to their admission to forensic facilities if clinically indicated;
- Requires expert evaluators and courts to consider alternative, community-based treatment options before ordering the placement of a defendant to a forensic facility;
- Requires administrators of forensic facilities to provide notification to courts no more than 60 days, rather than six months as in current law, from the time a defendant is competent to proceed or no longer meets commitment criteria;
- Reduces the maximum amount of time patients may wait to be transported from a forensic facility to the committing jurisdiction once they are competent to proceed or no longer meet commitment criteria, from 30 days to 7 days;
- Requires competency determinations to be made at a competency hearing within 30 days of notification from forensic facilities that patients have gained competency or no longer meet commitment criteria;

- Requires forensic facilities to transfer defendants back to the committing jurisdiction with up to 30 days of medication and assist in discharge planning with medical teams at the receiving county jail; and
- Reenacts and makes conforming changes to several existing sections of statute.

The DCF anticipates the bill will have no fiscal impact on state government. See Section V. of this analysis.

The bill takes effect on July 1, 2023.

II. Present Situation:

Receiving and Treatment Facilities

The Department of Children and Families (DCF) is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designations for failure to comply with Florida law.¹ A receiving facility is a public or private facility that provides emergency screening, evaluation, and short-term stabilization for mental health or substance abuse disorders.² A treatment facility is a state-owned, state-operated, or state-supported hospital, center, or clinic providing extended treatment and hospitalization of persons who have a mental illness.³ Unless specifically designated by the DCF, facilities are not permitted to hold or treat involuntary patients experiencing a mental health or substance use disorder crisis.⁴

There are currently 126 public and private designated receiving facilities in Florida.⁵

The DCF is also statutorily authorized to adopt rules relating to a number of issues surrounding receiving and treatment facilities, including:

- Procedures and criteria for receiving and evaluating facility applications for designation, which may include onsite facility inspection and evaluation of an applicant's licensing status and performance history, as well as consideration of local service needs;
- Minimum standards that a facility must meet and maintain in order to be designated as a receiving or treatment facility and procedures for monitoring continued adherence to such standards;
- Procedures and criteria for designating receiving systems which may include consideration of the adequacy of services provided by facilities within the receiving system to meet the needs of the geographic area using available resources;
- Procedures for receiving complaints against a designated facility or designated receiving system and for initiating inspections and investigations of facilities or receiving systems alleged to have violated regulatory laws or rules; and

¹ Section 394.461, F.S.

² Section 394.455(13), F.S.

³ Section 394.455(49), F.S.

⁴ Section 394.461, F.S.

⁵ The Department of Children and Families, *SB 1412 Bill Analysis*, March 10, 2023, at p. 2. (on file with the Senate Appropriations Committee on Health and Human Services) (hereinafter cited as, "The DCF Analysis").

- Procedures and criteria for the suspension or withdrawal of designation as a receiving facility or receiving system.⁶

The DCF does not have a licensing mechanism to allow facilities that have outstanding inspection findings or are the subject of an investigation to temporarily operate while under a corrective action plan. Current law only provides the DCF with the authority to suspend or withdraw designations. In circumstances where a provider is the only available public receiving facility in a geographic area, suspending or withdrawing the designation would result in reducing access to crisis care services.⁷

Competency Restoration Treatment and Forensic Facilities

Chapter 916, F.S., governs the state forensic system, which is a network of state facilities and community services for persons who are involved with the criminal justice system and who have mental health issues, an intellectual disability, or autism. Offenders who are charged with a felony and adjudicated incompetent to proceed⁸ and offenders who are adjudicated not guilty by reason of insanity may be involuntarily committed to state civil and forensic treatment facilities by the circuit court,⁹ or in lieu of such commitment, may be released on conditional release¹⁰ by the circuit court if the person is not serving a prison sentence.¹¹ The committing court retains jurisdiction over the defendant while the defendant is under involuntary commitment or conditional release, and a defendant may not be released from either commitment or conditional release except by order of the committing court.¹²

Sections 916.13 and 916.15, F.S., set forth the criteria under which a court may involuntarily commit a defendant charged with a felony who has been adjudicated incompetent to proceed or who has been found not guilty by reason of insanity. Florida law provides for the ability to commit a person under either basis; however, the goals for the commitment are different for each basis of the commitment. Persons committed under s. 916.13, F.S., after an adjudication of incompetency to proceed have a primary goal of restoration of competency; whereas persons who have been found not guilty by reason of insanity who are committed have a primary goal of stabilization and post-hospital planning.

A civil facility is, in part, a mental health facility established within the DCF, or by contract with the DCF, to serve individuals committed pursuant to ch. 394, F.S., and defendants pursuant to ch. 916, F.S., who do not require the security provided in a forensic facility.¹³

A forensic facility is a separate and secure facility established within the DCF or the Agency for Persons with Disabilities (APD) to serve forensic clients committed pursuant to ch. 916, F.S. A

⁶ Section 394.461(6), F.S.

⁷ The DCF Analysis at p. 2.

⁸ “Incompetent to proceed” means “the defendant does not have sufficient present ability to consult with her or his lawyer with a reasonable degree of rational understanding” or “the defendant has no rational, as well as factual, understanding of the proceedings against her or him.” Section 916.12(1), F.S.

⁹ Sections 916.13, 916.15, and 916.302, F.S.

¹⁰ Conditional release is release into the community accompanied by outpatient care and treatment. Section 916.17, F.S.

¹¹ Section 916.17(1), F.S.

¹² Section 916.16(1), F.S.

¹³ Section 916.106(4), F.S.

separate and secure facility means a security-grade building for the purposes of separately housing individuals with mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed from non-forensic residents.¹⁴

Determination of Incompetency

If a defendant is suspected of being incompetent, the court, counsel for the defendant, or the state may file a motion for examination to have the defendant's cognitive state assessed.¹⁵ If the motion is well-founded, the court will appoint experts to evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing.¹⁶ If the defendant is found to be competent, the criminal proceeding resumes.¹⁷ If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.¹⁸

Judicial Determination of Incompetency, Expert Evaluations, and Commitment

A defendant is deemed incompetent to proceed if the defendant does not have sufficient present ability to consult with her or his lawyer with a reasonable degree of rational understanding or if the defendant has no rational, as well as factual, understanding of the proceedings against her or him.¹⁹ A defendant who, because of psychotropic medication,²⁰ is able to understand the nature of proceedings and assist in the defendant's own defense must not automatically be deemed incompetent to proceed simply because the defendant's satisfactory mental functioning is dependent upon such medication.²¹

Section 916.115, F.S., requires courts to appoint no more than three expert evaluators to determine the mental condition of a defendant in a criminal case, including competency to proceed, insanity, involuntary placement, and treatment.²² Mental health experts must first determine whether the defendant has a mental illness and, if so, consider the factors related to the issue of whether the defendant meets the criteria for competence to proceed.²³ A defendant must be evaluated by no fewer than two experts before the court commits the defendant or takes other action, except if one expert finds that the defendant is incompetent to proceed and the parties stipulate to that finding. The court may commit the defendant or take other action without further evaluation or hearing, or the court may appoint no more than two additional experts to evaluate the defendant.²⁴ Notwithstanding any stipulation by the state and the defendant, the court may

¹⁴ Section 916.106(10), F.S.

¹⁵ Rule 3.210, Fla.R.Crim.P.

¹⁶ *Id.*

¹⁷ Rule 3.212, Fla.R.Crim.P.

¹⁸ *Id.*

¹⁹ Section 916.12(1), F.S.

²⁰ "Psychotropic medication" is defined to mean any drug or compound used to treat mental or emotional disorders affecting the mind, behavior, intellectual functions, perception, moods, or emotions and includes antipsychotic, antidepressant, antimanic, and antianxiety drugs. Section 916.12(5), F.S.

²¹ Section 916.12(5), F.S.

²² Section 916.115(1), F.S.

²³ Section 916.12(2), F.S.

²⁴ *Id.*

require a hearing with testimony from the expert or experts before ordering the commitment of a defendant.²⁵

In considering the issue of competence to proceed, an examining expert must first consider and specifically include in his or her report the defendant's capacity to:

- Appreciate the charges or allegations against the defendant;
- Appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the defendant;
- Understand the adversarial nature of the legal process;
- Disclose to counsel facts pertinent to the proceedings at issue;
- Manifest appropriate courtroom behavior; and
- Testify relevantly.²⁶

In addition, an examining expert must consider and include in his or her report any other factor deemed relevant by the expert.²⁷

If an expert finds that the defendant is incompetent to proceed, the expert must report on any recommended treatment for the defendant to attain competence to proceed.²⁸ In considering the issues relating to treatment, the examining expert must specifically report on:

- The mental illness causing the incompetence;
- The treatment or treatments appropriate for the mental illness of the defendant and an explanation of each of the possible treatment alternatives in order of choices;
- The availability of acceptable treatment and, if treatment is available in the community, the expert shall so state in the report;
- The likelihood of the defendant's attaining competence under the treatment recommended;
- An assessment of the probable duration of the treatment required to restore competence; and
- The probability that the defendant will attain competence to proceed in the foreseeable future.²⁹

The statute does not specify the alternative community-based treatment options that should be considered. For Fiscal Year 2022-2023, the DCF reports that it is funding 299 community-based beds for defendants with lesser felony offenses, low symptom acuity, and those who require limited resources. Of those beds, 278 are currently filled. In addition, the DCF reports that it is increasing the number of community-based diversion options to meet anticipated future demand.³⁰

When expert evaluators determine that a person does not meet the established criteria to proceed to trial, and alternative options are not appropriate, a court may commit the defendant to a secure setting to receive intensive behavioral health services, with the goal of competency restoration.³¹

²⁵ *Id.*

²⁶ Section 916.12(3), F.S.

²⁷ *Id.*

²⁸ Section 916.12(4), F.S.

²⁹ *Id.*

³⁰ The DCF Analysis at p. 3

³¹ The DCF Analysis at p. 3.

If a person is committed pursuant to either statute, the administrator at the commitment facility must submit a report to the court:

- No later than six months after a defendant's admission date and at the end of any period of extended commitment; or
- At any time the administrator has determined that the defendant has regained competency or no longer meets the criteria for involuntary commitment.³²

Judicial Procedure for Release and Transportation Back to Committing Jurisdiction

Current law also requires that a competency hearing must be held within 30 days after the court receives notification that a defendant is competent to proceed or no longer meets the criteria for continued commitment.³³ However, many defendants are not being transported back to the committing jurisdiction in a timely manner.³⁴ While patients await transportation back to the county with jurisdiction, they remain at a treatment facility.³⁵ On an average day, there are between 80 and 100 competent individuals in treatment facilities awaiting transportation back to the committing jurisdiction.³⁶ As a result, the waitlist for state mental health services is longer as defendants awaiting transportation are left in state facilities and are occupying beds that could be used by those awaiting treatment.³⁷

While s. 916.13, F.S., requires that a competency hearing be held within 30 days of receiving a competency notification, there are instances in which courts do not make a determination of competency during an initial hearing, resulting in a defendant remaining at a treatment facility for longer than the maximum 30 days required by current law.³⁸ Additionally, in some instances individuals that are transported back to the committing jurisdiction decompensate³⁹ before a determination of competency can be made.⁴⁰

If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it.⁴¹ The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings;

³² Sections 916.13(2)(b) and 916.15(3)(c), F.S. For involuntary commitment of a person under s. 916.15, F.S., the additional report must be submitted prior to the end of any period of extended commitment, rather than "at the end" of the extended commitment.

³³ Sections 916.13(2)(c) and 916.15(5), F.S.

³⁴ The DCF Analysis at p. 4.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Psychiatrists and psychologists use the term "decompensating" to describe worsening symptoms of mental illness. An "episode of decompensation" is a period of significant, often rapid, deterioration in mental health, such as a panic attack. See *Episodes of Decompensation in Mental Illness: Social Security Disability*, available at <https://www.disabilitysecrets.com/mic2.html> (last visited March 14, 2023).

⁴⁰ The DCF Analysis at p. 4.

⁴¹ Sections 916.13(2)(c) and 916.15(5), F.S.

however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.⁴²

State Forensic System – Mental Health Treatment for Criminal Defendants

State Treatment Facilities

State treatment facilities are the most restrictive settings for forensic services. The forensic facilities provide assessment, evaluation, and treatment to the individuals who have mental health issues and who are involved with the criminal justice system.

Mental Health Treatment Facilities

The DCF runs three mental health treatment facilities: the Florida State Hospital (FSH), the Northeast Florida State Hospital (NEFSH), and the North Florida Evaluation and Treatment Center (NFETC).⁴³ The DCF also contracts with a private provider to operate three additional facilities that provide competency restoration treatment and training. The facilities are the South Florida Evaluation and Treatment Center, South Florida State Hospital, and Treasure Coast Treatment Facility which are operated by Wellpath Recovery Solutions (Wellpath). The six facilities have a combined total of 2,129 treatment beds.⁴⁴

As of March 15, 2023, there were a total of 330 individuals on the waitlist for forensic beds at the state's mental health facilities.⁴⁵ Individuals spend 59 days on the waitlist on average.⁴⁶

Rights of Forensic Clients

Section 916.107, F.S., establishes a number of rights for clients of the state's forensic system. Clients with mental illness, intellectual disability, or autism who are charged with committing felonies must receive appropriate treatment or training.⁴⁷ In a criminal case involving a client who has been adjudicated incompetent to proceed or not guilty by reason of insanity, a jail may be used as an emergency facility for up to 15 days following the date the DCF or the APD receives a completed copy of the court commitment order containing all documentation required by the applicable Florida Rules of Criminal Procedure.⁴⁸

For a forensic client who is held in a jail awaiting admission to a facility of the DCF or the APD, evaluation and treatment or training may be provided in the jail by the local community mental health provider for mental health services, by the developmental disabilities program for persons

⁴² *Id.*

⁴³ The DCF, *State Mental Health Treatment Facilities*, available at <https://www2.myflfamilies.com/service-programs/mental-health/state-mental-health-treatment-facilities.shtml> last visited March 14, 2023).

⁴⁴ *Id.*

⁴⁵ The DCF, E-mail from John Paul Fiore, Legislative Affairs Director, *Forensic Bed Waitlist*, March 15, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁶ The DCF, E-mail from John Paul Fiore, Legislative Affairs Director, *Re: SB 1600*, January 29, 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁷ Section 916.107(1)(a), F.S.

⁴⁸ *Id.*

with intellectual disability or autism, the client's physician or psychologist, or any other appropriate program until the client is transferred to a civil or forensic facility.⁴⁹

Clients also have a right to treatment, including the right to be given, at the time of admission and at regular intervals thereafter, a physical examination, which shall include screening for communicable disease by a health practitioner authorized by law to give such screenings and examinations.⁵⁰ Not more than 30 days after admission, each client shall also have and receive, in writing, an individualized treatment or training plan which the client has had an opportunity to assist in preparing.⁵¹

III. Effect of Proposed Changes:

Conditional Designations

Section 1 amends s. 394.461, F.S., authorizing the Department of Children and Families (DCF) to issue conditional designations for up to 60 days in lieu of the suspension or withdrawal of a receiving or treatment facility's designation while under a corrective action plan. This will allow the DCF to work with a facility to correct program deficiencies while the facility continues the examination and treatment of individuals in their care.

Administration of Psychotropic Medications – Rights of Forensic Clients

Section 2 amends s. 916.107, F.S., requiring sheriffs to either administer, or permit the DCF to administer, clinically indicated psychotropic medication to forensic clients held in a jail awaiting admission to a state mental health treatment facility. This will help stabilize defendants and create a smoother transition into the competency restoration process once a defendant is committed to a forensic facility.

Process for Incompetency Determinations, Alternative Treatment Options, and Modified Timelines

Section 3 amends s. 916.12, F.S., requiring examining experts and courts to consider a list of minimum alternative treatment options before ordering a defendant to be placed in a treatment facility. Specifically, the bill requires examining experts to report on the completion of a clinical assessment made by mental health experts appointed to ensure the safety of the patient and the community. Experts must also report on the appropriateness of the following community-based options for treating and supporting the recovery of a patient:

- Mental health services;
- Treatment services;
- Rehabilitative services;
- Support services; and
- Case management services as those terms are defined in s. 394.67(16), F.S., which may be provided by or within:
 - Multidisciplinary community treatment teams;

⁴⁹ *Id.*

⁵⁰ Section 916.107(2)(b), F.S.

⁵¹ Section 916.107(2)(d), F.S.

- Community treatment teams, such as Florida Assertive Community Treatment (FACT) teams;
- Conditional release programs;
- Outpatient services or intensive outpatient treatment programs; and
- Supportive employment and supportive housing opportunities.

The bill also requires the examining expert's report to the court to include a full and detailed explanation of why the alternative treatment options referenced in the evaluation are insufficient to meet the needs of the defendant.

Section 4 amends s. 916.13, F.S., requiring courts to review the examining expert's report to ensure that each of the above-mentioned alternative treatment options are insufficient to meet the defendant's clinical needs when determining if there is clear and convincing evidence that requires the issuance of a commitment order.

The bill requires treatment facilities to send defendant competency evaluation reports to the court within 60 days, instead of six months, after a defendant's admission to the treatment facility.

The bill reduces the maximum amount of time defendants may wait to be transported out of a treatment facility to the committing court's jurisdiction, from 30 days to 7 days, once they have been evaluated competent to proceed or no longer meet commitment criteria. This will require the sheriff or the entity transporting the defendant to the committing jurisdiction to take custody of the defendant within a significantly shorter timeframe. This provision will reduce the likelihood that the defendant will decompensate and will reduce the waitlist for other defendants who are in need of treatment.

The bill requires courts to make a competency determination at a hearing within 30 days of notification from a treatment facility that the defendant is competent to proceed or no longer meets commitment criteria.

Additionally, treatment facilities must discharge the defendant with up to 30 days of medications and assist in discharge planning with medical teams at the receiving county jail. This will ensure the defendant is provided continuity of care when returning back to the committing jurisdiction.

Conforming Changes

Section 5 reenacts s. 394.658(1)(a), F.S., outlining application criteria for one-year planning grants under the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program, for the purposes of incorporating changes made under the act.

Section 6 reenacts s. 916.106(9), F.S., defining "forensic client" and "client" as a defendant who has been committed to the Department of Children and Families or the Agency for Persons with Disabilities, for the purposes of incorporating changes made under the act.

Section 7 reenacts s. 916.17(1) and (2), F.S., relating to conditional release of a defendant in lieu of involuntary commitment, for the purposes of incorporating changes made under the act.

Section 8 provides an effective date of July 1, 2023.

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:

None.

C. Government Sector Impact:

The Department of Children and Families (DCF) states the bill will have no impact on state revenue or expenditures.⁵² The DCF also states that the bill will not have a fiscal impact on local jails, because existing medical and psychiatric resources within jails throughout the state are sufficient to meet the requirements of the bill.⁵³ The agency also anticipates that decreasing the time for transporting defendants will not result in a fiscal impact on sheriffs due to the fact that the total number of transports will not increase.⁵⁴

⁵² The DCF Analysis at p. 6.

⁵³ *Id.*, p. 5.

⁵⁴ *Id.*, p. 6.

The Florida Sheriff's Association anticipates the provisions in the bill that address the delivery of certain psychotropic medications and timelines for transporting a defendant back to the committing jurisdiction will not have a negative fiscal impact on sheriffs.⁵⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.461, 916.107, 916.12, and 916.13.

This bill reenacts the following sections of the Florida Statutes: 394.658, 916.106, and 916.17.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Children, Families, and Elder Affairs on March 20, 2023:

The Committee Substitute changes all instances of the word “patient” in the bill to “defendant” to provide consistency with the rest of ch. 916, F.S.

B. Amendments:

None.

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

⁵⁵ See The Florida Sheriff's Association, E-mail from Allie McNair, Government Affairs Coordinator, *Re: DCF: SB 1412 – FSA Feedback* March 16, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

By the Committee on Children, Families, and Elder Affairs; and
Senator Bradley

586-02750-23

20231412c1

1 A bill to be entitled
2 An act relating to mental health; amending s. 394.461,
3 F.S.; authorizing the Department of Children and
4 Families to issue a conditional designation for up to
5 a certain number of days to allow the implementation
6 of certain corrective measures by receiving
7 facilities, treatment facilities, and receiving
8 systems; amending s. 916.107, F.S.; requiring the
9 sheriff to administer or to permit the department to
10 administer the appropriate psychotropic medication to
11 forensic clients before admission to a state mental
12 health treatment facility; amending s. 916.12, F.S.;
13 revising what an expert is required to specifically
14 report on for recommended treatment for a defendant to
15 attain competence to proceed, if the expert finds that
16 a defendant is incompetent to proceed; providing
17 report requirements; amending s. 916.13, F.S.;
18 revising the circumstances under which every defendant
19 who is charged with a felony and who is adjudicated
20 incompetent to proceed may be involuntarily committed
21 for treatment upon specified findings by the court;
22 requiring a court to review the examining expert's
23 report before issuing a commitment order; decreasing
24 the timeframe in which an administrator or his or her
25 designee is required to file a certain report with the
26 court; requiring that a defendant be transported to
27 the committing court's jurisdiction within a certain
28 number of days after certain occurrences; requiring
29 that the referring mental health facility transfer the

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

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30 defendant with medication and assist in discharge
31 planning with medical teams at the receiving county
32 jail to ensure continuity of care; reenacting ss.
33 394.658(1)(a), 916.106(9), and 916.17(1) and (2),
34 F.S., relating to the Criminal Justice, Mental Health,
35 and Substance Abuse Reinvestment Grant Program
36 requirements; the definition of the term "forensic
37 client" or "client"; and conditional release;
38 respectively, to incorporate the amendment made to s.
39 916.13, F.S., in references thereto; providing an
40 effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 394.461, Florida Statutes, is amended to
45 read:

46 394.461 Designation of receiving and treatment facilities
47 and receiving systems.—The department is authorized to designate
48 and monitor receiving facilities, treatment facilities, and
49 receiving systems and may suspend or withdraw such designation
50 for failure to comply with this part and rules adopted under
51 this part. The department may issue a conditional designation
52 for up to 60 days to allow the implementation of corrective
53 measures. Unless designated by the department, facilities are
54 not permitted to hold or treat involuntary patients under this
55 part.

56 (1) RECEIVING FACILITY.—The department may designate any
57 community facility as a receiving facility. Any other facility
58 within the state, including a private facility or a federal

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facility, may be so designated by the department, provided that such designation is agreed to by the governing body or authority of the facility.

(2) TREATMENT FACILITY.—The department may designate any state-owned, state-operated, or state-supported facility as a state treatment facility. A civil patient ~~may shall~~ not be admitted to a state treatment facility without previously undergoing a transfer evaluation. Before a court hearing for involuntary placement in a state treatment facility, the court shall receive and consider the information documented in the transfer evaluation. Any other facility, including a private facility or a federal facility, may be designated as a treatment facility by the department, provided that such designation is agreed to by the appropriate governing body or authority of the facility.

(3) PRIVATE FACILITIES.—Private facilities designated as receiving and treatment facilities by the department may provide examination and treatment of involuntary patients, as well as voluntary patients, and are subject to all the provisions of this part.

(4) REPORTING REQUIREMENTS.—

(a) A facility designated as a public receiving or treatment facility under this section shall report to the department on an annual basis the following data, unless these data are currently being submitted to the Agency for Health Care Administration:

1. Number of licensed beds.
2. Number of contract days.
3. Number of admissions by payor class and diagnoses.

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4. Number of bed days by payor class.

5. Average length of stay by payor class.

6. Total revenues by payor class.

(b) For the purposes of this subsection, "payor class" means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-pay health insurance, private-pay health maintenance organization, private preferred provider organization, the Department of Children and Families, other government programs, self-pay patients, and charity care.

(c) The data required under this subsection shall be submitted to the department no later than 90 days following the end of the facility's fiscal year.

(d) The department shall issue an annual report based on the data required pursuant to this subsection. The report shall include individual facilities' data, as well as statewide totals. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) RECEIVING SYSTEM.—The department shall designate as a receiving system one or more facilities serving a defined geographic area developed pursuant to s. 394.4573 which is responsible for assessment and evaluation, both voluntary and involuntary, and treatment, stabilization, or triage for patients who have a mental illness, a substance use disorder, or co-occurring disorders. Any transportation plans developed pursuant to s. 394.462 must support the operation of the receiving system.

(6) RULES.—The department may adopt rules relating to:

(a) Procedures and criteria for receiving and evaluating

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facility applications for designation, which may include onsite facility inspection and evaluation of an applicant's licensing status and performance history, as well as consideration of local service needs.

(b) Minimum standards consistent with this part that a facility must meet and maintain in order to be designated as a receiving or treatment facility and procedures for monitoring continued adherence to such standards.

(c) Procedures and criteria for designating receiving systems which may include consideration of the adequacy of services provided by facilities within the receiving system to meet the needs of the geographic area using available resources.

(d) Procedures for receiving complaints against a designated facility or designated receiving system and for initiating inspections and investigations of facilities or receiving systems alleged to have violated the provisions of this part or rules adopted under this part.

(e) Procedures and criteria for the suspension or withdrawal of designation as a receiving facility or receiving system.

Section 2. Subsection (1) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.—

(1) RIGHT TO INDIVIDUAL DIGNITY.—

(a) The policy of the state is that the individual dignity of the client shall be respected at all times and upon all occasions, including any occasion when the forensic client is detained, transported, or treated. Clients with mental illness, intellectual disability, or autism ~~and~~ who are charged with

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committing felonies shall receive appropriate treatment or training. In a criminal case involving a client who has been adjudicated incompetent to proceed or not guilty by reason of insanity, a jail may be used as an emergency facility for up to 15 days following the date the department or agency receives a completed copy of the court commitment order containing all documentation required by the applicable Florida Rules of Criminal Procedure. For a forensic client who is held in a jail awaiting admission to a facility of the department or agency, evaluation and treatment or training may be provided in the jail by the local community mental health provider for mental health services, by the developmental disabilities program for persons with intellectual disability or autism, the client's physician or psychologist, or any other appropriate program until the client is transferred to a civil or forensic facility. The sheriff shall administer or permit the department to administer the appropriate psychotropic medication to a forensic client before his or her admission to a state mental health treatment facility.

(b) Forensic clients who are initially placed in, or subsequently transferred to, a civil facility as described in part I of chapter 394 or to a residential facility as described in chapter 393 shall have the same rights as other persons committed to these facilities for as long as they remain there.

Section 3. Subsection (4) of section 916.12, Florida Statutes, is amended to read:

916.12 Mental competence to proceed.—

(4) If an expert finds that the defendant is incompetent to proceed, the expert shall report on any recommended treatment

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for the defendant to attain competence to proceed. In considering the issues relating to treatment, the examining expert shall specifically report on all of the following:

(a) The mental illness causing the incompetence. ~~+~~

(b) The completion of a clinical assessment by approved mental health experts trained by the department to ensure the safety of the defendant and the community.

(c) The treatment or treatments appropriate for the mental illness of the defendant and an explanation of each of the possible treatment alternatives, including, at a minimum, mental health services, treatment services, rehabilitative services, support services, and case management services as those terms are defined in s. 394.67(16), which may be provided by or within multidisciplinary community treatment teams, such as Florida Assertive Community Treatment, conditional release programs, outpatient services or intensive outpatient treatment programs, and supportive employment and supportive housing opportunities in treating and supporting the recovery of the defendant. ~~in order of choices.~~

(d) ~~(e)~~ The availability of acceptable treatment, and, if treatment is available in the community, the expert shall so state in the report. ~~+~~ ~~and~~

(~~e~~) ~~(d)~~ The likelihood of the defendant's attaining competence under the treatment recommended, an assessment of the probable duration of the treatment required to restore competence, and the probability that the defendant will attain competence to proceed in the foreseeable future.

The examining expert's report to the court must include a full

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and detailed explanation regarding why the alternative treatment options referenced in the evaluation are insufficient to meet the needs of the defendant.

Section 4. Section 916.13, Florida Statutes, is amended to read:

916.13 Involuntary commitment of defendant adjudicated incompetent.—

(1) Every defendant who is charged with a felony and who is adjudicated incompetent to proceed may be involuntarily committed for treatment upon a finding by the court of clear and convincing evidence that:

(a) The defendant has a mental illness and because of the mental illness:

1. The defendant is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, the defendant is likely to suffer from neglect or refuse to care for herself or himself and such neglect or refusal poses a real and present threat of substantial harm to the defendant's well-being; or

2. There is a substantial likelihood that in the near future the defendant will inflict serious bodily harm on herself or himself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;

(b) All available, less restrictive treatment alternatives, including treatment in community residential facilities, ~~or~~ community inpatient or outpatient settings, or any other mental health services, treatment services, rehabilitative services, support services, or case management services as those terms are

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defined or described in s. 394.67(16) which would offer an opportunity for improvement of the defendant's condition have been judged to be inappropriate; and

(c) There is a substantial probability that the mental illness causing the defendant's incompetence will respond to treatment and the defendant will regain competency to proceed in the reasonably foreseeable future.

Before issuing a commitment order, the court must review the examining expert's report to ensure alternative treatment options have been fully considered and found insufficient to meet the needs of the defendant.

(2) A defendant who has been charged with a felony and who has been adjudicated incompetent to proceed due to mental illness, and who meets the criteria for involuntary commitment under this chapter, may be committed to the department, and the department shall retain and treat the defendant.

(a) Immediately after receipt of a completed copy of the court commitment order containing all documentation required by the applicable Florida Rules of Criminal Procedure, the department shall request all medical information relating to the defendant from the jail. The jail shall provide the department with all medical information relating to the defendant within 3 business days after receipt of the department's request or at the time the defendant enters the physical custody of the department, whichever is earlier.

(b) Within 60 days ~~6 months~~ after the date of admission and at the end of any period of extended commitment, or at any time the administrator or his or her designee determines that the

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defendant has regained competency to proceed or no longer meets the criteria for continued commitment, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure.

(c) ~~A competency hearing must be held within 30 days after the court receives notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment.~~ The defendant must be transported in accordance with s. 916.107 to the committing court's jurisdiction within 7 days after notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment. A determination on the issue of competency must be made at a hearing within 30 days after the notification for the hearing. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. To ensure continuity of care, the referring mental health facility shall transfer the defendant with up to 30 days of medications and assist in discharge planning with medical teams at the receiving county jail. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.

Section 5. For the purpose of incorporating the amendment made by this act to section 916.13, Florida Statutes, in a

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reference thereto, paragraph (a) of subsection (1) of section 394.658, Florida Statutes, is reenacted to read:

394.658 Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program requirements.—

(1) The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee, in collaboration with the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts Administrator, shall establish criteria to be used to review submitted applications and to select the county that will be awarded a 1-year planning grant or a 3-year implementation or expansion grant. A planning, implementation, or expansion grant may not be awarded unless the application of the county meets the established criteria.

(a) The application criteria for a 1-year planning grant must include a requirement that the applicant county or counties have a strategic plan to initiate systemic change to identify and treat individuals who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in, or at risk of entering, the criminal or juvenile justice systems. The 1-year planning grant must be used to develop effective collaboration efforts among participants in affected governmental agencies, including the criminal, juvenile, and civil justice systems, mental health and substance abuse treatment service providers, transportation programs, and housing assistance programs. The collaboration efforts shall be the basis for developing a problem-solving model and strategic plan for treating adults and juveniles who are in, or at risk of

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entering, the criminal or juvenile justice system and doing so at the earliest point of contact, taking into consideration public safety. The planning grant shall include strategies to divert individuals from judicial commitment to community-based service programs offered by the Department of Children and Families in accordance with ss. 916.13 and 916.17.

Section 6. For the purpose of incorporating the amendment made by this act to section 916.13, Florida Statutes, in a reference thereto, subsection (9) of section 916.106, Florida Statutes, is reenacted to read:

916.106 Definitions.—For the purposes of this chapter, the term:

(9) "Forensic client" or "client" means any defendant who has been committed to the department or agency pursuant to s. 916.13, s. 916.15, or s. 916.302.

Section 7. For the purpose of incorporating the amendment made by this act to section 916.13, Florida Statutes, in references thereto, subsections (1) and (2) of section 916.17, Florida Statutes, are reenacted to read:

916.17 Conditional release.—

(1) Except for an inmate currently serving a prison sentence, the committing court may order a conditional release of any defendant in lieu of an involuntary commitment to a facility pursuant to s. 916.13 or s. 916.15 based upon an approved plan for providing appropriate outpatient care and treatment. Upon a recommendation that outpatient treatment of the defendant is appropriate, a written plan for outpatient treatment, including recommendations from qualified professionals, must be filed with the court, with copies to all

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parties. Such a plan may also be submitted by the defendant and
filed with the court with copies to all parties. The plan shall
include:

(a) Special provisions for residential care or adequate
supervision of the defendant.

(b) Provisions for outpatient mental health services.

(c) If appropriate, recommendations for auxiliary services
such as vocational training, educational services, or special
medical care.

In its order of conditional release, the court shall specify the
conditions of release based upon the release plan and shall
direct the appropriate agencies or persons to submit periodic
reports to the court regarding the defendant's compliance with
the conditions of the release and progress in treatment, with
copies to all parties.

(2) Upon the filing of an affidavit or statement under oath
by any person that the defendant has failed to comply with the
conditions of release, that the defendant's condition has
deteriorated to the point that inpatient care is required, or
that the release conditions should be modified, the court shall
hold a hearing within 7 days after receipt of the affidavit or
statement under oath. After the hearing, the court may modify
the release conditions. The court may also order that the
defendant be returned to the department if it is found, after
the appointment and report of experts, that the person meets the
criteria for involuntary commitment under s. 916.13 or s.
916.15.

Section 8. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 1412
BILL TITLE:	<u>Mental Health</u>
BILL SPONSOR:	Sen. Bradley
EFFECTIVE DATE:	July 1, 2023

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Appropriations Subcommittee on Health and Human Services
3) Fiscal Policy
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 1349
SPONSOR:	Rep. Melo

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

<u>Is this bill part of an agency package?</u>
Yes

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	March 10, 2023 For further information, please contact John Paul Fiore at (850) 488-9410.
LEAD AGENCY ANALYST:	Heather Allman, SAMH
ADDITIONAL ANALYST(S):	Bill Hardin, SAMH Elaine C. Fygetakis, Ph.D., SAMH Courtney Smith, Office of Licensing
LEGAL ANALYST:	SaVannah Reading, OGC
FISCAL ANALYST:	Windy Brown, Budget Manager, Mental Health Services Julie Mayo, Budget Manager, Community SAMH

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends s. 394.461, F.S., to establish a conditional designation for Baker Act receiving facilities that will empower the Florida Department of Children and Families (Department) with additional regulatory options for assisting providers with remedying issues without requiring them to suspend crisis care services or reapply for a designation.

This bill makes the following revisions to Chapter 916, Florida Statutes:

- a) Ensures that defendants begin receiving psychotropic medications while they are awaiting transfer to a state mental health treatment facility (SMHTF);
- b) Strengthens statutory language to require expert evaluators and courts to consider alternative treatment options before ordering SMHTF placement;
- c) Reduces the maximum amount of time defendants may wait to be discharged from a SMHTF once they are clinically cleared, from 30 days to 7 days; and
- d) Requires competency determinations at a competency hearing within 30 days of notification from SMHTFs that defendants have been clinically cleared.

2. SUBSTANTIVE BILL ANALYSIS

Conditional Designation of Baker Act Receiving Facilities (Section 1)

Present Situation:

The Department is the state authority on issues related to substance abuse and mental health treatment. As such, the Department plays a critical role in regulating the designation of Baker Act receiving facilities. Baker Act Receiving Facilities are licensed by the Agency for Health Care Administration and designated by the Department. A designation as a Baker Act Receiving Facility is an elevated status for facilities that agree to receive all individuals transported by Law Enforcement for a Baker Act evaluation. These facilities provide, at a minimum, emergency screening, evaluation, and short-term stabilization for mental health or substance use disorders. Only facilities designated by the Department are permitted by law to involuntarily hold and treat persons for a mental illness. Designated receiving facilities include hospitals licensed under Chapter 395, F.S., and Crisis Stabilization Units (CSUs), licensed under Chapter 394, F.S. CSUs are mainly residential units of community mental health centers and receive Department funds for Baker Act related services. A designation lasts for three years.

The Department designates these facilities as public or private. "Public" in this context means the receiving facility received funds from the Department for Baker Act exam related services and are under contract with a Managing Entity. Public receiving facilities may also receive funding through Medicaid, private insurance, or county governments. "Private" receiving facilities do not receive funds from the Department and most are not under contract with a Managing Entity. Currently, there are 126, public and private, designated receiving facilities in Florida.

Section 394.461, F.S., provides the Department statutory and rulemaking authority to regulate designations of Baker Act receiving facilities:

The Department is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designation for failure to comply with this part and rules adopted under this part. Unless designated by the Department, facilities are not permitted to hold or treat involuntary patients under this part.

Currently, this statute does not provide the Department with the authority to issue a "conditional" designation—only suspension or withdrawal of designations. In circumstances where a provider is the only available public receiving facility in a county or geographic area, "suspending" or "withdrawing" the designation based on an inspection violation is not usually a viable option because either of these actions would result in reducing access to crisis care services. The Department has authority, under other programs such as Substance Abuse Licensure, to issue an "interim" license for this purpose, and has experienced positive results in remedying minor issues and enforcing corrective action plans through this mechanism.

The conditional designation would help the Department have more time to work with facilities to remedy issues and maintain access to these important services. Some of the more common issues they might face in today's environment are listed below:

- Lack of and deficiencies in staff training. Administrative rule requires that staff working directly with clients have a certain mix of basic training such as first aid, verbal de-escalation, management of crisis situation, confidentiality, rights of persons served, incident reporting, abuse reporting, and seclusion and restraint. The need to rapidly onboard new employees creates the need for a continuous training program, and since many are using temporary staff, facilities may need more time for newer hires to complete the required training.
- Outdated policies and procedures. Policies and procedures are required by administrative rule to specify how the facility will carry out certain requirements. This is an administrative function that sometimes fall behind as facilities prioritize the immediate needs of providing care.
- Documentation deficiencies. Medical record reviews may reveal a variety of issues with documentation. Examples of this could be a missing or incomplete progress note, demographic information, or evaluations not occurring within a required timeframe.

Effect of the Bill:

This section of the bill amends s. 394.461, F.S., to authorize the Department to issue a conditional designation for up to 60 days to allow for the implementation of corrective measures. For facilities with minor deficiencies, this language will allow the Department time to enforce corrective action plans without suspending or withdrawing their designation and allow facilities time to address their inspection issues without having to suspend services or reapply for a designation. Ultimately, this section will facilitate the Department's ability to work with facilities to correct program deficiencies while they remain in business, examining and treating individuals in their care.

Forensic System Efficiencies (Sections 2, 3, and 4)

Present Situation:

The Department provides competency restoration treatment in state mental health treatment facilities (SMHTFs) for individuals charged with a felony who are determined incompetent to stand trial. Individuals served in SMHTFs have the most intensive behavioral health needs. The Department is responsible for providing high quality behavioral health services necessary to restore individuals to competency in its six SMHTFs, three of which are state operated and three of which are privately operated, and through contracts with a network of providers that offer treatment in the community. While SMHTFs play a critical role in the behavioral health continuum of care, Department-funded, community-based inpatient treatment options are suitable for many of these individuals.

Mental health experts are appointed, pursuant to s. 916.115, F.S., to determine whether a defendant has a mental illness and, if so, consider whether the defendant meets the criteria for competence. When expert evaluators determine that a defendant does not meet the established criteria to proceed to trial, the courts may commit the defendant to a secure setting to receive intensive behavioral health services with the goal of competency restoration. The evaluator must also report on any recommended treatment for the defendant to attain competence to proceed. Section 916.12, F.S., does not specify the treatment options that should be considered. The Department is expanding community resources that would allow individuals with lesser felony offenses, low symptom acuity and those who require limited resources to be targeted for diversion in the community, allowing these individuals to remain closer to their support system of care and increasing their chances for success. For Fiscal Year 2022-2023, the Department is funding 299 community-based beds. 278 of these beds are currently filled. In addition, the Department is increasing the number of community-based diversion options to meet anticipated future demand. The projected diversion for Fiscal Year 2022-2023 is expected to be 20 percent (122 individuals) higher than Fiscal Year 2021-2022 (103 individuals).

For defendants who have been admitted to facilities as "incompetent to proceed", the average timeframe to restore to competency is approximately 3 months. Once defendants are restored to competency, the courts are informed that the defendants are ready to return to their committing jurisdictions for disposition of their case. In order for transports to occur, judges are required to sign a transport order authorizing defendants to be picked up by jail transportation providers—usually the sheriffs or their designee. In accordance with s. 916.13, F.S., the committing jurisdictions must pick up the defendant and hold a competency hearing within 30 days. However, there are times in which the courts do not make a determination of competency during an

initial hearing. For those defendants who are transported back to the jail, some decompensate before a determination of competency can be made because hearings are continued or not scheduled within the 30-day timeframe.

While defendants await transportation back to the county with jurisdiction, they remain at the SMHTF. Most days, there are between 80 and 100 competent defendants in SMHTFs awaiting transportation back to the committing jurisdiction. For Fiscal Year 2022-2023, 20 percent of the discharged defendants recommended as “competent to proceed” have taken 31 days or more to be transported. The average pickup can be as low as 21 days and as high as 132 days. The Department actively works with the courts to secure transport orders and facilitate transportation back to the jails, but ultimately it is up to the courts to expedite the process. As pick-ups get back-logged, the Department is unable to admit newly committed defendants who are currently waiting in jail for admission to SMHTFs. This directly impacts the waitlist for state mental health services since defendants left in SMHTFs occupy beds that could be utilized by those awaiting treatment. As of March 7, 2023, there were 319 defendants awaiting SMHTF placement; of these, 202 have been waiting more than 15 days. For Fiscal Year 2022-2023, the average day to admit, overall, was 52 days.

Effect of the Bill:

As Florida’s population grows, there is also an increase in patients’ behavioral health needs. In Florida, within this population, there has been a 46.6 percent increase in commitments, from 1,546 in Fiscal Year 2020-2021 to 2,267 in Fiscal Year 2021-2022. This bill will enable the Department to better respond to increasing demands on the behavioral health system, ensuring the highest quality of care and a more streamlined discharge process once defendants are clinically cleared. These revisions will aid the Department in increasing the number of individuals served each year and reducing their average length of stay from 95-125 days towards the national average of 75 days.

Section 2 of the bill amends s. 916.107, F.S., to require forensic clients, who are held in a jail awaiting admission to a state mental health treatment facility, to receive psychiatric medication therapy prior to their admission to the SMHTF. This change will help the defendant regain competency by initiating therapy the moment it is deemed necessary for them to do so. In turn, this may reduce the length of time a defendant needs to receive treatment once they arrive at the SMHTF. The section further stipulates that the administering of the appropriate medication in the county jails will be done by either the sheriff or the Department.

Section 3 of the bill amends s. 916.12, F.S., to require expert evaluators and courts to consider a list of minimum alternative treatment options, all of which are Department-funded, before ordering the defendant be placed in a SMHTF. The list includes: mental health services as defined in s. 394.67(16), F.S., multi-disciplinary community teams, Florida Assertive Community Treatment, conditional release programs, intensive outpatient, and supportive employment and/or housing opportunities in treating the defendant. SMHTFs provide for the most intensive inpatient treatment. With facility average daily bed rate at \$381/day. It is estimated that 30-40 patients, or 3 percent, could be served in the outpatient setting, which is projected annually to be 120 patients that would be diverted and served in a lesser restrictive, more appropriate environment. This would suggest an annualized cost saving of approximately \$5 million. These funds would be used to serve those who are currently waiting for placement in a SMHTF who require intense inpatient services.

Section 4 of the bill amends s. 916.13, F.S., to allow courts to include an explanation in their order as to why each of the alternative treatment options listed in Section 3 of the bill are insufficient to meet the defendant’s needs. This section is also amended to require the defendant be evaluated within 60 days instead of six months so that a report is sent to the court 60 days after their admission. This section also reduces the maximum amount of time defendants may wait to be transported out of a SMHTF, from 30 days to 7 days, once they are clinically cleared. Courts will also be required to make a competency determination at the competency hearing within 30 days of notification from the SMHTF.

Reducing the amount of time defendants are allowed to wait to be transferred from a SMHTF will increase the number of individuals who can be served in SMHTFs and reduce the amount of time that defendants wait in jail to access these critical services. Requiring that a determination on the issue of competency be made at the competency hearing will reduce the possibility of competent defendants occupying a bed in SMHTFs beyond the necessary amount of time and reduce the risk that a defendant will decompensate once returned to jail.

1. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? NO

If yes, explain:	N/A
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

2. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	N/A
Provide a summary of the proponents' and opponents' positions:	N/A

3. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

If yes, provide a description:	N/A
Date Due:	
Bill Section Number(s):	

4. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	N/A
Board Purpose:	
Who Appoints:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	N/A
Expenditures:	Section 2 Each of the 67 counties have an overall infrastructure to manage incarcerated individuals within local jails. In compliance with s. 951.23(4)(a), F.S., and Florida Model Jail Standards (FMJS), medical staff at each jail have basic resources to support an individual's medical or psychiatric needs. Support could include low-level first-aid, medication administration (Section 7.12 FMJS), chronic diseases and management of patients in active crisis (Section 7.23 FMJS). With their current infrastructure, jail medical staff can and do begin initial psychiatric medication management. Moreover, the proposed language in s. 916.107, F.S., contemplates that the sheriffs and the Department would collaborate on ensuring that the appropriate medication is

	administered to the defendant. With these basic medical and psychiatric resources, it is anticipated that there would not be a fiscal impact to the local jails when requiring jail-based psychiatric medication therapy. Section 4 According to s. 916.107(10)(a), F.S., each sheriff is solely responsible for the transportation of individuals to and from each SMHTF. This requirement to transport defendants within 7 days rather than 30 days adjustment to statute will not increase the number of transports already being performed by local jails. With these transports already budgeted, it is anticipated that there will not be a fiscal impact to local jails. Alternatively, decreasing the time to transport defendants back to their respective jail will have a direct impact on system wide throughput, creating availability of beds across the SMHTF system.
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
Expenditures:	No fiscal impact
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	No

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments and recommended action:	The Department has defended significant litigation involving access to state hospitals including: • Individuals waiting in jail pending an available bed, • Ensuring individuals are returned to court in a timely manner, and • Commitments that do not meet criteria for admission.



SENATOR JENNIFER BRADLEY
6th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:

Select Committee on Resiliency

March 21, 2023

Senator Gayle Harrell, Chair
Senate Appropriations Committee on Health and Human Services
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Harrell:

I respectfully request that Senate Bill 1412 be placed on the committee's agenda at your earliest convenience. This bill relates to mental health.

Thank you for your consideration.

Sincerely,



Jennifer Bradley

cc: Tonya Money, Staff Director
Robin Jackson, Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

APPEARANCE RECORD

04/12/2023

Meeting Date

1412

Bill Number or Topic

HHS Approps.

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name John Paul Fiore - DCF Legislative Affairs Phone 850-488-9410

Address 2415 N. Monroe Street Email

Tallahassee FL 32303

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information OR Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:Dept. of Children
and Families☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 1690

INTRODUCER: Appropriations Committee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Ingoglia

SUBJECT: Sexual Exploitation and Human Trafficking

DATE: April 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Fav/CS
2.	Sneed	Money	AHS	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1690 creates s. 402.88, F.S., to require the Department of Children and Families (DCF) to certify adult safe houses, and inspect and recertify the safe houses annually. The bill defines an adult safe house as a group residential facility that provides care and housing for adults who have been sexually exploited or trafficked, and requires adult safe houses to:

- Receive and shelter victims of human trafficking and their minor children or other dependents.
- Provide, at a minimum, information and referral services, licensed counseling and case management services, substance abuse screenings and, when necessary, access or referral to treatment, temporary emergency shelter, a 24-hour hotline, outreach services, training for law enforcement personnel, assessment and appropriate referral of resident children, and community awareness educational services.
- Participate in providing orientation and training programs developed for law enforcement and professionals who work with human trafficking victims.
- Provide a safe, therapeutic environment tailored to the needs of commercially sexually exploited (CSE) or trafficked adults.
- Receive an annual written endorsement from local law enforcement agencies.
- File certain information regarding human trafficking employees or volunteers who may claim privilege under s. 90.5037, F.S., to refuse to disclose certain information.

The bill allows the DCF to deny, suspend, or revoke the certification of an adult safe house that fails to comply with the requirements of the bill.

The bill also outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed the training. The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the same service area.

The bill amends s. 409.1678, F.S., related to specialized residential options for children who are victims of CSE, to:

- Require the DCF to develop for safe houses and safe foster homes age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking.
- Ensure security for safe houses and safe foster homes provides for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children. To be in compliance, the safe house must either:
 - Employ or contract with a least one individual that has law enforcement, investigative, or other similar training; or
 - Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

The bill requires certain facilities to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity.

The bill also amends s. 943.0583, F.S., to modify the eligibility criteria for who may petition for expunction of a criminal history record that is related to an enumerated offense on the habitual violent felony offender list. The bill allows human trafficking victims to expunge such records if the disposition was not a conviction. The bill defines the term “conviction”.

The bill will have a significant negative fiscal impact on state government. See Section V of this analysis.

The bill takes effect July 1, 2023.

II. Present Situation:

Human Trafficking

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹ While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude,

¹ Section 787.06, F.S.

restaurant work, janitorial work, factory work, and agricultural work.² Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced³ into commercial sexual activity,⁴ domestic servitude, or other types of forced labor.⁵

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,⁶ purchasing, patronizing, procuring, or obtaining⁷ another person for the purpose of exploitation of that person.⁸ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.⁹ Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;¹⁰
- Labor or services of any child under the age of 18 who is an unauthorized alien¹¹ commits a first degree felony;¹²
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹³

² *Id.*

³ Section 787.06(2)(a), F.S., defines “coercion” in the context of human trafficking as using or threatening physical force; restraining, isolating, or confining or threatening the same without lawful authority and against his or her will; using lending or other credit methods to establish a debt when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or services is not applied toward liquidation of the debt, and the length and nature of the labor or service and not limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document of any person; causing or threatening to cause financial harm, enticing or luring by fraud or deceit; or providing controlled substances to any person for the purpose of exploitation.

⁴ Section 787.062(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

⁵ The Department of Education, *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.shtml> (last visited March 19, 2023).

⁶ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

⁷ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

⁸ Section 787.06(2)(d), F.S.

⁹ Section 787.06(3), F.S.

¹⁰ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹¹ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

¹² Section 787.06(3)(c)1., F.S.

¹³ Section 787.06(3)(e)1., F.S.

- Commercial sexual activity¹⁴ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹⁵ or
- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective¹⁶ or mentally incapacitated¹⁷ is involved commits a life felony.¹⁸

First-degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.¹⁹ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.²⁰

Florida is ranked the third highest state of reported human trafficking cases in the United States.²¹ Reports of commercially exploited children to the Florida Abuse Hotline (hotline) for 2020 totaled 3,181 and 3,182 in 2021.²²

Child Sexual Exploitation in Florida

It is difficult to obtain an accurate count of commercial sexual exploitation (CSE) victims who are children because these victims are not readily identifiable.²³ CSE victims do not have immediately recognizable characteristics, many do not have identification, and they are often physically or psychologically controlled by adult traffickers; as such, they rarely disclose or provide information on exploitation.²⁴

¹⁴ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

¹⁵ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

¹⁶ Section 794.011(1)(c), F.S., defines “mentally defective” as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

¹⁷ Section 794.011(1)(d), F.S., defines “mental incapacitated” as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

¹⁸ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

¹⁹ Section 787.06(8)(b), F.S.

²⁰ Section 787.06(9), F.S.

²¹ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://floridaallianceendht.com/the-issue/> (last visited March 19, 2023).

²² The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, p. 2, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last visited March 19, 2023).

²³ Office of Program Policy Analysis & Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, (Jul. 2016), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=16-04> (last visited March 22, 2023).

²⁴ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Commercial Sexual Exploitation of Children and Sex Trafficking*, available at https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/commercial_sexual_exploitation_of_children_and_sex_trafficking.pdf (last visited March 22, 2023).

In 2021, the DCF verified 377 child victims of commercial sexual exploitation from 3,182 reports alleging commercial sexual exploitation made to the hotline.²⁵ Of the reports that were referred for investigation, most came from the Department of Juvenile Justice (DJJ), the Department of Corrections, or criminal justice personnel and law enforcement.²⁶ Of the 377 verified commercially sexually exploited children, 25 percent were in out-of-home care, including the care of relatives or in foster homes, residential group care, or residential treatment centers.²⁷

Safe Houses and Safe Foster Homes for Child-victims of Human Trafficking

Current law defines and provides for the certification of specialized residential options for children who are victims of human trafficking or commercial sexual exploitation (CSE).²⁸ The law defines a “safe foster home” to mean a foster home certified by the DCF to care for sexually exploited children and a “safe house” to mean a group residential placement certified by the DCF to care for sexually exploited children.²⁹ To be certified, a safe house or safe foster home must:

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
- Serve exclusively one sex.
- Group child victims of CSE by age or maturity level.
- Care for child victims of CSE in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.
- Have awake staff members on duty 24 hours a day, if a safe house.
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
- Meet other criteria established by department rule,³⁰ including personnel qualifications, staffing ratios, and types of services offered.³¹

At-Risk Houses

At-risk houses are group care homes that are certified to serve children considered to be at-risk for sex trafficking. Children are deemed to be “at risk of sex trafficking” if they have experienced trauma such as abuse, neglect, and/or maltreatment, and present one or more of the accompanying risk factors: history of running away and/or homelessness; history of sexual abuse and/or sexually acting out behavior; inappropriate interpersonal and/or social media boundaries; family history of or exposure to human trafficking; or out-of-home placement instability

²⁵ Office of Program Policy Analysis & Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, Report 22-05, July 2022, pp. i and 2, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=22-05> (last viewed March 22, 2023).

²⁶ *Id.*

²⁷ *Id.*, p. 4.

²⁸ Section 409.1678, F.S.

²⁹ Section 409.1678(1), F.S.

³⁰ Rule 65C-46.020, F.A.C.

³¹ Section 409.1678(2)(c), F.S.

demonstrated by repeated moves from less restrictive levels of care. There are currently 157 at-risk houses licensed by DCF that provide services to youth who are at risk of sex trafficking.³²

Safe Houses for Adult Survivors of Human Trafficking

There are currently 13 adult safe houses in Florida that serve adult survivors of human trafficking.³³ Of these, two allow for the survivor's minor children to also reside in the home.³⁴

The DCF does not regulate or monitor any of these adult safe houses³⁵ and current law provides no framework for any agency to do so.

Privileged Communication between Human Trafficking Victims and Others

Section 90.5037, F.S., creates a privilege to refuse to disclose confidential communications or records between human trafficking victims and human trafficking victim advocates or trained volunteers made in the course of advising, counseling, or providing services. The law gives a human trafficking victim the power to not personally disclose and also prevent disclosure by any other person.³⁶

This privilege may be claimed by:

- The victim of human trafficking.
- The guardian or conservator of a victim.
- The personal representative of a deceased victim.
- The human trafficking victim advocate or trained volunteer, but only on behalf of the human trafficking victim. The authority to claim this privilege is presumed in the absence of evidence to the contrary.³⁷

Human Trafficking Victim Expunction

In 2013, the Legislature created a process authorizing a victim of human trafficking to petition a court for the expunction³⁸ of a criminal history record resulting from his or her arrest or filing of charges for an offense committed or reported to have been committed while he or she was a victim of human trafficking.³⁹

For purposes of human trafficking victim expunction, “victim of human trafficking” means a person subjected to coercion⁴⁰ for the purpose of being used in human trafficking, a child under

³² The DCF, 2023 Agency Legislative Bill Analysis, SB 1690, *Human Trafficking*, p. 3 (on file with Committee on Children, Families, and Elder Affairs Staff). (hereinafter cited as DCF Bill Analysis)

³³ DCF Bill Analysis, p. 2.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 90.5037(3), F.S.

³⁷ Section 90.5037(4), F.S.

³⁸ When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained. *See* s. 943.045(16), F.S.

³⁹ Chapter 2013-98 s. 2, L.O.F.; codified as s.943.0583(3), F.S.

⁴⁰ Section 787.06, F.S., defines “coercion” as “1. Using or threatening to use physical force against any person; 2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority against

18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.⁴¹

To be eligible for expunction, the criminal offense must be related to a human trafficking scheme of which the person was a victim or the offense must have been committed at the direction of an operator of the scheme and must *not* be one of the following offenses under s. 775.084(1)(b)1., related to the designation as a “habitual violent felony offender,” including:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary; or
- Aggravated stalking.⁴²

The human trafficking victim is eligible to receive the expunction regardless of the disposition of the arrest or of any charges unless the criminal history record sought to be expunged is related to one of the above-listed offenses.

The court with original jurisdiction over the crime that the human trafficking victim seeks to expunge is the court designated to hear the victim’s petition.⁴³ A petition must be initiated by the petitioner with due diligence after he or she is no longer a victim of human trafficking or has sought human trafficking services.⁴⁴ The petition must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner’s status as a human trafficking victim, if any exists.⁴⁵

his or her will; 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; 4. Destroying, concealing removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; 5. Causing or threatening to cause financial harm to any person; 6. Enticing or luring any person by fraud or deceit; or 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person.”

⁴¹ Section 943.0583(1)(c), F.S.

⁴² Section 943.0583(3), F.S. This subsection provides that expunction is not permitted if the offense is related to an offense enumerated in s. 775.084(1)(b)1., F.S., related to habitual violent felony offenders.

⁴³ Section 943.0583(2), F.S.

⁴⁴ Section 943.0583(4), F.S.

⁴⁵ Section 943.0583(6), F.S.

In contrast to other expunctions made under s. 943.0585, F.S., a court is required to treat a petition seeking to expunge more than one eligible case as a single petition.⁴⁶ Florida's clerks of court are prohibited from charging a filing fee, service charge, or copy fee or any other charge for a petition for a human trafficking victim expunction.⁴⁷

When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained.⁴⁸ A human trafficking victim may lawfully deny or fail to acknowledge any expunged record unless he or she is applying for a job with a criminal justice agency or is a defendant in a subsequent criminal prosecution.⁴⁹ The criminal history record that has been expunged is considered confidential and exempt⁵⁰ from public records requirements.⁵¹

Current law also provides that criminal intelligence⁵² and criminal investigative information⁵³ is confidential and exempt from public records requirements. Such information includes:⁵⁴

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;⁵⁵
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity;⁵⁶ and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁵⁷

⁴⁶ Section 943.0583(2), F.S.

⁴⁷ Section 943.0583(2), F.S.

⁴⁸ Section 943.045(16), F.S.

⁴⁹ Section 943.0583(8)(b), F.S.

⁵⁰ 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. *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004). Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

⁵¹ Section 119.071(2)(h), F.S.

⁵² Section 119.011(3)(a), F.S., defines “criminal intelligence information” as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁵³ Section 119.011(3)(b), F.S., defines “criminal investigative information” as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

⁵⁴ Chapter 2015-146, L.O.F.

⁵⁵ See s. 787.06(3)(a), F.S.

⁵⁶ See s. 787.06(3)(b), (d), (f), and (g), F.S.

⁵⁷ *Id.*

III. Effect of Proposed Changes:

Adult Safe Houses

The bill creates s. 402.88, F.S., to require the DCF to develop and administer a certification process for adult safe houses that provide care for adults who have been sexually exploited or trafficked.

The bill requires the DCF to establish a process to certify adult safe houses that:

- Provides a facility that serves as an adult safe house to receive and house persons who are victims of human trafficking.
 - Minor children and other dependents of the victim when such dependents are partly or wholly dependent on the victim, may be sheltered with the victim in an adult safe house.
- Receives annual written endorsement of local law enforcement.
- Provides the following minimum services:
 - Information and referral;
 - Licensed counseling and case management;
 - Substance abuse screening and access or referral to treatment;
 - Temporary emergency shelter for more than 24 hours;
 - Operation of a 24-hour hotline;
 - Nonresidential outreach services;
 - Training for law enforcement personnel;
 - Assessment and appropriate referral of resident children; and
 - Educational services for community awareness, prevention, and services available for persons subject to human trafficking.
- Participates in providing orientation and training programs developed for law enforcement, social workers, and other professionals who work with human trafficking victims.
- Provides a safe, therapeutic environment tailored to the needs of CSE or trafficked adults who have endured significant trauma using strength-based and trauma-informed treatment models.
- Files with the DCF a list of human trafficking advocates employed or volunteering at the adult safe house who may claim privilege under s. 90.5037, F.S.,⁵⁸ to refuse to disclose certain information. The list must include the title of the position held by the advocate and a description of the duties of his or her position.
- Comply with rules adopted under the section.

The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the designated service area to avoid duplication of services.

The bill requires the DCF to inspect and annually certify adult safe houses to ensure compliance with the requirements of the section and allows the denial, suspension, or revocation of certification if an adult safe house fails to comply with those requirements.

⁵⁸ Section 90.5037, F.S. makes certain communications between certain human trafficking victim's advocates and human trafficking victims confidential.

The bill also outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed said training, the contents of which are to be specified by rule.

The bill allows the DCF to adopt rules to implement the section, which must include, in part, rules related to health and safety provisions that protect minor children and other dependents of a victim that shelter in the adult safe house from recruitment, and to ensure that the minors do not become at risk of becoming, or become victims of human trafficking.

Education and Signage

The bill amends s. 409.1678, F.S., to require the DCF to develop age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking. The educational programming must be developed for safe houses and safe foster homes.⁵⁹

The bill amends ss. 394.875, 409.1678, and 409.175, F.S., to require the following places to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity:

- Residential treatment centers for children and adolescents;
- Safe houses;
- Foster homes;
- Residential child-caring agencies; and
- Child-placing agencies.

The signs must be in conspicuous locations and must contain the telephone number for either the National Human Trafficking Resource Center or other number that the Florida Department of Law Enforcement uses to detect and stop human trafficking.

The DCF is required to specify the content of the signs by rule. For residential treatment centers for children and adolescents, the DCF is required to consult with the Agency for Health Care Administration on the content of such signs.

The bill amends s. 787.29, F.S., relocating a provision in current law that allows a county commission to adopt an ordinance to enforce human trafficking awareness signage into the subsection that requires the display of such signs.

Certification of Safe Houses

Section 409.1678, F.S., requires safe houses and safe foster homes to provide appropriate security through specified means. The bill amends s. 409.1678, F.S., to detail that appropriate security for Safe Houses must provide for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children. To be in compliance, the safe house must either:

⁵⁹ Section 409.1678, F.S. defines “Safe foster home” as a foster home certified by the DCF to care for sexually exploited children and “Safe house” as a group residential placement certified by the DCF to care for sexually exploited children.

- Employ or contract with a least one individual that has law enforcement, investigative, or other similar training; or
- Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

Expunction of Certain Criminal History Records of Human Trafficking Victims

The bill amends s. 943.0583, F.S., to modify the eligibility criteria for who may petition for expunction of a criminal history record that is related to an enumerated offense in s.

775.084(1)(b)1., F.S., related to the designation as a “habitual violent felony offender.” A victim of human trafficking will now be authorized to have his or her criminal history record expunged related to any enumerated offense unless “convicted” for the offense.

The bill defines “conviction” as a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, or if the defendant was a minor, a finding that the defendant committed or pled guilty or nolo contendere to committing a delinquent act, regardless of whether adjudication of delinquency is withheld. This is the same provision that is in s. 943.0584, F.S., related to criminal history records ineligible for court-ordered expunction or court-ordered sealing.

Therefore, a victim may petition to have a record expunged when he or she is arrested for such an offense but charges are not filed by the state attorney or a no information is filed, or when the victim is found not guilty by a judge or a jury.

The bill takes effect July 1, 2023

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:

None.

C. Government Sector Impact:

The DCF is requesting 4 FTE positions and technology development costs to fulfill the requirements of the bill. The total cost to implement the certification process is \$764,420. This will require recurring funds of \$360,145 and nonrecurring funds of \$404,275 from the General Revenue Fund.⁶⁰ Specifically, this includes:

- Three Operation Review Specialists FTEs to serve as regional certification specialists to complete pre-monitoring, travel, inspections, site monitoring and follow up, and administrative duties involved in the annual certification of adult safe houses. The total cost is estimated at \$301,420 (includes \$16,275 nonrecurring costs). Each position requires a base salary of \$50,192, plus travel and operating expenses.⁶¹
- Contract consulting services for the development of the technology platform to support adult safe house certification. These one-time development costs are estimated at \$388,000.
- One technology-related FTE to provide for ongoing maintenance and operations of the platform.⁶² The recurring cost is \$75,000.⁶³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.875, 409.1678, 409.175, and 787.29.

This bill creates section 402.88 of the Florida Statutes.

⁶⁰ DCF Bill Analysis, p. 7.

⁶¹ *Id.*

⁶² *Id.* at pp. 8-9

⁶³ *Id.*

IX. Additional Information:

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

CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute allows the expunction of criminal history records for certain human trafficking victims charged with the offenses listed in s. 775.084(1)(b)1., F.S., if the victim was not convicted.

CS by Children, Families, and Elder Affairs on March 27, 2023:

The committee substitute moved certain provisions related to signage into the sections of statute related to relevant facility regulation, identified specific health and safety requirements to be considered for rulemaking, and clarified what is required to provide appropriate security in safe houses.

- B. **Amendments:**

None.



536946

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Ingoglia) recommended the following:

Senate Amendment (with title amendment)

Between lines 309 and 310
insert:

Section 6. Subsection (3) of section 943.0583, Florida
Statutes, is amended, and subsections (10) and (11) of that
section are republished, to read:

943.0583 Human trafficking victim expunction.—

(3)(a) Except as provided in paragraph (b), a person who is
a victim of human trafficking may petition for the expunction of



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a criminal history record resulting from the arrest or filing of charges for one or more offenses committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 and 847, without regard to the disposition of the arrest or of any charges.

(b) A defendant is not eligible for expunction under this section if he or she is convicted of ~~However, this section does not apply to~~ any offense listed in s. 775.084(1)(b)1. For purposes of this section, "conviction" has the same meaning as s. 943.0584(1).

(c) Determination of the petition under this section should be by a preponderance of the evidence. A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. If a person is adjudicated not guilty by reason of insanity or is found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determining eligibility to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's



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official duties.

(10) (a) A criminal history record ordered expunged under this section that is retained by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the record shall be made available:

1. To criminal justice agencies for their respective criminal justice purposes.

2. To any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm for use in the course of such agency's official duties.

3. Upon order of a court of competent jurisdiction.

(b) A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(11) (a) The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Any information that reveals the identity of a person who is a victim of human trafficking whose criminal history record has been expunged under this section.

2. Any information that may reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under this section.

(b) Criminal investigative information and criminal intelligence information made confidential and exempt under this subsection may be disclosed by a law enforcement agency:

1. In the furtherance of its official duties and responsibilities.



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2. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that the agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim.

3. To another governmental agency in the furtherance of its official duties and responsibilities.

(c) This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

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

And the title is amended as follows:

Delete line 27

and insert:

amending s. 943.0583, F.S.; expanding the eligibility criteria for human trafficking victims who may seek expunction to include victims with certain records related to an offense listed in s. 775.084(1)(b)1., F.S.;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services
(Ingoglia) recommended the following:

**Senate Substitute for Amendment (536946) (with title
amendment)**

Between lines 309 and 310
insert:

Section 6. Subsection (3) of section 943.0583, Florida
Statutes, is amended, and subsections (10) and (11) of that
section are republished, to read:

943.0583 Human trafficking victim expunction.—

(3)(a) Except as provided in paragraph (b), a person who is



332036

a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for one or more offenses committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 and 847, without regard to the disposition of the arrest or of any charges.

(b) A person who is a victim of human trafficking may not petition the court for the expunction of a criminal history record that resulted from a conviction of an offense listed in s. 775.084(1)(b)1. For purposes of this section, "conviction" has the same meaning as s. 943.0584(1) ~~However, this section does not apply to any offense listed in s. 775.084(1)(b)1.~~

(c) Determination of the petition under this section should be by a preponderance of the evidence. A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. If a person is adjudicated not guilty by reason of insanity or is found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determining eligibility to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or



332036

to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's official duties.

(10)(a) A criminal history record ordered expunged under this section that is retained by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the record shall be made available:

1. To criminal justice agencies for their respective criminal justice purposes.

2. To any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm for use in the course of such agency's official duties.

3. Upon order of a court of competent jurisdiction.

(b) A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(11)(a) The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Any information that reveals the identity of a person who is a victim of human trafficking whose criminal history record has been expunged under this section.

2. Any information that may reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under this section.

(b) Criminal investigative information and criminal intelligence information made confidential and exempt under this subsection may be disclosed by a law enforcement agency:



332036

69 1. In the furtherance of its official duties and
70 responsibilities.

71 2. For print, publication, or broadcast if the law
72 enforcement agency determines that such release would assist in
73 locating or identifying a person that the agency believes to be
74 missing or endangered. The information provided should be
75 limited to that needed to identify or locate the victim.

76 3. To another governmental agency in the furtherance of its
77 official duties and responsibilities.

78 (c) This exemption applies to such confidential and exempt
79 criminal intelligence information or criminal investigative
80 information held by a law enforcement agency before, on, or
81 after the effective date of the exemption.

82
83 ===== T I T L E A M E N D M E N T =====
84 And the title is amended as follows:

85 Delete line 27
86 and insert:

87 amending s. 943.0583, F.S.; expanding the eligibility
88 criteria for human trafficking victims who may seek
89 expunction to include victims with certain records
90 related to an offense listed in s. 775.084(1)(b)1.,
91 F.S.;

By the Committee on Children, Families, and Elder Affairs; and
Senator Ingoglia

586-03140-23

20231690c1

A bill to be entitled

An act relating to sexual exploitation and human trafficking; amending s. 394.875, F.S.; requiring residential treatment centers for children and adolescents to place specified signage; requiring the Department of Children and Families, in consultation with the Agency for Health Care Administration, to adopt rules; amending s. 787.29, F.S.; making technical changes; creating s. 402.88, F.S.; defining terms; requiring the department to develop a process to certify adult safe houses that provide housing and care to adult survivors of human trafficking; providing certification requirements; authorizing rulemaking; requiring the department to inspect adult safe houses before certification and annually thereafter; requiring the department to ensure the staff of each adult safe house completes specified intensive training; providing for department actions for noncompliance; amending s. 409.1678, F.S.; providing requirements for safe houses and safe foster homes; requiring the department to develop or approve educational programming on commercial sexual exploitation; amending s. 409.175, F.S.; requiring specified signage to be placed on the premises of facilities maintained by licensed child-caring agencies; requiring the department to adopt rules; providing an effective date.

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

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

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Section 1. Subsection (8) of section 394.875, Florida Statutes, is amended to read:

394.875 Crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required.—

(8) (a) The department, in consultation with the agency, must adopt rules governing a residential treatment center for children and adolescents which specify licensure standards for: admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints, and time-out; rights of patients under s. 394.459; use of psychotropic medications; and standards for the operation of such centers.

(b) Residential treatment centers for children and adolescents must conspicuously place signs on their premises to warn children and adolescents of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity. The signs must contain the telephone number for the National Human Trafficking Hotline or such other number that the Department of Law Enforcement uses to detect and stop human trafficking. The department, in consultation with the agency, shall specify, at a minimum, the content of the signs by rule.

Section 2. Subsections (3) and (5) of section 787.29, Florida Statutes, are amended, and subsection (4) of that section is republished, to read:

787.29 Human trafficking public awareness signs.—

(3) (a) The employer at each of the following establishments

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shall display a public awareness sign developed under subsection (4) in a conspicuous location that is clearly visible to the public and employees of the establishment:

~~1.(a)~~ A strip club or other adult entertainment establishment.

~~2.(b)~~ A business or establishment that offers massage or bodywork services for compensation that is not owned by a health care practitioner regulated pursuant to chapter 456 and defined in s. 456.001.

(b) The county commission may adopt an ordinance to enforce this subsection. A violation of this subsection is a noncriminal violation and punishable by a fine only as provided in s. 775.083.

(4) The required public awareness sign must be at least 8.5 inches by 11 inches in size, must be printed in at least a 16-point type, and must state substantially the following in English and Spanish:

"If you or someone you know is being forced to engage in an activity and cannot leave—whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity—call the National Human Trafficking Resource Center at 1-888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law."

~~(5) The county commission may adopt an ordinance to enforce~~

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~~subsection (3). A violation of subsection (3) is a noncriminal violation and punishable by a fine only as provided in s. 775.083.~~

Section 3. Section 402.88, Florida Statutes, is created to read:

402.88 Adult safe houses for adults who have been sexually exploited or trafficked.—

(1) As used in this section the term:

(a) "Adult safe house" means a group residential facility certified by the department under this section to care for adults who have been sexually exploited or trafficked.

(b) "Department" means the Department of Children and Families.

(2) The department shall establish a process to certify adult safe houses that provide housing and care to adult survivors of human trafficking as defined in s. 787.06. The adult safe houses certified under this section must:

(a) Provide a facility which will serve as an adult safe house to receive and house persons who are victims of human trafficking. For the purpose of this section, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in an adult safe house.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services that include, but are not limited to, information and referral services, licensed counseling and case management services, substance abuse screening and, when necessary, access or referral to treatment,

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temporary emergency shelter for more than 24 hours, a 24-hour hotline, nonresidential outreach services, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of human trafficking, the prevention of such crimes, and the services available for persons subject to human trafficking. If a 24-hour hotline, professional training, or community education is already provided by an adult safe house within its designated service area, the department may exempt such certification requirements for a new center serving the same service area to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with human trafficking victims to better enable such persons to deal effectively with incidents of human trafficking.

(e) Provide a safe, therapeutic environment tailored to the needs of commercially sexually exploited or trafficked adults who have endured significant trauma. Adult safe houses shall use a model of treatment that includes strength-based and trauma-informed approaches.

(f) File with the department a list of the names of the human trafficking advocates who are employed or who volunteer at the adult safe house who may claim a privilege under s. 90.5037 to refuse to disclose a confidential communication between a victim of human trafficking and the advocate regarding the human trafficking inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed

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and a description of the duties of that position. An adult safe house shall file amendments to this list as necessary.

(g) Comply with rules adopted under this section.

(3) The department may adopt rules to implement this section. The rules adopted must include health and safety provisions, including but not limited to protection from recruitment, to ensure that the minor children and other dependents of a victim that shelter in the adult safe house under paragraph (2)(a) do not become at risk of becoming, or become victims of commercial sexual exploitation.

(4) The department shall inspect adult safe houses before certification and annually thereafter to ensure compliance with the requirements of this section.

(5) The department shall ensure the staff of each adult safe house completes intensive training that, at a minimum, includes the needs of victims of commercial sexual exploitation, the effects of trauma and sexual exploitation, and how to address victims' needs using strength-based and trauma-informed approaches. The department shall specify by rule the contents of this training and may develop or contract for a standard curriculum.

(6) If the department finds that there is failure by an adult safe house to comply with the requirements established, or rules adopted, under this section, the department may deny, suspend, or revoke the certification of the adult safe house.

Section 4. Paragraphs (c) and (d) of subsection (2) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

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

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

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
2. Serve exclusively one sex.
3. Group child victims of commercial sexual exploitation by age or maturity level.
4. Care for child victims of commercial sexual exploitation in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

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

6.a. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

b. If a safe house, appropriate security must provide for, at a minimum, the detection of possible trafficking activity around a facility, coordination with law enforcement, and be part of the emergency response to search for absent or missing

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children. For a safe house to be in compliance with providing appropriate security under this subparagraph, the safe house must either:

(I) Employ or contract with at least one individual that has law enforcement, investigative, or other similar training, as established by rule by the department; or

(II) Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

7. If a safe house, conspicuously place signs on the premises to warn children of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity. The signs must advise children to report concerns to the local law enforcement agency or the Department of Law Enforcement, specifying the appropriate telephone numbers used for such reports. The department shall specify, at a minimum, the content of the signs by rule.

8. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

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

1. Victim-witness counseling.

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233 2. Family counseling.

234 3. Behavioral health care.

235 4. Treatment and intervention for sexual assault.

236 5. Education tailored to the child's individual needs,

237 including remedial education if necessary.

238 6. Life skills and workforce training.

239 7. Mentoring by a survivor of commercial sexual

240 exploitation, if available and appropriate for the child.

241 8. Substance abuse screening and, when necessary, access to

242 treatment.

243 9. Planning services for the successful transition of each

244 child back to the community.

245 10. Activities structured in a manner that provides child

246 victims of commercial sexual exploitation with a full schedule.

247 11. Deliver age-appropriate programming to educate children

248 regarding the signs and dangers of commercial sexual

249 exploitation and how to report commercial sexual exploitation.

250 The department shall develop or approve such programming.

251 Section 5. Paragraph (b) of subsection (5) of section

252 409.175, Florida Statutes, is amended to read:

253 409.175 Licensure of family foster homes, residential

254 child-caring agencies, and child-placing agencies; public

255 records exemption.—

256 (5) The department shall adopt and amend rules for the

257 levels of licensed care associated with the licensure of family

258 foster homes, residential child-caring agencies, and child-

259 placing agencies. The rules may include criteria to approve

260 waivers to licensing requirements when applying for a child-

261 specific license.

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262 (b) The requirements for licensure and operation of family

263 foster homes, residential child-caring agencies, and child-

264 placing agencies shall include:

265 1. The operation, conduct, and maintenance of these homes

266 and agencies and the responsibility which they assume for

267 children served and the evidence of need for that service.

268 2. The provision of food, clothing, educational

269 opportunities, services, equipment, and individual supplies to

270 assure the healthy physical, emotional, and mental development

271 of the children served.

272 3. The appropriateness, safety, cleanliness, and general

273 adequacy of the premises, including fire prevention and health

274 standards, to provide for the physical comfort, care, and well-

275 being of the children served.

276 4. The ratio of staff to children required to provide

277 adequate care and supervision of the children served and, in the

278 case of family foster homes, the maximum number of children in

279 the home.

280 5. The good moral character based upon screening,

281 education, training, and experience requirements for personnel

282 and family foster homes.

283 6. The department may grant exemptions from

284 disqualification from working with children or the

285 developmentally disabled as provided in s. 435.07.

286 7. The provision of preservice and inservice training for

287 all foster parents and agency staff.

288 8. Satisfactory evidence of financial ability to provide

289 care for the children in compliance with licensing requirements.

290 9. The maintenance by the agency of records pertaining to

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admission, progress, health, and discharge of children served,
including written case plans and reports to the department.

10. The provision for parental involvement to encourage
preservation and strengthening of a child's relationship with
the family.

11. The transportation safety of children served.

12. The provisions for safeguarding the cultural,
religious, and ethnic values of a child.

13. Provisions to safeguard the legal rights of children
served.

14. Requiring signs to be conspicuously placed on the
premises of facilities maintained by child-caring agencies to
warn children of the dangers of human trafficking and to
encourage the reporting of individuals observed attempting to
engage in human trafficking activity. The signs must advise
children to report concerns to the local law enforcement agency
or the Department of Law Enforcement, specifying the appropriate
telephone numbers used for such reports. The department shall
specify, at a minimum, the content of the signs by rule.

Section 6. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BLAISE INGOGLIA

11th District

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating
Chair*

March 27, 2023

The Honorable Gayle Harrell, Chair
Appropriation Committee on Health and Human Services
414 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399

Re: SB 1690 Human Trafficking

Chair Harrell,

SB 1690 has been referred to the Appropriation Committee on Health and Human Services as its second committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia". The signature is stylized with a large, sweeping loop at the end.

Blaise Ingoglia
State Senator, District 11

Cc: Tonya Money, Staff Director
Robin Jackson, Staff Assistant

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/12/23

Meeting Date

SB1690

Bill Number or Topic

HHS Approp.

Committee

Amendment Barcode (if applicable)

Name LIBBY Guzzo

Phone 850 245 0155

Address CAPITOL
Street

Email LIBBY.Guzzo@myfloridalegislature.com

TH
City

FL
State

32319
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/2020-2022/JointRules).

This form is part of the public record for this meeting.

S-001 (08/10/2021)

4/12/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

1690

Bill Number or Topic

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Appropriations

Committee

Amendment Barcode (if applicable)

Name Karen Mazzola

Phone 407-855-7604

Address 1747 Orlando Central PKwy

Email vp.education@florida
pta.org

Street

Orlando FL 32809

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

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 Appropriations Committee on Health and Human Services

BILL: SB 7056

INTRODUCER: Appropriations Committee on Health and Human Services

SUBJECT: Child Protective Investigative Services

DATE: April 13, 2023

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Sneed

Money

**AHS Submitted as Comm.
Bill/Fav**

I. Summary:

SB 7056 requires the transfer of child protective investigation services from the seven sheriff's offices that provide those services back to the Department of Children and Families (DCF). Currently, the DCF contracts with Pinellas, Manatee, Broward, Pasco, Hillsborough, Seminole, and Walton counties to conduct child protective investigations for their respective counties. Ultimately, this transfer will make the DCF the sole entity performing child protective investigations in the State.

The bill specifies the timeframe and framework for the transfer, including sheriff employees' ability to transition to the DCF, the transfer of records, assets and finances, use of facilities, and a final grant accounting. The bill makes conforming changes to the statutes to remove references to sheriff's offices conducting child protective investigations.

The bill provides that all staff in good standing employed by each respective sheriff for the provision of child protective services, employed before the effective date of this legislation, will have the option to transfer their employment to the DCF.

The bill requires that any claim or cause of action brought against a sheriff in relation to child protective investigations before the applicable transfer date must be defended and indemnified in accordance with the provisions of the grant or agreement applicable at the time of the alleged incident. Any claim or cause of action brought after the applicable transfer date must be defended and indemnified by the DCF.

The bill has a significant fiscal impact to state government that is addressed in SB 2500, the Senate General Appropriations Act for Fiscal Year 2023-2024. See Section V.

The bill is effective January 1, 2024, except as otherwise expressly provided in the bill.

II. Present Situation:

An estimated 3.9 million referrals of alleged child abuse and neglect were made nationwide in 2021.¹ Of that 3.9 million, approximately 2 million met the requirements for an investigation² leading to approximately 588,000 children with a finding of maltreatment.³ More than 4.2 million children live in Florida, a vast majority of which, fortunately, never come to the attention of Florida's child welfare system.⁴ In 2021, the Department of Children and Families (DCF) investigated 256,060 reports of potential child abuse and approximately 11 percent (27,394) of those investigations resulted in a finding of maltreatment.⁵

Congress appropriates federal funds through various grants to the DCF to supplement state general revenue funds for the implementation of child welfare programs.⁶ The DCF uses these funds to contract with CBCs to provide case management, out-of-home-services, and related services for children and families.⁷

Florida's Child Welfare System

Chapter 39, F.S., creates Florida's dependency system that is charged with protecting the welfare of children; this system is often referred to as the "child welfare system." The DCF Office of Child and Family Well-Being works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children.

Child welfare services are directed toward the prevention of abandonment, abuse, and neglect of children.⁸ The DCF practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her home environment. Such services are coordinated by the DCF through contracts with the community-based care lead agencies (CBCs).⁹ The DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Report on Child Maltreatment 2021*, p. 8, available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2021.pdf> (last viewed April 5, 2023).

² *Id.* at 13; referred to as "screened in referrals."

³ *Id.* at 21; referred to as "victims of abuse and neglect."

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Child Population Data for Florida*, available at <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/florida.html> (last viewed April 5, 2023).

⁵ *Id.*

⁶ The main federal grant programs that supplement state-level child welfare programs are Titles IV-E and IV-B of the Social Security Act.

⁷ Part V of ch. 409, F.S.

⁸ Section 39.001(8), F.S.

⁹ Section 409.986(1), F.S.; *See generally* The Department of Children and Families (The DCF), *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last viewed April 5, 2023).

services.¹⁰ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹¹

Dependency Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the central abuse hotline (hotline).¹² The hotline¹³ receives more than 350,000 child-related calls annually.¹⁴ Calls received are screened to determine if the criteria are met to initiate a protective investigation.¹⁵

Steps in the dependency process may include:

- A report to the hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption.¹⁶

Child Protective Investigations

The DCF must conduct a child protective investigation if a central abuse 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.¹⁷ The child protective investigator assesses the safety and perceived needs of the child and family, and if services are needed, whether the child should receive in-home or out-of-home services.

Child protective investigators (CPIs) must investigate and determine whether child abuse, abandonment or neglect occurred and, if so, identify the individual responsible for the maltreatment. CPIs must conduct and complete an assessment to identify danger threats to the child and whether the parent can protect the child. The CPI must consider if services would allow the child to remain safely in the home. If not, the CPI must remove the child and place the child in a safe alternative. CPIs make critical decisions on child safety by investigating

¹⁰ Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=06-50> (last viewed April 5, 2023).

¹¹ *Id.*

¹² Section 39.201(1), F.S.

¹³ The DCF, Florida Abuse Hotline, Overview, <https://www2.myflfamilies.com/service-programs/abuse-hotline/overview.shtml>, (last visited March 11, 2023).

¹⁴ The DCF, Child Welfare Key Indicators Monthly Report, Feb. 2023, System Overview, p. 8, https://www2.myflfamilies.com/service-programs/child-welfare/kids/results-oriented-accountability/performanceManagement/docs/KI_Monthly_Report_December%202022.pdf (last visited March 23, 2023).

¹⁵ *Supra* note 5.

¹⁶ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. Section 63.022, F.S.

¹⁷ Section 39.301(1), F.S.

dangerous environments. CPIs must respond to a hotline report no less than 24 hours after its receipt, resulting in CPIs working nights and weekends.

Specific CPI responsibilities include, but are not limited to:

- Conducting investigations relating to allegations of abuse, abandonment, and/or special conditions for children;
- Working closely with law enforcement;
- Collecting information through observation and interviews with certain persons, including the children and parents;
- Engaging families to understand the family dynamics;
- Assessing danger threats, child vulnerabilities and caregiver protective capacities;
- Managing and modifying safety plans as necessary during the investigation;
- Arranging emergency placement for any child that cannot safely remain in the home;
- Notifying the state attorney, law enforcement, child protection team and other required individuals as appropriate;
- Providing written present and impending danger assessments;
- Completing a risk assessment for families investigated and explaining risk to the family;
- Conducting staffings required for families with high risk;
- Providing families with services linkages to agency and community resources;
- Conducting initial/ongoing child present and impending danger assessments; and
- Developing with the family a Present Danger Plan and a safety plan.¹⁸

Generally, the DCF conducts child protective investigations statewide. However, sheriffs' offices perform child protective investigations in seven counties by agreement with the DCF.¹⁹

Child Protective Investigations Conducted by Sheriffs' Offices

In 1998, the Legislature created s. 39.3065, F.S., requiring the DCF to contract with the sheriffs of Pasco, Manatee, Broward, and Pinellas counties to provide all child protective investigation services in their respective counties beginning in Fiscal Year 1999-2000.²⁰ In Fiscal Year 2000-2001, the Legislature further authorized the DCF to enter into grant agreements with sheriffs of other counties to perform child protective investigations in their respective counties.²¹ The additional agreements include the following:

- Seminole County Sheriff's Office was authorized through the Fiscal Year 2000-2001 General Appropriations Act.
- Hillsborough County Sheriff's Office was authorized through the Fiscal Year 2005-2006 General Appropriations Act.
- Citrus County Sheriff's Office was authorized through the Fiscal Year 2007-2008 General Appropriations Act. However, authority over child protective investigations was transferred back to DCF in Fiscal Year 2012-2013.²²

¹⁸ The DCF, Agency Analysis of 2023 Proposed Committee Bill Sheriffs Provision of Child Protective Investigations, p. 3, March 19, 2023.

¹⁹ Broward, Hillsborough, Manatee, Pasco, Pinellas, Seminole, and Walton.

²⁰ Chapter 98-180 s. 2, L.O.F.; codified as s. 39.3065, F.S.

²¹ Chapter 2000-139 s. 3, L.O.F.; amending s. 39.3065, F.S.

²² It is not clear why authority over child protective investigations was transferred back to DCF from the Citrus County Sheriff's Office; however, it has been reported it was based on funding issues and was not performance related.

- Walton County Sheriff's Office was authorized through the Fiscal Year 2018-2019 General Appropriations Act.

All sheriffs performing child protective investigations must:

- Adopt the child welfare model that is used by CPIs who are employed by the DCF;²³
- Operate in accordance with the performance standards and outcome measures required for protective investigations that are conducted by the DCF;²⁴
- Operate in compliance with performance standards and metrics that are imposed by federal law, regulation, or funding requirements;²⁵
- Operate in accordance with the same child welfare practice model principals used by, and the same state performance standards and metrics that are imposed on, child protective investigators employed by the DCF.²⁶

Each CPI who is employed by the sheriff must complete the same mandatory training required of CPIs who are employed by the DCF.²⁷

The DCF and all contracted sheriffs, or his or her designee, must meet at least quarterly to collaborate on federal and state quality assurance and quality improvement initiatives.²⁸ The DCF must conduct an annual performance evaluation of all sheriffs providing services pursuant to a grant agreement.²⁹ Current law sets out criteria and standards that must be applied in conducting the annual evaluations.³⁰

Sheriffs' Funding for CPI Contracts

All seven sheriffs conducting child protective investigations receive funding through the General Appropriations Act (GAA) for that purpose. Such funds are identified by sheriff's office. The DCF must award grants for the full amount of the appropriations to the sheriffs' offices. The DCF is allowed to make advance payments to the sheriffs for conducting child protective investigations. Funds provided to sheriffs' offices for investigations may not be integrated into the sheriffs' regular budgets, and must be maintained separately from all other records. Budget data must be reported to the DCF as set out in the grant agreement.³¹

In Fiscal Year 2022-2023, the sheriffs' offices total contact amount for child protective investigative services was \$59.1 million,³² allocated as provided in the following table:

²³ Section 39.3065(3)(b), F.S.

²⁴ *Id.*; The DCF is required to comply with child protection and child welfare outcomes, such as children are first and foremost protected from abuse and neglect; children are safely maintained in their homes, if possible and appropriate; services are provided to protect children and prevent removal from their home; and children have permanency and stability in their living arrangements.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 39.3065(3)(d), F.S.

²⁹ Section 39.3062(3)(e), F.S.

³⁰ *Id.*

³¹ Section 39.3065(3)(c), F.S.

³² Chapter 2022-156, L.O.F. (HB 5001), Specific Appropriation 316.

Sheriffs' Office	Allocation
Broward County	\$15,270,728
Hillsborough County	13,807,564
Manatee County	4,924,225
Pasco County	7,035,690
Pinellas County	12,484,719
Seminole County	4,702,668
Walton County	929,472
Total:	\$59,155,066

Sheriff's Offices Program Performance Evaluation

The DCF conducts an annual performance evaluation of all sheriffs performing child protective investigations.³³ The seven sheriff's offices conducting child protective investigations encompass metropolitan areas where more than a quarter of the state's child population resides.³⁴ A total of 175,314 child protective investigations were conducted in Florida during fiscal year 2021-2022, and the seven counties where sheriff's offices handle investigations conducted 43,039 (24.55 percent) of the state's investigations.³⁵

Florida law requires the sheriff's offices to operate in accordance with performance standards and outcome measures established by the Legislature. Child protection and child welfare outcomes are established in s. 409.986(2), F.S.; both measures listed below are included in the sheriffs' grant agreements:

- Percent of investigations commenced within 24 hours.
 - The DCF's performance: 99.17 percent (Target: 99.5 percent)
 - Sheriffs' Office performance: 99.36 percent (Target: 99.5 percent)
- Percent of victims seen within 24 hours of receiving a report.
 - The DCF's performance: 91.53 percent (Target: 90 percent)
 - Sheriffs' Office performance: 91.93 percent (Target: 85 percent)

Historically, sheriff's offices have performed relatively close to the statewide average.

Transition of Child Protective Investigations from Sheriffs' Offices to the DCF

In February 2023, the various sheriffs' offices contracted to perform child protective investigations and the DCF agreed to transition all child protective investigation duties back to the DCF.³⁶ The DCF reports that in the two decades since allowing specified sheriff's offices to

³³ Section 39.3062(3)(e), F.S. Sheriffs Annual Performance Reports are available to view and download at: <https://www.myflfamilies.com/service-programs/child-welfare/lmr/>.

³⁴ The DCF, *Florida Sheriffs Performing Child Protective Investigations: Annual Program Performance Evaluation Report*, Fiscal Year 2021-2022, p. 1, available at https://www.myflfamilies.com/sites/default/files/2023-02/Sheriff_Offices_Annual_Peer_Review_Report_2021-22.pdf (last viewed April 4, 2023).

³⁵ *Id.*

³⁶ Letter from Secretary Shevaun Harris announcing the transition of CPI duties back to the DCF from Sheriff Offices currently providing child protective investigations. February 17, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

perform child protective investigations, Florida's child welfare system has evolved.³⁷ The DCF recognizes a renewed commitment to prevention-focused programming and a need to integrate this function within existing crisis-oriented systems to provide better outcomes for families.³⁸ The DCF also reports that several changes to state and federal laws require new approaches and adaptations within the child welfare system.³⁹

For these reasons, and after careful discussion between the responsible parties, the DCF and the local sheriff's offices have jointly decided to submit a proposal to the Florida Legislature to transition all responsibilities for child protective investigative services back to the DCF.

III. Effect of Proposed Changes:

The proposed bill repeals s. 39.3065, F.S., effective January 1, 2024. The delayed effective date allows time for the full transfer of the child protective investigation responsibilities to the DCF and the implementation of the substantive provisions of the bill.

The bill, effective January 1, 2024, makes conforming changes to the statutes to remove references to sheriff's offices conducting child protective investigations.

The bill, effective upon becoming law, creates an unnumbered section of law that details the timeline and process for the transfer of child protective investigation services to the DCF. The bill requires the sheriffs providing child protective investigative services for Pinellas, Manatee, Broward, Pasco, Hillsborough, Seminole, and Walton counties to transfer all responsibility for such services back to the DCF. To facilitate transition planning, the Department and each sheriff shall designate a mutually agreed upon date, no later than December 31, 2023, by which the transfer is to be finalized. This language will allow the DCF and each sheriff's office enough flexibility to select the transfer date that works best for both parties and allows for implementation of a staggered transition.

The bill provides timelines, processes, and authorizations for:

- *Transfer of Records*
 - Provides that upon the date the transfer is finalized with each respective sheriff, the DCF shall become the custodian of all files and documents previously maintained by the sheriffs related to the provision of child protective services.
- *Assets and Finances*
 - Requires the DCF and each respective sheriff providing child protective services pursuant to a grant agreement to complete an inventory of grant-related assets and all appropriate assets will be transferred to the DCF. A financial close-out of each grant must be completed no later than March 31, 2024.
- *Use of Property*
 - Allows DCF to extend a private lease of a facility currently in use by a sheriff's office for CPI services for no more than 1 year without undergoing competitive solicitation. The DCF, by written agreement, may allow transitioned child protective staff to remain in

³⁷ The DCF, *2023 Agency Legislative Bill Analysis, Proposed Committee Bill*, March 19, 2023, p. 4 (on file with Children, Families, and Elder Affairs).

³⁸ *Id.*

³⁹ *Id.*

- office space leased or owned by the sheriff for no more than six months after the date the transfer is finalized.
- *Transfer of Employees*
 - The bill outlines conditions for employees who currently perform CPI duties for the sheriff's offices if they transfer to work for the DCF. All staff in good standing employed by each respective sheriff for the provision of child protective services, employed before the effective date of this legislation, will have the option to transfer their employment to the DCF. To account for those potential employees, the DCF will be required to establish positions using Department of Management Services guidelines.
 - The bill further provides that an employee who elects to transfer to the DCF:
 - Will not be required to compete for employment through an open competitive process and must be employed in a position with the duties and responsibilities with which he or she performs for the sheriff's office at the time of transfer.
 - Will not be required to undergo an initial criminal background screening as a condition of transition to the DCF if the employee is in compliance with background screening requirements of the sheriff's office at the time of transfer.
 - Will maintain their current rate of pay at the time of transfer for the work they will perform for the DCF and be placed in a position with work duties comparable to what they performed for the sheriff's office.
 - Will be considered "non-probationary," provided the employee has completed the probationary period for their respective sheriff's office, if one exists, or has been continuously employed in their current position for more than 12 months on the date of transfer.
 - Will be eligible for all benefits afforded to a state employee as applicable to the position in which they will occupy.
 - May continue in the Florida Retirement System with no break in service.
 - May transfer all of their accrued leave, and all creditable service months worked for their respective sheriff's office will be transferred for the purpose of annual leave accrual.
 - May continue on Family and Medical Leave or an approved extended leave status, contingent upon the DCF receiving supporting documentation.

The bill requires that any claim or cause of action brought against a sheriff in relation to child protective investigations before the applicable transfer date must be defended and indemnified in accordance with the provisions of the grant or agreement applicable at the time of the alleged incident. Any claim or cause of action brought after the applicable transfer date must be defended and indemnified by the DCF.

The bill is effective January 1, 2024, except as otherwise expressly provided in the bill.

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:

The bill conforms to SB 2500, the Senate General Appropriations Act for Fiscal Year 2023-2024, which establishes 674 FTEs, 37,994,056 in salary rate, and authorizes \$1,381,681 in recurring funds from the General Revenue Fund for the DCF.

In addition, SB 2500 includes a realignment of \$59,155,066 of recurring base budget within the DCF. This includes the transfer from the Grants and Aids – Grants to Sheriffs for Protective Investigations category of \$30,348,074 in the General Revenue Fund, \$1,500,430 in the Federal Grants Trust Fund, \$18,297,468 in the Welfare Transition Trust Fund, and \$9,009,094 in the Social Services Trust Fund. These funds will be reallocated to the Salaries and Benefits (\$52,603,942), Expenses (\$4,589,763), Contracted Services (\$527,660), Motor Vehicle Leasing (\$1,250,966) and Human Resources Statewide Assessment (\$182,735) categories to enable the DCF to provide child protective services in the seven counties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 39.3065 of the Florida Statutes.

The bill substantially amends the following sections of the Florida Statutes: 39.013, 39.0141, 39.301, 39.3068, 39.307, 39.308, 39.4015, 39.523, 39.524, 402.40, 402.402, 409.1754, 937.021, and 1004.615.

The bill creates an undesignated section of law.

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.

FOR CONSIDERATION By the Appropriations Committee on Health and Human Services

603-03572A-23

20237056pb

1 A bill to be entitled
 2 An act relating to child protective investigative
 3 services; repealing s. 39.3065, F.S., relating to
 4 sheriffs of certain counties providing child
 5 protective investigative services; requiring certain
 6 sheriffs to transfer the functions of providing child
 7 protective investigative services to the Department of
 8 Children and Families; requiring the department and
 9 certain sheriffs to designate a mutually agreed-upon
 10 date to finalize such transfer; requiring the
 11 department to become the custodian of certain files
 12 and documents by a specified date; providing that
 13 certain sheriffs remain the custodians of certain
 14 files and documents; requiring the department and
 15 certain sheriffs to complete an inventory of certain
 16 assets and transfer such assets to the department;
 17 requiring a financial closeout of each grant by a
 18 specified date; authorizing the department to extend
 19 certain private leases for a specified time without
 20 undergoing a procurement; authorizing the department
 21 and certain sheriffs to enter into an agreement to
 22 allow certain employees to remain in office space
 23 owned or leased by the sheriff for a specified time;
 24 authorizing certain employees to transfer their
 25 employment to the department; requiring the department
 26 to establish positions using certain existing
 27 guidelines; specifying certain rights and requirements
 28 for an employee who transfers to the department;
 29 requiring that the defense and indemnification of

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30 certain claims be in accordance with certain
 31 agreements; requiring that the department defend and
 32 indemnify certain claims; providing construction;
 33 amending ss. 39.013, 39.0141, 39.301, 39.3068, 39.307,
 34 39.308, 39.4015, 39.523, 39.524, 402.40, 402.402,
 35 409.1754, 937.021, and 1004.615, F.S.; conforming
 36 provisions to changes made by the act; making
 37 technical changes; providing effective dates.
 38

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

40
 41 Section 1. Section 39.3065, Florida Statutes, is repealed.
 42 Section 2. Notwithstanding s. 39.3065, Florida Statutes,
 43 the sheriffs providing child protective investigative services
 44 in Broward County, Hillsborough County, Manatee County, Pasco
 45 County, Pinellas County, Seminole County, and Walton County
 46 shall transfer functions of such services to the Department of
 47 Children and Families.
 48 (1) The department and each sheriff must mutually agree on
 49 a date, no later than December 31, 2023, by which the transfer
 50 of child protective investigative service functions must be
 51 finalized. On the dates agreed to by each sheriff and the
 52 department for the finalization of the transfer of functions,
 53 the department becomes the custodian of all department files and
 54 documents previously maintained by each sheriff related to the
 55 provision of child protective investigative services. The
 56 sheriffs remain the custodians of all nondepartment files and
 57 documents created by the sheriffs before the date of transfer.
 58 (2) The department and each sheriff providing child

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59 protective investigative services must complete an inventory of
 60 state- or grant-funded assets, and each sheriff must transfer
 61 all applicable assets to the department. A financial closeout
 62 related to the sheriffs providing child protective investigative
 63 services of each grant must be completed no later than March 31,
 64 2024.

65 (3) Notwithstanding s. 287.057, Florida Statutes, the
 66 department may extend the private lease of a facility currently
 67 used by a sheriff for child protective investigative services
 68 for up to 1 year after the date the transfer of functions is
 69 finalized without undergoing a procurement. The department and
 70 each sheriff may enter an agreement to allow department
 71 employees to remain in office space owned or leased by the
 72 sheriff for up to 6 months after the date the transfer of
 73 functions is finalized.

74 (4) An employee in good standing, as defined by the office
 75 policies of each applicable sheriff, who is employed by a
 76 sheriff for the provision of child protective investigative
 77 services and is employed before the effective date of this act
 78 may transfer his or her employment to the department. The
 79 department shall establish positions using existing guidelines
 80 from the Department of Management Services for similarly
 81 established positions. An employee who transfers his or her
 82 employment to the department:

83 (a) Notwithstanding ss. 110.1128, 110.201, 110.211,
 84 110.213, 110.2135, 110.219, and 110.221, Florida Statutes, is
 85 not required to go through an open competitive process and must
 86 be employed in a position with duties and responsibilities
 87 comparable to those which he or she performed for the sheriff's

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88 office.

89 (b) Notwithstanding s. 110.1127, Florida Statutes, and
 90 chapter 435, Florida Statutes, is not required to undergo an
 91 initial employee background screening as a condition of his or
 92 her employment with the department, if the employee is in
 93 compliance with the employee background screening requirements
 94 of the applicable sheriff's office at the time of the employee's
 95 transfer.

96 (c) Shall remain in an equivalent broadband level as
 97 defined in s. 110.107, Florida Statutes, and in a similarly
 98 established position, maintaining the same rate of pay and
 99 comparable duties and responsibilities that he or she had at the
 100 sheriff's office at the time of the employee's transfer.

101 (d) Notwithstanding s. 110.217, Florida Statutes, is
 102 considered to have attained permanent status by the department
 103 if the employee has completed the probationary period for the
 104 applicable sheriff's office, if any, or has been continuously
 105 employed in the same position at the applicable sheriff's office
 106 for more than 12 months as of the date of the employee's
 107 transfer.

108 (e) Shall remain in the Florida Retirement System and is
 109 not considered to have experienced a break in service.

110 (f) Notwithstanding s. 110.219, Florida Statutes, may
 111 transfer all accrued leave to the department. All creditable
 112 service months the employee worked at the sheriff's office will
 113 be transferred for the purpose of annual leave accrual.

114 (g) Shall continue on family and medical leave or other
 115 approved extended leave status, if any, contingent upon the
 116 department receiving supporting documentation.

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(h) Is eligible for all benefits afforded a state employee applicable to the position he or she will occupy after the employee's transfer.

(5) Any claims or causes of action brought against a sheriff under state or federal law relating to the sheriff's provision of child protective investigative services filed:

(a) Before the applicable transfer date must be defended and indemnified in accordance with the provisions of the state or grant agreement applicable at the time of the alleged incident.

(b) After the applicable transfer date must be defended and indemnified by the department.

This subsection may not be construed as a waiver of s. 768.28, Florida Statutes.

(6) This section shall take effect upon becoming a law.

Section 3. Subsection (12) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(12) The department shall be represented by counsel in each dependency proceeding. Through its attorneys, the department shall make recommendations to the court on issues before the court and may support its recommendations through testimony and other evidence by its own employees, ~~employees of sheriff's offices providing child protection services,~~ employees of its contractors, employees of its contractor's subcontractors, or from any other relevant source.

Section 4. Section 39.0141, Florida Statutes, is amended to read:

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39.0141 Missing children; report required.—Whenever the whereabouts of a child involved with the department become unknown, the department ~~or, the community-based care provider,~~ ~~or the sheriff's office providing investigative services for the~~ department shall make reasonable efforts, as defined by rule, to locate the child. If, pursuant to criteria established by rule, the child is determined to be missing, the department ~~or, the~~ community-based care provider ~~must, or the sheriff's office~~ shall file a report that the child is missing in accordance with s. 937.021.

Section 5. Subsection (9) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(9) (a) For each report received from the central abuse hotline and accepted for investigation, the department ~~or the sheriff providing child protective investigative services under s. 39.3065,~~ shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information specific to the child, ~~and~~ family, and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and

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feasible. A determination ~~must shall~~ be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.

3. Assess the child's residence, including a determination of the composition of the family and household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5. Complete assessment of immediate child safety for each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals, and continually assess the child's safety throughout the investigation. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for

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enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator must ~~shall~~ create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator must ~~shall~~ create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal

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233 custodian who is currently not able to protect the child or on
 234 services that are not available or will not result in the safety
 235 of the child. A safety plan may not be implemented if for any
 236 reason the parents, guardian, or legal custodian lacks the
 237 capacity or ability to comply with the plan. If the department
 238 is not able to develop a plan that is specific, sufficient,
 239 feasible, and sustainable, the department ~~must~~ shall file a
 240 shelter petition. A child protective investigator shall
 241 implement separate safety plans for the perpetrator of domestic
 242 violence, if the investigator, using reasonable efforts, can
 243 locate the perpetrator to implement a safety plan, and for the
 244 parent who is a victim of domestic violence as defined in s.
 245 741.28. Reasonable efforts to locate a perpetrator include, but
 246 are not limited to, a diligent search pursuant to the same
 247 requirements as in s. 39.503. If the perpetrator of domestic
 248 violence is not the parent, guardian, or legal custodian of any
 249 child in the home and if the department does not intend to file
 250 a shelter petition or dependency petition that will assert
 251 allegations against the perpetrator as a parent of a child in
 252 the home, the child protective investigator ~~must~~ shall seek
 253 issuance of an injunction authorized by s. 39.504 to implement a
 254 safety plan for the perpetrator and impose any other conditions
 255 to protect the child. The safety plan for the parent who is a
 256 victim of domestic violence may not be shared with the
 257 perpetrator. If any party to a safety plan fails to comply with
 258 the safety plan resulting in the child being unsafe, the
 259 department ~~must~~ shall file a shelter petition.

260 b. The child protective investigator shall collaborate with
 261 the community-based care lead agency in the development of the

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262 safety plan as necessary to ensure that the safety plan is
 263 specific, sufficient, feasible, and sustainable. The child
 264 protective investigator shall identify services necessary for
 265 the successful implementation of the safety plan. The child
 266 protective investigator and the community-based care lead agency
 267 shall mobilize service resources to assist all parties in
 268 complying with the safety plan. The community-based care lead
 269 agency shall prioritize safety plan services to families who
 270 have multiple risk factors, including, but not limited to, two
 271 or more of the following:

272 (I) The parent or legal custodian is of young age;

273 (II) The parent or legal custodian, or an adult currently
 274 living in or frequently visiting the home, has a history of
 275 substance abuse, mental illness, or domestic violence;

276 (III) The parent or legal custodian, or an adult currently
 277 living in or frequently visiting the home, has been previously
 278 found to have physically or sexually abused a child;

279 (IV) The parent or legal custodian, or an adult currently
 280 living in or frequently visiting the home, has been the subject
 281 of multiple allegations by reputable reports of abuse or
 282 neglect;

283 (V) The child is physically or developmentally disabled; or

284 (VI) The child is 3 years of age or younger.

285 c. The child protective investigator shall monitor the
 286 implementation of the plan to ensure the child's safety until
 287 the case is transferred to the lead agency at which time the
 288 lead agency shall monitor the implementation.

289 d. The department may file a petition for shelter or
 290 dependency without a new child protective investigation or the

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291 concurrence of the child protective investigator if the child is
 292 unsafe but for the use of a safety plan and the parent or
 293 caregiver has not sufficiently increased protective capacities
 294 within 90 days after the transfer of the safety plan to the lead
 295 agency.

296 (b) For each report received from the central abuse
 297 hotline, the department ~~or the sheriff providing child~~
 298 ~~protective investigative services under s. 39.3065,~~ shall
 299 determine the protective, treatment, and ameliorative services
 300 necessary to safeguard and ensure the child's safety and well-
 301 being and development, and cause the delivery of those services
 302 through the early intervention of the department or its agent.
 303 If ~~Whenever~~ a delay or disability of the child is suspected, the
 304 parent must be referred to a local child developmental screening
 305 program, such as the Child Find program of the Florida
 306 Diagnostic and Learning Resource System, for screening of the
 307 child. As applicable, child protective investigators must inform
 308 parents and caregivers how and when to use the injunction
 309 process under s. 741.30 to remove a perpetrator of domestic
 310 violence from the home as an intervention to protect the child.

311 1. If the department ~~or the sheriff providing child~~
 312 ~~protective investigative services~~ determines that the interests
 313 of the child and the public will be best served by providing the
 314 child care or other treatment voluntarily accepted by the child
 315 and the parents or legal custodians, the parent or legal
 316 custodian and child may be referred for such care, case
 317 management, or other community resources.

318 2. If the department ~~or the sheriff providing child~~
 319 ~~protective investigative services~~ determines that the child is

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320 in need of protection and supervision, the department may file a
 321 petition for dependency.

322 3. If a petition for dependency is not being filed by the
 323 department, the person or agency originating the report shall be
 324 advised of the right to file a petition pursuant to this part.

325 4. At the close of an investigation, the department ~~or the~~
 326 ~~sheriff providing child protective services~~ shall provide to the
 327 person who is alleged to have caused the abuse, neglect, or
 328 abandonment and the parent or legal custodian a summary of
 329 findings from the investigation and provide information about
 330 their right to access confidential reports in accordance with s.
 331 39.202.

332 Section 6. Subsection (1) of section 39.3068, Florida
 333 Statutes, is amended to read:

334 39.3068 Reports of medical neglect.—

335 (1) Upon receiving a report alleging medical neglect, the
 336 department ~~or sheriff's office~~ shall assign the case to a child
 337 protective investigator who has specialized training in
 338 addressing medical neglect or working with medically complex
 339 children if such investigator is available. If a child
 340 protective investigator with specialized training is not
 341 available, the child protective investigator must ~~shall~~ consult
 342 with department staff with such expertise.

343 Section 7. Subsection (2) of section 39.307, Florida
 344 Statutes, is amended to read:

345 39.307 Reports of child-on-child sexual abuse.—

346 (2) The department, ~~contracted sheriff's office providing~~
 347 ~~protective investigation services,~~ or contracted case management
 348 personnel responsible for providing services, at a minimum,

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shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior or inappropriate sexual behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this chapter.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged abuser or child who has exhibited inappropriate sexual behavior and the victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged abuser or child who has exhibited inappropriate sexual behavior and the victim's caregiver.

(b) The caregiver of the alleged abuser or child who has exhibited inappropriate sexual behavior and the victim's caregiver shall be involved to the fullest extent possible in determining the nature of the sexual behavior concerns and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged abuser or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers shall be conducted by the district staff, the Child Protection Team of the Department of Health, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(d) The assessment shall be conducted in a manner that is

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sensitive to the social, economic, and cultural environment of the family.

(e) If necessary, the Child Protection Team of the Department of Health shall conduct a physical examination of the victim, which is sufficient to meet forensic requirements.

(f) Based on the information obtained from the alleged abuser or child who has exhibited inappropriate sexual behavior, his or her caregiver, the victim, and the victim's caregiver, an assessment of service and treatment needs must be completed and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of the report as follows:

1. Report closed. Services were not offered because the department determined that there was no basis for intervention.

2. Services accepted by alleged abuser. Services were offered to the alleged abuser or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged abuser or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.

4. Notification to law enforcement. The risk to the victim's safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim and accepted by the caregiver.

6. Report closed. Services were offered to the victim but were rejected by the caregiver.

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Section 8. Section 39.308, Florida Statutes, is amended to read:

39.308 Guidelines for onsite child protective investigation.—The Department of Children and Families, ~~in collaboration with the sheriffs' offices,~~ shall develop guidelines for conducting an onsite child protective investigation that specifically does not require the additional activities required by the department and for conducting an enhanced child protective investigation, including determining whether compelling evidence exists that no maltreatment occurred, conducting collateral contacts, contacting the reporter, updating the risk assessment, and providing for differential levels of documentation between an onsite and an enhanced onsite child protective investigation.

Section 9. Subsection (3) of section 39.4015, Florida Statutes, is amended to read:

39.4015 Family finding.—

(3) FAMILY-FINDING PROGRAM.—The department, in collaboration with ~~sheriffs' offices that conduct child protective investigations and~~ community-based care lead agencies, shall develop a formal family-finding program to be implemented by child protective investigators and community-based care lead agencies.

(a) Family-finding efforts shall begin as soon as a child is taken into custody of the department, pursuant to s. 39.401, and throughout the duration of the case as necessary, finding and engaging with as many family members and fictive kin as possible for each child who may help with care or support for the child. The department or community-based care lead agency

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must specifically document strategies taken to locate and engage relatives and fictive kin. Strategies of engagement may include, but are not limited to, asking the relatives and fictive kin to:

1. Participate in a family group decisionmaking conference, family team conferencing, or other family meetings aimed at developing or supporting the family service plan;
2. Attend visitations with the child;
3. Assist in transportation of the child;
4. Provide respite or child care services; or
5. Provide actual kinship care.

(b) The family-finding program shall provide the department and the community-based care lead agencies with best practices for identifying family and fictive kin. The family-finding program must use diligent efforts in family finding and must continue those efforts until multiple relatives and fictive kin are identified. Family-finding efforts by the department and the community-based care lead agency may include, but are not limited to:

1. Searching for and locating adult relatives and fictive kin.
2. Identifying and building positive connections between the child and the child's relatives and fictive kin.
3. Supporting the engagement of relatives and fictive kin in social service planning and delivery of services and creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the child welfare system, when appropriate.
4. Maintaining family connections, when possible.
5. Keeping siblings together in care, when in the best

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interest of each child and when possible.

(c) To be compliant with this section, family-finding efforts must go beyond basic searching tools by exploring alternative tools and methodologies. A basic computer search using the Internet or attempts to contact known relatives at a last known address or telephone number do not constitute effective family finding.

Section 10. Paragraph (e) of subsection (2) of section 39.523, Florida Statutes, is amended to read:

39.523 Placement in out-of-home care.—

(2) ASSESSMENT AND PLACEMENT.—When any child is removed from a home and placed in out-of-home care, a comprehensive placement assessment process shall be completed in accordance with s. 39.4022 to determine the level of care needed by the child and match the child with the most appropriate placement.

(e) The department, ~~a sheriff's office acting under s. 39.3065~~, a community-based care lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network.

Section 11. Subsection (1) and paragraph (a) of subsection (3) of section 39.524, Florida Statutes, are amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 must be assessed, and the department ~~or a sheriff's office acting under s. 39.3065~~ must conduct a multidisciplinary staffing pursuant to s. 409.1754(2), to determine the child's need for services and his or her need

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for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

(3)(a) By October 1 of each year, the department, with information from community-based care agencies ~~and certain sheriff's offices acting under s. 39.3065~~, shall report to the Legislature on the prevalence of child commercial sexual exploitation; the specialized services provided and placement of such children; the local service capacity assessed pursuant to s. 409.1754; the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children; the number of children who were evaluated for placement; the number of children who were placed based upon the evaluation; the number of children who were not placed; and the department's response to the findings and recommendations made by the Office of Program Policy Analysis and Government Accountability in its annual study on commercial sexual exploitation of children, as required by s. 409.16791.

Section 12. Paragraph (h) of subsection (3) and paragraphs (b) and (c) of subsection (5) of section 402.40, Florida

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Statutes, are amended to read:

402.40 Child welfare training and certification.—

(3) THIRD-PARTY CREDENTIALING ENTITIES.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(h) Maintain an advisory committee, including representatives from each region of the department, ~~each sheriff's office providing child protective services,~~ and each community-based care lead agency, who shall be appointed by the organization they represent. The third-party credentialing entity may appoint additional members to the advisory committee.

(5) CORE COMPETENCIES AND SPECIALIZATIONS.—

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, the Florida Alcohol and Drug Abuse Association, the Florida Council for Community Mental Health, ~~sheriffs' offices conducting child protection investigations,~~ and child welfare legal services providers.

(c) Community-based care agencies, ~~sheriffs' offices,~~ and the department may contract for the delivery of preservice and any additional training for persons delivering child welfare

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services if the curriculum satisfies the department-approved core competencies.

Section 13. Subsection (2) of section 402.402, Florida Statutes, is amended to read:

402.402 Child protection and child welfare personnel; attorneys employed by the department.—

(2) SPECIALIZED TRAINING.—All child protective investigators and child protective investigation supervisors employed by the department ~~or a sheriff's office~~ must complete the following specialized training:

(a) Training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age developed by the Child Protection Team Program within the Department of Health.

(b) Training that is either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics.

The specialized training may be used to fulfill continuing education requirements under s. 402.40(3)(e). Individuals hired on or after July 1, 2014, shall complete the specialized training within 2 years after hire. An individual may receive specialized training in multiple areas.

Section 14. Paragraph (d) of subsection (1), paragraphs (a), (b), (d), and (e) of subsection (2), and paragraph (a) of

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581 subsection (3) of section 409.1754, Florida Statutes, are
 582 amended to read:

583 409.1754 Commercial sexual exploitation of children;
 584 screening and assessment; training; multidisciplinary staffings;
 585 service plans.—

586 (1) SCREENING AND ASSESSMENT.—

587 (d) The department, ~~or a sheriff's office acting under s.~~
 588 ~~39.3065~~, the Department of Juvenile Justice, and community-based
 589 care lead agencies may use additional assessment instruments in
 590 the course of serving sexually exploited children.

591 (2) MULTIDISCIPLINARY STAFFINGS AND SERVICE PLANS.—

592 (a) The department, ~~or a sheriff's office acting under s.~~
 593 ~~39.3065~~, shall conduct a multidisciplinary staffing for each
 594 child who is a suspected or verified victim of commercial sexual
 595 exploitation. The department ~~or sheriff's office~~ shall
 596 coordinate the staffing and invite individuals involved in the
 597 child's care, including, but not limited to, the child, if
 598 appropriate; the child's family or legal guardian; the child's
 599 guardian ad litem; Department of Juvenile Justice staff; school
 600 district staff; local health and human services providers;
 601 victim advocates; and any other persons who may be able to
 602 assist the child.

603 (b) The staffing must use the assessment, local services,
 604 and local protocols required by this section to develop a
 605 service plan. The service plan must identify the needs of the
 606 child and his or her family, the local services available to
 607 meet those needs, and whether placement in a safe house or safe
 608 foster home is needed. If the child is dependent, the case plan
 609 required by s. 39.6011 may meet the requirement for a service

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610 plan, but must be amended to incorporate the results of the
 611 multidisciplinary staffing. If the child is not dependent, the
 612 service plan is voluntary, and the department ~~must~~ ~~or sheriff's~~
 613 ~~office shall~~ provide the plan to the victim and his or her
 614 family or legal guardian and offer to make any needed referrals
 615 to local service providers.

616 (d) The department, ~~or a sheriff's office acting under s.~~
 617 ~~39.3065~~, shall follow up with all verified victims of commercial
 618 sexual exploitation who are dependent within 6 months of the
 619 completion of the child abuse investigation, and such
 620 information must be included in the report required under s.
 621 39.524. The follow-up ~~followup~~ must determine the following:

622 1. Whether a referral was made for the services recommended
 623 in the service plan;

624 2. Whether the services were received and, if not, the
 625 reasons why;

626 3. Whether the services or treatments were completed and,
 627 if not, the reasons why;

628 4. Whether the victim has experienced commercial sexual
 629 exploitation since the verified report;

630 5. Whether the victim has run away since the verified
 631 report;

632 6. The type and number of placements, if applicable;

633 7. The educational status of the child;

634 8. The employment status of the child; and

635 9. Whether the child has been involved in the juvenile or
 636 criminal justice system.

637 (e) The department, ~~or a sheriff's office acting under s.~~
 638 ~~39.3065~~, shall follow up with all verified victims of commercial

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sexual exploitation who are not dependent within 6 months after the child abuse investigation is completed, and the information must be used in the report required under s. 39.524. The follow-up follow-up for nondependent victims and their families is voluntary, and the victim, family, or legal guardian is not required to respond. Any follow-up ~~The follow-up~~ must attempt to determine the following:

1. Whether a referral was made for the services recommended in the service plan;

2. Whether the services were received and, if not, the reasons why;

3. Whether the services or treatments were completed and, if not, the reasons why;

4. Whether the victim has experienced commercial sexual exploitation since the verified report;

5. Whether the victim has run away since the verified report;

6. The educational status of the child;

7. The employment status of the child; and

8. Whether the child has been involved in the juvenile or criminal justice system.

(3) TRAINING; LOCAL PROTOCOLS.—

(a) The department, ~~or a sheriff's office acting under s. 39.3065,~~ and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to be a victim of commercial sexual exploitation are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department, ~~sheriff's office,~~ and

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lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a commercially sexually exploited child.

Section 15. Paragraph (a) of subsection (4) of section 937.021, Florida Statutes, is amended to read:

937.021 Missing child and missing adult reports.—

(4) (a) Upon the filing of a police report that a child is missing by the parent or guardian, the Department of Children and Families, or a community-based care provider, ~~or a sheriff's office providing investigative services for the department,~~ the law enforcement agency receiving the report shall immediately inform all on-duty law enforcement officers of the missing child report, communicate the report to every other law enforcement agency having jurisdiction in the county, and within 2 hours after receipt of the report, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center databases. A law enforcement agency may not require a reporter to present an order that a child be taken into custody or any other such order before accepting a report that a child is missing.

Section 16. Subsection (3) and paragraph (a) of subsection (9) of section 1004.615, Florida Statutes, are amended to read:

1004.615 Florida Institute for Child Welfare.—

(3) The institute shall work with the department, ~~sheriffs providing child protective investigative services,~~ community-based care lead agencies, community-based care provider organizations, the court system, the Department of Juvenile Justice, and other partners who contribute to and participate in providing child protection and child welfare services.

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(9) By October 1 of each year, the institute shall provide a written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which outlines its activities in the preceding year, reports significant research findings, as well as results of other programs, and provides specific recommendations for improving child protection and child welfare services.

(a) The institute shall include an evaluation of the results of the educational and training requirements for child protection and child welfare personnel established under this act and ~~recommendations for application of the results to child protection personnel employed by sheriff's offices providing child protection services~~ in its report due October 1, 2017.

Section 17. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2024.

APPEARANCE RECORD

04/12/2023

Meeting Date

7056

Bill Number or Topic

HHS Approps.

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

John Paul Fiore - DCF Legislative Affairs

Phone

850-488-9410

Address

2415 N. Monroe

Street

Email

Tallahassee FL 32303

City

State

Zip

Speaking:

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Against

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In Support

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Appropriations Committee on Health and Human Services

Judge:

Started: 4/12/2023 8:30:31 AM

Ends: 4/12/2023 10:24:39 AM

Length: 01:54:09

8:30:35 AM	Sen Harrell (Chair)
8:32:00 AM	S 1690
8:32:24 AM	Sen. Ingoglia
8:33:26 AM	Sen. Harrell
8:33:32 AM	Am. 536946
8:33:37 AM	Sen. Harrell
8:33:49 AM	Am. 332036
8:33:50 AM	Sen. Ingoglia
8:34:00 AM	Sen. Harrell
8:34:50 AM	Libby guzzo, Office of Attorney General (waives in support)
8:35:49 AM	S 824
8:36:02 AM	Sen. Collins
8:36:56 AM	Sen. Harrell
8:37:07 AM	Bob Asztalos, FDVA (Waives in support)
8:37:14 AM	Ivone Fernandez, AARP (Waives in Support)
8:37:43 AM	Sen. Collins
8:38:51 AM	S 140
8:39:02 AM	Sen. Rodriguez
8:39:24 AM	Sen. Harrell
8:40:22 AM	S 704
8:40:24 AM	Sen. Boyd
8:40:50 AM	Sen. Harrell
8:40:56 AM	Sen. Rouson
8:41:29 AM	Sen. Boyd
8:41:35 AM	Sen. Rouson
8:42:01 AM	Sen. Boyd
8:42:30 AM	Sen. Rouson
8:43:02 AM	Sen. Boyd
8:43:30 AM	Sen. Rouson
8:43:47 AM	Sen. Boyd
8:44:27 AM	Sen. Rouson
8:44:51 AM	Sen. Boyd
8:45:12 AM	Sen. Rouson
8:45:38 AM	Sen. Boyd
8:45:54 AM	Sen. Rouson
8:46:24 AM	Sen. Boyd
8:46:53 AM	Sen. Rouson
8:47:28 AM	Sen. Boyd
8:47:55 AM	Sen. Burton
8:48:16 AM	Sen. Boyd
8:48:48 AM	Sen. Rouson
8:49:18 AM	Sen. Boyd
8:50:13 AM	Sen. Harrell
8:50:30 AM	Libby Guzzo, Office of Attorney General
8:51:08 AM	Sen. Rouson
8:51:38 AM	L. Guzzo
8:52:43 AM	Sen. Harrell
8:52:45 AM	Karen Mazzola, Florida PTA (Waives in Support)
8:53:30 AM	Sen. Boyd
8:54:15 AM	S 246
8:54:29 AM	Sen. Calatayud
8:56:41 AM	Sen. Harrell

8:56:52 AM Am. 959674
8:57:09 AM Sen. Calatayud
8:57:36 AM Sen. Harrell
8:58:10 AM Sarah Katherine Massey, Florida Chamber of Commerce (Waives in Support)
8:58:14 AM Doug Bell, Florida Chapter of the American Academy of Pediatrics
8:58:24 AM Tasha Carter, The office of Insurance Consumer Advocates (Waives in support)
8:58:34 AM Cora Merritt, Nemours Children's Health (waives in support)
8:58:44 AM Michele Watson, Florida Alliance of Children's Council & Trusts (Waives in Support)
8:58:51 AM Michael Barrett, Florida Conference of Catholic Bishops (Waives in support)
8:59:00 AM Austin Stowers, CFO Jimmy Patronis (Waives in Support)
8:59:09 AM Natalie King, United Way Suncoast (Waives in Support)
8:59:20 AM Natalie King, Broward United Way (Waives in Support)
8:59:29 AM Michael Sheedy, FL Conference of Catholic Bishops (Waives in Support)
8:59:39 AM Karen Mazzola, Florida PTA (Waives in Support)
8:59:46 AM Dane Bennett, Baptist Health (waives in Support)
8:59:52 AM Michael Cusick, Florida Association of Children's Hospitals (waives in support)
9:00:10 AM Sen. Harrell
9:00:24 AM Sen. Calatayud
9:01:11 AM Sen. Harrell
9:01:21 AM S 1190
9:01:38 AM Sen. Garcia
9:04:04 AM Sen. Harrell
9:04:16 AM Karen Mazzola, Florida PTA (Waives in support)
9:04:27 AM Sen. Garcia
9:05:32 AM S 768
9:05:41 AM Sen. Martin
9:07:04 AM Sen. Harrell
9:07:25 AM James Eaton (Waives in support)
9:07:35 AM Sen. Martin
9:08:09 AM Sen. Harrell
9:08:19 AM S 988
9:08:31 AM Sen. Burton
9:09:46 AM Sen. Harrell
9:09:54 AM Doug Bell, Florida Chapter of American Academy of Pediatrics (waives in Support)
9:10:16 AM Dawn Springs
9:11:22 AM Sen. Harrell
9:11:25 AM Amanda Fraser, American Diabetes Association (Waives in Support)
9:11:31 AM Ivonne Fernandez, AARP (Waives in Support)
9:11:39 AM Geoffrey Becker, Medtronic (Waives in Support)
9:11:52 AM Sen. Baxley
9:12:56 AM Sen. Harrell
9:13:38 AM Sen. Burton
9:14:28 AM S 1182
9:14:40 AM Sen. Simon
9:15:39 AM Am. 194392
9:16:23 AM Sen. Harrell
9:16:51 AM Ivonne Fernandez, AARP (Waives in Support)
9:16:59 AM Alex Anderson, Alzheimers Association (Waives in Support)
9:17:05 AM Jason Hand, Senior Living Assn (Waives in Support)
9:17:12 AM Hayden Dempsey, Leading Edge Florida (Waives in Support)
9:17:20 AM Adam Potts, Florida Assisted Living Association (Waives in Support)
9:17:31 AM Sen. Book
9:18:07 AM Sen. Simon
9:20:01 AM Sen. Harrell
9:20:08 AM S 1352
9:20:18 AM Sen. Rouson
9:21:04 AM Sen. Harrell
9:21:05 AM Am. 678952
9:21:08 AM Sen. Rouson
9:21:56 AM Sen. Harrell
9:22:31 AM Crystal Stickle, Vertex (Waives in Support)
9:22:43 AM Sen. Simon

9:23:26 AM	Sen. Rouson
9:24:02 AM	Sen. Harrell
9:24:13 AM	S 1408
9:24:21 AM	Sen. Davis
9:25:05 AM	Sen. Harrell
9:25:13 AM	Am. 125072
9:25:16 AM	Sen. Davis
9:25:32 AM	Sen. Harrell
9:26:02 AM	Karen Mazzola, Florida PTA (Waives in Support)
9:27:05 AM	Sen. Burton (Chair)
9:27:17 AM	S 56
9:27:25 AM	Sen. Harrell
9:28:31 AM	Sen. Burton
9:28:40 AM	John Brinkman, UF Student Government (Waives in support)
9:28:50 AM	Chris Stanburg, Americans for Prosperity (Waives in support)
9:28:54 AM	Mary Winn, League of Women Voters of Florida (Waives in Support)
9:29:01 AM	Deborah Foote, FL Psychological Assn (Waives in Support)
9:29:10 AM	Ivonne Fernandez, AARP (Waives in Support)
9:29:21 AM	Noah Fineberg, UF student Government
9:30:35 AM	Sen. Burton
9:30:45 AM	Sen. Harrell
9:31:44 AM	S 58
9:32:04 AM	Sen. Harrell
9:32:39 AM	Sen. Burton
9:32:44 AM	Sen. Harrell
9:32:44 AM	Am. 663140
9:32:49 AM	Sen. Harrell
9:33:07 AM	Sen. Burton
9:33:28 AM	Mary Winn, League of Women Voters of Florida (Waives in support)
9:34:20 AM	S 976
9:34:29 AM	Sen. Harrell
9:35:48 AM	Sen. Burton
9:35:59 AM	Amy Farrington (Waives in Support)
9:36:52 AM	SPB 7056
9:37:05 AM	Sen. Harrell
9:40:26 AM	Sen. Book
9:41:00 AM	Sen. Harrell
9:41:37 AM	Sen. Book
9:42:33 AM	Sen. Harrell
9:43:02 AM	Sen. Book
9:43:43 AM	Sen. Harrell
9:44:02 AM	Shevaun Harris, DCF secretary
9:46:10 AM	Sen. Book
9:46:32 AM	S. Harris
9:46:40 AM	Sen. Book
9:46:58 AM	S. Harris
9:49:35 AM	Sen. Book
9:50:03 AM	S. Harris
9:50:42 AM	Sen. Baxley
9:53:52 AM	Sen. Brodeur
9:54:36 AM	Sen. Book
9:55:55 AM	Sen. Osgood
9:58:09 AM	Sen. Simon
9:59:32 AM	Sen. Harrell
10:03:37 AM	Sen. Harrell (chair)
10:03:54 AM	S 612
10:04:10 AM	Sen. Yarborough
10:05:54 AM	Sen. Harrell
10:06:14 AM	Rep. Janet Adkins
10:07:07 AM	Doug Adkins
10:11:02 AM	Sen. Baxley
10:13:43 AM	Sen. Yarborough

10:14:24 AM	S 1064
10:14:32 AM	Sen. Yarborough
10:15:56 AM	Am. 693786
10:16:01 AM	Sen. Yarborough
10:16:48 AM	Sen. Davis
10:17:04 AM	Sen. Yarborough
10:18:18 AM	Sen. Harrell
10:18:54 AM	Sen. Yarborough
10:19:40 AM	S 1412
10:19:53 AM	Sen. Bradley
10:21:54 AM	Sen. Harrell
10:21:58 AM	John Paul Fiore, Department of Children and Families (Waives in support)
10:22:10 AM	Sen. Bradley
10:22:56 AM	S 268 (TP)
10:23:01 AM	Sen. Brodeur
10:23:37 AM	Sen. Garcia
10:23:53 AM	Sen. Davis
10:24:07 AM	Sen. Burgess
10:24:20 AM	Sen. Harrell